

FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554

OFFICE OF  
MANAGING DIRECTOR

JUN 02 1998 RECEIVED

OCT - 8 1999

Melodie A. Virtue, Esquire  
Haley, Bader & Potts  
4350 North Fairfax Drive  
Suite 900  
Arlington, VA 22203-1633

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

86-285

Re: Request for Reduction of Regulatory Fee  
Great Trails Broadcasting Corporation  
Fee Control # 9609238835496005  
Fee Control # 9709198835427003

Dear Ms. Virtue:

This is in response to your requests for a reduction of the Fiscal Year 1997 (FY 1997) regulatory fee, and for reconsideration of a letter ruling dated July 30, 1997, from Marilyn McDermott, Associate Managing Director, granting a partial reduction of the FY 1996 regulatory fee for UHF Television Station WHAG-TV, Hagerstown, Maryland, licensed to Great Trails Broadcasting Corporation (Great Trails). In response to the July 30, 1997 letter Great Trails paid an additional \$5,000 in FY 96 fees.

The letter ruling found that WHAG-TV should be assessed regulatory fees as a station serving 51 to 100 largest markets. Great Trails argues that WHAG-TV should be assessed the fee for a station serving a non-top 100, or "remaining market."

WHAG-TV's FY 1996 fees were calculated on the actual number of TV households served by the station. The letter ruling relied on Television & Cable Factbook 1997, p. A 539, which showed that WHAG-TV served 278,120 TV households. That calculation of households served, included both Designated Market Area (DMA) and non DMA TV households located in the counties served by WHAG-TV. The Factbook at p. A 1-3, however, ranks markets solely by DMA TV households. The Factbook at A 539 indicates that WHAG-TV serves only 228,370 DMA TV households, the equivalent of a remaining market station. Thus, your requests are granted and Great Trails will be assessed an FY 1996 regulatory fee of \$2,000, and an FY 1997 regulatory fee of \$1,350, the fee assessed for a remaining market UHF television station. Absent significant changes in population or coverage area, WHAG-TV will be considered as a remaining market station in succeeding years. A copy of this letter should be retained and included with any future correspondence concerning the imposition of regulatory fees for WHAG-TV.

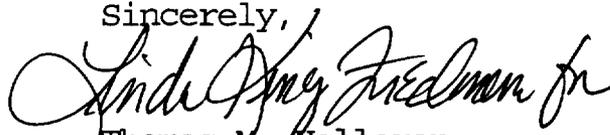
Ms. Virtue

2

Great Trails has paid \$1,350 in regulatory fees for FY 1997. That figure, which is the amount of money assessed remaining markets is accepted as full in payment of the FY 1997 regulatory fee. However, Great Trails has paid a total of \$7,000 in FY 1996 regulatory fees for WHAG-TV. The FY 1996 remaining market fee was \$2,000 and Great Trails is entitled to a refund of \$5,000. A check, made payable to the maker of the original check, drawn in the amount of \$5,000, will be sent to you at the earliest practicable time.

If you have any questions concerning the refund, please call the Chief, Fee Section, at (202) 418-1995.

Sincerely,



Thomas M. Holleran  
Acting Associate Managing  
Director for Operations

9709198835427003

ORIGINAL RECEIVED ✓

LAW OFFICES  
HALEY BADER & POTTS P.L.C.  
4350 NORTH FAIRFAX DR., SUITE 900  
ARLINGTON, VIRGINIA 22203-1633  
TELEPHONE (703) 841-0606  
FAX (703) 841-2345  
E-MAIL: haleybp@haleybp.com

MELODIE A. VIRTUE  
ADMITTED IN VA & DC

SEP 15 1997  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY  
DIRECT E-MAIL ADDRESS  
mvirtue@haleybp.com

OUR FILE NO.  
0080-108-61

September 15, 1997

Mr. Andrew S. Fishel  
Managing Director  
Federal Communications Commission  
Washington, DC 20554

RE: Request for Reduction of Annual  
Regulatory Fee  
Television Station WHAG-TV  
Hagerstown, MD

Dear Mr. Fishel:

On behalf of Great Trails Broadcasting Corporation, licensee of Television Station WHAG-TV, Channel 25, Hagerstown, Maryland, and pursuant to Rule 1.1166, we respectfully request a reduction of its annual regulatory fee so that it will be considered for fee purposes as an UHF station serving a market smaller than the largest 100 markets, with a fee of \$1,350.00. Simultaneously herewith, the fee of \$1,400.00 (which includes two auxiliary stations and the main license fee) has been submitted to the FCC's Lockbox in Pittsburgh, Pennsylvania.

With the change in the Commission's rules, whereby it will look to Nielsen DMAs instead of Arbitron ADIs, Hagerstown, which used to be ranked Market No. 192 by Arbitron, is now included in Washington, D.C., the seventh largest market. As a result, last year, WHAG-TV requested a reduction of its fee by letter of September 18, 1996. A copy of that request is attached as Exhibit A.

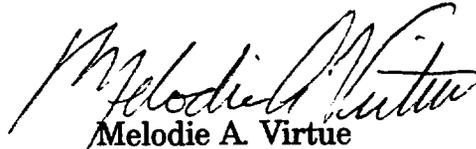
By letter of July 30, 1997, the Commission agreed that WHAG-TV should not be considered a station serving the Washington, D.C., market. A copy of that letter is attached as Exhibit B. The Letter Ruling, however, placed WHAG-TV in the 51 to 100 largest markets for fee purposes.

Mr. Andrew S. Fishel  
September 15, 1997  
Page 2

On August 29, 1997, WHAG-TV filed a petition for reconsideration of the Letter Ruling. A copy of that petition is attached as Exhibit C. WHAG-TV's petition set forth several reasons why the Commission should reconsider its decision and, therefore, charge it a fee commensurate with placement in a market smaller than the largest 100. The station hereby reiterates its request in connection with its 1997 annual regulatory fee and incorporates the attached documents by reference.

Should there be any questions regarding this matter, kindly communicate directly with this office.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Melodie A. Virtue".

Melodie A. Virtue

Enclosures  
MAV/blr

**EXHIBIT A**

LAW OFFICES  
HALEY BADER & POTTS P.L.C.  
4350 NORTH FAIRFAX DRIVE, SUITE 900  
ARLINGTON, VIRGINIA 22203-1633  
TELEPHONE (703) 841-0606  
FAX (703) 841-2345

September 18, 1996

Mr. Andrew S. Fishel  
Managing Director  
Federal Communications Commission  
Washington, D.C. 20554

OUR FILE NO.  
0080-104-61

Re: **REQUEST FOR REDUCTION OF FEE**  
Television Station WHAG-TV  
Hagerstown, Maryland

Dear Mr. Fishel:

This statement is filed on behalf of Great Trails Broadcasting Corporation, licensee of Television Station WHAG-TV, Channel 25, Hagerstown, Maryland, in support of its request for reduction of Annual Regulatory Fees.

WHAG-TV, Hagerstown, Maryland, licensed to Great Trails Broadcasting Corporation, respectfully requests reduction of its 1996 regulatory fee from \$25,000 to \$2,000. This request is filed pursuant to the provisions of Paragraph 32 of the *Report and Order in the Matter of Assignment and Collection of Regulatory fees for Fiscal Year 1996*, MB Docket No. 96-84, and particularly the Commission's statement as follows:

"We will consider the equities concerning the fees of licensees that change markets on a case-by-case basis, upon request, and, where a licensee demonstrates that it does not serve its assigned market, we will consider reducing the assigned fees to a more equitable level, based upon the area actually served by the licensee."

WHAG-TV is licensed to Hagerstown, Maryland, and it has operated in that market for many years. The market consists of portions of North Central

Mr. Andrew S. Fishel  
September 18, 1996  
Page 2

Maryland and South Central Pennsylvania. In 1994 and 1995, in connection with the prior regulatory fees paid by the station, its status as a station in a small television market which is not within the first 100 markets, was recognized, and for 1995 the fee was \$4,975 whereas in 1994 it was \$4,000.

This year, however, because of the termination of Arbitron ranking data, as the Commission points out in Paragraph 32 of the *Report and Order*, Hagerstown is considered to be part of the Washington, D.C. Nielsen market, and Nielsen figures are employed by the Commission in determining the market for a station and, therefore, the quantity of the fee for that station. The reason for the drastic change in that there is no Arbitron system this year.

If that abrupt change in the Commission's procedures were carried out, WHAG-TV's fee would soar to \$25,000, rather than \$2,000, the fee for UHF stations not in the first 100 markets.

It is shown herein that WHAG-TV does not serve the Washington, D.C. market; that its market is Hagerstown, Maryland and the rural areas around it; and the more realistic and equitable level should be paid, reflecting what has traditionally been known and what is factually correct in describing the Hagerstown market, or a small station market.

Accordingly, it is respectfully requested that the fee be reduced to the fee required for UHF commercial stations in markets not in the top 100, namely, \$2,000. The fee filing submitted separately, copy included with this request, reflects that reality.

In the past, when Hagerstown was recognized as its own television market by Arbitron and by the Commission, it was Market No. 192. If Arbitron were

still reporting figures concerning these markets, it would still be somewhere in the neighborhood of No. 192 among national markets.

One would wonder why last year's Arbitron rankings are not maintained in the current regulatory fee structure, particularly since the Federal Communications Commission in another context only a few months ago proposed "continued use of Arbitron definitions in 1996 for an important regulatory tool—the implementation of the must-carry retransmission rules provided by the Commission pursuant to Section 614 of the Communications Act." In proposing that this be done, Public Notice of December 8, 1995, the Commission stated that, even though Arbitron was terminating its service, the Commission would rely on its rankings for the vital implementation of Section 614 of the Communications Act because "it has the advantage of providing stability in the television broadcast signal carriage process." The same thinking could be applied to the consideration of regulatory fees, where nothing at all has changed—the reality of the market, the geography, station coverage, market conditions, site, power, height and antenna characteristics, and every other facet of the operations of the station in the small Hagerstown market and the huge Washington, D.C. metropolitan area remain the same as they did in 1994 and 1995.

As can be seen by comparison of the coverage maps of a typical Washington, D.C. station (WRC-TV, Channel 4, an NBC affiliate) and WHAG-TV (Channel 25, an NBC affiliate in Hagerstown) there is practically no overlap. The Grade B contours just barely touch. The Grade A contours do not touch. The city grade contours do not touch. See TV Factbook, 1996, Stations, pp. A-221-221 and A-531.

