

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

In re the Matter of)	
)	
Marble City Media, LLC)	
)	Facility ID No. 141124
Interference Caused by FM Translator)	
Station W252BE,)	
Tarrant, Alabama)	
)	
and)	
)	
Application for Authority to)	File No. BPFT-20170511AAL
Modify the License of W252BE)	

TO: The Secretary, FCC
ATTN: Chief, Audio Division, Media Bureau

**REPLY TO RESPONSE TO INTERFERENCE COMPLAINT AND FCC LETTER OF
INQUIRY AND OPPOSITION TO W252BE MODIFICATION APPLICATION**

Marble City Media, LLC (“Marble City Media”), licensee of Station WFXO(FM), Stewartville, Alabama, by its counsel, hereby respectfully submits this Reply to Response to Interference Complaint and FCC Letter of Inquiry and its opposition to the proposed W252BE Modification Application (“Reply”) contained in the Response. The Response was filed by Shelby Broadcasting, LLC (“Shelby”)¹ on May 12, 2017. Shelby is an assignee in a pending assignment application of the W252BE license, from the licensee of W252BE, Valleydale Broadcasting, LLC

¹ Lee Reynolds is shown as a Member in Shelby Broadcasting, LLC’s assignment application; BALFT-20170406ABE, and Lyle Reynolds participated in preparing the Shelby response. Form 323 Ownership Reports on file with the FCC, see for example, the Valleydale report for WZNN, Maplesville, AL and related R3 Partners LLC, an entity with an attributable interest, reflect that Lee Reynolds and Lyle Reynolds each have a 25% interest along with Paul Reynolds 25% and Joan Reynolds 25% in R3 Partners LLC. Even though Shelby is not the licensee of W252BE, in view of the common family relationships, and pending assignment application, Marble City will Reply to the Response.

(“Valleydale”). This Reply addresses the Response filed by Shelby in response to the Commission’s Letter of Inquiry (“Letter”) issued to Valleydale on March 29, 2017 and opposes the May 11, 2017, Valleydale Modification Application, file no. BPFT-20170511AAL, (“Modification Application”) which as demonstrated below, does not resolve the problem of interference.

Further, the Shelby technical attack in the Response on the WFXO facilities as contributing to interference are contrary to established engineering practices and clearly refuted by the attached *Engineering Statement* of Consulting Engineer Charles Anderson (“Anderson Engineering Statement”) who uses the appropriate professional technical criteria expected by the Commission. See Exhibit A. Also, as is obvious, the Response failed to address and totally ignored the Longley-Rice technical exhibit included in Marble City Media’s Complaint and Addendum. The Anderson Engineering Statement, including Longley-Rice studies, demonstrates that the Modification Application does not resolve the interference as it will cause predicted interference to a population of 38,013 within the 48 dBu contour and 3,198 within the 60 dBu contour. This Anderson Engineering Statement directly refutes the conclusions of Shelby as to the proposed facility. Further, Mr. Anderson’s professional opinion is that based upon his experience, the interference using the Modification Application facilities “will be significantly greater than predicted due to the extraordinary HAAT (348 meters) of the W252BE antenna on Red Mountain in Birmingham.” Mr. Anderson also notes that the “line of sight” argument that Shelby relies upon is not an accepted or accurate means of predicting coverage. See Anderson Engineering Statement.

The Letter requires W252BE to “take appropriate actions required by the provisions of 47 CFR § 74.1203 to resolve all complaints of interference to fulfill its obligations.” See Letter at

page 2. Shelby fails to meet this requirement and accordingly operation of W252BE should be suspended immediately. Additionally, for the reasons set forth in this Reply and the professional Anderson Engineering Report attached, the Modification Application should not be granted.

Contrary to Shelby's improper assertions, there was nothing nefarious with Marble City noting in the Complaint its recent WFXO modification improving service to the public, which was licensed for its current location on January 12, 2017, and interference to a significant part of its service area. As to the listener complaints, the Complaint stated "That WFXO(FM) has already received 8 complaints in the short time that WFXO(FM) has been on the air at its newly authorized location is further evidence of the significant problem being caused by W252BE's interference to WFXO(FM)." *See* Complaint at p. 2. WFXO also clearly stated this fact in its Addendum filed on March 9, 2017, in reference to interference caused by W252BE while WFXO has been operating at its licensed location. *See* Addendum at p. 2. Marble City Media also provided more listener complaints in its Addendum.

Shelby attempts to blame the victim by suggesting that WFXO is at fault when WFXO is a full-power station which is suffering interference by a secondary translator station which is clearly against FCC rules. Whether after the filing of the Complaint or before, Valleydale took no corrective actions, such as reduction in power, change of tower site or other actions. And, as demonstrated by Shelby's May 12, 2017 Response, Valleydale and Shelby, of course, did not resolve the listener complaints.²

² The Letter required a report to be filed with the Commission showing that W252BE has taken appropriate actions to resolve all complaints within 30 days. The Letter was issued March 29, 2017, which would require resolution of the complaints to be completed by April 28, 2017. However, due to the extension requested by Shelby, the Response was filed May 12, 2017, which accorded forty-four days to resolve the interference issues. Despite the extra time, Shelby still did not meet its requirement to take appropriate actions to resolve the interference complaints.

As is clear, Section 74.1203 of the FCC's rules, bars interference to full power stations (such as WFXO) by translator stations (such as W252BE). WFXO has provided listener complaints which Shelby attempts to minimize by referring to them as a "very small cross-section of persons". *See* Response at p. 5. However, as the Commission has acknowledged, its Rules and policy dictate that translators, including W252BE, have the obligation of resolving all complaints, no matter whether or not Shelby believes that they are significant in number.³

Shelby goes to great lengths to attempt to diminish the listener complaints at times relaying descriptions of contacts which differ from the descriptions of those contacts provided to Marble City Media. Since receiving the Response on May 12, 2017, Lee Perryman, Managing Member of Marble City Media, LLC, has undertaken to contact the complainants in response to Shelby's description of its outreach. To date, Mr. Perryman has received responses from 6 of the complainants contradicting Shelby's depiction of events; however he is continuing to follow up as to the others.⁴ Mr. Perryman's Declaration is attached as is a copy of the emails received from those 6 complainants attached as Exhibit B to this Reply.

The outreach email (an example of which was attached to the Response and which Mr. Reynolds asserts is identical to emails sent to all complainants) was dated April 25, 2017, almost a month after the Letter was issued by the Commission and only 3 days before the original date the Response. *See* Response Exhibit 2. This delay in even contacting the complainants show a clear lack of effort by Shelby to resolve the interference complaints.

Considering the lateness of Shelby's outreach, it is perhaps understandable that Shelby did not get some replies back by the date needed to respond to the Letter. It had from March 29 until

³ *See* for example, Letter from James D. Bradshaw, Deputy Chief, Audio Division, FCC Media Bureau, to Arohi Media LLC, (May 9, 2017) ("Letter Decision") in which Arohi Media, LLC was ordered to cease operation of its translator W252DK immediately due to its failure to address 3 listener complaints.

⁴ The substance of those contacts will be submitted to the Commission if relevant.

