

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

Accepted / Filed

MAR 11 2015

Federal Communications Commission  
Office of the Secretary

In re )  
 )  
Budd Broadcasting Co., Inc. ) WFXU(DT), Live Oak, FL  
 ) Facility ID No. 22245  
 ) File No. BRC DT-20120925ACP  
 )

TO: Office of the Secretary  
Attn.: Chief, Video Division

**PETITION FOR RECONSIDERATION**

Budd Broadcasting Co., Inc. (“Budd”), by its attorneys, requests reconsideration of the February 10, 2015 letter signed by the Deputy Chief, Video Division. In that letter, the WFXU(DT) license was cancelled. In the letter ruling the Commission stated that it had no evidence that WFXU has been on the air between August 4, 2008, when it went silent, and November 15, 2009, when it resumed operations.<sup>1</sup> The Commission stated the following:

“The automatic expiration provision of Section 312(g) of the Act is clear. This means that absent any evidence to the contrary provided by Licensee, WFXU(DT)’s license expired on August 4, 2009 – following a consecutive 12-month period of silence.”

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<sup>1</sup> Budd filed a Notification of Suspension of Operations and Request for Silent STA on August 12, 2008 (BLSTA-20080812AAR) stating that the station had gone silent on August 4, 2008 due to issues with its transmitter. On November 16, 2009, Budd filed a letter with the Commission stating that it had resumed operations on November 15, 2009.

ORIGINAL

As will be demonstrated, WFXU was never off the air for a consecutive twelve (12) month period. Thus, reconsideration and reinstatement of the WFXU(DT) license is mandated. In support, Budd submits the following:

The Commission is focusing on the period of time commencing August 4, 2008 and terminating August 4, 2009.

Attached to the instant submission are the following:

- a) Declaration of Harvey M. Budd (Attachment A). Mr. Budd is the president of Budd Broadcasting Co., Inc. In that Declaration, Mr. Budd states that during the period between August 4, 2008 and August 4, 2009, WFXU was not continuously silent;
- b) Declaration of Robert Carr (Attachment B). Mr. Carr is a technical consultant to Budd. Mr. Carr in his statement recalls that during the period in question (August 4, 2008 – August 4, 2009), WFXU resumed operations, specifically, October 2008 and November 2009.
- c) Attachment C is a Service Summary from Suwannee Valley Electric Cooperative. Budd is the customer on the account. It is clear that in October/November 2008, the meter reading was 12265 and the prior reading was 7059. The November/December reading was 3650 and the prior reading was 1036. These differences are due to the station resuming broadcast operations.
- d) Attachment D is a Consumption History Report from Suwannee Valley Electric Cooperative. It shows increases during the months when WFXU was operating. See, for example, the meter reading taken in August 2009 (this was a reading covering the prior thirty (30) days).

It is clear from the foregoing that WFXU-TV was not off the air for a consecutive twelve (12) month period. Thus, Budd did not violate the mandate of Section 312(g) of the Communications Act. Accordingly, reconsideration and reinstatement is required.<sup>2</sup>

Respectfully submitted,

BUDD BROADCASTING CO., INC.

By: 

Aaron P. Shainis

Its Counsel

Shainis & Peltzman, Chartered, NW

1850 M Street NW, Suite 240

Washington, DC 20036

Dated: March 11, 2015

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<sup>2</sup> Budd is concurrently filing a Request for Special Temporary Authority (“STA”) to allow it to continue operation while the instant Petition is pending.

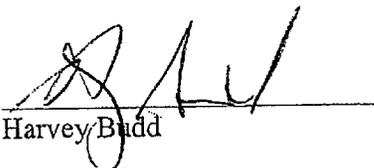
# ATTACHMENT A

**DECLARATION OF HARVEY BUDD**

Harvey Budd, president of Budd Broadcasting Co., Inc., hereby states under penalty of perjury the following:

I have reviewed the Commission's February 10, 2015 letter. The Commission questions whether WFXU was silent for a consecutive twelve (12) month period. Specifically, the period between August 4, 2008 and August 4, 2009. I can categorically state that during a portion of this period, WFXU did broadcast. In this regard, I was cognizant that the station could not be silent for a consecutive twelve month period. I was aware of the consequences – automatic cancellation of the license. Accordingly, I instructed my technical consultant, Robert Carr, to put the station back on the air prior to August 4, 2009. Furthermore, the station broadcast a public affairs program when it returned to the air.

