

**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)*.

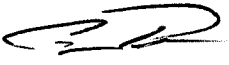
The Commission has long held that it is not the proper forum to resolve business issues as long as a licensee’s compliance with Commission rules is not called into question. *USA Broad., Inc. and Univision Communications, Inc., 19 FCC Rcd 4253 (2004)*.

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

2. 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
7-1-2018		

12566

87-145/642

PAY

One hundred and 70/100

DOLLARS

CHECK NO.	TO THE ORDER OF	DATE	GROSS AMOUNT	DISCOUNT	CHECK AMOUNT
12566	TECO Broadcasting	10-30-18			16000

FIRST TENNESSEE BANK
GRAY, TN

Virginia K. Baker

MP

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

DATE	INVOICE	AMOUNT
	Oct 22nd 1978	

3290

68-316/514

PAY

CHECK NO.
3290

TO THE ORDER OF

TECO Broadcasting

DATE

9-28-18

GROSS AMOUNT

DISCOUNT

CHECK AMOUNT

10000

DOLLARS

Virginia L. Baker
TREASURER

AUTHORIZED SIGNATURE

MP

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

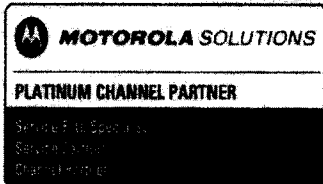
568 Harper Park Drive
Beckley, WV 25801
Phone: 800-383-5885
Phone: 304-252-4075
Fax: 304-255-6158

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 895, Marion, 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.

GRID MAP NO. G-5 TAX MAP NO. _____ ZONING _____
FLOODPLAIN _____ Ground Elevation _____ Floor Elevation _____
SQUARE FEET _____ TYPE CONSTRUCTION _____
FOUNDATION _____ NO. ROOMS _____ NO. STORIES _____ NO. BATHS _____
GARPORT _____ 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: Bud 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 his 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
Nov 2018		

20877

68-222/514
4

PAY <i>One hundred thirty five and 00/100</i>		DOLLARS			
CHECK NO.	TO THE ORDER OF	DATE	GROSS AMOUNT	DISCOUNT	CHECK AMOUNT
20877	<i>Two Way Radio Inc</i>	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 12th Street, S.W.
Washington, DC 20554

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



Cary S. Tepper

*Also, sent by email