May 12, 2017, to accomplish that task, but many of the contacts were in late April, toward the end of that period. Shelby then tries to benefit from the “lack of a response” prior to the filing of the Response as a demonstration of lack of willingness to cooperate by the complainants. In fact, Shelby presented that at least Mr. Danny Culp, Mr. Marty Garrett, Mr. Tom Carden, Mr. Scott Smith and Mr. Mike Lewis all failed to respond to Shelby’s outreach and so their complaints should be discounted. *See* Response pages 7 -9. As shown by the description of contacts conducted to date by Mr. Perryman, the complainants provide differing information on Shelby’s outreach.

Danny Culp - Mr. Culp indicated he had no contact with anyone from Shelby at all and that he didn’t receive any email from Shelby nor did he receive a phone call or phone message.

Marty Garrett – Mr. Garrett received a phone call and when asked to do a “ride a long” to investigate the interference, Mr. Garrett indicated his willingness to do so after he got off work. He never heard back from the Shelby representative.

Tom Carden – Mr. Carden stated that he received a message on April 24, 2017, and he responded several days later. On May 3, 2017, Mr. Carden called Shelby promptly after receiving a registered letter. Mr. Carden provided as much detail as possible regarding the interference he had experienced including details as far as specific locations. Mr. Carden also offered to meet with him depending on when the Shelby representative would be in the area with his equipment. There was no further follow up.

Scott Smith – Mr. Smith mailed a response to Mr. Reynolds and mailed a response back to Mr. Reynolds on May 12, 2017. It should be noted that Mr. Smith did not receive the request until May 4, 2017.

Mike Lewis – Mr. Lewis said he received an email from Mr. Reynolds on April 25, 2017 but he did not see the message until May 13, 2017. As Mr. Reynolds indicated that he needed a response by May 12, 2017, he did not respond. He has indicated that is willing to work with Shelby but he thought he was too late to participate.

Thomas Roberts – Mr. Roberts had at least two telephone conversations with Shelby wherein he precisely described the location that the interference was being received. Mr. Roberts also offered to meet with Mr. Reynolds and show the spots where WFXO suffers interference. Mr. Reynolds had two conversations with Mr. Reynolds and during the first conversation, Mr. Reynolds did indicate he was too busy to talk at that time but set up an appointment for another phone call. Shelby did not keep that appointment but Mr. Roberts still cooperated with Shelby by having a lengthy conversation regarding the interference problem at yet a later time.

The information presented by these listeners shows that Shelby's contention that the complaints should be dismissed because of lack of response or failure to cooperate is hardly the truth. In several of these cases, the complainant offered to assist or spent significant time discussing the issue. In a couple of cases, the inquiries were delivered by Shelby so close to the deadline that the complainant was not able to respond by the deadline set by Shelby. Shelby should not be able to benefit from its failure to undertake the interference resolution in a timely basis.

In addition to the misinformation presented by Shelby in its Response relating to the outreach response and willingness to cooperate, the attempts to discredit Thomas Roberts complaint is unacceptable. In addition to the cooperation and response issues discussed above, Shelby simply states that it should not be provided credence because Mr. Roberts is President and CEO of the local Chamber of Commerce and Mr. Perryman is also a member and accordingly Mr. Roberts referenced them as business and personal associates which would not be unusual in a small

community. Shelby cites no support or precedent for its position that because they are business and personal associates, Mr. Roberts is not a disinterested listener. The Commission has required that a complainant be “disinterested e.g., a person or entity without legal stake in the outcome of the translator station licensing proceeding.”⁵ Mr. Roberts has no stake in the outcome of the proceeding other than wanting to receive the FM service without interference. Shelby’s inference that Mr. Roberts is “interested” could just as easily be inferred that he is “interested” in any business serving the community. However, Shelby attributes a self-serving motive to Mr. Roberts as President and CEO of the Chamber of Commerce which is not supported by the record and is disingenuous.

These 6 complaints alone show that Shelby failed to meet its obligation to resolve the outstanding interference complaints. Shelby’s obligations are to resolve the complaints and has failed to do so or even undertake a timely effort to do so. This is the only issue which should be considered by the FCC.

Obviously, Shelby does recognize that it is causing interference which cannot be resolved as evidenced by its filing for FCC consent to modify the W252BE’s facilities. However, the Modification Application does not resolve the interference problems and should not be accepted as a solution. As discussed in the attached Anderson Engineering Statement, the facilities proposed in the Modification Application reflect that if the facilities are built and operated, there will be predicted interference within the 60 dBu contour which will still cause interference to a population of 38,013 people within the 48 dBu and 3,198 within the FCC 60 dBu WFXO contour. The resulting interference from the Modification Application is shown to cause interference even within WFXO’s 60 dBu contour and the interference will be significantly greater than predicted

⁵ *Ass’n for Cmty. Educ. Inc.*, Memorandum Opinion and Order, 19 FCC Rcd 12682, 12688 n. 37 (2004).

due to the HAAT of the W252BE antenna on Red Mountain in Birmingham. It is noteworthy that the Anderson Engineering Statement includes Longley-Rice studies recognized by the Commission. Such studies take into account variations in terrain and therefore demonstrate that the Shelby theory of terrain blockage is not accurate. Obviously the Modification Application is not an adequate remedy as WFXO, a full power station, would still receive interference from W252BE, a translator station with secondary status.

Rather than meeting its obligations relating to interference, Shelby attempts to obfuscate the issue by taking the tact of attacking the victim in its Response. Shelby presents a self-serving opinion of Mr. Reynolds, who is a member of Shelby, that the cause of all W252BE's interference is actually in some way WFXO's fault based upon inappropriate line of sight theories. However, this position is debunked by the Anderson Engineering Statement in which it is shown that WFXO provides a 70 dBu or greater signal over all of its city of license and a usable signal beyond its 60 dBu. *See* the Anderson Engineering Statement which relies upon Longley-Rice and standard parameters currently used by the FCC Office of Engineering Technology (OET). Shelby's aspersions on WFXO's facilities and service to its community of license and service area are unfounded.⁶

Accordingly, for the foregoing reasons, it is clear that W252BE has failed to resolve the disruptive interference to listeners of full power FM Station WFXO, continues to violate the Commission's rules and policies and the direction by the Commission in the Letter to resolve the complaints. Additionally, the Modification Application should not be accepted and approved as an alternative. The public interest will be served by cessation of operation of the translator and preservation of the service of full power station WFXO. Marble City Media respectfully renews

⁶ Mr. Anderson also responds to Shelby's argument relating to WFXO's use of a six bay antenna which he concludes is not unusual and has no significant impact on coverage.

its request that the Commission immediately order the FM translator to cease on-air operations and not resume operation until it can demonstrate that interference will not occur and that it can operate in accordance with the Commission's rules and policies and that it dismiss the Modification Application.

Respectfully submitted,

MARBLE CITY MEDIA, LLC



Date: May 18, 2017

By: _____

M. Scott Johnson, Esquire
Michelle A. McClure, Esquire
Fletcher, Heald & Hildreth, PLC
1300 17th Street North, 11th Floor
Arlington, Virginia 22209
(703) 812-0400
Its Counsel

Exhibit A

Anderson Engineering Statement

WFXO - W252BE ANALYSIS AND REPORT

An analysis has been conducted of WFXO and translator W252BE to determine the technical probability of interference to WFXO and the assertions of Shelby Broadcasting, LLC (Shelby) in its recent response to WFXO's filing.

