

Before the
Federal Communications Commission
Washington, D.C. 20554

In re Application of
WDGC-FM, School District #99
For Renewal of License for
Station WDGC-FM
Downers Grove, Illinois
Facility ID No. 59285
NAL/Acct. No. MB-202141410059
FRN: 0011228368
File No.: 0000119955

ORDER

Adopted: November 22, 2021

Released: November 22, 2021

By the Chief, Audio Division, Media Bureau:

I. INTRODUCTION

1. By this Order, we adopt the attached Consent Decree entered into by the Media Bureau (Bureau) and WDGC-FM, School District #99 (Licensee), licensee of Station WDGC-FM, Downers Grove, Illinois (Station). The Consent Decree resolves issues regarding the Bureau’s investigation of Licensee’s compliance with sections 73.561(d), 73.3615(d), 73.2080(f)(1), and 73.3527(b)(2)(i) of the Commission’s rules (Rules),<sup>1</sup> regarding compliance with the requirement to notify the Commission no later than the 10th day of any period of silence,<sup>2</sup> to request Commission authorization for any period of silence exceeding 30 days,<sup>3</sup> to file required biennial ownership reports,<sup>4</sup> to submit a Broadcast Equal Employment Opportunity Program Report (EEO Program Report) with its renewal application,<sup>5</sup> and to upload copies of its issues and programs lists to its online public inspection file (OPIF).<sup>6</sup> This Consent Decree also resolves the Bureau’s investigation into Licensee’s compliance with section 1.17(a)(2) of the Rules regarding inaccurate certifications in its renewal Application.<sup>7</sup> Also before us are: (1) the above-captioned application for renewal of license (Application) filed by Licensee for the Station on August 3, 2020;<sup>8</sup> and (2) an Informal Objection (Objection) to the Application filed by Albert Adam David (David) on October 16, 2020,<sup>9</sup> and a supplement to the Objection filed on February 2, 2021.<sup>10</sup> The Bureau’s Audio Division suspended processing of the Application pending its investigation into Licensee’s

<sup>1</sup> 47 CFR §§ 73.561(d), 73.3615(d), 73.2080(f)(1), 73.3527(b)(2)(i).

<sup>2</sup> 47 CFR § 73.561(d).

<sup>3</sup> Id.

<sup>4</sup> 47 CFR §73.3615(d).

<sup>5</sup> 47 CFR § 73.2080(f)(1) (requiring all broadcast stations, including those that are part of an employment unit with fewer than five full-time employees, to file a Broadcast Equal Employment Opportunity Program Report on FCC Form 2100, Schedule 396 with their renewal application).

<sup>6</sup> 47 CFR 47 § 73.3527(b)(2)(i) (requiring that items, including issues and programs lists, be uploaded to the online public inspection file hosted by the Commission).

<sup>7</sup> 47 CFR 47 § 1.17(a)(2).

<sup>8</sup> Application File No. 0000119955 (filed Aug. 3, 2020).

<sup>9</sup> Pleading File No. 0000135110 (filed Feb. 2, 2021).

<sup>10</sup> Pleading File No. 0000124833 (filed Oct. 16, 2020).

violations. We deny the Objection, grant the Application subject to the conditions of the Consent Decree, and terminate further investigation into the matters resolved by the Consent Decree.

## II. DISCUSSION

2. On September 24, 2019, Licensee requested Special Temporary Authority (STA) for the Station to remain silent, stating that the Station was “undergoing facility remodeling and equipment replacement.”<sup>11</sup> According to the STA, the Station went silent on June 1, 2019.<sup>12</sup> We granted the request on October 10, 2019, for a period not to exceed 180 days.<sup>13</sup> On March 10, 2020, Licensee requested an extension of the STA due to continued technical problems.<sup>14</sup> We granted the extension of the STA on March 17, 2020, for a period ending on June 1, 2020.<sup>15</sup> On June 1, 2020, Licensee filed a final request for an extension of the STA due to reasons associated with the COVID-19 pandemic.<sup>16</sup> On July 15, 2020, we granted the STA for a period ending on December 1, 2020 (July 2020 STA Letter).<sup>17</sup> The July 2020 STA Letter noted that the Station’s license had expired pursuant to section 312(g), but the Bureau exercised discretion to extend the Station’s silent authorization to December 2, 2020, due to the COVID-19 pandemic.<sup>18</sup> On August 3, 2020, Licensee filed its Application, and on November 14, 2020, the Station resumed operations.<sup>19</sup>

3. On October 16, 2020, David filed an informal objection (Objection) to the Application.<sup>20</sup> In the Objection, David argues that, pursuant to section 312(g) of the Communications Act of 1934, as amended (Section 312(g)), the Application should be denied because the Station was allegedly silent for longer than 12 months.<sup>21</sup> David argues that granting the Application despite the Station’s alleged violations would “run counter to the principles of “equity and fairness”” because, he alleges, the Station remained silent even though there were “no circumstances outside of its control” that prevented it from resuming operations.<sup>22</sup> David contends that granting the Licensee’s Application would be unfair to other “high school stations in the region” that faced similar circumstances during the COVID-19 pandemic.<sup>23</sup> David also alleges that the Licensee violated section 73.561(d) of the Rules by failing to timely notify the Commission of a period of silence prior to the filing of its STA.<sup>24</sup> On February 2, 2021, David filed a

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<sup>11</sup> Application File No. BLSTA-20190924ABB (filed Sept. 24, 2019).