To refresh my recollection, I have reviewed the Kilowatt Usage Summary and Consumption History provided by Suwannee Valley Electric Cooperative. It is evident, based on spikes in consumption, that WFXU was operating in October/November 2008 and November/December 2008. Thus, during the period in question, the station did resume broadcast operations on two (2) occasions.

  
Harvey Budd

March 10, 2015

0000100404



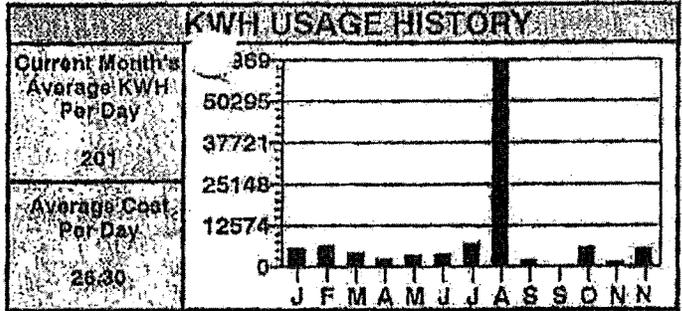
Suwannee Valley  
Electric Cooperative  
PO Box 340, 11340 100th St.  
Live Oak, FL 32064

*11/2/08*  
*SSA*  
*815.60*

Our office hours are 8 A.M. to 4:30 P.M., Monday - Friday  
Drive in Window and Telephone Hours are 8 A.M. - 5 P.M.  
Phone (386) 382-2226 & (800) 847-4509  
24 Hour Outage Phone: (386) 364-5200 & (800) 752-0025

2803 1 MB 0.369  
BUDD BROADCASTING, INC  
4150 NW 93RD AVE  
GAINESVILLE FL 32653-7823

4 2803  
C-7 P-7



IF YOU HAVE AN INTERRUPTION IN YOUR ELECTRIC SERVICE, CHECK YOUR FUSES OR CIRCUIT BREAKERS BEFORE CALLING. PLEASE REPORT OUTAGE IMMEDIATELY.

PLEASE SEE BACK OF BILL FOR OTHER IMPORTANT INFORMATION.

### ACCOUNT ACTIVITY

PREVIOUS BALANCE	702.48
PAYMENTS	-702.19
ADJUSTMENTS	0.00
BALANCE FORWARD	0.29

PAST DUE AMOUNT AS OF 11/14/08	0.29
ENERGY CHARGE	649.17
FACILITIES CHARGE	12.00
POWER COST ADJUSTMENT	74.90
STATE TAX	52.84
COUNTY TAX	7.55
GROSS RECEIPTS TAX	18.85
CURRENT MONTH CHARGES	815.31

We appreciate the timely manner in which you pay your electric bill.

### SERVICE SUMMARY

Account Number: 0000100404  
Name: BUDD BROADCASTING, INC  
Location Number: B427750501  
Service Address: 302766  
Billing Date: 11/14/2008  
Due Date: 12/04/2008  
Current Bill Cut-off Date: 12/16/2008  
Service Dates: 10/06/2008 - 11/06/2008  
Days of Service: 31  
Type of Bill: REGULAR BILL

### READINGS THIS PERIOD

Meter Number	Current Reading	Prior Reading	Multiplier	KWH's Used	Rate
30000177	12265	7059	1.0000	5206	5
30000151	1036	0	1.0000	1036	5

HANKSGIVING IS THE TIME TO TAKE A BREAK FROM OUR HECTIC LIVES, ENJOY TIME WITH OUR FAMILY & TO GIVE THANKS FOR OUR MANY LESSINGS. HAPPY THANKSGIVING FROM YOUR COOPERATIVE!

