

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

In Re: Application of)	
)	
Mekaddesh Group Corporation)	LMS File No. 0000115863
)	Facility ID No. 164195
For A Construction Permit For A)	
New FM Auxiliary License for)	
KZAM(FM), Pleasant Valley, Texas)	

Attention: Audio Division, Media Bureau

PETITION TO DENY

Matinee Media Corporation (“Matinee”), by its counsel, and pursuant to Section 73.3584 of the Commission’s rules, 47 C.F.R. § 73.3584, respectfully submits this Petition to Deny against the above-captioned application (LMS File No. 0000115863, the “Application”) filed by Mekaddesh Group Corporation (“Mekaddesh”) for a construction permit for a new FM auxiliary license for its radio broadcast station KZAM(FM), Pleasant Valley, Texas (Facility ID No. 164195, “KZAM”), since the Application proposes the FM auxiliary license for KZAM for the “novel and unauthorized purpose” of serving as the main facility for KZAM for an “indefinite or permanent period of time” while Mekaddesh is unable to use the licensed facilities of KZAM (due to Mekaddesh’s own financial decisions), and in order to avoid other Commission licensing requirements (specifically, coverage of KZAM’s community of license (“COL”) of Pleasant Valley, Texas) that Mekaddesh would be required to meet for a modification of its licensed facilities, or even under a request for special temporary authority (“STA”) for some temporary facility (which is the usual route for an FM radio station that is temporarily off the air). See Blackbelt Broadcasting, Inc., DA 20-484 (released May 5, 2020, Audio Division, Media Bureau, “Blackbelt”). In support of this Petition to Deny, Matinee respectfully submits the following:

1. Matinee has an economic interest in this matter.¹ Specifically, KZAM currently is licensed to operate from a tower (FCC Antenna Structure Registration (“ASR”) No. 1262203, the “Tower”) owned by Matinee, see CDBS File No. BLH-20080902ADY), but Mekaddesh no longer has any legal right to use the Tower, after Matinee exercised its legal rights to terminate the License Agreement dated August 21, 2017 (the “Tower License Agreement”), due to Mekaddesh not making the monthly payments to Matinee required under the Tower License Agreement since prior to December 1, 2018 (with over \$30,000 due from Mekaddesh to Matinee just as of February 29, 2020).² As a result of the claims and monetary damages to which Matinee is entitled due to Mekaddesh’s default under the Tower License Agreement, Matinee has an economic interest in Mekaddesh, KZAM, and this matter. It is well established before the Commission that a party with an economic interest in a matter is an interested party, with standing to file a petition to deny with the Commission; see FCC v. Sanders Brothers, 309 U.S. 470, 476 (1940). However, in the unlikely event the Commission may determine that Matinee may not have standing to file this pleading as a Petition to Deny, Matinee respectfully requests in the alternative that the Commission consider this pleading as an informal objection, under Section 73.3587 of the Commission’s rules, 47 C.F.R. § 73.3587.

2. After Matinee terminated the Tower License Agreement, effective as of January 22, 2020, Matinee caused KZAM to go off the air shortly afterwards.³ With the Tower License Agreement terminated, Mekaddesh no longer has any rights to use the Tower, or the ability to operate KZAM in accordance with its permanent main licensed facilities, and nor has Mekaddesh

¹ Facts asserted but not otherwise supported herein are supported by the Declaration of William Smith, President of Matinee, copy attached hereto as Exhibit A (the “Declaration”).

² This of course calls into question whether Mekaddesh has the financial ability and qualifications to be able to build the FM auxiliary facility proposed in the Application (or pay the monthly rent on that antenna site, etc.), where Mekaddesh is unable to pay the under \$2,000 per month payment due to Matinee under the Tower License Agreement to just keep its already authorized and existing main licensed facility on the air.

³ Mekaddesh notified the Commission that KZAM was off the air by February 17, 2020, and requested an STA for the station to remain silent. See FCC File No. BLSTA-20200219AAP.

filed an application for any change in its main licensed facilities. Therefore, and analogous to the Commission's finding in Blackbelt, Mekaddesh's "proposal does not satisfy the basic criterion in [S]ection 73.1675(a) [of the Commission's rules, 47 C.F.R. § 73.1675(a)] that an auxiliary antenna is "one that is permanently installed and available for use when the main antenna is out of service for repairs or replacement", see Blackbelt at 2, but rather, proposes this FM auxiliary antenna for the inappropriate and also "novel and unauthorized purpose", id. of operating from the site proposed in the Application for an "indefinite or permanent" period of time. The Commission should not permit this result, for the same reason it would not authorize the FM auxiliary proposed in Blackbelt to be used for an indefinite or permanent period of time when an FM station did not have an authorized main facility it could use. As a result, the Application must be dismissed or denied.