<sup>12</sup> *Id.*

<sup>13</sup> Letter from Victoria McCauley, Attorney, Audio Division, FCC Media Bureau, to Mr. John Waite, WDGC-FM at 1 (Oct. 10, 2019). In the STA grant, the Bureau made clear that the Station had engaged in a period of unauthorized silence between July 1, 2019, and September 24, 2019, and that the STA grant “shall not be construed as authorizing” the Station’s silence during that period. *Id.*

<sup>14</sup> Application File No. BLESTA-20200310AAF (filed Mar. 10, 2020).

<sup>15</sup> Letter from Victoria McCauley, Attorney, Audio Division, FCC Media Bureau, to Mr. John Waite, WDGC-FM at 1 (Mar. 17, 2020).

<sup>16</sup> Application File No. BLESTA-20200601AAH (filed June 1, 2020).

<sup>17</sup> Letter from Victoria McCauley, Attorney, Audio Division, FCC Media Bureau, to Mr. John Waite, WDGC-FM at 1 (July 15, 2020) (July 2020 STA Letter).

<sup>18</sup> *Id.* at 1.

<sup>19</sup> Licensee notified the Commission on November 23, 2020, that the Station resumed operations on November 14, 2020.

<sup>20</sup> Pleading File No. 0000124833 (filed Oct. 16, 2020).

<sup>21</sup> Objection at 1.

<sup>22</sup> *Id.* at 2.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

supplement to the Objection urging the Commission to deny the Application based upon section 312(a)(1) of the Act (Section 312(a)(1)) because, he alleges, Licensee falsely certified in its Application that the station had not been silent for any consecutive 12-month period.<sup>25</sup> Licensee did not file a reply to the Objection.

4. *Section 312(g)*. We reject David's request to deny the Application based upon Section 312(g). Section 312(g) provides that if a broadcast station "fails to transmit broadcast signals for any consecutive 12-month period," its license expires automatically at the end of that period.<sup>26</sup> The Commission retains discretion under Section 312(g) to extend or reinstate such license, *inter alia*, "to promote equity and fairness."<sup>27</sup> While we recognize that the Station was silent for a more than 12-month period, and its license was set to expire on June 1, 2020, the Commission exercised its authority on July 15, 2020, to extend the Station's silent authorization to December 2, 2020, due to the COVID-19 pandemic.<sup>28</sup> The Commission's records reflect that the Station resumed operations on November 14, 2020—prior to the December 2, 2020, deadline.<sup>29</sup> Accordingly, in this circumstance, we will not deny the Application based upon the Station's more than 12-month period of silence. Additionally, we reject David's argument that the Station was not silent for reasons beyond its control. We are satisfied, based on the information provided in Licensee's STA requests, that the Station was silent for reasons beyond Licensee's control, and David provides no evidence regarding the Licensee's particular circumstances to suggest otherwise.

5. *Incorrect Certification*. We find, however, that Licensee's certification to the Application's question regarding compliance with Section 312(g) was inaccurate. The Application required Licensee to certify "that during the preceding license term, the station has not been silent for any consecutive 12-month period."<sup>30</sup> Licensee certified "Yes" in response to this question. The Station went silent on June 1, 2019, and did not resume operations until November 14, 2020. Therefore, despite the STA and STA extensions, Licensee should have answered "No" to this question. Section 1.17(a)(2) of the Rules prohibits applicants from providing material information that is incorrect without a reasonable basis for believing that such information is not incorrect or misleading.<sup>31</sup> We find, and Licensee admits, that its incorrect certification constitutes a violation of section 1.17(a)(2) of the Rules. We, however, decline David's request to exercise our section 312(a) revocation authority based upon Licensee's incorrect certification because the record does not reflect, and the Objection does not establish, that Licensee's incorrect certification was intentionally false, especially since the Licensee had filed several STA requests with the Bureau staff requesting authority to remain silent.<sup>32</sup>

6. *Silent Notification*. We find that Licensee failed to timely inform the Commission and seek Commission approval for an extended period of silence. Section 73.561(d) of the Rules states that if causes beyond the control of the licensee make it impossible to adhere to the minimum operating schedule

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<sup>25</sup> Pleading File No. 0000135110 (filed Feb. 2, 2021) (citing 47 U.S.C. § 312(a)(1)).

<sup>26</sup> 47 U.S.C. § 312(g).

<sup>27</sup> *Id.*

<sup>28</sup> See July 2020 STA Letter at 1.

<sup>29</sup> Licensee notified the Commission on November 23, 2020, that the Station resumed operations on November 14, 2020.

<sup>30</sup> Application.

<sup>31</sup> 47 CFR § 1.17(a)(2).

