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Before the  
Federal Communications Commission  
Washington, D.C. 20554

In Re Application of )  
)  
VALLEYDALE BROADCASTING, LLC )  
)  
For Special Temporary Authority to Operate )  
DWZNN(FM), Maplesville, Alabama )

File No. BSTA-20171025ABA  
Facility ID Number 183374

**ACCEPTED/FILED**

DEC 28 2017

Directed to: Office of the Secretary  
Attention: Chief, Audio Division, Media Bureau

Federal Communications Commission  
Office of the Secretary

**OPPOSITION TO PETITION FOR PARTIAL RECONSIDERATION**

Frontdoor Broadcasting, LLC (“Frontdoor”), by its counsel, hereby opposes the Petition for Partial Reconsideration filed by Valleydale Broadcasting, LLC, the former licensee of DWZNN(FM), Maplesville, Alabama. With respect thereto, the following is submitted:

Valleydale is seeking partial reconsideration of the Media Bureau’s letter decision, dated November 15, 2017, 1800B3-VM, in which the Bureau determined that the license for DWZNN had expired due to that station’s failure to operate with authorized facilities for over one year and ordered that a copy of the letter, which also found that Valleydale had falsely claimed that DWZNN had previously returned to operation with its licensed facilities. Valleydale is not now seeking reconsideration of the determination that the DWZNN license automatically expired, but rather only that Valleydale and its principals must submit copies of the letter decision with each application submitted to the Commission by Valleydale or any other entity in which Valleydale’s principals have a cognizable interest.

Although Valleydale’s Petition for Partial Reconsideration uses a great deal of space attempting to support its claim that it operated, albeit with facilities at a different site, without

authorization for nearly a year, its basic argument is that despite the fact that it knowingly submitted false information to the Commission, somehow it did not do so in bad faith.

Unfortunately for Valleydale, however, the arguments it makes support rather than undercut a finding of bad faith.

Valleydale itself set forth the proposition that “[a] misrepresentation if a false statement made with intent to deceive.” Petition for Partial Reconsideration at 2. Valleydale has acknowledged both that the information submitted in its notice of resumption of operations was false and that, at the time it was filed, Valleydale principal Paul H. Reynolds was anxious about the proximity of the one-year anniversary of the station’s going silent. *See* Petition for Partial Reconsideration at 3. Clearly, Mr. Reynolds knew that DWZNN was not at that time operating at its licensed transmitter site. Nonetheless, Mr. Reynolds affirmatively typed in the station’s notice of resumption of operations a statement that the station had “resumed operation with its licensed facility.” The motive for knowingly making such a false statement is quite clear, as is the intent to deceive. Mr. Reynolds knew that a year of silence for the station was almost up and also knew that the station did not have any authorization to operate at any site other than its licensed site. Valleydale would have us believe that it was so busy running around trying to return DWZNN to the air before the expiration of one year that it simply overlooked the fact that it had no authorization to operate at an alternate site or with reduced facilities. Even if one were to credit this claim, Valleydale’s blissful ignorance would have been rudely interrupted when Mr. Reynolds typed the false words in response to the question concerning the parameters under which DWZNN returned to operation. The only logical conclusion is that Valleydale made this untrue statement with the intent of deceiving the Commission into believing that all was well, and that the license had not expired pursuant to Section 312(g) of the Communications Act.

Valleydale's argument that it was busy, made a mistake and simply forgot to seek special temporary authority for the unauthorized operations is unconvincing. Such a temporary authority request would have been filed before the filing of the notice of resumption of operations, not after. To the extent that a reminder was needed that an STA was appropriate, the resumption of operations form provided that notice in asking at Question 7, for a statement of operating parameters to be included at Exhibit 3. It nonetheless did nothing to obtain an STA until a month after the Frontdoor opposition was filed on September 25, 2017.

Valleydale has attempted to make much about Frontdoor's principal's statements, which it refers to as "contentions," concerning the fact that when he visited what he had been told might be DWZNN's new, unauthorized site, the station was not on the air. Making light of the Frontdoor's statements that WZNN was not operating at its licensed site and no signal was evident at the unauthorized site, all of which were based on facts, Valleydale attempts to demonstrate that DWZNN did commence unauthorized operations before a year of silence had elapsed and continued to provide service, albeit with at least one interruption.<sup>1</sup> It also has noted that it could have been granted an STA for such operation. All of this argumentation is ultimately irrelevant, however. It does not matter if an STA would have been granted if Valleydale had only requested one. The fact of the matter is that it did not. Frontdoor demonstrated that Valleydale was not broadcasting and could not broadcast at its sole authorized location after a year of silence had elapsed. The Commission's policy on this matter is quite clear: operation without an authorization is essentially the same as remaining silent. *See, Eagle Broad. Group, Ltd. v. FCC*, 563 F.3d 543, 553 (D.C. Cir. 2009) ("Under the statute,

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<sup>1</sup> Notably absent are copies of electric bills, operating logs/EAS logs, copies of on-air advertising, invoices for equipment and invoices for installation of the unauthorized operations.

unauthorized and unlicensed transmissions are no better than silence"); *see also, James McCluskey, Ph.D.*, Letter Order, 27 FCC Rcd 6252, 6254-55 (MB 2012) ("an unauthorized transmission counts for nothing").