Delinquent Date	12/04/2008	Net Due	815.60
Gross Due After	12/05/2008	Gross Due	852.40

0000100404



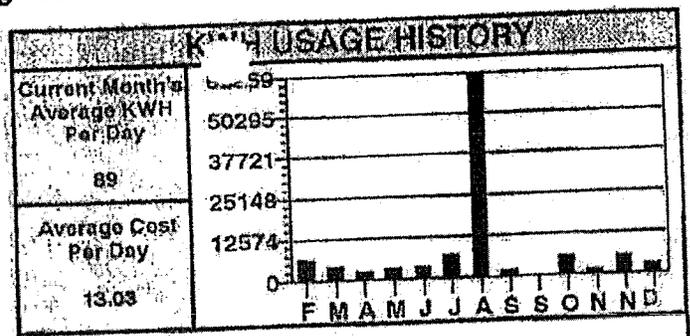
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1/2/09  
ca-5593  
377.76

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4 2799  
C-9 P-9



Current Month's Average KWH Per Day: 89  
Average Cost Per Day: 13.03

IF YOU HAVE AN INTERRUPTION IN YOUR ELECTRIC SERVICE, CHECK YOUR FUSES OR CIRCUIT BREAKERS BEFORE CALLING. PLEASE REPORT OUTAGE IMMEDIATELY.

PLEASE SEE BACK OF BILL FOR OTHER IMPORTANT INFORMATION.

**ACCOUNT ACTIVITY**

PREVIOUS BALANCE	815.60
PAYMENTS	-815.60
ADJUSTMENTS	0.00
BALANCE FORWARD	0.00

BALANCE PRIOR TO THIS BILLING ON 12/18/08	0.00
ENERGY CHARGE	267.18
KVA MINIMUM UP CHARGE	31.04
FACILITIES CHARGE	12.00
POWER COST ADJUSTMENT	30.83
STATE TAX	24.48
COUNTY TAX	3.50
GROSS RECEIPTS TAX	8.73
<b>CURRENT MONTH CHARGES</b>	<b>377.76</b>

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**SERVICE SUMMARY**

Account Number: 0000100404  
Name: BUDD BROADCASTING, INC  
Location Number: B427750501  
Service Address: 302766  
Billing Date: 12/18/2008  
Due Date: 01/07/2009  
Current Bill Cut-off Date: 01/14/2009  
Service Dates: 11/06/2008 - 12/05/2008  
Days of Service: 29  
Type of Bill: REGULAR BILL

**READINGS THIS PERIOD**

Meter Number	Current Reading	Prior Reading	Multiplier	KWH's Used	Rate
30000151	3605	1036	1.0000	2569	5

SVEC OFFICES WILL CLOSE AT 3:30 PM ON DEC 24TH, & WILL BE CLOSED ON DEC 25TH & DEC 26TH FOR THE CHRISTMAS HOLIDAYS. SVEC WISHES YOU & YOURS A MERRY CHRISTMAS!

Delinquent Date:	01/07/2009	Net Due	377.76
Gross Due After:	01/08/2009	Gross Due	394.81



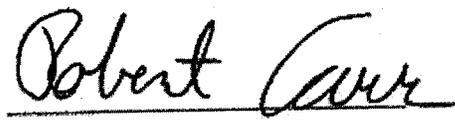
# **ATTACHMENT B**

**DECLARATION OF ROBERT CARR**

Robert Carr hereby states under penalty of perjury the following:

I am a technical consultant to Budd Broadcasting Co., Inc., the licensee of WFXU(TV), Live Oak, Florida. In my capacity as technical consultant, one of my responsibilities is to make sure that WFXU was not silent for a consecutive twelve (12) month period. I can confirm that at no time did WFXU fail to broadcast for a consecutive twelve (12) month period.

With respect to the period commencing August 4, 2008 to August 4, 2009, the station did broadcast during this period. In this regard, the station broadcast in October/November 2008 and November/December 2008. See attached Kilowatt Usage Summary and Consumption History from Suwannee Valley Electric Cooperative. I also recollect placing WFXU back on the air during this period. It was placed back on the air on two (2) separate occasions.

  
Robert Carr

March 10, 2015

0000100404



Suwannee Valley  
Electric Cooperative  
PO Box 340, 11340 100th St.  
Live Oak, FL 32064

*11/24/08*  
*542*  
*815.60*

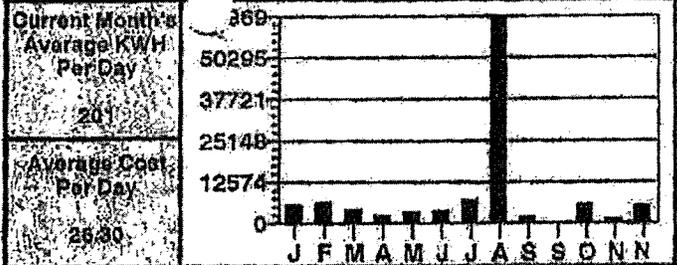
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**KWH USAGE HISTORY**



Current Month's Average KWH Per Day: 201  
Average Cost Per Day: 25.30

IF YOU HAVE AN INTERRUPTION IN YOUR ELECTRIC SERVICE, CHECK YOUR FUSES OR CIRCUIT BREAKERS BEFORE CALLING. PLEASE REPORT OUTAGE IMMEDIATELY.  
  