Furthermore, there are no audience viewing data for WHAG-TV in Washington, D.C. or in Montgomery County, Maryland which is the adjacent county located on a line between Washington, D.C. and Hagerstown where, if there were to be some WHAG-TV viewing, it would likely be encountered.

Other indicia of the separate identity of the Hagerstown market and Washington, D.C. markets are as follows:

1. Separate NBC affiliates are located in each market—WHAG-TV being such affiliate in the Hagerstown market. If the stations were in the same market, it is not at all likely that there would be two separate affiliates.

2. Syndicated programming is sold separately for each market.

3. The Washington, D.C. cable companies do not carry WHAG-TV. The Montgomery County, Maryland cables do not carry WHAG-TV. Neither do the Northern Virginia systems.

4. Station sales representation for national business is provided by certain firms such as Katz and Blair for Washington, D.C. stations and in the Hagerstown market Katz represents WHAG-TV—a condition which is unlikely to exist if the stations were in the same market.

5. The rates of the Washington, D.C. and Hagerstown stations are totally different—that for the Washington NBC station for a thirty-second prime time being approximately \$6,000 whereas the Hagerstown NBC station similar service costs approximately \$400. The “network rate” for WHAG-TV is \$240, whereas for the typical Washington, D.C. station it is approximately \$2,500.

Mr. Andrew S. Fishel  
September 18, 1996  
Page 5

Quite clearly, there is no way that WHAG-TV could be classified as a Washington, D.C. market station, and it should not be charged an FCC regulatory fee as such. Using its current and past experience with such fees, it must be billed as an "above 100<sup>th</sup> market" UHF, or \$2,000.

We request the Commission to accept our payment.

Very truly yours,

  
Michael H. Bader

Attachments

cc(w/ attchs): Mr. Scot L. Freeman  
Mr. Alexander J. Williams

CHR/das

WELLS

SEP 19 1996

LAW OFFICES

HALEY BADER & POTTS P.L.C.

4350 NORTH FAIRFAX DRIVE, SUITE 900

ARLINGTON, VIRGINIA 22203-1633

TELEPHONE (703) 841-0606

FAX (703) 841-2345

STAMP & RETURN  
COPY

September 18, 1996

Mr. William F. Caton, Acting Secretary  
Federal Communications Commission  
Regulatory Fees  
P.O. Box 358835  
Pittsburgh, PA 15251-5835

OUR FILE NO.  
0080-104-61

Re: **1996 REGULATORY FEE PAYMENT**  
for Great Trails Broadcasting Corporation  
717 East David Road  
Dayton, OH 45429  
**IDENTIFICATION No: 0311193124**

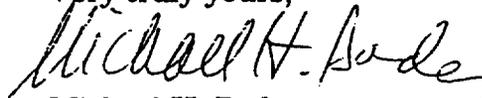
Dear Mr. Caton:

Enclosed are check No. 15401 in the aggregate amount of \$6,150.00 and the attached FCC Form(s) 159 as payment of the 1996 Regulatory Fee for the above-referenced licensee.

Submitted also is a copy of a letter requesting a Reduction of Fee filed with the FCC Managing Director, Mr. Andrew S. Fishel, on behalf of WHAG-TV.

Should further information be desired in connection with this Regulatory Fee payment, kindly communicate directly with this office.

Very truly yours,



Michael H. Bader

Attachments

cc(w/ attchs): Mr. Andrew S. Fishel, FCC  
Mr. Alexander J. Williams  
Mr. Scot L. Freeman

CHR/das

FEDERAL COMMUNICATIONS COMMISSION  
**FCC REMITTANCE ADVICE**  
 1996 Regulatory Fees

Approved by OMB  
 3060-0589  
 Expires 2/28/97

PAGE NO. 1 OF 3

(RESERVED)

SPECIAL USE

FCC USE ONLY

(Read instructions carefully BEFORE proceeding.)

**PAYOR INFORMATION**

(1) FCC ACCOUNT NUMBER	Did you have a number prior to this? Enter it.	(2) TOTAL AMOUNT PAID (dollars and cents)
0 3 1 1 1 9 3 1 2 4		<b>\$6,150.00</b>

(3) PAYOR NAME (If paying by credit card, enter name exactly as it appears on your card)

**Great Trails Broadcasting Corporation**

(4) STREET ADDRESS LINE NO. 1  
 c/o Haley Bader & Potts P.L.C.

(5) STREET ADDRESS LINE NO. 2  
 4350 North Fairfax Drive, Suite 900

(6) CITY  
 Arlington

(7) STATE  
 VA

(8) ZIP CODE  
 22203-1633

(9) DAYTIME TELEPHONE NUMBER (Include area code)  
 703-841-0606

(10) COUNTRY CODE (If not U.S.A.)

**ITEM #1 INFORMATION**

11A) NAME OF APPLICANT, LICENSEE, REGULATEE, OR DEBTOR  
 Great Trails Broadcasting Corporation

FCC USE ONLY

(12A) FCC CALL SIGN/OTHER ID	(13A) ZIP CODE	(14A) PAYMENT TYPE CODE	(15A) QUANTITY	(16A) FEE DUE FOR PAYMENT TYPE CODE IN BLOCK 14
WHAG-TV		M J U 6	1	<b>\$2,000.00</b>

17A) FCC CODE 1  
 Channel 25

(18A) FCC CODE 2  
 MD, Hagerstown

19A) ADDRESS LINE NO. 1  
 20A) ADDRESS LINE NO. 2  
 21A) CITY/STATE OR COUNTRY CODE

**ITEM #2 INFORMATION**

12) NAME OF APPLICANT, LICENSEE, REGULATEE, OR DEBTOR

FCC USE ONLY

(12B) FCC CALL SIGN/OTHER ID	(13B) ZIP CODE	(14B) PAYMENT TYPE CODE	(15B) QUANTITY	(16B) FEE DUE FOR PAYMENT TYPE CODE IN BLOCK 14
WBI-22		M U B 6	1	<b>\$35.00</b>

(17B) FCC CODE 1

(18B) FCC CODE 2

(19B) ADDRESS LINE NO. 1  
 20B) ADDRESS LINE NO. 2  
 21B) CITY/STATE OR COUNTRY CODE

**CREDIT CARD PAYMENT INFORMATION**

(22) MASTERCARD/VISA ACCOUNT NUMBER:

Mastercard  Visa

EXPIRATION DATE:

(23) I hereby authorize the FCC to charge my VISA or Mastercard for the service(s)/authorization(s) herein describe.

AUTHORIZED SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

1996 Regulatory Fees

ADVICE (CONTINUATION SHEET)

Great Trails Broadcasting Corporation

PAGE NO. 2 OF 3

ITEM # 3 INFORMATION							
FCC ACCOUNT #	NAME OF APPLICANT, LICENSEE, REGULATEE, OR DEBTOR				FCC USE ONLY		
FCC CALL SIGN/OTHER ID	ZIP CODE	PAYMENT TYPE CODE			QUANTITY	FEE DUE FOR PAYMENT TYPE CODE	
WBI-25		M	U	B	6	1	\$35.00
FCC CODE 1		FCC CODE 2					
ADDRESS LINE NO. 1		ADDRESS LINE NO. 2)			CITY/STATE OR COUNTRY CODE		

ITEM # 4 INFORMATION							
FCC ACCOUNT #	NAME OF APPLICANT, LICENSEE, REGULATEE, OR DEBTOR				FCC USE ONLY		
FCC CALL SIGN/OTHER ID	ZIP CODE	PAYMENT TYPE CODE			QUANTITY	FEE DUE FOR PAYMENT TYPE CODE	
WFFT-TV		M	J	U	6	1	\$2,000.00
FCC CODE 1		FCC CODE 2					
Channel 55		IN, Fort Wayne			CITY/STATE OR COUNTRY CODE		
ADDRESS LINE NO. 1		ADDRESS LINE NO. 2)			CITY/STATE OR COUNTRY CODE		

ITEM # 5 INFORMATION							
FCC ACCOUNT #	NAME OF APPLICANT, LICENSEE, REGULATEE, OR DEBTOR				FCC USE ONLY		
FCC CALL SIGN/OTHER ID	ZIP CODE	PAYMENT TYPE CODE			QUANTITY	FEE DUE FOR PAYMENT TYPE CODE	
WJNG-AM		M	N	A	6	1	\$690.00
FCC CODE 1		FCC CODE 2					
1410 kHz		OH, Dayton			CITY/STATE OR COUNTRY CODE		
ADDRESS LINE NO. 1		ADDRESS LINE NO. 2)			CITY/STATE OR COUNTRY CODE		

ITEM # 6 INFORMATION							
FCC ACCOUNT #	NAME OF APPLICANT, LICENSEE, REGULATEE, OR DEBTOR				FCC USE ONLY		
FCC CALL SIGN/OTHER ID	ZIP CODE	PAYMENT TYPE CODE			QUANTITY	FEE DUE FOR PAYMENT TYPE CODE	
KC-62836		M	U	B	6	1	\$35.00
FCC CODE 1		FCC CODE 2					
ADDRESS LINE NO. 1		ADDRESS LINE NO. 2)			CITY/STATE OR COUNTRY CODE		

1996 Regulatory Fees

ADVICE (CONTINUATION SHEET)

Great Trails Broadcasting Corporation

PAGE NO 3 OF 3

**ITEM # 7 INFORMATION**

FCC ACCOUNT #		NAME OF APPLICANT, LICENSEE, REGULATEE, OR DEBTOR				FCC USE ONLY	
FCC CALL SIGN/OTHER ID		ZIP CODE		PAYMENT TYPE CODE		QUANTITY	FEE DUE FOR PAYMENT TYPE CODE
KFN-318				M	U	B	6
FCC CODE 1		FCC CODE 2				1	\$35.00

ADDRESS LINE NO. 1	ADDRESS LINE NO. 2)	CITY/STATE OR COUNTRY CODE
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**ITEM # 8 INFORMATION**

FCC ACCOUNT #		NAME OF APPLICANT, LICENSEE, REGULATEE, OR DEBTOR				FCC USE ONLY	
FCC CALL SIGN/OTHER ID		ZIP CODE		PAYMENT TYPE CODE		QUANTITY	FEE DUE FOR PAYMENT TYPE CODE
WGTZ-FM				M	L	F	6
FCC CODE 1		FCC CODE 2				1	\$1,250.00

ADDRESS LINE NO. 1	ADDRESS LINE NO. 2)	CITY/STATE OR COUNTRY CODE
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**ITEM # 9 INFORMATION**

