

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In re Applications of	)	
	)	
POSITIVE ALTERNATIVE RADIO, INC.	)	File No. 0000072263
	)	
For License Renewal of FM Translator	)	
Station W241AL at Marion, Virginia	)	
(Facility ID No. 142568)	)	
	)	
For License Renewal of FM Translator	)	File No. 0000072288
Station W295AI at Marion, Virginia	)	
(Facility ID No. 142575)	)	

To: Marlene Dortch, Secretary  
Federal Communications Commission  
Attn: Chief, Audio Division, Media Bureau

**OPPOSITION TO PETITION TO DENY**

Comes now Positive Alternative Radio, Inc. ("PAR") license of FM Translator Stations W241AL at Marion, Virginia and W295AI at Marion, Virginia, by its counsel, and hereby submits this Opposition to the Petition to Deny submitted by Joseph Stuart Staley, Jr. ("Staley") against PAR's above-captioned pending license renewal applications. In support hereof, PAR submits the following:

Staley objects to PAR's license renewal applications for W241AL and W295AI because he claims ownership of the land upon which each translator station transmits its signal from and further alleges that PAR has no rights to utilize that property. Staley says that PAR is a trespasser on his land.

FM translator station W241AL has been operating from the same transmitting site since 2007 without controversy until just recently. W241AL transmits from the WOLD-

FM tower structure that is owned by Bristol Broadcasting, Inc. and PAR is currently a month-to-month tenant. Attached as Exhibit No. 1 are two recent checks evidencing PAR's rent payments for this site. Each month PAR makes a rent payment, and each month its check has been cashed.

FM translator station W295AI has also been operating from the same transmitting site since 2007 – which is located about 100 feet from the W241AL transmitting site -- without controversy until just recently. PAR has a lease agreement for this site with Two-Way Radio, Inc. Attached as Exhibit No. 2 is a letter dated August 26, 2019 from Two-Way Radio, Inc. confirming the lease relationship, along with a copy of the September 1992 building permit from Smyth County, Virginia to Two-Way Radio, Inc. for that tower structure. Also included in Exhibit No. 2 is a recent billing invoice from Two-Way Radio, Inc. and a recent check from PAR evidencing a monthly rent payment.

In light of the fact that PAR is a tenant at each site, PAR is, at a minimum, one step removed from the land ownership controversy. It appears that the land ownership controversy here relates to how the original property line was defined several decades ago before the widespread use of GPS. This is not a controversy of PAR's making, and PAR secured each of its FCC licenses without misrepresenting any information before the FCC.

At issue here is a private contractual dispute between Staley, Two-Way Radio, Inc. and Bristol Broadcasting, Inc. In voluminous and long-standing precedent, the FCC has consistently declined to participate in the adjudication or mediation of commercial disputes in the course of dealing with its jurisdictional obligations. See, e.g., *Applications of Vodafone Airtouch, PLC and Bell Atlantic Corp., Order on Further Reconsideration, 17*

*FCC Rcd 10998 (2002)*. Similarly, the FCC has stated that “it is long-standing Commission policy not to involve itself with private contract disputes. Controversies which do not reflect on the qualifications of a Commission licensee are best left to appropriate courts for resolution.” See, *Applications of Verestar, Inc.(Debtor-in-Possession) for Consent to Assignment of Licenses to SES Americom, Inc. Memorandum Opinion and Order, 19 FCC Rcd 22750 (2004)*.

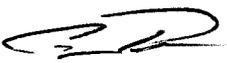
The Commission has long held that it is not the proper forum to resolve business issues as long as a licensee’s compliance with Commission rules is not called into question. *USA Broad., Inc. and Univision Communications, Inc., 19 FCC Rcd 4253 (2004)*.

From an FCC policy and compliance standpoint, Staley has not demonstrated in any fashion why the pending license renewal applications for FM translator stations W241AL and W295AI should not be granted. Staley’s petition does not address any fact or representation offered by PAR in either of its pending license renewal applications. Staley does not object to PAR’s performance as a broadcaster. Instead, Staley focuses on a private business dispute that has absolutely no relevance to the FCC license renewal process.

WHEREFORE, the foregoing premises considered, Staley's Petition to Deny should be DISMISSED and ultimately the license renewal applications for W241AL and W295AI should be GRANTED.