3. A more typical approach in circumstances such as Mekaddesh faces with KZAM would be for Mekaddesh to file an application for a change in its licensed facilities, to propose and request Commission authorization for new main facilities for KZAM that meet all of the requirements of the Commission's rules for such facilities, including but not limited to the Commission's COL coverage requirements under Section 73.315 of the Commission's rules, 47 C.F.R. § 73.315. Specifically, Section 73.315 requires that an FM station's predicted 70 dBu (or 3.16 mV/m) contour completely cover the station's COL. Id. Or if time were an issue, perhaps also or only filing a request for an STA for temporary facilities for KZAM, which also would require compliance with the Section 73.315 COL coverage requirements. However, Mekaddesh does neither, but rather proposes an FM auxiliary facility that would not comply with the Section 73.315 COL coverage requirement, as can be seen by an exhibit to its own Application, which shows that the proposed larger 60 dBu (or 1.0 mV/m) contour covers only a part of the nearby city of Wichita Falls, Texas, but without coming anywhere close to reaching (much less completely covering) KZAM's licensed COL of Pleasant Valley, Texas. The Commission should not permit this "novel and unauthorized" approach, see Blackbelt at 3, but rather should dismiss or deny the Application.

4. Indeed, that Mekaddesh's coverage map exhibit depicts the predicted 60 dBu contour of the proposed FM auxiliary facility as compared to the 60 dBu of the currently licensed main facility is inherently misleading, and lacks candor with the Commission, where Mekaddesh fails to disclose to the Commission that it no longer has any right or ability to operate with such licensed main facilities. This attempt to avoid being required to comply with the Commission's COL coverage requirements, but filing for a purported FM auxiliary license for what in reality could only be facilities that would be used as the station's main facilities for an "indefinite or permanent period of time, violates both Section 73.1675 of the Commission's rules, see 47 C.F.R. § 73.1675, regarding permitted FM auxiliary facilities - - which may be used only "when the main antenna is out of service for repair or replacement", id. (and not where, as here, the main facility may no longer be used at all, due to the financial decision of the licensee Mekaddesh to just not pay for the use of the Tower at the licensed site) - - and the Commission's precedent in Blackbelt, that an FM auxiliary may not be a mechanism simply to avoid compliance with other Commission technical rules (in this case, the COL coverage requirements, and in Blackbelt, the maximum effective radiated power limits). See Blackbelt at 2. Again, the Commission should dismiss or deny the Application, as an attempt by Mekaddesh to avoid compliance with the Commission's COL coverage requirements.

5. In summary, the Commission should see the Application for what it truly is: Mekaddesh's attempt to avoid the Commission's COL coverage requirements, by building and operating a smaller FM station to just cover the larger nearby city of Wichita Falls, on an indefinite or permanent basis, rather than serve KZAM's authorized COL of Pleasant Valley. The Commission should not authorize an FM auxiliary for KZAM or permit one for this novel and unauthorized purpose, but rather should dismiss or deny the Application.

6. Wherefore, the above premises being considered, Matinee respectfully requests that the Commission dismiss or deny the Application, as violating Section 73.1675 of the Commission's rules, further in an attempt to avoid compliance with the COL coverage requirements of Section 73.315 of the Commission's rules (and in order to have KZAM just become a Wichita Falls station), all in a novel manner and for such unauthorized purposes that the Commission's precedent in Blackbelt clearly makes impermissible.

Respectfully submitted,

Matinee Media Corporation

A handwritten signature in black ink, appearing to read "Jeffrey L. Timmons", written over a horizontal line.

By: _____

Jeffrey L. Timmons
Its Attorney

Jeffrey L. Timmons, Esq.
974 Branford Lane NW
Lilburn, Georgia 30047-2680
(678) 463-5116 telephone
jeff@timmonspc.com

July 7, 2020 (filed electronically)

CERTIFICATE OF SERVICE

I, Jeffrey L. Timmons, hereby certify that on this 7th day of July, 2020, a copy of the foregoing "Petition to Deny" has been served by United States first class or priority mail, postage prepaid and postmarked by the pleading filing date, upon the following:

Dan J. Alpert, Esq.
2120 21st Road North
Arlington, Virginia 22201
Counsel to Mekaddesh Group Corporation

A handwritten signature in black ink, appearing to read "Jeffrey L. Timmons". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Jeffrey L. Timmons, Esq.

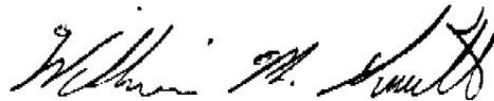
EXHIBIT A

Declaration of William Smith

I, William Smith, under penalty of perjury and pursuant to Section 1.16 of the Federal Communications Commission's rules, 47 C.F.R. § 1.16, do hereby declare that:

1. I am the President, a director, and a shareholder of Matinee Media Corporation (“Matinee”), the owner of the tower registered with the Federal Communication Commission (“FCC”) under Antenna Structure Registration (“ASR”) No. 1262203.
2. I have reviewed the foregoing Petition to Deny to which this declaration is attached, and the facts set forth therein are true and correct to the best of my knowledge and belief.

I declare, under penalty of perjury, that the foregoing is true and correct to the best of my knowledge and belief. Executed this 7th day of July, 2020.



William Smith, President
Matinee Media Corporation