FCC ACCOUNT #		NAME OF APPLICANT, LICENSEE, REGULATEE, OR DEBTOR				FCC USE ONLY	
FCC CALL SIGN/OTHER ID		ZIP CODE		PAYMENT TYPE CODE		QUANTITY	FEE DUE FOR PAYMENT TYPE CODE
G-288				M	U	B	6
FCC CODE 1		FCC CODE 2				1	\$35.00

ADDRESS LINE NO. 1	ADDRESS LINE NO. 2)	CITY/STATE OR COUNTRY CODE
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**ITEM # 10 INFORMATION**

FCC ACCOUNT #		NAME OF APPLICANT, LICENSEE, REGULATEE, OR DEBTOR				FCC USE ONLY	
FCC CALL SIGN/OTHER ID		ZIP CODE		PAYMENT TYPE CODE		QUANTITY	FEE DUE FOR PAYMENT TYPE CODE
WGR-855				M	U	B	6
FCC CODE 1		FCC CODE 2				1	\$35.00

ADDRESS LINE NO. 1	ADDRESS LINE NO. 2)	CITY/STATE OR COUNTRY CODE
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**EXHIBIT B**

FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554

July 30, 1997

OFFICE OF  
MANAGING DIRECTOR

Michael H. Bader, Esquire  
Haley, Bader & Potts  
4350 North Fairfax Drive  
Suite 900  
Arlington, VA 22203-1633

Re: Request for Reduction of Regulatory Fee  
Great Trails Broadcasting Corporation  
Fee Control # 9609238835496005  
Fee Paid: \$2,000

Dear Mr. Bader:

This is in response to your request for a reduction of the Fiscal Year 1996 (FY 1996) regulatory fee for UHF Television Station WHAG-TV, Hagerstown, Maryland, licensed to Great Trails Broadcasting Corporation (Great Trails).

You maintain that, although WHAG-TV is located in the Washington, D.C. Nielsen Market, the station does not serve Washington, D.C., and its signal is not carried on any of the cable systems serving that city or the surrounding counties. You state that WHAG-TV is an NBC affiliate, indicating that NBC considers Hagerstown as a separate and distinct market because it has another affiliated station serving Washington. Hagerstown was formally recognized as the 192nd largest market by the Arbitron ratings, but there are no Arbitron ratings available for 1996. You contend that the Commission has proposed to use the 1995 Arbitron market data for implementing cable must carry provisions for 1996, and the same reasoning can be used to apply those ratings to 1996 fees when there has been no change in a station's characteristics or service area. You conclude, therefore, that WHAG-TV should be considered a remaining market station for FY 1996 and be assessed a fee of \$2,000, the regulatory fee applicable for a remaining market UHF station.

The contention that the Commission should continue to rely on Arbitron rankings is without merit. In the FY 1996 Notice of Proposed Rulemaking, FCC 96-153, ¶ 27 (April 9, 1996), interested parties were placed on notice that Arbitron ratings would no longer be available for television stations and that we proposed to utilize Designated Market Areas (DMA) as published by the A.C. Nielsen Co. This proposal was adopted in the FY 1996 Report and Order, FCC 96-295 (July 12, 1996). It provides the most accurate and recent service area computations that are currently available. Moreover, to the extent that the television stations

Michael H. Bader, Esquire  
Page 2

may not adequately serve their Nielsen DMAs, our policy of granting reductions in fees based on the actual populations served, will provide relief to licensees, such as Great Trails, which does not serve the major metropolitan-areas within its DMA. Finally, the fact that the Commission has elected to continue to use the Arbitron ratings for must carry determinations is not a basis for using them on an ad hoc basis for determining fees, after the Commission has made a reasoned determination to utilize the Nielsen DMAs in a formal rulemaking proceeding.

Our review of the record discloses that UHF Television Station WHAG-TV is included in the Washington, D.C., Television Market, the 7th largest television market. WHAG-TV, however, does not serve Washington, D.C., and its Grade B contour does not cover any part of the city. Television & Cable Factbook 1997, p. A539. Thus, we agree that WHAG-TV should not be considered a station serving the seventh largest market for purposes of assessment of the regulatory fee, and we will calculate WHAG-TV's fee based on the number of TV households served. The Factbook indicates that WHAG-TV serves 278,120 TV households which would place the station in the 51-100 largest TV markets for fee purposes. We will require Great Trails to pay a fee of \$7,000 for Fiscal Year 1996, the fee assessed for UHF television stations serving the 51-100 largest television markets.

Accordingly, your request is granted to the extent that the FY 1996 regulatory fee, for Television Station WHAG-TV, will be reduced to \$7,000. Crediting the \$2,000 payment that Great Trails tendered for its Fiscal Year 1996 regulatory fee, Great Trails will be required to submit the \$5,000 balance within 30 days from the date of this letter. Absent significant changes in population or WHAG-TV's service area, WHAG-TV will be considered as a UHF station serving the 51-100 largest markets in succeeding years. Great Trails should retain this letter and submit a copy with any future correspondence with the Commission concerning the regulatory fee for WHAG-TV.

If you have any questions concerning this matter, please call the Chief, Fee Section, at (202) 418-1995.

Sincerely,



Marilyn J. McDermett  
Associate Managing Director  
for Operations

**EXHIBIT C**

LAW OFFICES  
**HALEY BADER & POTTS P.L.C.**  
4350 NORTH FAIRFAX DR., SUITE 900  
ARLINGTON, VIRGINIA 22203-1633  
TELEPHONE (703) 841-0606  
FAX (703) 841-2345  
E-MAIL: haleybp@haleybp.com

MELODIE A. VIRTUE  
ADMITTED IN VA & DC

DIRECT E-MAIL ADDRESS  
mvirtue@haleybp.com

OUR FILE NO.  
0080-108-61

August 29, 1997

**VIA BERRY BEST COURIERS**

Mr. William F. Caton, Acting Secretary  
Federal Communications Commission  
Regulatory Fees  
P. O. Box 358835  
Pittsburgh, PA 15251-5835

**ATTN: Fee Supervisor**

RE: Supplemental 1996 Regulatory Fee Payment  
Great Trails Broadcasting Corporation  
Television Station WHAG-TV  
Hagerstown, MD  
Identification No.: 0311193124

Dear Mr. Caton:

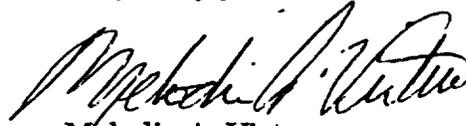
Transmitted herewith, on behalf of Great Trails Broadcasting Corporation, is Check No. 038217 in the amount of \$5,000 to cover the additional fee imposed on Television Station WHAG-TV, Hagerstown, Maryland, as required pursuant to the Letter of July 30, 1997, to Michael H. Bader from Marilyn J. McDermott. The enclosed \$5,000 supplements the previously submitted \$2,000 fee paid for 1996, bringing its total fee payment for the 1996 annual regulatory fee for UHF Station WHAG-TV to \$7,000. A Petition for Reconsideration of the July 30, 1997 Letter has been filed simultaneously herewith under separate cover at the Commission Secretary's office in Washington, D.C.

Also attached herewith for your reference is a copy of WHAG's Petition, a copy of its September 18, 1996, Request for Reduction of Fee and the Commission's Letter of July 30, 1997 regarding this matter.

Mr. William F. Cannon  
August 29, 1997  
Page 2

Should further information be necessary, please communicate directly with this office.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Melodie A. Virtue".

Melodie A. Virtue

Enclosures  
cc: Ms. Marilyn McDermett  
MAV/blr

Before The  
**Federal Communications Commission**  
Washington, D.C. 20554

In The Matter Of )  
 )  
GREAT TRAILS BROADCASTING CORP. )  
Licensee of Station WHAG-TV, )  
Hagerstown, Maryland )  
 )  
Request for Reduction of )  
Regulatory Fee )

To: Office of Managing Director

**Petition for Reconsideration**

GREAT TRAILS BROADCASTING CORP.

HALEY BADER & POTTS P.L.C.  
Suite 900  
4350 North Fairfax Drive  
Arlington, VA 22203-1633  
703/841-0606

Its Attorneys

August 29, 1997

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## SUMMARY

WHAG-TV seeks reconsideration of the FCC's Letter partially granting its request for a reduction of its 1996 annual regulatory fee. Owing to the FCC's switch from Arbitron ADIs to Nielsen DMAs in 1996, WHAG-TV had been reclassified as a UHF Station in Nielsen's Market No. 7 instead of Arbitron's Market No. 192. Although the FCC decided that WHAG-TV should not be required to pay a fee based on being in the seventh largest market, it concluded that WHAG-TV should pay a fee based on being in markets 51 to 100.

This petition submits that the FCC committed legal error in not considering the ADI market ranking for the limited purpose of this reduction request. It further demonstrates that the FCC compared apples with oranges in placing WHAG-TV in markets 51 to 100, as it compared a figure based on WHAG-TV's DMA and non-DMA TV Households served with markets ranked only by their DMA TV Households served. When WHAG-TV's DMA-only numbers are compared with Nielsen's market rankings, the station places in markets outside the top 100. WHAG-TV's DMA and non-DMA numbers are even smaller than the DMA and non-DMA numbers of stations in markets smaller than the top 100. In addition, in reviewing market data, such as Metropolitan Statistical Areas or Basic Trading Areas, the Hagerstown market is about half the size of Savannah, Georgia, which Nielsen ranks as the 100th largest market. By any rational measure, WHAG-TV should pay a fee based on markets smaller than the top 100, not the fee for markets 51 to 100.

Before The  
**Federal Communications Commission**  
Washington, D.C. 20554

In The Matter Of )  
 )  
GREAT TRAILS BROADCASTING CORP. )  
Licensee of Station WHAG-TV, )  
Hagerstown, Maryland )  
 )  
Request for Reduction of )  
Regulatory Fee )

To: Office of Managing Director

### Petition for Reconsideration

Great Trails Broadcasting Corporation, licensee of Television Station WHAG-TV, Hagerstown, Maryland, by its attorneys and pursuant to Sections 1.106, 1.1160(b)(3), 1.1166, and 1.1167 of the Commission's Rules, hereby respectfully requests reconsideration of the Letter dated July 30, 1997, from Marilyn J. McDermott, Associate Managing Director of Operations, to WHAG-TV's counsel Michael H. Bader (hereinafter "FCC Letter"). In support thereof, the following is submitted:

#### I. Introduction

The FCC assesses varying amounts of annual regulatory fees for TV stations depending on whether they operate on VHF or UHF channels and whether they are in Markets 1 through 10, 11 through 25, 26 through 50, 51 through 100, or higher. 47 C.F.R. § 1.1153. WHAG-TV operates on UHF Channel 25 and, until 1996, was considered to be in a small market ranked above 100. In 1996, however, the FCC changed how it defined a market. Prior

to 1996, the FCC relied on the Arbitron-defined Area of Dominant Influence ("ADI"). Last year, it began to use Nielsen's Designated Market Area ("DMA"). The change had the effect of moving WHAG-TV from Market No. 192 to Market No. 7.