Whatever abilities Mr. Reynolds might or might not have with the Commission's electronic filing systems, an experienced broadcaster, such as he notes that he is, would have been aware of these policies. He also would have been well aware that a radio station may not simply pick itself up from its licensed site, plop itself down anywhere in the area, then start to broadcast at whatever less than licensed power it might deem appropriate. It is indeed a curious puzzle why a licensee that likely could have obtained an STA for operations at the site where it claims that it resumed broadcasting would have failed to do so. As noted above, the resumption of operations from itself would have given an experienced broadcaster such as Valleydale the awareness that an STA was needed before filing that form so that a truthful response as to operating parameters could have been made without any fear as to loss of the station's license. Ultimately, however, it does not matter whether Valleydale simply ran out of time or had other reasons for failing to seek an authorization. Valleydale ran up against the one year deadline with no authorized location at which it could broadcast and knowingly submitted a false statement that it resumed operations with licensed facilities. Clearly, it had a motive for making this deceptive statement, and this is the essence of bad faith and misrepresentation.

Additionally, Valleydale claims that it has a history of compliance with the Commission's rules and policies and that this instance is an aberration. Frontdoor would beg to differ. It brings to the Commission's attention the remarkably similar case of WTID(FM), Thomaston, Alabama. This station is licensed to Great South Wireless, LLC, of which Mr. Reynolds is also a member. According to a request for Special Temporary Authority, File No.

BLSTA-20160826AAS, WTID went silent on August 24, 2016, due to staffing issues. It sought and was granted an extension of this STA, then notified the Commission that it had returned to operation on July 22, 2017, stating that it was with licensed parameters. As set forth in the attached declaration of Allan G. Stroh, however, when Mr. Stroh visited the licensed WTID site, no broadcast facilities were located there. Moreover, when he attempted to find the broadcast signal of that station, he could not hear any programming on its frequency.

Frontdoor acknowledges that this absence of any broadcasts on one day does not necessarily mean that the station has not operated at some point or points in time on or after July 22, 2017, and Frontdoor does not intend this pleading to be interpreted as making any assertions whatsoever as to the status of the WTID license. What is clear, however, is that, contrary to the resumption of operations statement filed with the Commission, the station has not been operating from its licensed facilities, nor does it have an STA or other authority to operate elsewhere.<sup>2</sup> In any event, it appears that Reynolds-owned entities have, on more than one occasion, filed statements with the Commission averring that operations of a station have resumed with licensed parameters when, in fact, they did not.

In sum, Valleydale's argument that its knowing submission of false information was somehow done in good faith does not stand up to inspection. Furthermore, its lengthy attempt to prove unauthorized operation of the station is irrelevant to the matter at hand and does nothing more than emphasize another, willful and longstanding violation of the Commission's rules.

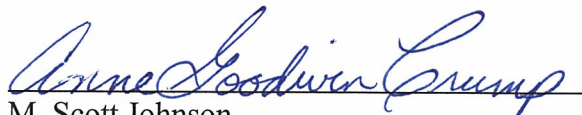
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<sup>2</sup> Obviously, an inquiry from the Commission's staff could elicit more information on this matter and whether Station WTID was silent for a year or more.

WHEREFORE, the premises considered, Frontdoor respectfully requests that  
Valleydale's Petition for Partial Reconsideration be denied.

Respectfully submitted,

FRONTDOOR BROADCASTING, LLC

By:   
M. Scott Johnson  
Anne Goodwin Crump

Its Attorneys

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(703) 812-0400

December 28, 2017

**DECLARATION OF ALLAN G. STROH**

I hereby declare as follows under penalty of perjury:

I am the Managing Member of Frontdoor Broadcasting, LLC.

On November 9, 2017, I used my GPS device and drove from Montgomery to locate the licensed facilities of WTID, Thomaston, Alabama, using coordinates from the station's license. Upon arriving at the WTID site, I found there was no tower on the property, but only a utility pole with a smaller metal pole attached to it. There was no evidence of any electricity at the site and no electric meter. Attached are photographs I took that day including: **Photos #1, #2 and #3,** showing the utility pole and **Photo #4,** showing the pole and more of the site. Also attached are Google maps aerial photos of the site.

While at the site, and within sight of the utility pole, I also attempted to tune my truck's radio to the WTID frequency, 103.9 MHz, but I was unable to receive any broadcast signal on that frequency. I repeatedly scanned the radio dial, but I could not locate WTID.

The foregoing representations are true and correct to the best of my knowledge and belief.