<sup>32</sup> See 47 U.S.C. § 312(a)(1) ("The Commission may revoke any station license or construction permit for false statements knowingly made either in the application or in any statement of fact which may be required pursuant to section 308 of this title.")

required by the Rules,<sup>33</sup> “the station may limit or discontinue operation for a period not exceeding 30 days without further authority from the Commission provided that notice is sent to the Commission. . . no later than the 10th day of limited or discontinued operation.”<sup>34</sup> Then, if “causes beyond the control of the licensee make it impossible to comply within the allowed period ... [an STA] must be requested to remain silent for such additional time as deemed necessary.”<sup>35</sup> The Station’s filings indicate that the Station discontinued operations on June 1, 2019. Licensee didn’t notify the Commission of its discontinued operations until it filed its STA on September 24, 2019—more than three months after it went silent. As such, Licensee failed to notify the Commission no later than the 10th day of silence, and also failed to seek an STA after 30 days of silence. The Bureau previously made clear in the STA grant that the Station had engaged in a period of unauthorized silence between July 1, 2019, and September 24, 2019, and that the STA grant “shall not be construed as authorizing” the Station’s silence during that period. Accordingly, we find, and Licensee admits, that this unauthorized silence constitutes a violation of section 73.561(d) of the Rules.

7. *Other Violations.* Upon review of the Application and Licensee’s filings with the Commission, we also find that Licensee violated sections 73.3615(d), 73.2080(f)(1), and 73.3527(b)(2)(i) of the Rules by failing to file required biennial ownership reports,<sup>36</sup> failing to submit a EEO Program Report with its renewal Application,<sup>37</sup> and failing to upload copies of its issues and programs lists to its OPIF, respectively. The Bureau and Licensee have negotiated the attached Consent Decree in which Licensee admits that it violated sections 73.3615(d), 73.2080(f)(1), and 73.3527(b)(2)(i) of the Rules, as well as sections 1.17(a)(2) and 73.561(d) of the Rules, as discussed above. The Consent Decree provides that Licensee shall carry out a compliance plan, file its required EEO Program Report, and make a civil penalty payment to the United States Treasury in the amount of \$1,000. A copy of the Consent Decree is attached and incorporated by reference.

8. Finally, we have reviewed Licensee’s Application in accordance with section 309(k) of the Act,<sup>38</sup> and we find that the Station has served the public interest, convenience, and necessity during the subject license term. We find that nothing else in the record creates a substantial or material question of fact calling for further inquiry regarding the Application.<sup>39</sup> After reviewing the terms of the Consent

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<sup>33</sup> Section 73.561(a) of the Rules requires that NCE FM stations “operate at least 36 hours per week, consisting of at least 5 hours of operation per day on at least 6 days of the week.” *Id.* However, if, like the Station, an NCE FM station is licensed to an educational institution, it is not “required to operate on Saturday or Sunday or to observe the minimum operating requirements during those days designated on the official school calendar as vacation or recess periods.” *Id.*

<sup>34</sup> 47 CFR §73.561(d).

<sup>35</sup> *Id.*

<sup>36</sup> 47 CFR §73.3615(d).

<sup>37</sup> 47 CFR § 73.2080(f)(1) (requiring all broadcast stations, including those that are part of an employment unit with fewer than five full-time employees, to file a Broadcast Equal Employment Opportunity Program Report on FCC Form 2100, Schedule 396 with their renewal application).

<sup>38</sup> 47 U.S.C. § 309(k)(1).

<sup>39</sup> We do not find here that the Licensee's Station operation “was conducted in an exceedingly careless, inept and negligent manner and that the licensee is either incapable of correcting or unwilling to correct the operating deficiencies.” See *Heart of the Black Hills Stations*, Decision, 32 FCC 2d 196, 198, para. 6 (1971). Nor do we find on the record here that “the number, nature and extent” of the violations indicate that “the licensee cannot be relied upon to operate [the station] in the future in accordance with the requirements of its licenses and the Commission’s Rules.” *Id.* at 200, para. 11. See also *Center for Study and Application of Black Econ. Dev.*, Hearing Designation Order, 6 FCC Rcd 4622 (1991); *Calvary Educ. Broad. Network, Inc.*, Hearing Designation Order, 7 FCC Rcd 4037 (1992). Additionally, Licensee’s adoption of the Compliance Plan set forth in the Consent Decree shall ensure that the Station shall in the future be operated in accordance with the Rules.

Decree, we find that the public interest will be served by adopting the Consent Decree, terminating the Bureau's investigation into Licensee's violations of sections 73.561(d), 73.3615(d), 73.2080(f)(1), 1.17(a)(2), and 73.3527(b)(2)(i) of the Rules, and granting the Application. Grant shall be conditioned upon Licensee fully and timely satisfying its obligation to pay the Civil Penalty in the manner set forth in paragraph 14 of the attached Consent Decree.

### III. CONCLUSION

9. **ACCORDINGLY, IT IS ORDERED** that, pursuant to section 4(i), 4 (j) and 309(k) of the Communications Act of 1934, as amended,<sup>40</sup> and by the authority delegated by Sections 0.61 and 0.283 of the FCC's Rules,<sup>41</sup> the Consent Decree attached hereto **IS ADOPTED** without change, addition, or modification.