By letter of September 18, 1996, WHAG-TV sought a reduction in the 1996 regulatory fee from \$25,000 to \$2,000, and submitted \$2,000 as its fee, which was the fee applicable to UHF stations in markets smaller than the largest 100.<sup>1</sup> The FCC agreed that "WHAG-TV should not be considered a station serving the seventh largest market for purposes of assessment of the regulatory fee." FCC Letter at p. 2. Nevertheless, it rejected WHAG-TV's argument that it should be treated as a market above number 100, as it had been when Arbitron was used. Instead, the FCC Letter compared the total number of TV Households (including DMA and non-DMA TV Households) listed for WHAG-TV in the *1997 Television & Cable Factbook*, p. A-539, with the number of DMA-only TV Households in markets ranked between 51 and 100. Using those dissimilar numbers, WHAG-TV fell between Markets Nos. 94 and 95.

---

<sup>1</sup> As set forth in its initial request, WHAG-TV is the NBC affiliate in Hagerstown on Channel 25 and Washington has a different NBC affiliate, WRC-TV, on Channel 4. There is very little overlap in Channel 4's and WHAG-TV's Grade B coverage contours. Syndicated programming is sold separately for each market. WHAG-TV is not carried on D.C., Montgomery County, or Northern Virginia cable systems. WHAG-TV's national sales representative firm, Katz, also represents a D.C. station. The local advertising rates for the NBC affiliate in Washington are more than ten times higher than are WHAG-TV's local rates. The network rate is also more than ten times higher in Washington than it is for WHAG-TV in Hagerstown. Based on advertising rates alone, it stands to reason that WHAG-TV's regulatory fee should be less than one-tenth of the Washington, D.C. UHF stations' fees -- the difference between \$2,000 and \$25,000.

Consequently, the FCC Letter ruling assessed WHAG-TV an additional \$5,000, which together with the \$2,000 WHAG-TV already paid, would amount to the \$7,000 fee for UHF television stations in markets 51 to 100.<sup>2</sup> WHAG-TV respectfully submits that there is no rational basis for considering it to be in the top 100 markets.

As the FCC's method for determining the fee applicable to WHAG-TV is novel -- based either on the total TV Households served or "actual population served" as opposed to "market" -- WHAG-TV's petition for reconsideration is the proper procedure for review. It is the first opportunity WHAG-TV has had to present to the Commission facts relating to the Commission's methodology that should be considered in reconsideration of the fee to be imposed on WHAG-TV.

**II. The Total Rejection of an ADI-Based Market Rank for the Limited Purpose of Ruling on an Individual Regulatory Fee Waiver Request is Arbitrary.**

In *Regulatory Fees for Fiscal Year 1996*, 3 CR 739, 745 (1996), the Commission decided to define TV markets based on Nielsen's research because Arbitron discontinued rating television viewership and publishing its rankings

---

<sup>2</sup> Pursuant to Rule 1.1167, WHAG-TV has tendered the additional \$5,000 to supplement its \$2,000 fee. Through this petition for rulemaking, it requests that the \$5,000 filed simultaneously herewith be refunded.

of the TV markets based on audience size.<sup>3</sup> Arbitron had defined Hagerstown as its own separate market, not included in the Washington, D.C. market; whereas, Nielsen combines the two markets.<sup>4</sup> When WHAG-TV asked the FCC to determine its market size based on its old ADI ranking, pointing in part to the use of ADIs in must carry cases, the FCC Letter concluded: "the fact that the Commission has elected to continue to use the Arbitron ratings for must carry determinations is not a basis for using them on an ad hoc basis for determining fees, after the Commission has made a reasoned determination to utilize the Nielsen DMAs in a formal rulemaking proceeding." FCC Letter p. 2. The FCC Letter's rejection of the use of ADIs as an exception in the case of WHAG-TV is arbitrary and contrary to the Commission's treatment of the Hagerstown market in another proceeding.

**a. The FCC Staff Erred in Refusing to Consider Hagerstown's Separate ADI Market Ranking.**

The mere fact that the Commission decided in its fee rulemaking order to change the market definition to DMAs is an insufficient reason to reject the use of ADI rankings in individual waiver or fee reduction requests. As the

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<sup>3</sup> Actually, Arbitron ceased publishing ADIs prior to 1996. In fact, the FCC recognized in 1994 that Arbitron no longer provided TV rating services when it adopted its fee decision in 1994, which relied on Arbitron data. *Implementation of Section 9 of the Communications Act*, 9 FCC Rcd. 5333, 5360 (1994). Likewise, in 1995 the FCC declined to use Nielsen-defined markets: "We are unable to obtain sufficient information to properly evaluate the merits of using the Nielsen Station Index for establishing fees." *Assessment and Collection of Regulatory Fees for Fiscal Year 1995*, 10 FCC Rcd. 13512, 13534 (1995).

<sup>4</sup> *Definition of Markets for Purposes of the Cable Television Mandatory Television Broadcast Signal Carry Rules*, 11 FCC Rcd. 6201, 6208 n.22 (1996) ("Must Carry Definition of Markets Decision").

Court of Appeals found in *WAIT Radio v. FCC*, “[i]t is manifest error to deny a waiver on the ground that there would be a violation in the absence of the waiver sought.” 418 F.2d 1153, 1158 n.12 (D.C. Cir. 1969), *aff’d* 459 F.2d 1203 (D.C. Cir. 1972), *cert. Denied*, 409 U.S. 1027 (1972). The FCC Letter ruling does just that -- it denied WHAG-TV’s individual waiver request to rely on its old ADI market ranking because the general rule no longer uses ADIs.

**b. The Staff’s Refusal to Rely on the Hagerstown’s ADI Ranking Conflicts with the Commission’s Treatment of Hagerstown in the Must Carry Definition of Markets Decision.**

The Commission has given special recognition to the impact that including Hagerstown in the Washington DMA would have on WHAG-TV. That was a primary consideration in delaying a change from ADIs to DMAs for must carry determinations. Indeed, the Commission decided to wait to implement use of DMAs until January 1, 2000, in order to allow for a smooth transition. *Must Carry Definition of Markets Decision*, 11 FCC Rcd. at 6222.

When the Commission decided upon its phased-in approach to change the must carry market determinations, it took WHAG-TV’s situation specifically into account -- “we are concerned about the impact of changing the market definition in certain types of situations, such as cases where the differences in methodology and procedures between Arbitron and Nielsen result in significant changes in market areas (e.g., when one service combines a smaller market with a larger market and the other service lists them separately).” *Id.* at 6221. The Commission also requested additional comments

on facilitating the transition from ADIs to DMAs, citing as a specific example the potential impact of the change from ADIs to DMAs on Hagerstown, Maryland. *Id.* at 6224-5.

The Commission's specific sensitivity to the effect of the combination of the Hagerstown and Washington markets in the *Must Carry Definition of Markets Decision* renders the staff's ruling in the FCC Letter that much more insupportable. WHAG-TV is not asking that all television regulatory fees be decided based on ADIs, only that the FCC take into account the special circumstances of this unique case.<sup>5</sup> The Commission has recognized the unique circumstances of the Hagerstown market in the *Must Carry Definition of Markets Decision*; it should follow that course in WHAG-TV's fee ruling, as well.

### **III. The Ranking of WHAG-TV in Markets 51 to 100 is Not Supported by the Facts.**

Although the FCC Letter concluded that WHAG-TV does not serve Washington, D.C., and should not be considered a station serving the seventh largest market, the staff created a new basis for determining how to rank WHAG-TV, thereby placing it within markets 51 to 100 as opposed to its old ADI rank of 192. The FCC Letter described its "policy of granting reductions in fees based on the actual populations served" as a means of providing relief.

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<sup>5</sup> There are only a few instances in the country where Nielsen combines markets that Arbitron ranked separately. Reliance on WHAG-TV's old ADI rank, therefore, will not open the floodgates to reduction requests.

FCC Letter at 2. Nevertheless, the FCC Letter's determination was based on Nielsen DMA and non-DMA TV Households served. *Id.*<sup>6</sup>

Citing to the *Factbook*, the FCC Letter concludes that WHAG-TV serves 278,120 Total TV Households. *Factbook* at A-539. That figure is the total of cable and non-cable households as well as households within the DMA and outside the DMA. Service to 278,120 DMA and non-DMA TV Households placed WHAG-TV in the 51-100 largest markets for fee purposes. *Factbook*, p. A-3.

While that process initially may appear to have the virtue of simplicity, it does not accurately reflect Hagerstown as the small market that it truly is. The Nielsen TV Household market numbers also bear this out when the proper numbers are reviewed.

By using the Television Market Rankings, the FCC Letter mistakenly compared DMA-only figures for the market with DMA and non-DMA figures for WHAG-TV, thereby inflating the Station's number vis-à-vis the data with which the FCC compared it. The Television Market Rankings in the *Factbook* list markets according to the DMA TV Households served within the particular market boundaries Nielsen defines. Those market rankings do not include non-

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<sup>6</sup> The FCC Letter's reference to basing reductions on actual populations served is confusing, as it did not actually use population but instead based its determination on TV Households. If Congress had wanted the FCC to base Television regulatory fees on the population covered or on TV Households served by individual stations, it would not have specified fee breaks based on the rank of the "market" in Section 9 of the Communications Act. 47 U.S.C. § 159. In other services, such as cable and common carrier services, the fee is based on the number of subscribers served. *Id.* Reliance on Total TV Households is akin to reliance on subscribers, which Congress declined to do.

DMA TV Households served by stations licensed to that market. To use an apt cliché, the methodology is akin to comparing apples with oranges.<sup>7</sup>

As a result, by comparing WHAG-TV's Total DMA and non-DMA TV Households with only the DMA Households, WHAG-TV has been unduly penalized. When non-DMA TV Households are excluded, the total DMA TV Households figure for WHAG-TV is 228,370. *Factbook* at A-539. Use of the Commission's own methodology, but corrected to exclude non-DMA TV Households, places WHAG-TV between markets 108 and 109 -- *i.e.*, in markets above the largest 100. *Factbook* at A-3.