WFXO coverage of its city of license Stewartville and surrounding area:

Shelby asserts that WFXO is constrained in its service by terrain blockage using a line of sight study based on a receiver height of 1.8 meters while the FCC contour prediction curves and the FCC's own methodology uses 9.1 meters. In any event, "line of sight" is not an accepted or accurate means of predicting coverage. The industry standard is Longley-Rice which takes into account the attenuation of any terrain blockage. Our analysis using Longley-Rice and the standard parameters currently used by the FCC Office of Engineering Technology (OET) demonstrates that WFXO provides a 70 dBu or greater signal to the entire area of Stewartville and provides a very usable signal throughout and beyond its 60 dBu FCC contour (see exhibit A).

As to the impact of a six bay antenna, we are not aware of any engineering reference to support the suggestion that a six bay or even a 10 bay antenna can not serve a rural area well. In fact, most of the high powered stations in rural areas use 10 bays or more. The 6 bay envelope approaches maximum power within a few kilometers of the transmitter site and has no significant impact on coverage.

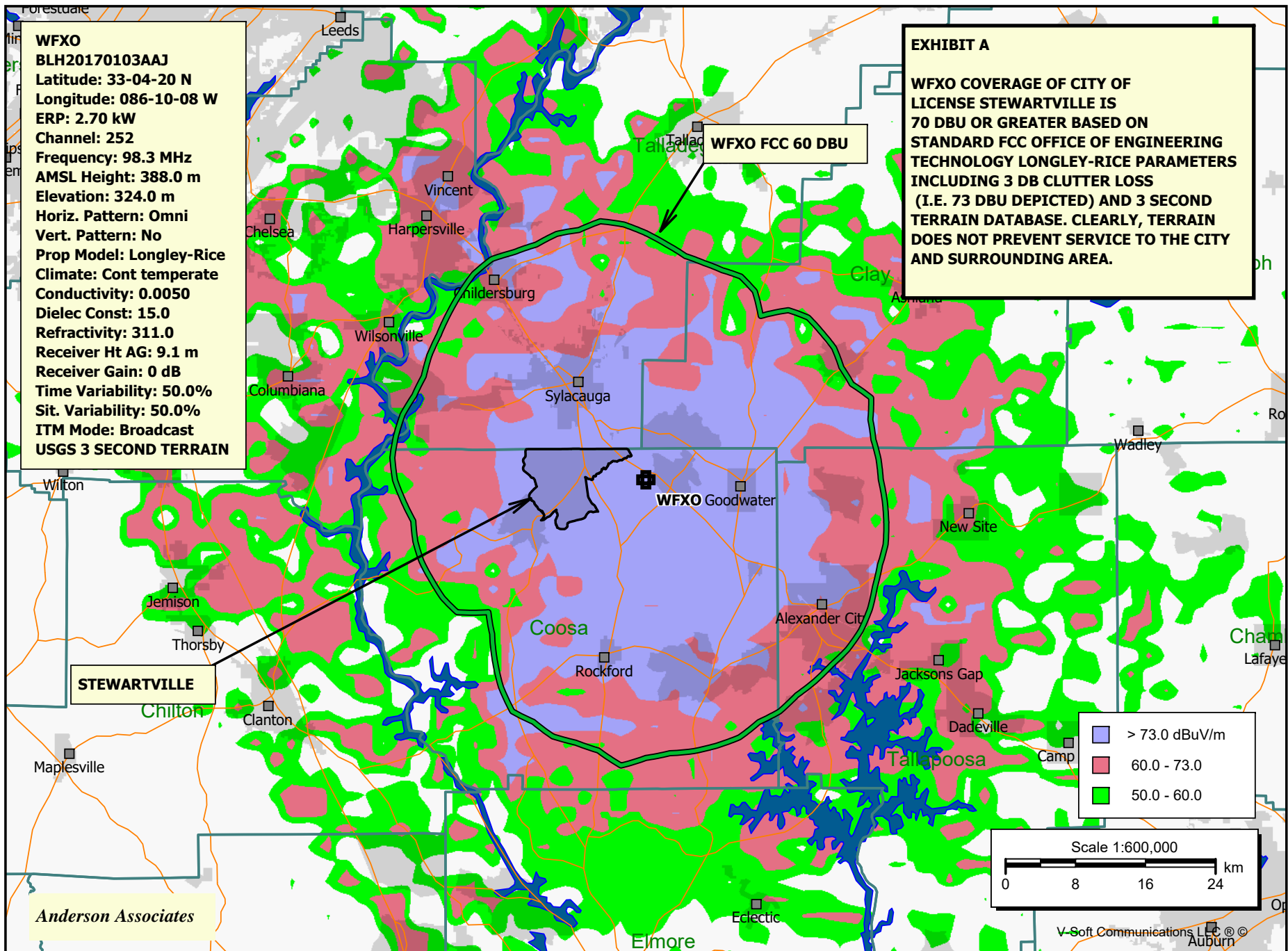
Interference to WFXO

Exhibit B shows Longley-Rice interference to the WFXO 48 dBu contour which, in the absence of interference, represents a usable signal level in rural areas. The recent W252BE minor modification

application (BPFT-20170511AAL) which was apparently filed to eliminate the prohibited 40 dBu (50:10) overlap with the WFXO 60 dBu (50:10) will still cause interference to a population of 38,013 within the WFXO 48 dBu and 3,198 within the FCC 60 dBu contour. In fact, in our experience, this interference will be significantly greater than predicted due to the extraordinary HAAT (348 meters) of the W252BE antenna on Red Mountain in Birmingham.

A handwritten signature in blue ink that reads "Charles M. Anderson". The signature is fluid and cursive, with the first name "Charles" being the most prominent.

