

FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554

OFFICE OF  
MANAGING DIRECTOR

• OCT 29 1992

Susan A. Marshall, Esquire  
Arent, Fox, Kintner, Plotkin & Kahn  
1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036-5339

92-121

Dear Ms. Marshall:

This will respond to your request for refund of a hearing fee filed on behalf of Rosamond Radio, Inc. ("Rosamond") in connection with its construction permit application for a new FM station at Rosamond, California.

You have requested a refund because, prior to the Notice of Appearance deadline, one of the two competing applicants voluntarily dismissed its application pursuant to a settlement agreement, and the application of Rosamond, as merged with the remaining application, was granted.

Section 1.1111(c)(4) of the Commission's rules provides for a refund of a hearing fee whenever applications are withdrawn pursuant to a settlement agreement prior to the Notice of Appearance deadline, and the remaining application is immediately grantable. Since the settlement agreement was timely filed and Rosamond's application, as merged, was granted refund of the hearing fee is appropriate.

Accordingly, your request is granted. A check, made payable to the maker of the original check and drawn in the amount of \$6,760.00, will be sent to you at the earliest practicable time. If you have any questions concerning this refund, please contact the Chief, Fee Section at (202) 632-0241.

Sincerely,

*S/T M# jr*

Marilyn J. McDermott  
Associate Managing Director  
for Operations

Holly

ORIGINAL

Arent Fox Kintner Plotkin & Kahn

Handwritten notes and stamps

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RECEIVED

OCT 14 1992

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Susan A. Marshall  
202/857-6110

October 14, 1992

Ms. Donna R. Searcy  
Secretary  
Federal Communications Commission  
Washington, D.C. 20554

Attention: Office of the Managing Director

Re: Request for Refund of Hearing Fee for  
Application of Rosamond Radio, Inc.  
(File No. BPH-910225MI)

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Dear Ms. Searcy:

I am writing on behalf of Rosamond Radio, Inc. ("Rosamond") to request, pursuant to Section 1.111(b)(4) of the Commission's Rules, a refund of the \$6,760 hearing fee paid to the Commission by Rosamond on July 12, 1991, covering its Notice of Appearance in the hearing in MM Docket No. 92-121. Section 1.111(b)(4) provides for refunds of hearing fees when (1) a settlement agreement is filed with the presiding judge by the Notice of Appearance deadline, (2) the agreement provides for the dismissal of all applicants but one, and (3) the remaining applicant is immediately grantable. In this case, all three conditions are satisfied. Therefore, Rosamond is entitled to a refund.

First, the settlement agreements were filed by the Notice of Appearance deadline. The Hearing Designation Order (DA 92-640, released June 11, 1992), in the above-referenced proceeding, required that Notices of Appearance be filed on or before July 1, 1992. Attached hereto, as Exhibit 1, are copies of the two "Joint Petitions for Approval of Settlement Agreements," which were filed with the Presiding Judge in this proceeding. The attached FCC "Received Stamp" copies of the Petitions shows that they were filed with the Commission on July 1, 1992.

Second, both of these agreements provided for the dismissal of all applicants but one. One agreement, between Rosamond and Coberly, requested that Coberly's application be dismissed and that Rosamond's application be granted, as amended, to reflect the merged applicant pursuant to the agreement between the two parties. The other agreement, between Rosamond and Hitt, requested that the Commission grant Rosamond's application, as amended, and dismiss Hitt's application. On August 11, 1992, the Presiding Judge approved both of the Joint Petitions, and granted Rosamond's amended application.

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Ms. Donna R. Searcy  
October 14, 1992  
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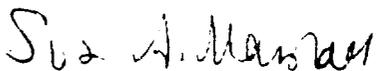
Third, the application of Rosamond was grantable, thereby eliminating the need for a hearing in this proceeding. Although one issue remained, it was immediately dismissed by the Presiding Judge, who found that there was "no genuine issue of material fact with respect to this issue," and thus granted summary decision in Rosamond's favor, and simultaneously approved the Settlement Agreements. Memorandum Opinion & Order, MM Docket No. 92-121 (released August 11, 1992).

Accordingly, in light of the fact that the settlement agreements were filed by the Notice of Appearance deadline and provided for the elimination of all applicants but one, which was grantable by the Commission, Rosamond is therefore entitled to a refund of its \$6,760 hearing fee.

The refund check should be made payable to Rosamond Radio, Inc. and returned to the applicant through my office.

Please call me if you have any questions concerning this matter.

Sincerely,



Susan A. Marshall  
Counsel for Rosamond Radio, Inc.

Enclosures