No.	Market	DMA-only TV Households
108	Tyler-Longview, TX	229,080
	WHAG-TV	228,370
109	Charleston, SC	223,730

As a further demonstration of the arbitrariness of counting WHAG-TV's DMA and non-DMA TV Households and comparing that figure only to a

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<sup>7</sup> For example, stations licensed to Washington, D.C., which pay the regulatory fees based on being in the seventh largest market, serve more Total DMA and non-DMA TV Households than are listed for the Washington market. The Television Market Ranking list shows that Washington has 1,908,470 DMA TV Households. *Factbook* at A-1. The stations actually licensed to Washington, D.C., however, serve more TV Households than exist inside the Nielsen DMA, as shown below:

		Total TV Households (DMA and non-DMA)
WBDC-TV	Channel 50	2,114,220
WDCA	Channel 20	2,617,710
WJLA-TV	Channel 7	2,453,000
WRC-TV	Channel 4	2,462,670
WTTG	Channel 5	2,983,340
WUSA	Channel 9	3,908,260

*Factbook* at A-225 to A-230. Nevertheless, those stations pay a fee based on being in the Washington DMA, not on Total DMA and non-DMA Households served.

market's DMA TV Households, Charleston, South Carolina (Nielsen Market No. 109, *Factbook* at A-3), has licensed to it Station WTAT-TV, on UHF Channel 24, which serves 382,010 total DMA and non-DMA TV Households (*Factbook* at A-983), in excess of 100,000 more DMA and non-DMA TV Households than WHAG-TV is reported to serve.

<u>Station</u>	<u>Market</u>	<u>Market No.</u>	<u>DMA and non-DMA TV Households</u>
WTAT-TV	Charleston, SC	109	382,011
WHAG-TV	Hagerstown, MD		278,120

Yet, contrary to WHAG-TV, WTAT-TV is assessed as a UHF station in markets smaller than the top 100 at a fee of only \$2,000.

In the absence of relying on WHAG-TV's old ADI ranking, WHAG-TV is sensitive to the fact that the Commission needs some firm basis for determining the appropriate fee "rank" in the unusual case that WHAG-TV presents. Counting WHAG-TV's DMA and non-DMA TV Households against only a market's DMA TV Households does not supply that basis, as demonstrated above. WHAG-TV knows that with respect to the programming and advertising communities, it is not considered to be in the top 100 markets. The FCC should not impose a fee on WHAG-TV greater than the market rank its programmers and advertisers consider it to be.

WHAG-TV therefore suggests, as an alternative to relying on its old ADI ranking, that the Commission can rationally review the population,

households, and retail sales figures for the Basic Trading Areas ("BTAs")<sup>8</sup> that contain Savannah, Georgia, the 100th largest Nielsen market, and Hagerstown, Maryland, which is in the "Hagerstown, MD-Chambersburg, PA-Martinsburg, WV" BTA. A comparison of the population, households, and total retail sales in both markets follows:

BTA	1990 Census Population	Households	Total Retail Sales
Savannah, GA	630,180	228,400	\$4,077,562,000
Hagerstown, MD- Chambersburg, PA- Martinsburg, WV	327,693	125,300	\$2,036,556,000

*1993 Rand McNally Commercial Atlas & Marketing Guide*, pp. 41, 43. A comparison of those markets shows that Savannah is a much larger market than the Hagerstown-Chambersburg-Martinsburg market. As Savannah is the 100th largest Nielsen market, and Hagerstown is much smaller than Savannah, Hagerstown should be considered smaller than the top 100 markets for fee purposes.

In addition, Savannah and Hagerstown each have their own Metropolitan Statistical Areas ("MSA") from which data on market size can be

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<sup>8</sup> The Commission uses BTAs, as defined in the *1992 Rand McNally Commercial Atlas and Marketing Guide*, in several services for determining market areas, including the newly authorized Local Multipoint Distribution Service ("LMDS" or "Cellular Television"). *Rules and Policies for Local Multipoint Distribution Service*, FCC 97-82, released March 13, 1997, at ¶ 135; 47 C.F.R. § 101.1007.

compared:

MSA	1990 Census Population	Households	Total Retail Sales
Savannah, GA	242,622	91,500	\$1,912,718,000
Hagerstown, MD	121,393	45,200	\$868,139,000

*1993 Rand McNally Commercial Atlas & Marketing Guide*, pp. 56-57. As with the BTA analysis, the MSA data shows that the Savannah market is generally twice as large as Hagerstown in total population and retail sales and nearly twice as large in the number of households category. As the Hagerstown market is smaller than the Savannah market, WHAG-TV should not have to pay a regulatory fee commensurate with a market larger than Savannah.

#### **IV. Conclusion**

The FCC Letter's determination that WHAG-TV should pay a regulatory fee as though it were in the 51 to 100 largest markets is arbitrary and contrary to the facts. The refusal to rely on the old ADI ranking of the Hagerstown market for the limited purpose of WHAG-TV's request simply because the FCC in a rulemaking proceeding decided to stop using the Arbitron rankings generally is, at law, "a tautology inevitable in its application for waiver, but which the Commission mistakenly takes as a reason for denial." *WAIT Radio v. FCC*, 418 F.2d at 1158.

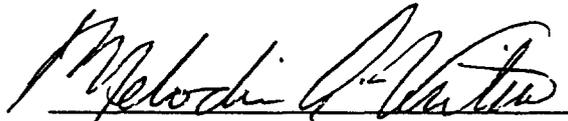
By any rational basis, such as comparison of DMA-only figures, or combined DMA and non-DMA with other combined DMA and non-DMA figures, BTAs, or MSAs, Hagerstown is smaller than the 100 largest television markets,

just as its old ADI ranking confirmed. The FCC Letter, which instead ranks WHAG-TV by its Total DMA and non-DMA TV Households compared to other market rankings which used DMA-only figures, arbitrarily compares overlapping but unequal sets of data. When equivalent data is compared, WHAG-TV places in a market smaller than the top 100. WHAG-TV, therefore, requests that the Commission reconsider its decision so that WHAG-TV will be considered a station serving a market smaller than the top 100 markets. It also respectfully requests a refund of the \$5,000 fee submitted simultaneously herewith that is being paid as ordered in the FCC Letter which is the subject of this petition.

Respectfully submitted,

GREAT TRAILS BROADCASTING CORP.

HALEY BADER & POTTS P.L.C.  
Suite 900  
4350 North Fairfax Drive  
Arlington, VA 22203-1633  
703/841-0606  
August 29, 1997



Michael H. Bader  
Melodie A. Virtue

Its Attorneys



Jenny

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MELODIE A. VIRTUE  
ADMITTED IN VA & DC

DIRECT E-MAIL ADDRESS  
mvirtue@haleybp.com

OUR FILE NO.  
0080-108-61

September 15, 1997

Federal Communications Commission  
Regulatory Fees  
P. O. Box 358835  
Pittsburgh, PA 15251-5835

RE: Annual Regulatory Fee  
Television Station WHAG-TV  
Hagerstown, MD

ATTN: Fee Supervisor

Dear Mr. Caton:

Enclosed are check No. 015837 in the aggregate amount of \$1,400.00  
and the attached FCC Form 159 as payment of the 1997 Regulatory Fee for  
WHAG-TV, Hagerstown, Maryland, and its two auxiliary stations, WBI-22 and  
WBI-25, which are licensed to Great Trails Broadcasting Corporation.

Submitted also is a copy of a letter requesting a Reduction of Fee filed  
with the FCC's Managing Director, Andrew S. Fishel, in Washington, D.C, on  
behalf of WHAG-TV.

Should further information be desired in connection with this  
Regulatory Fee Payment, kindly communicate directly with this office.

Very truly yours,

  
Melodie A. Virtue

Enclosures  
MAV/blr

9709028835 29/1001

LAW OFFICES  
HALEY BADER & POTTS P.L.C.  
4350 NORTH FAIRFAX DR., SUITE 900  
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MELODIE A. VIRTUE  
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mvirtue@haleybp.com

OUR FILE NO.  
0080-108-61

August 29, 1997

**VIA BERRY BEST COURIERS**  
Mr. William F. Caton, Acting Secretary  
Federal Communications Commission  
Regulatory Fees  
P. O. Box 358835  
Pittsburgh, PA 15251-5835

**ATTN: Fee Supervisor**

RE: ~~Supplemental 1996 Regulatory Fee Payment~~  
~~Great Trails Broadcasting Corporation~~  
~~Television Station WHAG-TV~~  
Hagerstown, MD  
Identification No.: 0311193124

Dear Mr. Caton:

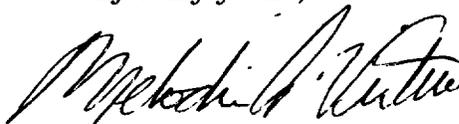
Transmitted herewith, on behalf of Great Trails Broadcasting Corporation, is Check No. 038217 in the amount of \$5,000 to cover the additional fee imposed on Television Station WHAG-TV, Hagerstown, Maryland, as required pursuant to the Letter of July 30, 1997, to Michael H. Bader from Marilyn J. McDermett. The enclosed \$5,000 supplements the previously submitted \$2,000 fee paid for 1996, bringing its total fee payment for the 1996 annual regulatory fee for UHF Station WHAG-TV to \$7,000. A Petition for Reconsideration of the July 30, 1997 Letter has been filed simultaneously herewith under separate cover at the Commission Secretary's office in Washington, D.C.

Also attached herewith for your reference is a copy of WHAG's Petition, a copy of its September 18, 1996, Request for Reduction of Fee and the Commission's Letter of July 30, 1997 regarding this matter.

Mr. William F. Caton  
August 29, 1997  
Page 2

Should further information be necessary, please communicate directly  
with this office.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Melodie A. Virtue". The signature is written in black ink and is positioned above the printed name.

Melodie A. Virtue

Enclosures  
cc: Ms. Marilyn McDermott  
MAV/blr

Before The  
**Federal Communications Commission**  
Washington, D.C. 20554

In The Matter Of )  
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GREAT TRAILS BROADCASTING CORP. )  
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 )  
Request for Reduction of )  
Regulatory Fee )

To: Office of Managing Director

**Petition for Reconsideration**

GREAT TRAILS BROADCASTING CORP.