10. **IT IS FURTHER ORDERED** that the application of WDGC-FM, School District #99, for renewal of license for Station WDGC-FM, Downers Grove, Illinois, Facility ID No. 59285 (File No. 0000119955) **IS GRANTED**, as conditioned herein.

11. **IT IS FURTHER ORDERED** that the investigation by the Media Bureau of the matters noted above **IS TERMINATED**.

12. **IT IS FURTHER ORDERED** that copies of this Order and Consent Decree **SHALL BE SENT**, by First Class and Certified Mail, Return Receipt Requested, to: WDGC-FM, School District #99, 6301 Springside Ave., Downers Grove, IL 60516.

FEDERAL COMMUNICATIONS COMMISSION

Albert Shuldiner  
Chief, Audio Division  
Media Bureau

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<sup>40</sup> 47 U.S.C. §§ 154(i), 154(j), 309(k).

<sup>41</sup> 47 CFR §§ 0.61, 0.283.

Before the
Federal Communications Commission
Washington, D.C. 20554

In re Application of
WDGC-FM, School District #99
For Renewal of License for
Station WDGC-FM
Downers Grove, Illinois
Facility ID No. 59285
NAL/Acct. No. MB-202141410059
FRN: 0011228368
File No.: 0000119955

CONSENT DECREE

1. The Media Bureau of the Federal Communications Commission (Commission) and WDGC-FM, School District #99 (hereafter "Licensee," as defined below), licensee of Station WDGC-FM, Downers Grove, Illinois, by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Media Bureau's investigation into the Licensee's compliance with sections 73.561(d), 73.3615(d), 73.2080(f)(1), and 73.3527(b)(2)(i) of the Commission's rules (Rules), regarding compliance with the requirement to notify the Commission no later than the 10th day of any period of silence, to request Commission authorization for any period of silence exceeding 30 days, to file required biennial ownership reports, to submit a Broadcast Equal Employment Opportunity Program Report (EEO Program Report) with its renewal application, and to upload copies of its issues and programs lists to its online public inspection file (OPIF). This Consent Decree also resolves the Bureau's investigation into Licensee's compliance with section 1.17(a)(2) of the Rules regarding inaccurate certifications in its renewal Application. To resolve this matter, the Licensee agrees to implement a comprehensive Compliance Plan to ensure its future compliance with these rule sections and to pay a civil penalty to the United States Treasury as described herein.

IV. DEFINITIONS

- 1. For the purposes of this Consent Decree, the following definitions shall apply:
(a) "Act" means the Communications Act of 1934, as amended, 47 U.S.C. § 151 et seq.
(b) "Application" means the pending application for renewal of license for Station WDGC-FM, Downers Grove, Illinois (File No. 0000119955).
(c) "Adopting Order" means an Order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
(d) "Bureau" means the Media Bureau of the Commission.

42 47 CFR §§ 73.561(d), 73.3615(d), 73.2080(f)(1), 73.3527(b)(2)(i).

43 47 CFR § 73.561(d).

44 Id.

45 47 CFR §73.3615(d).

46 47 CFR § 73.2080(f)(1) (requiring all broadcast stations, including those that are part of an employment unit with fewer than five full-time employees, to file a Broadcast Equal Employment Opportunity Program Report on FCC Form 2100, Schedule 396 with their renewal application).

47 47 CFR 47 § 73.3527(b)(2)(i) (requiring that items, including issues and programs lists, be uploaded to the online public inspection file hosted by the Commission).

- (e) “Commission” or “FCC” means the Federal Communications Commission and all of its bureaus and offices.
- (f) “Compliance Plan” means the processes and procedures developed by the Licensee in an effort to ensure compliance with the Silent Notification Rule, the Ownership Report Rule, the EEO Program Report Rule, and the Online Public Inspection File Rule.
- (g) “Covered Employees” means all employees and agents of the Licensee who are responsible for performing, supervising, overseeing, or managing activities related to compliance with the Silent Notification Rule, the Ownership Report Rule, the EEO Program Report Rule, and the Online Public Inspection File Rule.
- (h) “EEO Program Report Rule” means 47 CFR § 73.2080(f).
- (i) “Effective Date” means the date on which the Bureau releases the Adopting Order.
- (j) “Investigation” means the Bureau’s decision to hold and not process the Licensee’s license renewal application identified in Appendix A due to the Licensee’s failure to comply with the Silent Notification Rule, the Ownership Report Rule, the EEO Program Report Rule, and the Online Public Inspection File Rule.
- (k) “Licensee” means WDGC-FM, School District #99 and its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest.
- (l) “Online Public Inspection File Rule” means 47 CFR § 73.3527(b)(2)(i).
- (m) “Ownership Report Rule” means 47 CFR § 73.3615(d).
- (n) “Parties” means the Licensee and the Bureau, each of which is a “Party.”
- (o) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- (p) “Silent Notification Rule” means 47 CFR § 73.561(d).
- (q) “Station” means Station WDGC-FM, Downers Grove, Illinois.
- (r) “Violations” means the Licensee’s noncompliance with sections 73.3527(b)(2)(i), 73.3615(d), and 73.561(d) of the Rules.