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**ACCOUNT ACTIVITY**

PREVIOUS BALANCE	702.48
PAYMENTS	-702.19
ADJUSTMENTS	0.00
BALANCE FORWARD	0.29

PAST DUE AMOUNT AS OF 11/14/08	0.29
ENERGY CHARGE	649.17
FACILITIES CHARGE	12.00
POWER COST ADJUSTMENT	74.90
STATE TAX	52.84
COUNTY TAX	7.55
GROSS RECEIPTS TAX	18.85
CURRENT MONTH CHARGES	815.31

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Type of Bill: REGULAR BILL

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Delinquent Date	12/04/2008	Net Due	815.60
Gross Due After	12/05/2008	Gross Due	852.40

0000100404

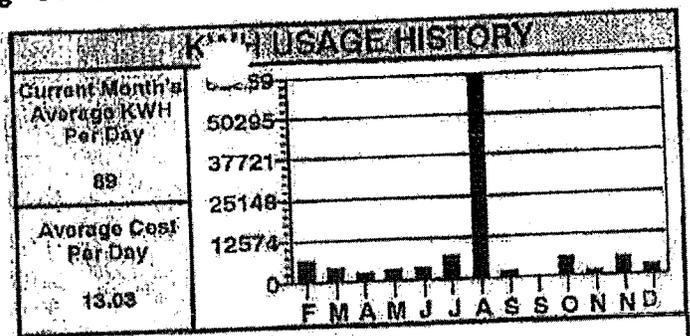


Suwannee Valley Electric Cooperative  
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Live Oak, FL 32084

1/2/09  
CA-5593  
\*377.76

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4 2799  
C-9 P-9



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**ACCOUNT ACTIVITY**

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ADJUSTMENTS	0.00
BALANCE FORWARD	0.00

BALANCE PRIOR TO THIS BILLING ON 12/18/08	0.00
ENERGY CHARGE	267.18
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FACILITIES CHARGE	12.00
POWER COST ADJUSTMENT	30.83
STATE TAX	24.48
COUNTY TAX	3.50
GROSS RECEIPTS TAX	8.73
<b>CURRENT MONTH CHARGES</b>	<b>377.76</b>

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Delinquent Date	01/07/2009	Net Due	377.76
Gross Due After	01/08/2009	Gross Due	394.81

REORDER

BARDA

Account Levels

Location : BUDD BROADCASTING, INC. C/S# : 9117663

Receivable  
payments

Consumption History

Usage Period	Usage	Rate	Amount	Provider	Account	Product	Category	Rate	Amount	Product	Category	Rate	Amount
Dec 2009	5	377.76	1888.80	BUDD	30000151	REGULAR	REGULAR	377.76	1888.80	REGULAR	REGULAR	377.76	1888.80
Nov 2009	5	377.76	1888.80	BUDD	30000151	REGULAR	REGULAR	377.76	1888.80	REGULAR	REGULAR	377.76	1888.80
Oct 2009	5	377.76	1888.80	BUDD	30000151	REGULAR	REGULAR	377.76	1888.80	REGULAR	REGULAR	377.76	1888.80
Sep 2009	5	377.76	1888.80	BUDD	30000151	REGULAR	REGULAR	377.76	1888.80	REGULAR	REGULAR	377.76	1888.80
Aug 2009	5	377.76	1888.80	BUDD	30000151	REGULAR	REGULAR	377.76	1888.80	REGULAR	REGULAR	377.76	1888.80
Jul 2009	5	377.76	1888.80	BUDD	30000151	REGULAR	REGULAR	377.76	1888.80	REGULAR	REGULAR	377.76	1888.80
Jun 2009	5	377.76	1888.80	BUDD	30000151	REGULAR	REGULAR	377.76	1888.80	REGULAR	REGULAR	377.76	1888.80
May 2009	5	377.76	1888.80	BUDD	30000151	REGULAR	REGULAR	377.76	1888.80	REGULAR	REGULAR	377.76	1888.80
Apr 2009	5	377.76	1888.80	BUDD	30000151	REGULAR	REGULAR	377.76	1888.80	REGULAR	REGULAR	377.76	1888.80
Mar 2009	5	377.76	1888.80	BUDD	30000151	REGULAR	REGULAR	377.76	1888.80	REGULAR	REGULAR	377.76	1888.80
Feb 2009	5	377.76	1888.80	BUDD	30000151	REGULAR	REGULAR	377.76	1888.80	REGULAR	REGULAR	377.76	1888.80
Jan 2009	5	377.76	1888.80	BUDD	30000151	REGULAR	REGULAR	377.76	1888.80	REGULAR	REGULAR	377.76	1888.80
Average													

