



Federal Communications Commission
Washington, D.C. 20554

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DA 07-1208

In Reply Refer to:

1800B3-LD

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Mr. Lawrence E. Steelman
Golden Gulf Coast Broadcasting, Inc.
9994 Rodriguez Street, Suite G
D'Iberville, MS 39540

Mr. Stanley Daniels
WJZD, Inc.
10211 Southpark Dr.
Gulfport, MS 39503

In re: WJZD, Inc.
WJZD(FM), Long Beach, Mississippi
Facility ID: 4342
File No. BRH-20040202AFE

**Application for Renewal of License
Petition for Reconsideration**

Gentlemen:

We have before us (1) a "Petition for Reconsideration and Designate [sic] for Hearing" (the "Petition") filed by Golden Gulf Coast Broadcasting, Inc. ("Golden Gulf") on July 2, 2004, and (2) an Opposition to the Petition ("Opposition") filed by WJZD, Inc. ("WJZD"), on July 15, 2004. The Petition seeks reconsideration of a May 27, 2004, staff action granting the above-noted unopposed license renewal application (the "Application") for Station WJZD(FM), Long Beach, Mississippi.¹ For the reasons discussed below, the Petition is dismissed.

Background. Golden Gulf is the licensee of Station WQYZ(FM), Ocean Springs, Mississippi, a station in the same radio market as WJZD(FM).² Between 2003 and 2004, WJZD unsuccessfully opposed Golden Gulf's applications to assign the WQYZ(FM) station license.³ In its Petition, Golden

¹ See *Public Notice*, Broadcast Actions, Report No. 45748 (Jun. 2, 2004), p. 39.

² *Petition* at 1.

³ *Opposition* at 3-7. In 2002, Golden Gulf filed an application for consent to assign the license for WQYZ(FM) to Capstar TX Limited Partnership (File No. BALH-20021224ACR). WJZD's pleadings against that application included a Petition to Deny (February 6, 2003) and a Supplement to its Petition to Deny (August 29, 2003). Golden Gulf's application was dismissed at its request by the Commission. In 2003, Golden Gulf filed another application for consent to assign the license for WQYZ(FM) to Capstar LX Limited Partnership (File No. BALH-

(footnote continued)

Gulf alleges that WJZD's "protestations were really aimed at stopping the sale of WQYZ to someone other than [Stanley] Daniels," the principal owner of WJZD.⁴ It is on these grounds that Golden Gulf filed its Petition, which states that "Daniels' actions are tantamount to abuse and misuse of the Commission's procedures."⁵ Golden Gulf claims it that did not file an objection to WJZD(FM)'s renewal application prior to its grant by the staff because "Daniels' true motives were not revealed to Golden Gulf until after the Bureau had approved" the application and it had "no basis for objecting to the WJZD renewal prior to its approval by the staff."⁶

Discussion. Under Section 1.106(b)(1) of the Commission's Rules, a petition for reconsideration may be filed by any party to the original proceeding or by any party whose interests will be adversely affected by the action taken by the Commission.⁷ If the petitioner was not party to the original proceeding, it must show good reason for why it was unable to participate in the earlier proceeding.

Golden Gulf claims it is adversely affected by the grant of the WJZD(FM) renewal application because WJZD(FM) and WQYZ(FM) would "continue to be direct competitors in the same . . . market competing for the same listeners and advertisers," which competition would not exist if the application was denied.⁸ This claim is insufficient to show that Golden Gulf is adversely affected by the grant of WJZD(FM)'s renewal application.⁹ Further, Golden Gulf fails to provide good reason why it did not participate earlier in the proceeding, merely obliquely claiming that "now that Daniels has revealed his true motivations, [Golden Gulf] believes that it has a duty and an obligation to relay this information to the Commission."¹⁰ We conclude that the pleading is procedurally defective and must be dismissed.¹¹

20031125ALX). WJZD filed two Petitions to Deny (January 5, 2004, and May 3, 2004), two Consolidated Replies (February 3, 2004, and May 25, 2004), and a Reply to Opposition to Petition to Deny (June 23, 2004) in the context of that application. The staff granted Golden Gulf's application on May 26, 2005. *See WJZD, Inc.*, Letter, 20 FCC Rcd 9941 (MB 2005). Capstar TX Limited Partnership and Golden Gulf consummated the transaction on July 5, 2005.

⁴ *Petition* at 1.

⁵ *Id.*

⁶ *Id.*

⁷ 47 C.F.R. § 1.106(b)(1).

⁸ *Petition* at 2.

⁹ *See Scripps-Howard Radio v. FCC*, 316 U.S. 4 (1942) (an appellant does not "have a cause of action merely because he has a competing station. Unless he can show that his individual interest has been unlawfully invaded, there is merely *damnum absque injuria* and no cause of action on the merits.").

¹⁰ *Petition* at 5.

¹¹ *See, e.g., Rancho Palos Verdes Broadcasters, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability, 18 FCC Rcd 5043 (2003), and *Pappas Telecasting of the Carolinas*, Memorandum Opinion and Order, 17 FCC Rcd 20879 (2002).

Conclusion/Actions. Accordingly, Golden Gulf Coast Broadcasting, Inc.'s, July 2, 2004, Petition for Reconsideration IS DISMISSED.

Sincerely,

Peter H. Doyle
Chief, Audio Division
Media Bureau

cc: Dennis J. Kelly, Esq.
Alan C. Campbell, Esq.