HALEY BADER & POTTS P.L.C.  
Suite 900  
4350 North Fairfax Drive  
Arlington, VA 22203-1633  
703/841-0606

Its Attorneys

August 29, 1997

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Washington, D.C. 20554

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Hagerstown, Maryland )  
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Request for Reduction of )  
Regulatory Fee )

To: Office of Managing Director

### Petition for Reconsideration

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Consequently, the FCC Letter ruling assessed WHAG-TV an additional \$5,000, which together with the \$2,000 WHAG-TV already paid, would amount to the \$7,000 fee for UHF television stations in markets 51 to 100.<sup>2</sup> WHAG-TV respectfully submits that there is no rational basis for considering it to be in the top 100 markets.

As the FCC's method for determining the fee applicable to WHAG-TV is novel -- based either on the total TV Households served or "actual population served" as opposed to "market" -- WHAG-TV's petition for reconsideration is the proper procedure for review. It is the first opportunity WHAG-TV has had to present to the Commission facts relating to the Commission's methodology that should be considered in reconsideration of the fee to be imposed on WHAG-TV.

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---

<sup>2</sup> Pursuant to Rule 1.1167, WHAG-TV has tendered the additional \$5,000 to supplement its \$2,000 fee. Through this petition for rulemaking, it requests that the \$5,000 filed simultaneously herewith be refunded.

of the TV markets based on audience size.<sup>3</sup> Arbitron had defined Hagerstown as its own separate market, not included in the Washington, D.C. market; whereas, Nielsen combines the two markets.<sup>4</sup> When WHAG-TV asked the FCC to determine its market size based on its old ADI ranking, pointing in part to the use of ADIs in must carry cases, the FCC Letter concluded: "the fact that the Commission has elected to continue to use the Arbitron ratings for must carry determinations is not a basis for using them on an ad hoc basis for determining fees, after the Commission has made a reasoned determination to utilize the Nielsen DMAs in a formal rulemaking proceeding." FCC Letter p. 2. The FCC Letter's rejection of the use of ADIs as an exception in the case of WHAG-TV is arbitrary and contrary to the Commission's treatment of the Hagerstown market in another proceeding.

**a. The FCC Staff Erred in Refusing to Consider Hagerstown's Separate ADI Market Ranking.**

The mere fact that the Commission decided in its fee rulemaking order to change the market definition to DMAs is an insufficient reason to reject the use of ADI rankings in individual waiver or fee reduction requests. As the

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<sup>3</sup> Actually, Arbitron ceased publishing ADIs prior to 1996. In fact, the FCC recognized in 1994 that Arbitron no longer provided TV rating services when it adopted its fee decision in 1994, which relied on Arbitron data. *Implementation of Section 9 of the Communications Act*, 9 FCC Rcd. 5333, 5360 (1994). Likewise, in 1995 the FCC declined to use Nielsen-defined markets: "We are unable to obtain sufficient information to properly evaluate the merits of using the Nielsen Station Index for establishing fees." *Assessment and Collection of Regulatory Fees for Fiscal Year 1995*, 10 FCC Rcd. 13512, 13534 (1995).

<sup>4</sup> *Definition of Markets for Purposes of the Cable Television Mandatory Television Broadcast Signal Carry Rules*, 11 FCC Rcd. 6201, 6208 n.22 (1996) ("Must Carry Definition of Markets Decision").

Court of Appeals found in *WAIT Radio v. FCC*, “[i]t is manifest error to deny a waiver on the ground that there would be a violation in the absence of the waiver sought.” 418 F.2d 1153, 1158 n.12 (D.C. Cir. 1969), *aff’d* 459 F.2d 1203 (D.C. Cir. 1972), *cert. Denied*, 409 U.S. 1027 (1972). The FCC Letter ruling does just that -- it denied WHAG-TV’s individual waiver request to rely on its old ADI market ranking because the general rule no longer uses ADIs.

**b. The Staff’s Refusal to Rely on the Hagerstown’s ADI Ranking Conflicts with the Commission’s Treatment of Hagerstown in the Must Carry Definition of Markets Decision.**

The Commission has given special recognition to the impact that including Hagerstown in the Washington DMA would have on WHAG-TV. That was a primary consideration in delaying a change from ADIs to DMAs for must carry determinations. Indeed, the Commission decided to wait to implement use of DMAs until January 1, 2000, in order to allow for a smooth transition. *Must Carry Definition of Markets Decision, 11 FCC Rcd. at 6222.*

When the Commission decided upon its phased-in approach to change the must carry market determinations, it took WHAG-TV’s situation specifically into account -- “we are concerned about the impact of changing the market definition in certain types of situations, such as cases where the differences in methodology and procedures between Arbitron and Nielsen result in significant changes in market areas (e.g., when one service combines a smaller market with a larger market and the other service lists them separately).” *Id.* at 6221. The Commission also requested additional comments

on facilitating the transition from ADIs to DMAs, citing as a specific example the potential impact of the change from ADIs to DMAs on Hagerstown, Maryland. *Id.* at 6224-5.

The Commission's specific sensitivity to the effect of the combination of the Hagerstown and Washington markets in the *Must Carry Definition of Markets Decision* renders the staff's ruling in the FCC Letter that much more insupportable. WHAG-TV is not asking that all television regulatory fees be decided based on ADIs, only that the FCC take into account the special circumstances of this unique case.<sup>5</sup> The Commission has recognized the unique circumstances of the Hagerstown market in the *Must Carry Definition of Markets Decision*; it should follow that course in WHAG-TV's fee ruling, as well.

### **III. The Ranking of WHAG-TV in Markets 51 to 100 is Not Supported by the Facts.**

Although the FCC Letter concluded that WHAG-TV does not serve Washington, D.C., and should not be considered a station serving the seventh largest market, the staff created a new basis for determining how to rank WHAG-TV, thereby placing it within markets 51 to 100 as opposed to its old ADI rank of 192. The FCC Letter described its "policy of granting reductions in fees based on the actual populations served" as a means of providing relief.

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<sup>5</sup> There are only a few instances in the country where Nielsen combines markets that Arbitron ranked separately. Reliance on WHAG-TV's old ADI rank, therefore, will not open the floodgates to reduction requests.

FCC Letter at 2. Nevertheless, the FCC Letter's determination was based on Nielsen DMA and non-DMA TV Households served. *Id.*<sup>6</sup>

Citing to the *Factbook*, the FCC Letter concludes that WHAG-TV serves 278,120 Total TV Households. *Factbook* at A-539. That figure is the total of cable and non-cable households as well as households within the DMA and outside the DMA. Service to 278,120 DMA and non-DMA TV Households placed WHAG-TV in the 51-100 largest markets for fee purposes. *Factbook*, p. A-3.

While that process initially may appear to have the virtue of simplicity, it does not accurately reflect Hagerstown as the small market that it truly is. The Nielsen TV Household market numbers also bear this out when the proper numbers are reviewed.

By using the Television Market Rankings, the FCC Letter mistakenly compared DMA-only figures for the market with DMA and non-DMA figures for WHAG-TV, thereby inflating the Station's number vis-à-vis the data with which the FCC compared it. The Television Market Rankings in the *Factbook* list markets according to the DMA TV Households served within the particular market boundaries Nielsen defines. Those market rankings do not include non-

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<sup>6</sup> The FCC Letter's reference to basing reductions on actual populations served is confusing, as it did not actually use population but instead based its determination on TV Households. If Congress had wanted the FCC to base Television regulatory fees on the population covered or on TV Households served by individual stations, it would not have specified fee breaks based on the rank of the "market" in Section 9 of the Communications Act. 47 U.S.C. § 159. In other services, such as cable and common carrier services, the fee is based on the number of subscribers served. *Id.* Reliance on Total TV Households is akin to reliance on subscribers, which Congress declined to do.

DMA TV Households served by stations licensed to that market. To use an apt cliché, the methodology is akin to comparing apples with oranges.<sup>7</sup>

As a result, by comparing WHAG-TV's Total DMA and non-DMA TV Households with only the DMA Households, WHAG-TV has been unduly penalized. When non-DMA TV Households are excluded, the total DMA TV Households figure for WHAG-TV is 228,370. *Factbook* at A-539. Use of the Commission's own methodology, but corrected to exclude non-DMA TV Households, places WHAG-TV between markets 108 and 109 -- *i.e.*, in markets above the largest 100. *Factbook* at A-3.

No.	Market	DMA-only TV Households
108	Tyler-Longview, TX	229,080
	WHAG-TV	228,370
109	Charleston, SC	223,730

As a further demonstration of the arbitrariness of counting WHAG-TV's DMA and non-DMA TV Households and comparing that figure only to a

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<sup>7</sup> For example, stations licensed to Washington, D.C., which pay the regulatory fees based on being in the seventh largest market, serve more Total DMA and non-DMA TV Households than are listed for the Washington market. The Television Market Ranking list shows that Washington has 1,908,470 DMA TV Households. *Factbook* at A-1. The stations actually licensed to Washington, D.C., however, serve more TV Households than exist inside the Nielsen DMA, as shown below:

		Total TV Households (DMA and non-DMA)
WBDC-TV	Channel 50	2,114,220
WDCA	Channel 20	2,617,710
WJLA-TV	Channel 7	2,453,000
WRC-TV	Channel 4	2,462,670
WTTG	Channel 5	2,983,340
WUSA	Channel 9	3,908,260

*Factbook* at A-225 to A-230. Nevertheless, those stations pay a fee based on being in the Washington DMA, not on Total DMA and non-DMA Households served.

market's DMA TV Households, Charleston, South Carolina (Nielsen Market No. 109, *Factbook* at A-3), has licensed to it Station WTAT-TV, on UHF Channel 24, which serves 382,010 total DMA and non-DMA TV Households (*Factbook* at A-983), in excess of 100,000 more DMA and non-DMA TV Households than WHAG-TV is reported to serve.

Station	Market	Market No.	DMA and non-DMA TV Households
WTAT-TV	Charleston, SC	109	382,101
WHAG-TV	Hagerstown, MD		278,120

Yet, contrary to WHAG-TV, WTAT-TV is assessed as a UHF station in markets smaller than the top 100 at a fee of only \$2,000.

In the absence of relying on WHAG-TV's old ADI ranking, WHAG-TV is sensitive to the fact that the Commission needs some firm basis for determining the appropriate fee "rank" in the unusual case that WHAG-TV presents. Counting WHAG-TV's DMA and non-DMA TV Households against only a market's DMA TV Households does not supply that basis, as demonstrated above. WHAG-TV knows that with respect to the programming and advertising communities, it is not considered to be in the top 100 markets. The FCC should not impose a fee on WHAG-TV greater than the market rank its programmers and advertisers consider it to be.