## V. BACKGROUND

2. Section 73.561(d) of the Rules, the Silent Notification Rule, states that if causes beyond the control of the licensee make it impossible for the licensee to operate, “the station may limit or discontinue operation for a period not exceeding 30 days without further authority from the Commission provided that notice is sent to the Commission ... no later than the 10th day of limited or discontinued operation.”<sup>48</sup> Then, if “causes beyond the control of the permittee or licensee make it impossible to comply within the allowed period ... [an STA] must be requested to remain silent for such additional time as deemed necessary.”<sup>49</sup>

3. Section 73.2080(f)(1) of the Rules, the EEO Program Report Rule, requires all broadcast stations to file a EEO Program Report with renewal applications.<sup>50</sup> Section 73.3615(d) of the Rules, the

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<sup>48</sup> 47 CFR § 73.561(d).

<sup>49</sup> *Id.*

<sup>50</sup> 47 CFR § 73.2080(f)(1). Sections 73.2527(b)(2)(i) and 73.3527(e)(6) provides that information required by section 73.2080 be kept in a station’s OPIF. The Commission automatically places properly filed EEO Program Reports into each station’s individual online public inspection file hosted by the Commission.

Ownership Report Rule, requires noncommercial broadcasters to file biennial ownership reports by December 1 in all odd-numbered years.<sup>51</sup> Additionally, section 73.3527(b)(2)(i) of the Rules, the Online Public Inspection File Rule, requires noncommercial licensees to upload quarterly issues and programs lists to the station's OPIF no later than the tenth day after each quarter.<sup>52</sup>

4. The Commission received an Informal Objection to Licensee's renewal Application.<sup>53</sup> The Objection alleged that the Station had been silent for longer than 12 months, and that Licensee failed to notify and seek Commission approval for the Station's periods of silence.<sup>54</sup> In a supplement to the Objection, the objector also alleged that Licensee made inaccurate certifications in the Application.<sup>55</sup> The Bureau confirmed that Licensee failed to inform the Commission of a period of silence by the 10th day of discontinued operation, and failed to timely request authorization for a period of silence exceeding 30 days. Licensee also failed to file required ownership reports, failed to place issues and programs lists in its OPIF, and failed to file an EEO Program Report with its renewal application.<sup>56</sup> Additionally, upon review of the Application, the Bureau determined that Licensee inaccurately certified in the Application that the Station had not been silent for 12 months, and that Licensee filed its required ownership reports. The Bureau determined that Licensee's inaccurate certifications in the Application constitute violations of section 1.17(a)(2) of the Rules, which requires all statements made to the Commission be truthful and accurate.<sup>57</sup> Based on the foregoing, the Bureau commenced the Investigation and suspended processing the license renewal application detailed in Appendix A.

5. The Bureau and Licensee have negotiated the terms of the Consent Decree that terminates the Investigation into the matters discussed above. As part of the Consent Decree, the Licensee has agreed to make a settlement payment of One Thousand Dollars (\$1,000) to the U.S. Treasury, to file its EEO Program Report within 10 calendar days of the effective date, and to implement and maintain a Compliance Plan designed to ensure its future compliance with the Rules noted above for one (1) year after the Effective Date.

## VI. TERMS OF AGREEMENT

6. **Adopting Order.** The provisions of this Consent Decree shall be incorporated by the Bureau in an Adopting Order.

7. **Jurisdiction.** The Licensee agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and has the authority to enter into and adopt this Consent Decree.

8. **Effective Date.** The Parties agree that this Consent Decree shall become effective on the Effective Date. As of the Effective Date, the Parties agree that this Consent Decree shall have the same force and effect as any other order of the Commission.

9. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigation. In addition, the Bureau agrees to process the Licensee's pending radio

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<sup>51</sup> 47 CFR § 73.3615(d). Sections 73.2527(b)(2)(i) and 73.3527(e)(7) provides that the Station's most recent ownership report must be maintained in the Station's OPIF.

<sup>52</sup> 47 CFR § 73.3527(b)(2)(i), 73.3527(e)(8).

<sup>53</sup> Pleading File No. 0000124833 (filed Oct. 16, 2020).

<sup>54</sup> *Id.*

<sup>55</sup> Pleading File No. 0000135110 (filed Feb. 2, 2021).

<sup>56</sup> In the Application, Licensee certified that its EEO Program Report was not filed with its Application. However, in response to the Application's requirement to include a file number associated with the required EEO Program Report, Licensee improperly included a file number associated with its 2012 EEO Program Report.

<sup>57</sup> 47 CFR § 1.17(a)(2).

license renewal application identified in Appendix A in the ordinary course. In consideration for such, the Licensee agrees to the terms, conditions, and procedures contained herein.

