



Federal Communications Commission
Washington, D.C. 20554

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In Reply Refer to:
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EMAIL AND CERTIFIED MAIL, RETURN RECEIPT REQUESTED

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In re: **Mekaddesh Group Corporation**
KZAM(FM), Pleasant Valley, TX
Facility ID No. 164195
File No. 115863

Letter of Inquiry

Dear Counsel:

This letter concerns the operational status of Station KZAM(FM), Pleasant Valley, Texas (Station), licensed to Mekaddesh Group Corporation (Mekaddesh). We have before us the above-reference application for an auxiliary FM antenna for the Station (Auxiliary Application). On July 7, 2020, Matinee Media Corporation (Matinee) filed a petition to deny the Auxiliary Application (Petition to Deny).¹ Because the record raises issues regarding the station's operating status during 2020 and 2021, Mekaddesh is required to provide the additional information listed below in writing within thirty days of the date of this letter.

Mekaddesh has been the Station licensee since August 21, 2017.² The currently licensed Station main antenna is located on a tower (ASRN 1262203) owned by Matinee, in Burkburnett, Texas. On February 19, 2020, Mekaddesh submitted a request for silent STA (Silent STA Request), stating that the Station had been off air since February 17, 2020, "due to lack of access to [the] tower site."³ On June 8, 2020, Mekaddesh filed the Auxiliary Application, seeking to construct a new auxiliary antenna for the Station on top of a building in downtown Wichita Falls, Texas, about 13 miles southeast from the Station's licensed site. On July 7, 2020, Matinee filed the Petition to Deny the Auxiliary Application, claiming, *inter alia*, that Mekaddesh had no main facility for the Station and therefore should not be authorized an auxiliary facility. On September 22, 2020, Mekaddesh filed a request for an extension of the Silent STA authorization, explaining that it still lacked access to its transmitter site and was "in

¹ Pleading File No. 117191.

² See Notice of Consummation of Assignment of License (File No. BALH-20170214AAZ) (Aug. 21, 2017).

³ File No. BLSTA-20200219AAP. The Audio Division, Media Bureau (Bureau) granted the Silent STA Request on March 12, 2020 (Silent STA). The Silent STA was set to expire on September 8, 2020.

negotiations for acquisition of a new transmitter site.”⁴ On February 11, 2021, Mekaddesh filed a notice of resumption of operations, stating that it had returned to the air on February 10, 2021, using its licensed facilities.⁵

In the Petition to Deny, Matinee states that “Mekaddesh no longer has any legal right to use the Tower” after January 22, 2020, due to Mekaddesh’s failure to pay its monthly fees under a tower license agreement.⁶ Matinee further alleges that Mekaddesh owes Matinee back payments of “over \$30,000” as of February 29, 2020.⁷ Matinee urges that Mekaddesh should not be authorized to operate an auxiliary antenna “for an indefinite or permanent period of time when an FM station did not have an authorized main facility it could use.”⁸ Matinee notes that the proposed auxiliary facilities would not provide signal coverage to the Station’s community of license as required by section 73.315 of the rules⁹ and contends that an auxiliary antenna should be authorized only “when the main antenna is out of service for repair or replacement,” not—as here—where the main facility may not be used at all.¹⁰

Based on the information in the record, it appears that the Station may have been silent (or failed to operate with authorized facilities) for more than one year. Therefore—before we reach the issue of whether a licensee may construct an auxiliary facility for a station that lacks a main facility—we must determine whether the Station’s license has automatically expired under section 312(g) of the Communications Act of 1934, as amended (Section 312(g)).¹¹ Section 312(g) provides that if a broadcast station fails to transmit broadcast signals *with its authorized facilities* for any consecutive 12-month period, then the station license granted for the operation of that broadcast station expires at the end of that period, notwithstanding any provision, term, or condition of the license to the contrary, except that the Commission may extend or reinstate such station license to promote equity and fairness.¹²

⁴ File No. BLESTA-20200922ACS. The Bureau granted the Silent STA extension on November 12, 2020, noting that “[n]otwithstanding the grant of this Special Temporary Authority, the broadcast license for Station KZAM(FM) will automatically expire as a matter of law if broadcast operations do not resume by 12:01 a.m., February 18, 2021” (citing 47 U.S.C. § 312(g)). *Letter from Victoria McCauley, Attorney, Audio Division, Media Bureau, to Dan J. Alpert, Counsel for Mekaddesh Group Corporation* (Nov. 12, 2020).

⁵ Notice of Resumption of Operations (filed Feb. 11, 2021; granted Feb. 12, 2021).

⁶ Petition to Deny at 2.

⁷ *Id.*

⁸ Petition to Deny at 3 (citing 47 CFR § 73.1675(a) (section 73.1675(a)) (defining an auxiliary antenna as “one that is permanently installed and available for use when the main antenna is out of service for repairs or replacement”; (*Blackbelt Broadcasting, Inc.*, Letter Decision, 35 FCC Rcd 4564, 4566 (MB 2020) (*Blackbelt*) (rejecting a proposal to use the same antenna as a main and auxiliary facility, at a higher power than authorized, for the “novel and unauthorized purpose” of “circumventing the power restrictions that all FM station are subject to under section 73.211”)).

⁹ See 47 CFR § 73.315.

¹⁰ Petition to Deny at 4 (citing 47 CFR § 73.1675).

¹¹ 47 U.S.C. § 312(g).

¹² *Id.* (emphasis added). The Commission has exercised its discretion under Section 312(g) to extend or reinstate a station’s expired license “to promote equity and fairness” only in limited circumstances where a station’s failure to transmit a broadcast signals for 12 consecutive months is due to compelling circumstances that were beyond the licensee’s control. See *e.g.*, *A-O Broadcasting Corp.*, Memorandum Opinion and Order, 23 FCC Rcd 603, 617,

We direct Mekaddesh to submit complete information describing the Station's operational status and history as follows. Please provide evidence documenting the Station's operational status for **all periods of operation** from January 1, 2020, to the present. This evidence must indicate the exact location (ASRN or geographic coordinates) of the Station's transmitter and antenna, including the effective radiated power and antenna height above ground level. Also include copies of all leases, other contracts relating to the operation of the station (such as equipment rentals, utility bills, service contracts, etc.), personnel records (including payroll records appropriately redacted to protect the privacy of individual employees), engineering records, and station records, including EAS logs, and all correspondence (including emails and text messages) relating to the Station for that period of time. In addition, you must provide copies of all invoices, bills, checks written or received, credit card charges, wire transfers or deposits of funds relating to the Station's operation.¹³ You should also include photographs of the Station's studio facilities and transmission facilities during this timeframe.

Please be aware that any failure to respond to this letter or to provide all the requested information may result in automatic cancellation of the Station's license pursuant to section 312(g), as well as potential financial forfeiture penalties for any associated rule violations.

All submissions must be **sent via email ONLY**, to christine.goepp@fcc.gov. If you have any questions concerning the content of this letter, please contact Christine Goepp, Attorney, by phone at (202) 418-7834 or via e-mail at the address above.

Sincerely,

Albert Shuldiner
Chief, Audio Division
Media Bureau

para. 27 (2008) ("This limited, discretionary provision is phrased as an exception to the general rule that most affected licenses will be forfeited.").

¹³ In addition, if the Station uses accounting software to maintain financial records, provide printouts of the data recorded for this period.