WHAG-TV therefore suggests, as an alternative to relying on its old ADI ranking, that the Commission can rationally review the population,

households, and retail sales figures for the Basic Trading Areas ("BTAs")<sup>8</sup> that contain Savannah, Georgia, the 100th largest Nielsen market, and Hagerstown, Maryland, which is in the "Hagerstown, MD-Chambersburg, PA-Martinsburg, WV" BTA. A comparison of the population, households, and total retail sales in both markets follows:

BTA	1990 Census Population	Households	Total Retail Sales
Savannah, GA	630,180	228,400	\$4,077,562,000
Hagerstown, MD- Chambersburg, PA- Martinsburg, WV	327,693	125,300	\$2,036,556,000

*1993 Rand McNally Commercial Atlas & Marketing Guide*, pp. 41, 43. A

comparison of those markets shows that Savannah is a much larger market than the Hagerstown-Chambersburg-Martinsburg market. As Savannah is the 100th largest Nielsen market, and Hagerstown is much smaller than Savannah, Hagerstown should be considered smaller than the top 100 markets for fee purposes.

In addition, Savannah and Hagerstown each have their own Metropolitan Statistical Areas ("MSA") from which data on market size can be

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<sup>8</sup> The Commission uses BTAs, as defined in the *1992 Rand McNally Commercial Atlas and Marketing Guide*, in several services for determining market areas, including the newly authorized Local Multipoint Distribution Service ("LMDS" or "Cellular Television"). *Rules and Policies for Local Multipoint Distribution Service*, FCC 97-82, released March 13, 1997, at ¶ 135; 47 C.F.R. § 101.1007.

compared:

<u>MSA</u>	<u>1990 Census Population</u>	<u>Households</u>	<u>Total Retail Sales</u>
Savannah, GA	242,622	91,500	\$1,912,718,000
Hagerstown, MD	121,393	45,200	\$868,139,000

1993 Rand McNally Commercial Atlas & Marketing Guide, pp. 56-57. As with the BTA analysis, the MSA data shows that the Savannah market is generally twice as large as Hagerstown in total population and retail sales and nearly twice as large in the number of households category. As the Hagerstown market is smaller than the Savannah market, WHAG-TV should not have to pay a regulatory fee commensurate with a market larger than Savannah.

#### **IV. Conclusion**

The FCC Letter's determination that WHAG-TV should pay a regulatory fee as though it were in the 51 to 100 largest markets is arbitrary and contrary to the facts. The refusal to rely on the old ADI ranking of the Hagerstown market for the limited purpose of WHAG-TV's request simply because the FCC in a rulemaking proceeding decided to stop using the Arbitron rankings generally is, at law, "a tautology inevitable in its application for waiver, but which the Commission mistakenly takes as a reason for denial." *WAIT Radio v. FCC*, 418 F.2d at 1158.

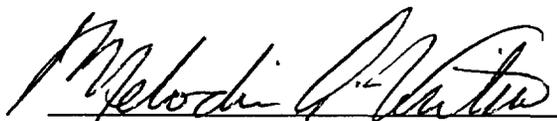
By any rational basis, such as comparison of DMA-only figures, or combined DMA and non-DMA with other combined DMA and non-DMA figures, BTAs, or MSAs, Hagerstown is smaller than the 100 largest television markets,

just as its old ADI ranking confirmed. The FCC Letter, which instead ranks WHAG-TV by its Total DMA and non-DMA TV Households compared to other market rankings which used DMA-only figures, arbitrarily compares overlapping but unequal sets of data. When equivalent data is compared, WHAG-TV places in a market smaller than the top 100. WHAG-TV, therefore, requests that the Commission reconsider its decision so that WHAG-TV will be considered a station serving a market smaller than the top 100 markets. It also respectfully requests a refund of the \$5,000 fee submitted simultaneously herewith that is being paid as ordered in the FCC Letter which is the subject of this petition.

Respectfully submitted,

GREAT TRAILS BROADCASTING CORP.

HALEY BADER & POTTS P.L.C.  
Suite 900  
4350 North Fairfax Drive  
Arlington, VA 22203-1633  
703/841-0606  
August 29, 1997



Michael H. Bader  
Melodie A. Virtue

Its Attorneys

LAW OFFICES  
HALEY BADER & POTTS P.L.C.  
4350 NORTH FAIRFAX DRIVE, SUITE 900  
ARLINGTON, VIRGINIA 22203-1633  
TELEPHONE (703) 841-0606  
FAX (703) 841-2345

September 18, 1996

Mr. Andrew S. Fishel  
Managing Director  
Federal Communications Commission  
Washington, D.C. 20554

OUR FILE NO.  
0080-104-61

Re: **REQUEST FOR REDUCTION OF FEE**  
Television Station WHAG-TV  
Hagerstown, Maryland

Dear Mr. Fishel:

This statement is filed on behalf of Great Trails Broadcasting Corporation, licensee of Television Station WHAG-TV, Channel 25, Hagerstown, Maryland, in support of its request for reduction of Annual Regulatory Fees.

WHAG-TV, Hagerstown, Maryland, licensed to Great Trails Broadcasting Corporation, respectfully requests reduction of its 1996 regulatory fee from \$25,000 to \$2,000. This request is filed pursuant to the provisions of Paragraph 32 of the *Report and Order in the Matter of Assignment and Collection of Regulatory fees for Fiscal Year 1996*, MB Docket No. 96-84, and particularly the Commission's statement as follows:

"We will consider the equities concerning the fees of licensees that change markets on a case-by-case basis, upon request, and, where a licensee demonstrates that it does not serve its assigned market, we will consider reducing the assigned fees to a more equitable level, based upon the area actually served by the licensee."

WHAG-TV is licensed to Hagerstown, Maryland, and it has operated in that market for many years. The market consists of portions of North Central

Mr. Andrew S. Fishel  
September 18, 1996  
Page 2

Maryland and South Central Pennsylvania. In 1994 and 1995, in connection with the prior regulatory fees paid by the station, its status as a station in a small television market which is not within the first 100 markets, was recognized, and for 1995 the fee was \$4,975 whereas in 1994 it was \$4,000.

This year, however, because of the termination of Arbitron ranking data, as the Commission points out in Paragraph 32 of the *Report and Order*, Hagerstown is considered to be part of the Washington, D.C. Nielsen market, and Nielsen figures are employed by the Commission in determining the market for a station and, therefore, the quantity of the fee for that station. The reason for the drastic change in that there is no Arbitron system this year.

If that abrupt change in the Commission's procedures were carried out, WHAG-TV's fee would soar to \$25,000, rather than \$2,000, the fee for UHF stations not in the first 100 markets.

It is shown herein that WHAG-TV does not serve the Washington, D.C. market; that its market is Hagerstown, Maryland and the rural areas around it; and the more realistic and equitable level should be paid, reflecting what has traditionally been known and what is factually correct in describing the Hagerstown market, or a small station market.

Accordingly, it is respectfully requested that the fee be reduced to the fee required for UHF commercial stations in markets not in the top 100, namely, \$2,000. The fee filing submitted separately, copy included with this request, reflects that reality.

In the past, when Hagerstown was recognized as its own television market by Arbitron and by the Commission, it was Market No. 192. If Arbitron were

still reporting figures concerning these markets, it would still be somewhere in the neighborhood of No. 192 among national markets.

One would wonder why last year's Arbitron rankings are not maintained in the current regulatory fee structure, particularly since the Federal Communications Commission in another context only a few months ago proposed "continued use of Arbitron definitions in 1996 for an important regulatory tool—the implementation of the must-carry retransmission rules provided by the Commission pursuant to Section 614 of the Communications Act." In proposing that this be done, Public Notice of December 8, 1995, the Commission stated that, even though Arbitron was terminating its service, the Commission would rely on its rankings for the vital implementation of Section 614 of the Communications Act because "it has the advantage of providing stability in the television broadcast signal carriage process." The same thinking could be applied to the consideration of regulatory fees, where nothing at all has changed—the reality of the market, the geography, station coverage, market conditions, site, power, height and antenna characteristics, and every other facet of the operations of the station in the small Hagerstown market and the huge Washington, D.C. metropolitan area remain the same as they did in 1994 and 1995.

As can be seen by comparison of the coverage maps of a typical Washington, D.C. station (WRC-TV, Channel 4, an NBC affiliate) and WHAG-TV (Channel 25, an NBC affiliate in Hagerstown) there is practically no overlap. The Grade B contours just barely touch. The Grade A contours do not touch. The city grade contours do not touch. See TV Factbook, 1996, Stations, pp. A-221-221 and A-531.

Furthermore, there are no audience viewing data for WHAG-TV in Washington, D.C. or in Montgomery County, Maryland which is the adjacent county located on a line between Washington, D.C. and Hagerstown where, if there were to be some WHAG-TV viewing, it would likely be encountered.

Other indicia of the separate identity of the Hagerstown market and Washington, D.C. markets are as follows:

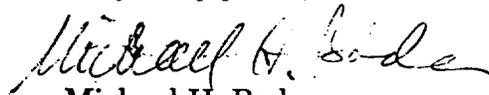
1. Separate NBC affiliates are located in each market—WHAG-TV being such affiliate in the Hagerstown market. If the stations were in the same market, it is not at all likely that there would be two separate affiliates.
2. Syndicated programming is sold separately for each market.
3. The Washington, D.C. cable companies do not carry WHAG-TV. The Montgomery County, Maryland cables do not carry WHAG-TV. Neither do the Northern Virginia systems.
4. Station sales representation for national business is provided by certain firms such as Katz and Blair for Washington, D.C. stations and in the Hagerstown market Katz represents WHAG-TV—a condition which is unlikely to exist if the stations were in the same market.
5. The rates of the Washington, D.C. and Hagerstown stations are totally different—that for the Washington NBC station for a thirty-second prime time being approximately \$6,000 whereas the Hagerstown NBC station similar service costs approximately \$400. The “network rate” for WHAG-TV is \$240, whereas for the typical Washington, D.C. station it is approximately \$2,500.

Mr. Andrew S. Fishel  
September 18, 1996  
Page 5

Quite clearly, there is no way that WHAG-TV could be classified as a Washington, D.C. market station, and it should not be charged an FCC regulatory fee as such. Using its current and past experience with such fees, it must be billed as an "above 100<sup>th</sup> market" UHF, or \$2,000.