Date: December 28, 2017

  
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Allan G. Stroh





Photo #1



Photo #2



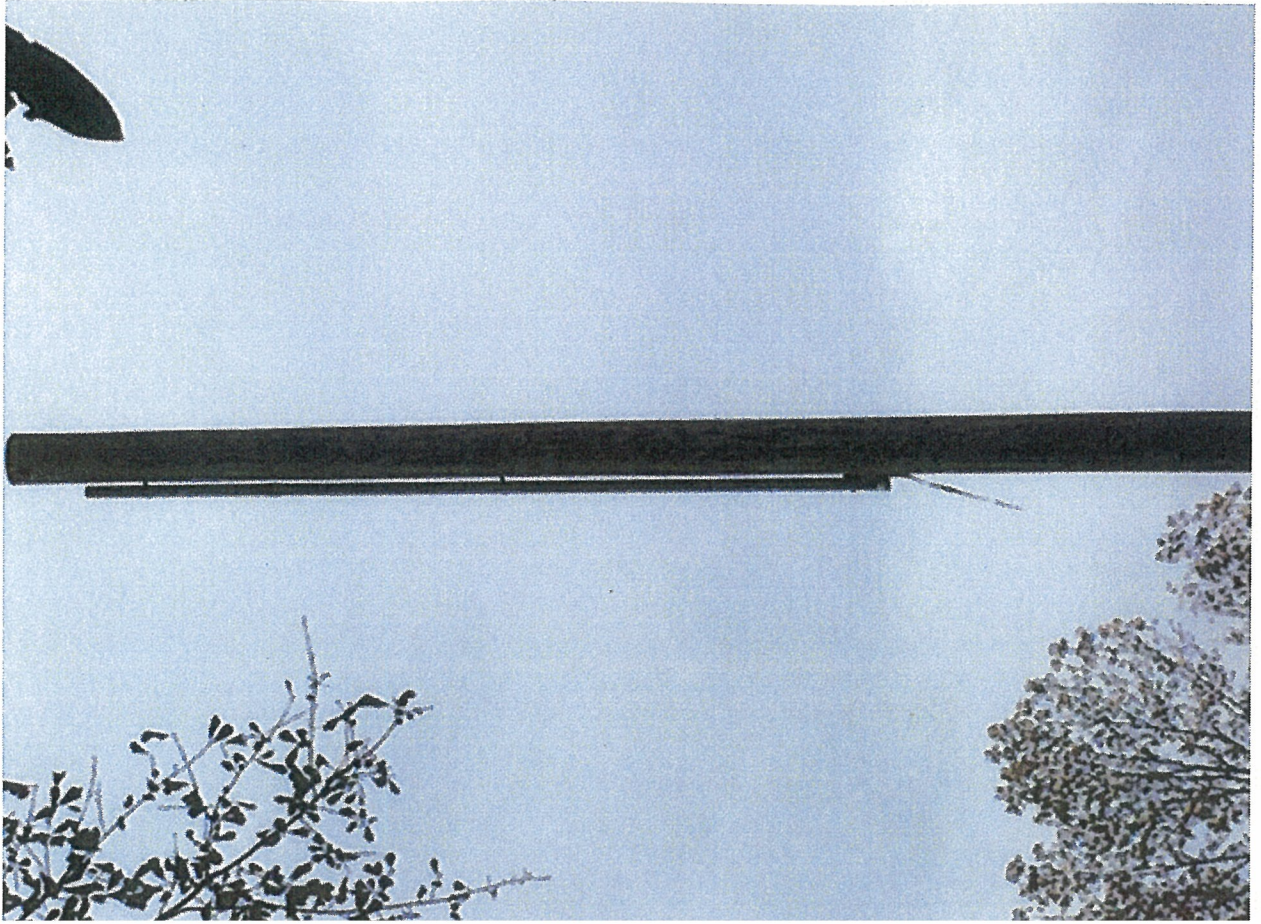


Photo # 3



Photo # 4



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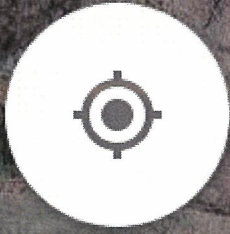
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**WILLIAM  
ASHBY**

**COATS  
S. L.  
HEIRS**

**GLORIA R.  
C. ET AL**

**KNIGHT  
JOHNNY E.  
ETUX  
LINDA D.**

**Marengo Co.  
Board Of  
Education**

**Coats Av**

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Johnson  
School**

**Rd**

**Hollow Dr**

**Sat**

**Marengo**



**CERTIFICATE OF SERVICE**


I, Deborah N. Lunt, an Assistant with the office of Fletcher, Heald & Hildreth PLC, hereby certify that a true and correct copy of the foregoing “Opposition to Petition for Partial Reconsideration” was sent on this 28<sup>th</sup> day of December, 2017, via First-Class United States mail, postage pre-paid, or as otherwise specified, to the following:

Peter H. Doyle, Esquire (by e-mail)  
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