Month	Usage	Rate	Amount	Product	Category	Rate	Amount
Dec 2009	5	377.76	1888.80	REGULAR	REGULAR	377.76	1888.80
Nov 2009	5	377.76	1888.80	REGULAR	REGULAR	377.76	1888.80
Oct 2009	5	377.76	1888.80	REGULAR	REGULAR	377.76	1888.80
Sep 2009	5	377.76	1888.80	REGULAR	REGULAR	377.76	1888.80
Aug 2009	5	377.76	1888.80	REGULAR	REGULAR	377.76	1888.80
Jul 2009	5	377.76	1888.80	REGULAR	REGULAR	377.76	1888.80
Jun 2009	5	377.76	1888.80	REGULAR	REGULAR	377.76	1888.80
May 2009	5	377.76	1888.80	REGULAR	REGULAR	377.76	1888.80
Apr 2009	5	377.76	1888.80	REGULAR	REGULAR	377.76	1888.80
Mar 2009	5	377.76	1888.80	REGULAR	REGULAR	377.76	1888.80
Feb 2009	5	377.76	1888.80	REGULAR	REGULAR	377.76	1888.80
Jan 2009	5	377.76	1888.80	REGULAR	REGULAR	377.76	1888.80
Average							

BUDD

# ATTACHMENT C

0000100404



Suwannee Valley  
Electric Cooperative  
PO Box 340, 11340 100th St.  
Live Oak, FL 32064

*11/2/08*  
*SSCZ*  
*815.60*

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GAINESVILLE FL 32653-7823

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C-7 P-7



KWH USAGE HISTORY			
Current Month's Average KWH Per Day	201		
Average Cost Per Day	28.30		
<p>IF YOU HAVE AN INTERRUPTION IN YOUR ELECTRIC SERVICE, CHECK YOUR FUSES OR CIRCUIT BREAKERS BEFORE CALLING. PLEASE REPORT OUTAGE IMMEDIATELY.</p> <p>PLEASE SEE BACK OF BILL FOR OTHER IMPORTANT INFORMATION.</p>			
ACCOUNT ACTIVITY			
PREVIOUS BALANCE		702.48	
PAYMENTS		-702.19	
ADJUSTMENTS		0.00	
BALANCE FORWARD		0.29	
PAST DUE AMOUNT AS OF 11/14/08		0.29	
ENERGY CHARGE		649.17	
FACILITIES CHARGE		12.00	
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STATE TAX		52.84	
COUNTY TAX		7.55	
GROSS RECEIPTS TAX		18.85	
CURRENT MONTH CHARGES		815.31	
We appreciate the timely manner in which you pay your electric bill.			
Delinquent Date	12/04/2008	Net Due	815.60
Gross Due After	12/05/2008	Gross Due	852.40

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Type of Bill: REGULAR BILL

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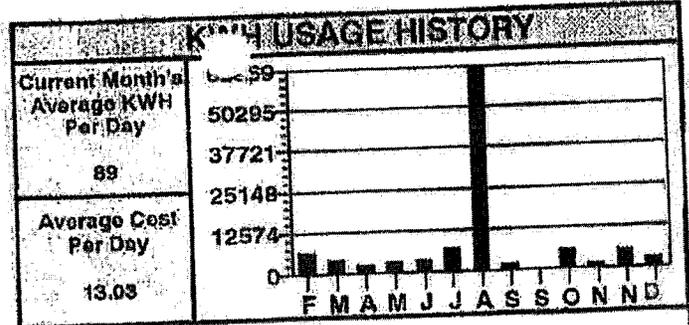
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PAYMENTS	-815.60
ADJUSTMENTS	0.00
BALANCE FORWARD	0.00