Charles M. Anderson May 16, 2017
1519 Euclid Avenue
Bowling Green, KY 42103



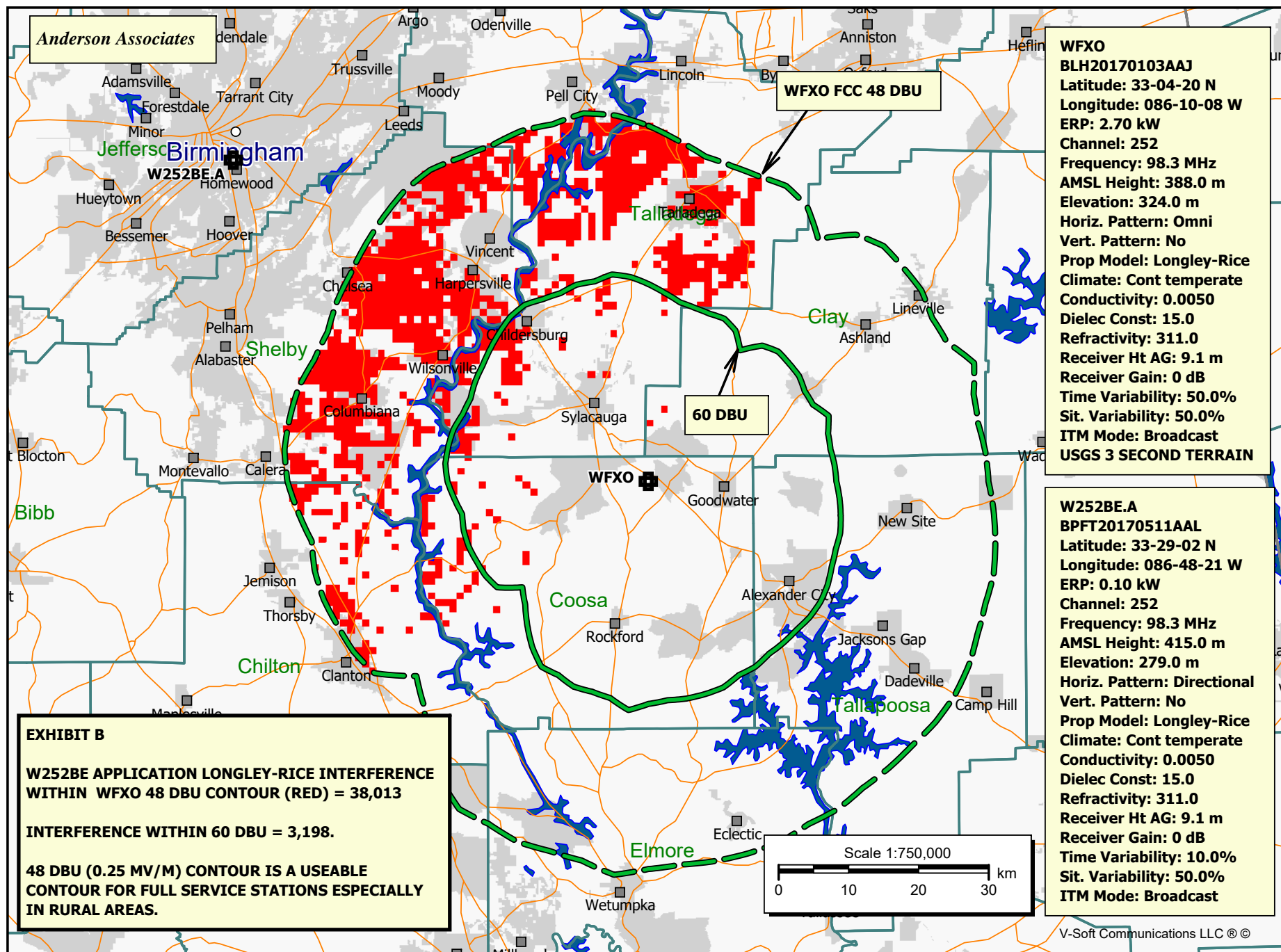


Exhibit B
Complainant Emails

Lee Perryman (WYEA)

From: Lee Perryman (WYEA) <lperryman@wyea.net>
Sent: Monday, May 15, 2017 10:33 AM
To: 'Scott Johnson'
Cc: 'Michael Brannon (WYEA)'
Subject: FW: 98.3 Fox FM interference complaint follow-up

Scott:

FYI.

Lee

From: Marty Garrett [mailto:mgarrett.mg34@gmail.com]
Sent: Monday, May 15, 2017 10:14 AM
To: Lee Perryman (WYEA) <lperryman@wyea.net>
Subject: Re: 98.3 Fox FM interference complaint follow-up

They called we did a phone interview. They asked about doing a ride a long to see if the same things was happen. I told them I get off at 5:00. They said will get back with me if we need to do the ride a long.

Marty Garrett

On Sat, May 13, 2017 at 10:50 AM, Lee Perryman (WYEA) <lperryman@wyea.net> wrote:

Marty:

Yesterday, the licensee of W252BE filed a response with the Federal Communications Commission regarding interference to WFXO-FM.

As part of the process, they were required to contact each complainant, including you, to resolve reported interference, and here is a verbatim excerpt of their contact with you:

"Marty Garrett - Mr. Garrett did not respond to Shelby. His complaint is therefore unpersuasive and unacceptable."

Could you please confirm that they did indeed attempt to make contact with you? And, if so, do you recall if it was by phone and/or email? Did you decline to cooperate?

Thanks for your help.

Best regards,

Lee

From: Lee Perryman (WYEA) [mailto:lperryman@wyea.net]
Sent: Wednesday, April 26, 2017 4:51 PM
To: mgarrett.mg34@gmail.com
Subject: RE: 98.3 Fox FM interference complaint follow-up

Marty:

The licensee of FM radio translator W252BE has begun contacting listeners who earlier complained about interference to our 98.3 Fox FM – WFXO.

If you have not yet heard from them via phone and/or email, I expect you will at some point within the next few days. W252BE is required by the FCC to eliminate its interference with our full-power FM station, and this is part of the process.

I would greatly appreciate your further cooperation as part of helping resolve the interference so we can fully serve our licensed coverage area. Concerns expressed by listeners who do not respond may not be considered by the Federal Communications Commission as they study the problem and apply the rules.

Many complaints were filed, and, if you could also share a copy of your response with me via email so we can keep track, I'd be most grateful.

Thanks again for your support.

Best regards,

Lee

From: Lee Perryman (WYEA) [<mailto:lperryman@wyea.net>]

Sent: Thursday, March 30, 2017 10:40 AM

To: mgarrett.mg34@gmail.com

Subject: 98.3 Fox FM interference complaint follow-up

Marty:

In February, as you will recall, we filed a complaint with the Federal Communications Commission protesting interference to 98.3 Fox FM from an FM translator transmitter in Birmingham. This interference has been interrupting our WFXO-FM signal or made it unlistenable in parts of our licensed and protected coverage area. FM translator stations are not permitted to interfere with full-service stations such as WFXO-FM.

You were kind enough to submit an interference complaint, which we appreciate very much.

I'm pleased to let you know that the FCC has directed the offending FM translator station to resolve the problem, and you may or may not be contacted by a representative of the station as they investigate over the next 30 days. If they do reach out to you, I'd greatly appreciate your further cooperation.

We're excited about what we can do in and for the communities we are licensed and privileged to serve.

Again, thanks for your help!

Best regards,

Lee

Lee Perryman
Managing Member
Yea!106.5 & WYEA!1290 - 105.1 WRFS – 96.3 & 105.0 WLMA – 98.3 Fox FM – SylacaugaNews.com
Marble City Media LLC
P.O. Box 629

Sylacauga, AL 35150-0629
Studio/Offices: [\(256\) 249-4263](tel:2562494263)
Direct: [\(202\) 384-9551](tel:2023849551)
Fax: [\(678\) 399-9640](tel:6783999640)
WYEA.net – WRFS.fm – WLMA.fm – WFXO.fm – SylacaugaNews.com

Reaching into parts of more than 20 counties in East Central Alabama. Active member of the National Association of Broadcasters, Alabama Broadcasters Association, Sylacauga Chamber of Commerce, Greater Coosa Valley Chamber of Commerce, Coosa County Chamber of Commerce, Greater Talladega Area Chamber of Commerce, Alexander City Chamber of Commerce, and Dadeville Area Chamber of Commerce. Home of Alabama's 2017 Radio Station of the Year, Alabama's Best Morning Show of 2016, and the Alabama Broadcasters Association's 2014 Broadcaster of the Year. Winner of 2013, 2015, 2016, and 2017 ABBY Awards for broadcast excellence.

Lee Perryman (WYEA)

From: Lee Perryman (WYEA) <lperryman@wyea.net>
Sent: Monday, May 15, 2017 9:44 AM
To: 'Scott Johnson'
Cc: 'Michelle McClure'
Subject: FW: 98.3 Fox FM interference complaint follow-up

Scott:

FYI.