10. The Bureau agrees that, in the absence of new material evidence, the Bureau will not use the facts developed in this Investigation through the Effective Date, or the existence of this Consent Decree, to institute, on its own motion or in response to any petition to deny or other third-party objection, any new proceeding, formal or informal, or take any action on its own motion against the Licensee concerning the matters that were the subject of the Investigation. The Bureau also agrees that, in the absence of new material evidence, it will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or to set for hearing the question of the Licensee's basic qualifications to be a Commission licensee or to hold Commission licenses or authorizations.<sup>58</sup>

11. **Admission of Liability.** The Licensee admits for the purpose of this Consent Decree that it violated the Silent Notification Rule by failing to notify the Commission no later than the 10th day of the Station's period of silence, and by failing to timely request authorization for a period of silence exceeding 30 days. Licensee admits that it violated the Ownership Report Rule by failing to file required biennial ownership reports during its license term. The Licensee also admits that it violated the EEO Program Rule by failing to file its EEO Program Report with its Application, and the Online Public Inspection File Rule by failing to timely place its issues and programs lists in its OPIF. Finally, Licensee admits to making inaccurate certifications in its Application in violation of section 1.17(a) of the Rules. Pursuant to section 503(b)(2)(E) of the Act, in exercising its forfeiture authority, the Commission may consider, among other things, "any history of prior offenses" by the licensee.<sup>59</sup> The Licensee acknowledges that the Commission or its delegated authority may consider the Licensee's admission of liability in this Consent Decree in proposing any future forfeiture against Licensee in the event the Licensee is determined to have apparently committed a violation of the Act, the Rules, or of any orders of the Commission after the Effective Date, whether related to the online public inspection file and record keeping or otherwise.

12. **Civil Penalty.** Licensee agrees to pay the Civil Penalty to the United States Treasury in the amount of One Thousand Dollars (\$1,000), within thirty (30) calendar days after the Effective Date. Licensee acknowledges and agrees that upon execution of this Consent Decree, the Civil Penalty shall become a "Claim" or "Debt" as defined in section 3701(b)(1) of the Debt Collection Improvement Act of 1996.<sup>60</sup>

13. **Payment.** Licensee shall send electronic notification of payment to Alexander.Sanjenis@fcc.gov on the date said payment of the Civil Penalty and each Installment Payment is made. Payment shall be made by credit card, ACH (Automated Clearing House) debit from a bank account using the Commission's Fee Filer (the Commission's online payment system),<sup>61</sup> or by wire transfer. The Commission no longer accepts civil penalty or forfeiture payments by check or money order. Below are instructions that payors should follow based on the form of payment selected:<sup>62</sup>

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. A completed Form 159 must be emailed to [RROGWireFaxes@fcc.gov](mailto:RROGWireFaxes@fcc.gov) on the same business day the wire transfer is

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<sup>58</sup> See 47 CFR § 1.93(b).

<sup>59</sup> See 47 U.S.C. § 503(b)(2)(E).

<sup>60</sup> Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (Apr. 26, 1996).

<sup>61</sup> Payments made using the Commission's Fee Filer system do not require the submission of an FCC Form 159.

<sup>62</sup> For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #6), or by e-mail at [ARINQUIRIES@fcc.gov](mailto:ARINQUIRIES@fcc.gov).

initiated. Failure to provide all required information in Form 159 may result in payment not being recognized as having been received. When completing FCC Form 159, enter the Account Number in block number 23A (call sign/other ID), enter the letters “FORF” in block number 24A (payment type code), and enter in block number 11 the FRN referenced above (Payor FRN).<sup>63</sup> For additional detail and wire transfer instructions, go to <https://www.fcc.gov/licensing-databases/fees/wire-transfer>.

- Payment by credit card must be made by using the Commission’s Fee Filer website at <https://apps.fcc.gov/FeeFiler/login.cfm>. To pay by credit card, log-in using the FRN referenced above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Pay bills” on the Fee Filer Menu, and select the bill number associated with the NAL Account – the bill number is the NAL Account number with the first two digits excluded – and then choose the “Pay by Credit Card” option.
- Payment by ACH must be made by using the Commission’s Fee Filer website at <https://apps.fcc.gov/FeeFiler/login.cfm>. To pay by ACH, log in using the FRN referenced above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Pay bills” on the Fee Filer Menu and then select the bill number associated to the NAL Account – the bill number is the NAL Account number with the first two digits excluded – and choose the “Pay from Bank Account” option. Please contact the appropriate financial institution to confirm the correct Routing Number and the correct account number from which payment will be made and verify with that financial institution that the designated account has authorization to accept ACH transactions.

14. **Event of Default.** Licensee agrees that an Event of Default shall occur upon the failure by Licensee to pay the full amount of the Civil Penalty or any Installment Payment on or before the due date specified in this Consent Decree.

15. **Interest, Charges for Collection, and Acceleration of Maturity Date.** After an Event of Default has occurred under this Consent Decree, the then unpaid amount of the Civil Penalty or any Installment Payment shall accrue interest, computed using the U.S. Prime Rate in effect on the date of the Event of Default plus 4.75%, from the date of the Event of Default until payment in full. Upon an Event of Default, the then unpaid amount of the Civil Penalty or any Installment Payment, together with interest, any penalties permitted and/or required by the law, including but not limited to 31 U.S.C. § 3717 and administrative charges, plus the costs of collection, litigation, and attorneys’ fees, shall become immediately due and payable, without notice, presentment, demand, protest, or notice of protest of any kind, all of which are waived by Licensee.

