

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

DOCKET FILE COPY ORIGINAL

OFFICE OF  
MANAGING DIRECTOR

  
NOV 10 1993

Mr. Eric R. Hilding  
P.O. Box 1700  
Morgan Hill, California 95038-1700

93-95

Dear Mr. Hilding:

This is in response to your request for refund of the hearing fee that you submitted in connection with your application for a new FM station at Windsor, California. You state that you are entitled to a refund because the construction permit for the station at Windsor was awarded without the need for a formal hearing.

Our review of this matter discloses that you and Ms. Judy Yep Hughes filed applications for the station, and that the Mass Media Bureau designated these applications for a comparative hearing. See Hearing Designation Order, 3 FCC Rcd 2495 (1993). In the course of the hearing, but prior to the taking of oral testimony, each party filed a motion for summary judgment with the presiding Administrative Law Judge (ALJ). Based on the merits of the pleadings, he awarded the construction permit to Ms. Hughes and denied your request. See Summary Decision, 8 FCC Rcd 5560 (1993).

Under the Commission's rules, a hearing fee will be refunded only pursuant to the criteria set forth in section 1.1111 of the Commission's rules. See Proposals to Reform the Commission's Comparative Hearing Process, 6 FCC Rcd 157 (1991), clarified, 6 FCC Rcd 3403 (1991). Moreover, Section 1.1111 of the rules provides that once competing applications are designated for hearing, a refund will be made only if a single applicant timely files a Notice of Appearance or the competing applicants timely submit a settlement agreement to the ALJ, and the ALJ grants the surviving application without recourse to adjudication. See 47 C.F.R. § 1.1111. Since you and Ms. Hughes did not avail yourselves of the Commission's settlement procedures, but rather resolved the selection of the permittee at Windsor through summary judgment adjudication by the presiding ALJ, you are not entitled to a refund of the hearing fee.

Accordingly, your request for refund is denied.

Sincerely,



Marilyn J. McDermott  
Associate Managing Director  
for Operations

*Jim:*  
*Please check out / 9205188170366000*

September 16, 1993

\*\*\* VIA FEDERAL EXPRESS \*\*\*

Managing Director  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

Re: MM Docket No. 93-95  
FCC File # BPH-911115MR  
Eric R. Hilding

Dear Managing Director:

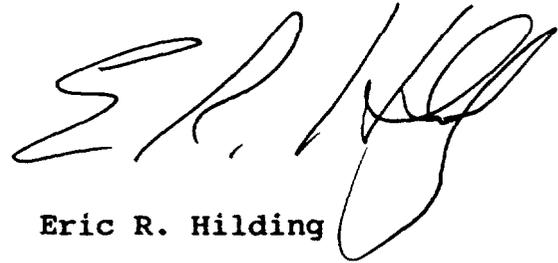
The above case did NOT result in a formal hearing, and I am therefore requesting return of the hearing fee paid.

Please refund same ASAP to me as following:

Eric R. Hilding  
P.O. Box 1700  
Morgan Hill, CA 95038-1700

Thank you for your prompt assistance.

Cordially,



Eric R. Hilding

Eric R. Hilding  
P.O. Box 1700  
Morgan Hill, CA 95038-1700  
Tel: (408)842-2222