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Account Number:	0000100404
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Billing Date:	12/18/2008
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Current Bill Cut-off Date:	01/14/2009
Service Dates:	11/06/2008 - 12/05/2008
Days of Service:	29
Type of Bill:	REGULAR BILL

BALANCE PRIOR TO THIS BILLING ON 12/18/08	0.00
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Delinquent Date	01/07/2009	Net Due	377.76
Gross Due After	01/08/2009	Gross Due	394.81

# ATTACHMENT D

Billing Period	Cycle	Adjusted	Start Date	End Date	Time	Account	Phone No.	Service	Use Revenue	Usage	MT/Rob	Measur #	Spec Measur #	Reg Stat	Reg Actvty	Usage Reg
Dec 2009	5	11/04/2009	12/00am	12/00am		109405	1938	ELEC	377.76	1.372	1	30000151		1	R - Regular	0 - Valid Re
Nov 2009	5	11/06/2009	12/00am	12/00am		109405	1938	ELEC	377.76	1.432	1	30000151		1	R - Regular	0 - Valid Re
Oct 2009	5	10/07/2009	12/00am	12/00am		109405	1674	ELEC	377.76	1.289	1	30000151		1	R - Regular	0 - Valid Re
Sep 2009	5	09/08/2009	12/00am	12/00am		109405	1515	ELEC	377.76	1.945	1	30000151		1	R - Regular	0 - Valid Re
Aug 2009	5	08/07/2009	12/00am	12/00am		109405	1370	ELEC	377.76	1.281	1	30000151		1	R - Regular	0 - Valid Re
Jul 2009	5	07/08/2009	12/00am	12/00am		109405	1248	ELEC	377.76	1.443	1	30000151		1	R - Regular	0 - Valid Re
Jun 2009	5	06/09/2009	12/00am	12/00am		109405	1124	ELEC	377.76	1.252	1	30000151		1	R - Regular	0 - Valid Re
May 2009	5	05/08/2009	12/00am	12/00am		109405	1064	ELEC	377.76	1.417	1	30000151		1	R - Regular	0 - Valid Re
Apr 2009	5	04/09/2009	12/00am	12/00am		109405	867	ELEC	377.76	1.177	1	30000151		1	R - Regular	0 - Valid Re
Mar 2009	5	03/11/2009	12/00am	12/00am		109405	790	ELEC	377.76	1.255	1	30000151		1	R - Regular	0 - Valid Re
Feb 2009	5	02/06/2009	12/00am	12/00am		109405	649	ELEC	377.76	1.286	1	30000151		1	R - Regular	0 - Valid Re
Jan 2009	5	01/23/2009	12/00am	12/00am		109405	5108	ELEC	390.22	0.00	0	30000151		1	N - New	1 - Overdue
Dec 2008	5	01/04/2009	12/00am	12/00am		109404	5109	ELEC	403.08	1.504	1	30000151		1	D - Disconnect	2 - Final Re

Consumption History

Customer: BUDD BROADCASTING, INC. CUS(21911766)

Provider: BUDD BROADCASTING, INC. CUS(21911766)

Month 1 To 12 Month 13 to Month 24 Month 25 to Month 36

Month	Reporting Revenue	Use Revenue	Demand	Demand Revenue
Month 1 To 12	515.76	515.76	12.557	0.00
Month 13 to Month 24	431.95	431.95	6.616	0.00
Month 25 to Month 36	397.10	397.10	7.296	0.00

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Account Location: BUDD BROADCASTING, INC. CUS(21911766)

Provider: BUDD BROADCASTING, INC. CUS(21911766)

Customer: BUDD BROADCASTING, INC. CUS(21911766)

Month 1 To 12 Month 13 to Month 24 Month 25 to Month 36

AVERAGES

Month	Reporting Revenue	Use Revenue	Demand	Demand Revenue
Month 1 To 12	515.76	515.76	12.557	0.00
Month 13 to Month 24	431.95	431.95	6.616	0.00
Month 25 to Month 36	397.10	397.10	7.296	0.00

SH BILL (1)