Lee

-----Original Message-----

From: Tom Roberts, President/CEO Childersburg Chamber of Commerce [mailto:childersburgchamber@gmail.com]
Sent: Monday, May 15, 2017 9:18 AM
To: Lee Perryman (WYEA) <lperryman@wyea.net>
Subject: Re: 98.3 Fox FM interference complaint follow-up

His account is total fabrication:

My response to that fabrication is as follows:

Your response to the FCC regarding my complaints is, to say the least a misrepresentation of our two conversations!

"Thomas Roberts - Mr. Roberts is President and CEO of the Greater Coosa Valley Chamber of Commerce. Interviewed by a principal of Shelby . Mr. Roberts admitted to Mr. Reynolds that Marble City is a valued member of the Chamber and that Mr. Roberts and Marble City's principal are close business and personal associates. They have spoken dozens of times about the newly upgraded station and the translator. Mr. Roberts clearly values his member's interests. Mr. Roberts is trying to help Marble City build its brand. He is therefore not a disinterested complainant. Further, Mr. Robert's complaint that WFXO signal 'is being overrun' at an undisclosed location is far too imprecise to allow evaluation on its merits. Finally, Mr. Roberts refused to cooperate with Shelby because he does not have time. His complaint is entitled to no credence."

Point by point:

- 1) "Mr. Roberts admitted to Mr. Reynolds that Marble City is a valued member of the Chamber and that Mr. Roberts and Marble City's principal are close business and personal associates." You infer that it is some strange secret that Marble City Media is a Chamber member or that Mr. Perryman & I have known each other since birth. Those facts are unrelated to my complaints, which are very real! (See the next point.).
- 2) "They have spoken dozens of times about the newly upgraded station and the translator." You VERY conveniently left out the emphasis that I initiated those conversations after experiencing almost constant interference.
- 3) "Mr. Roberts clearly values his member's interests. Mr. Roberts is trying to help Marble City build its brand. He is therefore not a disinterested complainant." You actually nailed that one - I am a responsible professional who does his job and values the resource WFXO would be for the Chamber & its members in our home city, if not for your station's

interference. And, NO, I am NOT a "disinterested complainant." I am a listener, or at least I try to be - cannot do that at work, because of your interference!

4) "Further, Mr. Robert's complaint that WFXO signal 'is being overrun' at an undisclosed location is far too imprecise to allow evaluation on its merits." The location(s) were not only disclosed (repeatedly, I might add), they were very precisely described and very easy to locate if only you would actually come to Childersburg. They cannot be missed. Further, I offered to meet with you and show you the many spots your station interferes - as if you could actually miss them if you followed up!

5) "Finally, Mr. Roberts refused to cooperate with Shelby because he does not have time. His complaint is entitled to no credence." The first time you called, I was extremely busy, but set a time for you to call me back - YOU missed that appointment, NOT ME! And when you finally followed up, I was again very busy, but I took the time for a rather lengthy detailed conversation about the problem. Your version of the story does not match the truth or even the tone of that conversation.

Tom Roberts

From: Lee Perryman (WYEA) [mailto:lperryman@wyea.net]
Sent: Saturday, May 13, 2017 4:28 PM
To: 'Tom Roberts' <childersburgchamber@gmail.com>
Subject: RE: 98.3 Fox FM interference complaint follow-up

Tom:

Yesterday, the licensee of W252BE filed a response with the Federal Communications Commission regarding interference to WFXO-FM.

As part of the process, they were required to contact each complainant, including you, to resolve reported interference, and here is a verbatim excerpt of their contact with you:

"Thomas Roberts - Mr. Roberts is President and CEO of the Greater Coosa Valley Chamber of Commerce. Interviewed by a principal of Shelby . Mr. Roberts admitted to Mr. Reynolds that Marble City is a valued member of the Chamber and that Mr. Roberts and Marble City's principal are close business and personal associates. They have spoken dozens of times about the newly upgraded station and the translator. Mr. Roberts clearly values his member's interests. Mr. Roberts is trying to help Marble City build its brand. He is therefore not a disinterested complainant. Further, Mr. Robert's complaint that WFXO signal 'is being overrun' at an undisclosed location is far too imprecise to allow evaluation on its merits. Finally, Mr. Roberts refused to cooperate with Shelby because he does not have time. His complaint is entitled to no credence."

Could you please confirm that they did indeed make contact with you? And, if so, is this an accurate representation of the contact? Did you decline to cooperate?

Also, I think what is missing in the W252BE summary is context regarding the "dozens of times" we have supposedly spoken about this matter. Am I correct in representing to my counsel that you were generally informing me of continued interference (from fairly specific locations, as I recall) rather than my reaching out to you?

Thanks for your help.

Best regards,

Lee

From: Lee Perryman (WYEA) [mailto:lperryman@wyea.net]
Sent: Wednesday, April 26, 2017 4:54 PM
To: 'Tom Roberts' <childersburgchamber@gmail.com>
Subject: RE: 98.3 Fox FM interference complaint follow-up

Tom:

The licensee of FM radio translator W252BE has begun contacting listeners who earlier complained about interference to our 98.3 Fox FM - WFXO.

If you have not yet heard from them via phone and/or email, I expect you will at some point within the next few days. W252BE is required by the FCC to eliminate its interference with our full-power FM station, and this is part of the process.

I would greatly appreciate your further cooperation as part of helping resolve the interference so we can fully serve our licensed coverage area.

Concerns expressed by listeners who do not respond may not be considered by the Federal Communications Commission as they study the problem and apply the rules.

Many complaints were filed, and, if you could also share a copy of your response with me via email so we can keep track, I'd be most grateful.

Thanks again for your support.

Best regards,

Lee

From: Lee Perryman (WYEA) [mailto:lperryman@wyea.net]
Sent: Thursday, March 30, 2017 10:30 AM
To: 'Tom Roberts' <childersburgchamber@gmail.com>
Subject: 98.3 Fox FM interference complaint follow-up

Tom:

In February, as you will recall, we filed a complaint with the Federal Communications Commission protesting interference to 98.3 Fox FM from an FM translator transmitter in Birmingham. This interference has been interrupting our WFXO-FM signal or made it unlistenable in parts of our licensed and protected coverage area. FM translator stations are not permitted to interfere with full-service stations such as WFXO-FM.

You were kind enough to submit an interference complaint, which we appreciate very much.

I'm pleased to let you know that the FCC has directed the offending FM translator station to resolve the problem, and you may or may not be contacted by a representative of the station as they investigate over the next 30 days. If they do reach out to you, I'd greatly appreciate your further cooperation.

We're excited about what we can do in and for the communities we are licensed and privileged to serve.

Again, thanks for your help!

Best regards,

Lee

Lee Perryman

Managing Member

Yea!106.5 & WYEA!1290 - 105.1 WRFS - 96.3 & 1050 WLMA - 98.3 Fox FM - SylacaugaNews.com Marble City Media LLC

P.O. Box 629 Sylacauga, AL 35150-0629

Studio/Offices: (256) 249-4263

Direct: (202) 384-9551

Fax: (678) 399-9640

WYEA.net - WRFS.fm - WLMA.fm - WFXO.fm - SylacaugaNews.com

Reaching into parts of more than 20 counties in East Central Alabama. Active member of the National Association of Broadcasters, Alabama Broadcasters Association, Sylacauga Chamber of Commerce, Greater Coosa Valley Chamber of Commerce, Coosa County Chamber of Commerce, Greater Talladega Area Chamber of Commerce, Alexander City Chamber of Commerce, and Dadeville Area Chamber of Commerce. Home of Alabama's 2017 Radio Station of the Year, Alabama's Best Morning Show of 2016, and the Alabama Broadcasters Association's 2014 Broadcaster of the Year. Winner of 2013, 2015, 2016, and 2017 ABBY Awards for broadcast excellence.