16. **EEO Report.** Within 10 calendar days after the Effective Date, the Licensee shall file an EEO Program Report as set forth in section 73.2080(f)(1) of the Rules.

17. **Compliance Officer.** Within 30 calendar days after the Effective Date, the Licensee shall designate a senior manager to serve as a Compliance Officer and to discharge the duties set forth below. The Compliance Officer shall report directly to the Licensee’s Chief Executive Officer (or equivalent senior officer/owner) on a regular basis, and shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring that the Licensee complies with the terms and conditions of the Compliance Plan and this Consent Decree. The Compliance Officer shall have specific knowledge of Licensee’s obligations related to compliance with Licensee’s compliance with the Silent Notification Rule, the Ownership Report Rule, the EEO Program Report Rule, and the Online Public Inspection File Rule prior to assuming his/her duties. The Bureau acknowledges that the Compliance Officer, Chief Executive Officer, and/or owner may be the same individual.

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<sup>63</sup> Instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

18. **Compliance Plan.** For purposes of settling the matters set forth herein, the Licensee agrees that it shall, within 30 calendar days after the Effective Date, develop and implement a Compliance Plan designed to ensure future compliance with the Silent Notification Rule, the Ownership Report Rule, the EEO Program Report Rule, and the Online Public Inspection File Rule, and with the terms and conditions of this Consent Decree. The Compliance Plan, with the exception of the Compliance Report described below in paragraph 19(c), shall apply to all radio stations owned by the Licensee. The Compliance Plan shall contain, at a minimum, the following elements:

- a) **Compliance Manual.** The Compliance Plan shall include a Compliance Manual that is distributed to all Covered Employees. The Licensee may adopt a Compliance Manual that it has prepared or one that has been prepared by an outside source, such as a trade association (e.g., the National Association of Broadcasters), another licensee, or a law firm. The Compliance Manual shall:
  - i. thoroughly explain the requirements embodied in the Silent Notification Rule, the Ownership Report Rule, the EEO Program Report Rule, and the Online Public Inspection File Rule;
  - ii. contain Operating Procedures that Covered Employees must follow to help ensure the Licensee's compliance with the Silent Notification Rule, the Ownership Report Rule, the EEO Program Report Rule, and the Online Public Inspection File Rule. The Operating Procedures shall include internal procedures and policies specifically designed to ensure that the Licensee's stations upload all required information to their OPIF in a timely manner and otherwise maintain full, complete, and up to date information therein. The Operating Procedures shall also include a compliance checklist that describes the steps that a Covered Employee must follow to ensure compliance with the Silent Notification Rule, the Ownership Report Rule, the EEO Program Report Rule, and the Online Public Inspection File Rule; and
  - iii. be periodically reviewed and revised as necessary to ensure that the information set forth therein remains current, complete, accurate, and effective.
- b) **Compliance Training Program.** If the Licensee has Covered Employees, the Compliance Plan shall include a compliance training program to provide periodic training to those Covered Employees on complying with the Silent Notification Rule, the Ownership Report Rule, the EEO Program Report Rule, and the Online Public Inspection File Rule. As part of the compliance training program, Covered Employees shall be advised of the Licensee's obligation to report any noncompliance with the Silent Notification Rule, the Ownership Report Rule, the EEO Program Report Rule, and the Online Public Inspection File Rule and shall be instructed on how to disclose noncompliance to the Compliance Officer. All Covered Employees shall receive initial training under the compliance training program within 30 calendar days after the Effective Date, except that any person who becomes a Covered Employee at any time after such initial training is provided shall receive training under the compliance training program within 30 calendar days after the date he or she becomes a Covered Employee. The Licensee shall provide training under the compliance training plan on at least an annual basis, and it shall periodically review and revise the compliance training program as necessary to ensure that it remains current, complete, and effective.
- c) **Compliance Report.** One year after entering into this Consent Decree, the Licensee shall submit a compliance report to the Bureau for each station listed in Appendix A. The compliance report shall contain a certification of the Licensee's compliance with the Silent Notification Rule, the Ownership Report Rule, the EEO Program Report Rule, and the Online Public Inspection File Rule during the previous year. The compliance report shall be submitted to the Bureau no later than 30 calendar days after the one-year anniversary of the Effective Date. The Bureau may,

within its sole discretion, require the Licensee to submit more frequent or additional compliance reports in accordance with the terms of paragraph 21 below.