Respectfully submitted,

**POSITIVE ALTERNATIVE RADIO, INC.**

By:  \_\_\_\_\_

Cary S. Tepper  
Tepper Law Firm, LLC  
4900 Auburn Avenue  
Suite 100  
Bethesda, MD 20814-2632

Its Counsel

August 28, 2019

**Exhibit No. 1**

SECURITY FEATURES: MICRO PRINT BORDERS - COLORED MARBLE PATTERN - ORIGINAL DOCUMENT SCREEN ON REVERSE SIDE - MISSING FEATURES INDICATES A COPY.

POSITIVE ALTERNATIVE RADIO, INC.  
WCQR  
P.O. BOX 889  
BLACKSBURG, VA 24063

DATE	INVOICE	AMOUNT
7-7-2018		

12566

87-145/642

PAY *One hundred and no/100* DOLLARS

CHECK NO.	TO THE ORDER OF	DATE	GROSS AMOUNT	DISCOUNT	CHECK AMOUNT
12566	TECO Broadcasting	11-30-18			12566

FIRST TENNESSEE BANK  
GRAY, TN

*Virginia L. Baker*  
MP



POSITIVE ALTERNATIVE RADIO, INC.  
 WCQR  
 P.O. BOX 889  
 BLACKSBURG, VA 24063

DATE	INVOICE	AMOUNT
	<i>Oct Teleprint</i>	

3290

68-316/514

PAY *One hundred and no/100*

DOLLARS

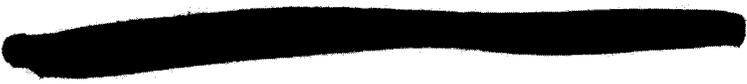
CHECK NO.	TO THE ORDER OF	DATE	GROSS AMOUNT	DISCOUNT	CHECK AMOUNT
<i>3290</i>	<i>TECO Broadcasting</i>	<i>9-28-18</i>			<i>10000</i>

*Virginia L. Baker*  
 TREASURER

MP

AUTHORIZED SIGNATURE

Union First Market Bank  
 Blacksburg, VA 24060



**Exhibit No. 2**



Main Office:

PO Box 634  
1300 West Ridge Street  
Wytheville, VA 24382  
Phone: 888-228-2791  
Phone: 276-228-2791  
Fax: 276-228-5053

Branch Offices:

1703 Jefferson Street  
Bluefield, WV 24301  
Phone: 888-327-6757  
Phone: 304-327-6757

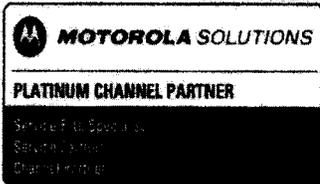
568 Harper Park Drive  
Beckley, WV 25801  
Phone: 800-383-5885  
Phone: 304-252-4075  
Fax: 304-255-6158

101 Williams Street  
Bristol, VA 24201  
Phone: 276-669-5311

10746 Norton-Coeburn Rd.  
Coeburn VA 24230  
Phone: 276-395-3230

SWAM: 657096

Website:  
twowayradioinc.com



August 26, 2019

To Whom it may Concern,

This confirms that Positive Alternative Radio has a month to month lease with Two Way Radio, Inc. for Walker Mountain in Marion, VA.

Sincerely,

Deborah Terry  
President

BUILDING INSPECTION DEPARTMENT  
P. O. Box 1995, Harrison, VA 24354  
PHONE 703-783-7259

BUILDING PERMIT  
Smyth County

CERTIFICATE OF OCCUPANCY  
Issued \_\_\_\_\_ 19\_\_\_\_  
By \_\_\_\_\_

PERMIT NO. 14095

DATE September 8, 1992

This building permit is issued under the 1990 VUSBC.

OWNER TWO-WAY RADIO INC

ADDRESS PO Drawer 634, Wytheville, VA 24382

PROPERTY OWNER \_\_\_\_\_

ADDRESS \_\_\_\_\_

CONTRACTOR Owner

ADDRESS \_\_\_\_\_

PERMIT TO erect 100 foot communication tower

OWNER'S PHONE NO. 226-2791

SITE LOCATION, PUBLIC ACCESS, AND DISTANCE FROM PROPERTY LINES  
Walker St.