Lee Perryman (WYEA)

From: Lee Perryman (WYEA) <lperryman@wyea.net>
Sent: Saturday, May 13, 2017 7:27 PM
To: 'Scott Johnson'
Cc: 'Michelle McClure'
Subject: FW: 98.3 Fox FM interference complaint follow-up

Scott:

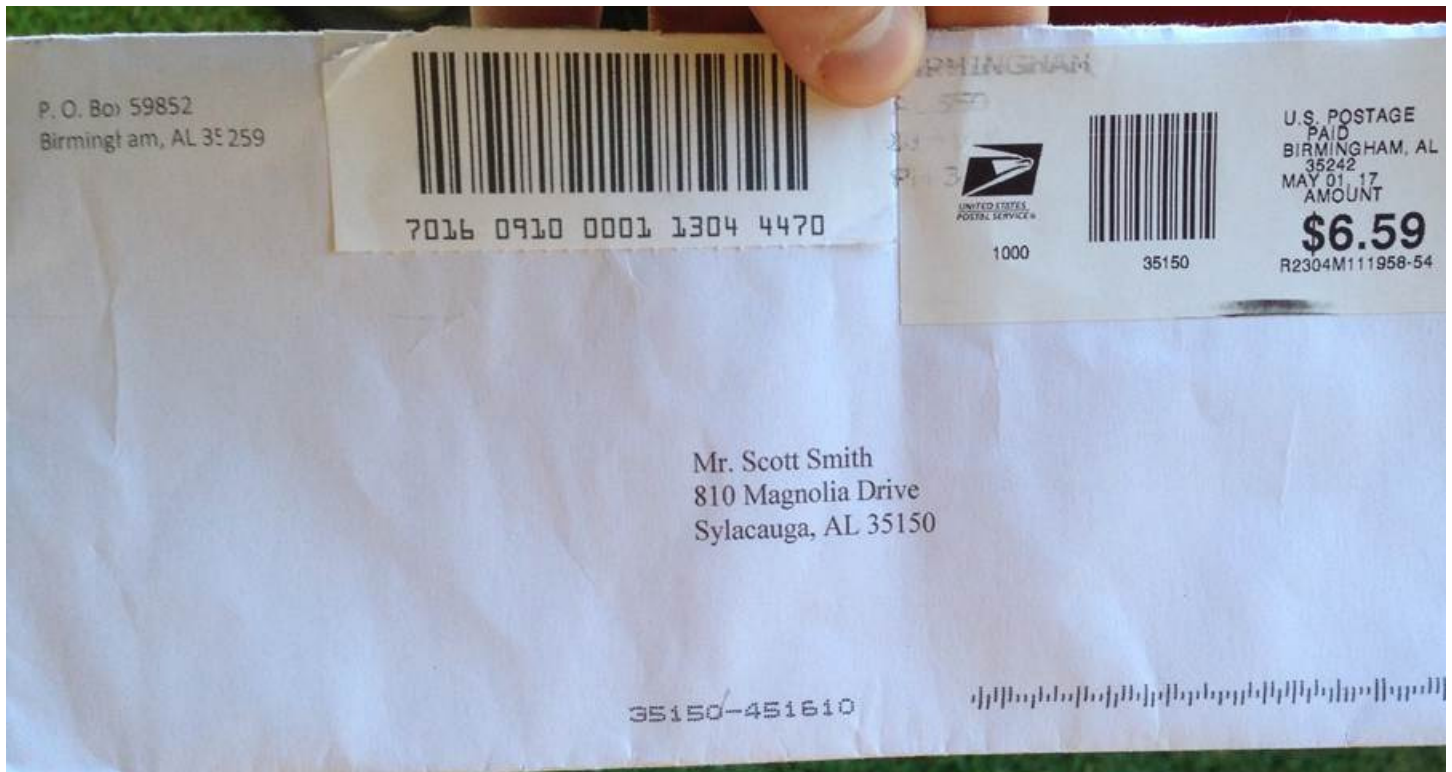
FYI, Scott Smith responded by mail yesterday and advised that he reconfirmed ongoing interference issues with specificity. He also told me this afternoon that he was still hearing the competing Mexican signal on 98.3 throughout the area.

Note that the request was postmarked May 1; it arrived on May 4. He's a busy schoolteacher and didn't get around to dealing with it for several days.

Lee

From: Scott Smith [mailto:ssmith@tcboe.org]
Sent: Saturday, May 13, 2017 6:53 PM
To: Lee Perryman (WYEA) <lperryman@wyea.net>
Subject: Re: 98.3 Fox FM interference complaint follow-up

I mailed a response to a Mr. Lyle Reynolds yesterday.



On Sat, May 13, 2017 at 10:40 AM Lee Perryman (WYEA) <lperryman@wyea.net> wrote:

Scott:

Yesterday, the licensee of W252BE filed a response with the Federal Communications Commission regarding interference to WFXO-FM.

As part of the process, they were required to contact each complainant, including you, to resolve reported interference, and here is a verbatim excerpt of their contact with you:

“Scott Smith – Mr. Smith did not respond to Shelby. He makes no statement he is a ‘regular listener’. He did not respond to Shelby’s email. His complaint should not be credited.”

Could you please confirm that they did indeed attempt to make contact with you? You noted a phone attempt, but do you recall any email? Did you decline to cooperate?

Thanks for your help.

Best regards,

Lee

From: Scott Smith [mailto:ssmith@tcboe.org]

Sent: Wednesday, April 26, 2017 6:09 PM

To: Lee Perryman (WYEA) <lperryman@wyea.net>

Subject: Re: 98.3 Fox FM interference complaint follow-up

Lee,

They did call my wife's phone during work.

I had given them our home landline & her cell.

I'll have to get the number and call them back.

I'm glad to help.

Scott

On Wed, Apr 26, 2017 at 4:51 PM Lee Perryman (WYEA) <lperryman@wyea.net> wrote:

Scott:

The licensee of FM radio translator W252BE has begun contacting listeners who earlier complained about interference to our 98.3 Fox FM – WFXO.

If you have not yet heard from them via phone and/or email, I expect you will at some point within the next few days. W252BE is required by the FCC to eliminate its interference with our full-power FM station, and this is part of the process.

I would greatly appreciate your further cooperation as part of helping resolve the interference so we can fully serve our licensed coverage area. Concerns expressed by listeners who do not respond may not be considered by the Federal Communications Commission as they study the problem and apply the rules.

Many complaints were filed, and, if you could also share a copy of your response with me via email so we can keep track, I'd be most grateful.

Thanks again for your support.