- i. The compliance report shall include a certification by the Compliance Officer stating that the Compliance Officer has personal knowledge that the Licensee: (i) has established and implemented the Compliance Plan; (ii) has utilized the operating procedures since the implementation of the Compliance Plan; and (iii) is not aware of any instances of noncompliance with the terms and conditions of this Consent Decree.
- ii. The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and must comply with section 1.16 of the Rules,<sup>64</sup> and be subscribed to as true under penalty of perjury in substantially the form set forth therein.
- iii. If the Compliance Officer is unable to provide the requisite certification, the Compliance Officer shall provide the Bureau with a report detailing the noncompliance, as described below.
- iv. The compliance report shall be submitted to the Audio Division staff: Alexander Sanjenis, Assistant Division Chief, at [Alexander.Sanjenis@fcc.gov](mailto:Alexander.Sanjenis@fcc.gov).

19. **Reporting Noncompliance.** The Licensee shall, for each station it owns, report any instance of noncompliance with the Silent Notification Rule, the Ownership Report Rule, the EEO Program Report Rule, and the Online Public Inspection File Rule, and any instance of noncompliance with any applicable terms and conditions of this Consent Decree within 10 calendar days after discovery of such noncompliance. Such reports shall include a detailed explanation of: (i) each such instance of noncompliance; (ii) the steps that the Licensee has taken or will take to remedy such noncompliance, including the schedule on which such actions will be taken; and (iii) the steps that the Licensee has taken or will take to prevent the recurrence of any such noncompliance, including the schedule on which such preventative action will be taken. All reports of noncompliance shall be submitted to the Audio Division staff: Alexander Sanjenis, Assistant Division Chief, at [Alexander.Sanjenis@fcc.gov](mailto:Alexander.Sanjenis@fcc.gov).

20. **Termination Date.** The obligations to which the Licensee is subject pursuant to this Consent Decree shall terminate upon submission of the Compliance Report pursuant to Paragraph 19(c), *provided* the Bureau is satisfied that the Licensee has demonstrated substantial compliance with its obligations. If the Bureau is not satisfied that the Licensee has demonstrated substantial compliance with its obligations, the Bureau may, within its sole discretion and authority, extend the termination date of this Consent Decree for up to an additional 24 months.

21. **Further Violation(s).** The Licensee acknowledges that the Bureau retains the discretion and authority to propose sanctions against the Licensee, including the issuance of notices of apparent liability for forfeitures, for any apparent willful and/or repeated violation by the Licensee of the Silent Notification Rule, the Ownership Report Rule, the EEO Program Report Rule, and the Online Public Inspection File Rule that occur during the term of this Consent Decree.

22. **Qualifications; Agreement to Grant.** The Bureau finds that its Investigation raises no substantial and material questions of fact as to whether Licensee possesses the basic qualifications, including those relating to character, to hold a Commission license or authorization. Accordingly, the Bureau agrees to grant the Application, after the Effective Date, provided that the following conditions have been met: 1) the Civil Penalty payment, reference in paragraph 13, has been fully and timely satisfied; and 2) there are no issues other than the Violations that would preclude grant of the Application.

23. **Waivers.** As of the Effective Date, the Licensee waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal, or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order. The Licensee shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party

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<sup>64</sup> See 47 CFR § 1.16.

(or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Consent Decree or Adopting Order, neither the Licensee nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and the Licensee shall waive any statutory right to a trial *de novo*. The Licensee hereby agrees to waive any claims it may have under the Equal Access to Justice Act<sup>65</sup> relating to the matters addressed in this Consent Decree.

24. **Severability**. The Parties agree that if any of the provisions of the Consent Decree shall be held unenforceable by any court of competent jurisdiction, such unenforceability shall not render unenforceable the entire Consent Decree, but rather the entire Consent Decree shall be construed as if not containing the particular unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly.

25. **Invalidity**. In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

26. **Subsequent Rule or Order**. The Parties agree that if any provision of this Consent Decree conflicts with any subsequent Rule or Order adopted by the Commission (except an order specifically intended to revise the terms of this Consent Decree to which the Licensee does not expressly consent) that provision will be superseded by such Rule or Order.

27. **Successors and Assigns**. The Licensee agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

28. **Final Settlement**. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation.

29. **Modifications**. This Consent Decree cannot be modified without the advance written consent of both Parties.

30. **Paragraph Headings**. The headings of the paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

31. **Authorized Representative**. Each Party represents and warrants to the other that it has full power and authority to enter into this Consent Decree. Each person signing this Consent Decree on behalf of a Party hereby represents that he or she is fully authorized by the Party to execute this Consent Decree and to bind the Party to its terms and conditions.

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<sup>65</sup> See 5 U.S.C. § 504; 47 CFR §§ 1.1501-1.1530.

32. **Counterparts.** This Consent Decree may be signed in counterpart (including electronically or by facsimile). Each counterpart, when executed and delivered, shall be an original, and all of the counterparts together shall constitute one and the same fully executed instrument.



\_\_\_\_\_  
Albert Shuldiner  
Chief, Audio Division

\_\_\_\_\_  
11/22/2021  
Date

\_\_\_\_\_  
WDGC-FM, School District #99

\_\_\_\_\_  
Date

Michelle Cannan  
WDGC-FM, School District #99

11-10-2021

Date

**Appendix A**

Station Call Sign  
WDGC-FM

Community of License  
Downers Grove, Illinois

Application for License Renewal File No.  
0000119955