**PAID**  
THANK YOU  
SEP 9  
HUSB. CROCKETT T.  
SHARPE

GRID MAP NO. 3-5 TAX MAP NO. \_\_\_\_\_ ZONING \_\_\_\_\_

FLOODPLAIN \_\_\_\_\_ Ground Elevation \_\_\_\_\_ Floor Elevation \_\_\_\_\_ Floodplain Elevation \_\_\_\_\_

SQUARE FEET \_\_\_\_\_ TYPE CONSTRUCTION \_\_\_\_\_

FOUNDATION \_\_\_\_\_ NO. ROOMS \_\_\_\_\_ NO. STORIES \_\_\_\_\_ NO. BATHS \_\_\_\_\_

CARPORAT \_\_\_\_\_ BASEMENT \_\_\_\_\_ TYPE HEAT \_\_\_\_\_ EST. COST \$ 4,000

SEWAGE DISPOSAL METHOD & PERMIT NO. \_\_\_\_\_

COUNTY PERMIT FEE \$ 16.00 STATE SURCHARGE \$ 0.16 TOTAL DUE \$ 16.16

ISSUED BY: Paul Owens  
Building Official

COPIES TO: White & Pink - Inspector  
Yellow - Owner  
Goldenrod - Treasurer

The above information is correct and complete to the best of my knowledge. I hereby certify that the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as an authorized agent.

Mark Dutton AGENT



P.O. Box 634  
 Wytheville, VA 24382  
 1-888-228-2791  
 (276) 228-2791 Fax: (276) 228-5053

Invoice No.: 31817  
 Invoice Date: 11/01/18  
 Bill To:  
 POSITIVE ALTERNATIVE RADIO  
 P. O. BOX 889

**RECURRING BILLING INVOICE**

BLACKSBURG VA 24063

Customer No.: VPRADIO      Customer PO:      Contract No.:

Terms: NET 30

Description

Billing for November 2018  
 For the following equipment:  
     WALKER MOUNTAIN - SITE RENTAL  
     TOWER RENTAL - WALKER MTN-MARION

Sub Total:            135.00  
 Sales Tax:            .00  
 Total Due:            135.00

Due Date: 12/01/18

PAST DUE INVOICES ARE SUBJECT TO LATE CHARGES AT  
 THE RATE OF 1.5% PER MONTH (ANNUAL 18%)



SECURITY FEATURES - MICRO PRINT BORDERS - COLORED MARBLE PATTERN - ORIGINAL DOCUMENT

**POSITIVE ALTERNATIVE RADIO, INC.**  
P.O. BOX 889  
BLACKSBURG, VA 24063-0889

DATE	INVOICE	AMOUNT
10/2018		

20877

68-222/514  
4

PAY One hundred thirty five and 00/100 DOLLARS

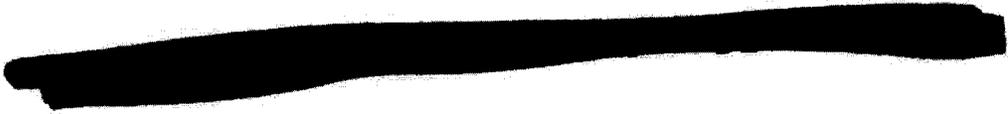
CHECK NO.	TO THE ORDER OF	DATE	GROSS AMOUNT	DISCOUNT	CHECK AMOUNT
20877	Two Way Radio Inc	10-29-18			135.00

VOID AFTER 90 DAYS

StellarOne  
BLACKSBURG, VA 24060

*Virginia L. Baker*  
SIGNATURE

MP



**CERTIFICATE OF SERVICE**

I, Cary S. Tepper, do hereby certify that a copy of the foregoing Opposition to Petition to Deny was this 28th day of August, 2019 sent via First Class Mail, postage pre-paid, to the following:

Mr. James Bradshaw, Deputy Division Chief\*  
Audio Division-Media Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

Paul V. Morrison, II, Esquire\*  
113 N. Park Street  
Marion, VA 24354  
*Counsel for Joseph Stuart Staley, Jr.*



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Cary S. Tepper

\*Also, sent by email