Best regards,

Lee

From: Lee Perryman (WYEA) [mailto:lperryman@wyea.net]

Sent: Thursday, March 30, 2017 10:37 AM

To: ssmith@tcboe.org

Subject: 98.3 Fox FM interference complaint follow-up

Scott:

In February, as you will recall, we filed a complaint with the Federal Communications Commission protesting interference to 98.3 Fox FM from an FM translator transmitter in Birmingham. This interference has been interrupting our WFXO-FM signal or made it unlistenable in parts of our licensed and protected coverage area. FM translator stations are not permitted to interfere with full-service stations such as WFXO-FM.

You were kind enough to submit an interference complaint, which we appreciate very much.

I'm pleased to let you know that the FCC has directed the offending FM translator station to resolve the problem, and you may or may not be contacted by a representative of the station as they investigate over the next 30 days. If they do reach out to you, I'd greatly appreciate your further cooperation.

We're excited about what we can do in and for the communities we are licensed and privileged to serve.

Again, thanks for your help!

Best regards,

Lee

Lee Perryman
Managing Member
Yea!106.5 & WYEA!1290 - 105.1 WRFS - 96.3 & 1050 WLMA - 98.3 Fox FM - SylacaugaNews.com
Marble City Media LLC
P.O. Box 629
Sylacauga, AL 35150-0629
Studio/Offices: (256) 249-4263
Direct: (202) 384-9551
Fax: (678) 399-9640
WYEA.net - WRFS.fm - WLMA.fm - WFXO.fm - SylacaugaNews.com

Reaching into parts of more than 20 counties in East Central Alabama. Active member of the National Association of Broadcasters, Alabama Broadcasters Association, Sylacauga Chamber of Commerce, Greater Coosa Valley Chamber of Commerce, Coosa County Chamber of Commerce, Greater Talladega Area Chamber of Commerce, Alexander City Chamber of Commerce, and Dadeville Area Chamber of Commerce. Home of Alabama's 2017 Radio Station of the Year, Alabama's Best Morning Show of 2016, and the Alabama Broadcasters Association's 2014 Broadcaster of the Year. Winner of 2013, 2015, 2016, and 2017 ABBY Awards for broadcast excellence.

--

Clinton SCOTT Smith

CONFIDENTIALITY NOTICE: The information contained in this message is intended only for the recipient and may contain information that is confidential. If you are not the intended recipient or an employee or agent responsible for delivering this message to the intended recipient; please be aware that any dissemination, forwarding, printing, copying, disclosure or distribution of this communication is strictly prohibited. If you have received this communication in error, please immediately notify the sender by replying to the message and deleting all copies, including attachments, from your system.

--

Clinton SCOTT Smith

--

Clinton SCOTT Smith

CONFIDENTIALITY NOTICE: The information contained in this message is intended only for the recipient and may contain information that is confidential. If you are not the intended recipient or an employee or agent responsible for delivering this message to the intended recipient; please be aware that any dissemination, forwarding, printing, copying, disclosure or distribution of this communication is strictly prohibited. If you have received this communication in error, please immediately notify the sender by replying to the message and deleting all copies, including attachments, from your system.

Lee Perryman (WYEA)

From: Lee Perryman (WYEA) <lperryman@wyea.net>
Sent: Saturday, May 13, 2017 4:16 PM
To: 'Scott Johnson'
Cc: 'Michelle McClure'
Subject: FW: 98.3 Fox FM interference complaint follow-up

Scott:

FYI. Carden, a pilot who travels frequently, also told me that Reynolds told him he did not need to respond further.

Lee

From: Tom Carden [mailto:tcrdn11@gmail.com]
Sent: Saturday, May 13, 2017 4:01 PM
To: Lee Perryman (WYEA) <lperryman@wyea.net>
Subject: Re: 98.3 Fox FM interference complaint follow-up

Lee,

Lyle, with the offending, station first contacted me on 4/24/17 with a voice mail. I was having a very busy week and failed to respond promptly. When I did have a chance to respond several days later, I was in the process of leaving a voicemail when I was interrupted with another call. Then on 5/3/17, I received a registered letter from him and called him promptly.

During our conversation, he asked many specifics about the interference I had experienced while listening to 98.3. I explained my experiences in as much detail as possible. He further asked if it was possible to meet with me personally in the areas I described. I told him I was extremely busy for the next several days and couldn't commit at the moment but I did give him very specific locations. Stemley Bridge, the KMart parking lot area of Martin Street South in Pell City and pretty much anywhere north of there. And from the Chocoloca Creek bridge on AL 77 north and east of there to the Talladega Airport. I offered that I would meet with him. if able, when he chose to come to the area with his equipment but explained my schedule or lack of.

Lyle was very pleasant to discuss the matter with and seemed very interested in resolving the matter.

Hope this helps.

Peace,
<><
TC

Sent from my iPad

On May 13, 2017, at 10:39 AM, Lee Perryman (WYEA) <lperryman@wyea.net> wrote:

Tom:

Yesterday, the licensee of W252BE filed a response with the Federal Communications Commission regarding interference to WFXO-FM.

As part of the process, they were required to contact each complainant, including you, to resolve reported interference, and here is a verbatim excerpt of their contact with you:

“Tom Carden – Mr. Carden has failed to respond to outreach by Shelby to verify his claim of interference. That dooms his claim.”

Could you please confirm that they did indeed attempt to make contact with you? And, if so, do you recall if it was by phone and/or email? Did you decline to cooperate?

Thanks for your help.

Best regards,

Lee

From: Lee Perryman (WYEA) [<mailto:lperryman@wyea.net>]
Sent: Wednesday, April 26, 2017 4:51 PM
To: tcrdn11@gmail.com
Subject: RE: 98.3 Fox FM interference complaint follow-up

Tom:

The licensee of FM radio translator W252BE has begun contacting listeners who earlier complained about interference to our 98.3 Fox FM – WFXO.

If you have not yet heard from them via phone and/or email, I expect you will at some point within the next few days. W252BE is required by the FCC to eliminate its interference with our full-power FM station, and this is part of the process.

I would greatly appreciate your further cooperation as part of helping resolve the interference so we can fully serve our licensed coverage area. Concerns expressed by listeners who do not respond may not be considered by the Federal Communications Commission as they study the problem and apply the rules.

Many complaints were filed, and, if you could also share a copy of your response with me via email so we can keep track, I'd be most grateful.

Thanks again for your support.

Best regards,

Lee

From: Lee Perryman (WYEA) [<mailto:lperryman@wyea.net>]
Sent: Thursday, March 30, 2017 10:40 AM
To: tcrdn11@gmail.com
Subject: 98.3 Fox FM interference complaint follow-up

Tom:

In February, as you will recall, we filed a complaint with the Federal Communications Commission protesting interference to 98.3 Fox FM from an FM translator transmitter in Birmingham. This interference has been interrupting our WFXO-FM signal or made it unlistenable in parts of our licensed and protected coverage area. FM translator stations are not permitted to interfere with full-service stations such as WFXO-FM.

You were kind enough to submit an interference complaint, which we appreciate very much.

I'm pleased to let you know that the FCC has directed the offending FM translator station to resolve the problem, and you may or may not be contacted by a representative of the station as they investigate over the next 30 days. If they do reach out to you, I'd greatly appreciate your further cooperation.

We're excited about what we can do in and for the communities we are licensed and privileged to serve.

Again, thanks for your help!

Best regards,

Lee

Lee Perryman
Managing Member
Yea!106.5 & WYEA!1290 - 105.1 WRFS - 96.3 & 1050 WLMA - 98.3 Fox FM - SylacaugaNews.com
Marble City Media LLC
P.O. Box 629
Sylacauga, AL 35150-0629
Studio/Offices: (256) 249-4263
Direct: (202) 384-9551
Fax: (678) 399-9640
WYEA.net - WRFS.fm - WLMA.fm - WFXO.fm - SylacaugaNews.com

Reaching into parts of more than 20 counties in East Central Alabama. Active member of the National Association of Broadcasters, Alabama Broadcasters Association, Sylacauga Chamber of Commerce, Greater Coosa Valley Chamber of Commerce, Coosa County Chamber of Commerce, Greater Talladega Area Chamber of Commerce, Alexander City Chamber of Commerce, and Dadeville Area Chamber of Commerce. Home of Alabama's 2017 Radio Station of the Year, Alabama's Best Morning Show of 2016, and the Alabama Broadcasters Association's 2014 Broadcaster of the Year. Winner of 2013, 2015, 2016, and 2017 ABBY Awards for broadcast excellence.

Lee Perryman (WYEA)

From: Lee Perryman (WYEA) <lperryman@wyea.net>
Sent: Saturday, May 13, 2017 1:06 PM
To: 'Scott Johnson'
Cc: 'Michelle McClure'
Subject: FW: 98.3 Fox FM interference complaint follow-up

FYI.

From: dannyc1209@aol.com [mailto:dannyc1209@aol.com]
Sent: Saturday, May 13, 2017 12:59 PM
To: lperryman@wyea.net
Subject: Re: 98.3 Fox FM interference complaint follow-up

I've had no contact with anyone about such. If they attempted email, there's a possibility it was dumped into a spam folder and subsequently deleted, though generally only true spam is dumped there. Otherwise, definitely not. I also haven't received any phone calls regarding this...at least none that I answered. If caller i.d. shows "unidentifiable" or "private number," I don't answer.

Danny

-----Original Message-----

From: Lee Perryman (WYEA) <lperryman@wyea.net>
To: dannyc1209 <dannyc1209@aol.com>
Sent: Sat, May 13, 2017 10:40 am
Subject: RE: 98.3 Fox FM interference complaint follow-up

Danny:

Yesterday, the licensee of W252BE filed a response with the Federal Communications Commission regarding interference to WFXO-FM.

As part of the process, they were required to contact each complainant, including you, to resolve reported interference, and here is a verbatim excerpt of their contact with you:

“Danny Culp – Mr. Culp has not responded to Shelby’s outreach. The complaint must be discounted.”

Could you please confirm that they did indeed attempt to make contact with you? And, if so, do you recall if it was by phone and/or email? Did you decline to cooperate?

Thanks for your help.

Best regards,

Lee

From: dannyc1209@aol.com [<mailto:dannyc1209@aol.com>]

Sent: Thursday, March 30, 2017 10:50 AM

To: lperryman@wyea.net

Subject: Re: 98.3 Fox FM interference complaint follow-up

I'll be glad to cooperate, and congrats on the great awards you recently won! Well-deserved, if only for putting up with all the SAFE psa's!

Danny

-----Original Message-----

From: Lee Perryman (WYEA) <lperryman@wyea.net>

To: dannyc1209 <dannyc1209@aol.com>

Sent: Thu, Mar 30, 2017 10:34 am

Subject: 98.3 Fox FM interference complaint follow-up

Danny:

In February, as you will recall, we filed a complaint with the Federal Communications Commission protesting interference to 98.3 Fox FM from an FM translator transmitter in Birmingham. This interference has been interrupting our WFXO-FM signal or made it unlistenable in parts of our licensed and protected coverage area. FM translator stations are not permitted to interfere with full-service stations such as WFXO-FM.

You were kind enough to submit an interference complaint, which we appreciate very much.

I'm pleased to let you know that the FCC has directed the offending FM translator station to resolve the problem, and you may or may not be contacted by a representative of the station as they investigate over the next 30 days. If they do reach out to you, I'd greatly appreciate your further cooperation.

We're excited about what we can do in and for the communities we are licensed and privileged to serve.

Again, thanks for your help!

Best regards,

Lee

Lee Perryman
Managing Member
Yea!106.5 & WYEA!1290 - 105.1 WRFS - 96.3 & 1050 WLMA - 98.3 Fox FM - SylacaugaNews.com
Marble City Media LLC
P.O. Box 629
Sylacauga, AL 35150-0629
Studio/Offices: (256) 249-4263
Direct: (202) 384-9551
Fax: (678) 399-9640
WYEA.net - WRFS.fm - WLMA.fm - WFXO.fm - SylacaugaNews.com

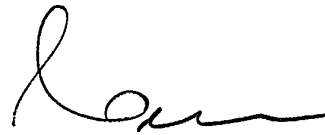
Reaching into parts of more than 20 counties in East Central Alabama. Active member of the National Association of Broadcasters, Alabama Broadcasters Association, Sylacauga Chamber of Commerce, Greater Coosa Valley Chamber of Commerce, Coosa County Chamber of Commerce, Greater Talladega Area Chamber of Commerce, Alexander City Chamber of Commerce, and Dadeville Area Chamber of Commerce. Home of Alabama's 2017 Radio Station of the Year, Alabama's Best Morning Show of 2016, and the Alabama Broadcasters Association's 2014 Broadcaster of the Year. Winner of 2013, 2015, 2016, and 2017 ABBY Awards for broadcast excellence.

Declaration of Lee Perryman

I, Lee Perryman, under penalty of perjury, do hereby declare that the following is true and correct:

1. I am the Trustee of the Frank Lee Perryman Trust which is the sole Member of Marble City Media, LLC, licensee of FM Broadcast Station WFXO(FM), Stewartville, Alabama (Fac. ID 704), operating on 98.3 MHz.
2. I have personally received, and my staff has received, complaints from listeners that they are receiving the programming of co-channel FM Translator Station W252BE, Tarrant, Alabama (Fac. ID 141124), when they are trying to listen to WFXO(FM). Neither I nor WFXO(FM) has any employment, business or other relationship with these listeners other than that they are listeners of WFXO(FM).
3. I have contacted 6 of the original complainants to confirm their contact with Shelby. A true and correct copy of the emails I received from the original complainants is attached.
4. The information in the attached "Reply to Response to Interference Complaint and FCC Letter of Inquiry and Opposition to W252BE Modification Application" to remedy this interference is true and accurate to the best of my knowledge and belief.

Dated this 18th day of May, 2017.



Frank Lee Perryman

CERTIFICATE OF SERVICE

I, Evelyn Ojea, a Legal Assistant with the office of Fletcher, Heald & Hildreth PLC, hereby certify that a true and correct copy of the foregoing "Reply to Response to Interference Complaint and FCC Letter of Inquiry and Opposition to W252BE Modification Application" was sent on this 18th day of May, 2017, via First-Class United States mail, postage pre-paid, or as otherwise specified, to the following:

Peter H. Doyle, Esquire (by e-mail)
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

James Bradshaw (by e-mail)
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Robert Gates (by e-mail)
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

John C. Trent, Esq. (by email and mail)
Howard M. Weiss, Esq.
Law Office of Putbrese Hunsaker & Trent, P.C.
200 South Church Street
Woodstock, VA 22664
*Counsel to Shelby Broadcasting, LLC and
Valleydale Broadcasting, LLC*


Evelyn Ojea