We request the Commission to accept our payment.

Very truly yours,



Michael H. Bader

Attachments

cc(w/ attchs): Mr. Scot L. Freeman  
Mr. Alexander J. Williams

CHR/das

FCC/MELLON

SEP 19 1996

LAW OFFICES

HALEY BADER & POTTS P.L.C.  
4350 NORTH FAIRFAX DRIVE, SUITE 900  
ARLINGTON, VIRGINIA 22203-1633  
TELEPHONE (703) 841-0606  
FAX (703) 841-2345

STAMP & RETURN  
COPY

September 18, 1996

Mr. William F. Caton, Acting Secretary  
Federal Communications Commission  
Regulatory Fees  
P.O. Box 358835  
Pittsburgh, PA 15251-5835

OUR FILE NO.  
0080-104-61

Re: **1996 REGULATORY FEE PAYMENT**  
for Great Trails Broadcasting Corporation  
717 East David Road  
Dayton, OH 45429  
**IDENTIFICATION No: 0311193124**

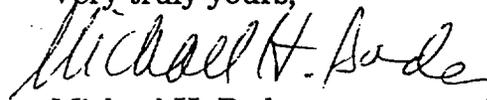
Dear Mr. Caton:

Enclosed are check No. 15401 in the aggregate amount of \$6,150.00 and the attached FCC Form(s) 159 as payment of the 1996 Regulatory Fee for the above-referenced licensee.

Submitted also is a copy of a letter requesting a Reduction of Fee filed with the FCC Managing Director, Mr. Andrew S. Fishel, on behalf of WHAG-TV.

Should further information be desired in connection with this Regulatory Fee payment, kindly communicate directly with this office.

Very truly yours,



Michael H. Bader

Attachments

cc(w/ attchs): Mr. Andrew S. Fishel, FCC  
Mr. Alexander J. Williams  
Mr. Scot L. Freeman

CHR/das

FEDERAL COMMUNICATIONS COMMISSION  
**FCC REMITTANCE ADVICE**  
 1996 Regulatory Fees

Approved by OMB  
 3060-0589  
 Expires 2/28/97

PAGE NO. 1 OF 3

(RESERVED)

(Read instructions carefully BEFORE proceeding.)

SPECIAL USE

FCC USE ONLY

**PAYOR INFORMATION**

(1) FCC ACCOUNT NUMBER	Did you have a number prior to this? Enter it.	(2) TOTAL AMOUNT PAID (dollars and cents)
0 3 1 1 1 9 3 1 2 4		<b>\$6,150.00</b>

(3) PAYOR NAME (If paying by credit card, enter name exactly as it appears on your card)

**Great Trails Broadcasting Corporation**

(4) STREET ADDRESS LINE NO. 1  
 c/o Haley Bader & Potts P.L.C.

(5) STREET ADDRESS LINE NO. 2  
 4350 North Fairfax Drive, Suite 900

(6) CITY: Arlington (7) STATE: VA (8) ZIP CODE: 22203-1633

(9) DAYTIME TELEPHONE NUMBER (Include area code): 703-841-0606 (10) COUNTRY CODE (if not U.S.A.):

**ITEM #1 INFORMATION**

11A) NAME OF APPLICANT, LICENSEE, REGULATEE, OR DEBTOR: Great Trails Broadcasting Corporation

12A) FCC CALL SIGN/OTHER ID	(13A) ZIP CODE	(14A) PAYMENT TYPE CODE	(15A) QUANTITY	(16A) FEE DUE FOR PAYMENT TYPE CODE IN BLOCK 14
<b>WHAG-TV</b>		M J U	1	<b>\$2,000.00</b>

17A) FCC CODE 1: Channel 25 (18A) FCC CODE 2: MD, Hag

19A) ADDRESS LINE NO. 1 (20A) ADDRESS LINE NO. 2 (21A) CITY/STATE OR COUNTRY CODE

**ITEM #2 INFORMATION**

11) NAME OF APPLICANT, LICENSEE, REGULATEE, OR DEBTOR

(12B) FCC CALL SIGN/OTHER ID	(13B) ZIP CODE	(14B) PAYMENT TYPE CODE	(15B) QUANTITY	(16B) FEE DUE FOR PAYMENT TYPE CODE IN BLOCK 14
<b>WBI-22</b>		M U B 6	1	<b>\$35.00</b>

(17B) FCC CODE 1 (18B) FCC CODE 2

(19B) ADDRESS LINE NO. 1 (20B) ADDRESS LINE NO. 2 (21B) CITY/STATE OR COUNTRY CODE

**CREDIT CARD PAYMENT INFORMATION**

(22) MASTERCARD/VISA ACCOUNT NUMBER:

Mastercard  Visa

EXPIRATION DATE:

(23) I hereby authorize the FCC to charge my VISA or Mastercard for the service(s); authorization(s) herein describe.

AUTHORIZED SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

1996 Regulatory Fees

ADVICE (CONTINUATION SHEET)

Great Trails Broadcasting Corporation

PAGE NO. 2 OF 3

ITEM # 3 INFORMATION				
FCC ACCOUNT #	NAME OF APPLICANT, LICENSEE, REGULATEE, OR DEBTOR	FCC USE ONLY		
WBI-25				
FCC CALL SIGN/OTHER ID	ZIP CODE	PAYMENT TYPE CODE		QUANTITY
		M	U	B
				6
				1
				\$35.00
FCC CODE 1	FCC CODE 2			
ADDRESS LINE NO. 1	ADDRESS LINE NO. 2)	CITY/STATE OR COUNTRY CODE		

ITEM # 4 INFORMATION				
FCC ACCOUNT #	NAME OF APPLICANT, LICENSEE, REGULATEE, OR DEBTOR	FCC USE ONLY		
WFFT-TV				
FCC CALL SIGN/OTHER ID	ZIP CODE	PAYMENT TYPE CODE		QUANTITY
		M	J	U
				6
				1
				\$2,000.00
FCC CODE 1	FCC CODE 2			
Channel 55	IN, Fort Wayne			
ADDRESS LINE NO. 1	ADDRESS LINE NO. 2)	CITY/STATE OR COUNTRY CODE		

ITEM # 5 INFORMATION				
FCC ACCOUNT #	NAME OF APPLICANT, LICENSEE, REGULATEE, OR DEBTOR	FCC USE ONLY		
WING-AM				
FCC CALL SIGN/OTHER ID	ZIP CODE	PAYMENT TYPE CODE		QUANTITY
		M	N	A
				6
				1
				\$690.00
FCC CODE 1	FCC CODE 2			
1410 kHz	OH, Dayton			
ADDRESS LINE NO. 1	ADDRESS LINE NO. 2)	CITY/STATE OR COUNTRY CODE		

ITEM # 6 INFORMATION				
FCC ACCOUNT #	NAME OF APPLICANT, LICENSEE, REGULATEE, OR DEBTOR	FCC USE ONLY		
KC-62836				
FCC CALL SIGN/OTHER ID	ZIP CODE	PAYMENT TYPE CODE		QUANTITY
		M	U	B
				6
				1
				\$35.00
FCC CODE 1	FCC CODE 2			
ADDRESS LINE NO. 1	ADDRESS LINE NO. 2)	CITY/STATE OR COUNTRY CODE		

# 1996 Regulatory Fees

## ADVICE (CONTINUATION SHEET)

Great Trails Broadcasting Corporation

PAGE NO. 3 OF 3

ITEM # 7 INFORMATION				
FCC ACCOUNT #	NAME OF APPLICANT, LICENSEE, REGULATEE, OR DEBTOR	FCC USE ONLY		
FCC CALL SIGN/OTHER ID	ZIP CODE	PAYMENT TYPE CODE		QUANTITY
<b>KFN-318</b>		<b>M</b>	<b>U</b>	<b>B</b>
FCC CODE 1	FCC CODE 2	<b>6</b>	<b>1</b>	<b>\$35.00</b>
ADDRESS LINE NO. 1		ADDRESS LINE NO. 2)		CITY/STATE OR COUNTRY CODE

ITEM # 8 INFORMATION				
FCC ACCOUNT #	NAME OF APPLICANT, LICENSEE, REGULATEE, OR DEBTOR	FCC USE ONLY		
FCC CALL SIGN/OTHER ID	ZIP CODE	PAYMENT TYPE CODE		QUANTITY
<b>WGTZ-FM</b>		<b>M</b>	<b>L</b>	<b>F</b>
FCC CODE 1	FCC CODE 2	<b>6</b>	<b>1</b>	<b>\$1,250.00</b>
ADDRESS LINE NO. 1		ADDRESS LINE NO. 2)		CITY/STATE OR COUNTRY CODE

ITEM # 9 INFORMATION				
FCC ACCOUNT #	NAME OF APPLICANT, LICENSEE, REGULATEE, OR DEBTOR	FCC USE ONLY		
FCC CALL SIGN/OTHER ID	ZIP CODE	PAYMENT TYPE CODE		QUANTITY
<b>G-288</b>		<b>M</b>	<b>U</b>	<b>B</b>
FCC CODE 1	FCC CODE 2	<b>6</b>	<b>1</b>	<b>\$35.00</b>
ADDRESS LINE NO. 1		ADDRESS LINE NO. 2)		CITY/STATE OR COUNTRY CODE

ITEM # 10 INFORMATION				
FCC ACCOUNT #	NAME OF APPLICANT, LICENSEE, REGULATEE, OR DEBTOR	FCC USE ONLY		
FCC CALL SIGN/OTHER ID	ZIP CODE	PAYMENT TYPE CODE		QUANTITY
<b>WGR-855</b>		<b>M</b>	<b>U</b>	<b>B</b>
FCC CODE 1	FCC CODE 2	<b>6</b>	<b>1</b>	<b>\$35.00</b>
ADDRESS LINE NO. 1		ADDRESS LINE NO. 2)		CITY/STATE OR COUNTRY CODE

FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554

July 30, 1997

OFFICE OF  
MANAGING DIRECTOR

Michael H. Bader, Esquire  
Haley, Bader & Potts  
4350 North Fairfax Drive  
Suite 900  
Arlington, VA 22203-1633

Re: Request for Reduction of Regulatory Fee  
Great Trails Broadcasting Corporation  
Fee Control # 9609238835496005  
Fee Paid: \$2,000

Dear Mr. Bader:

This is in response to your request for a reduction of the Fiscal Year 1996 (FY 1996) regulatory fee for UHF Television Station WHAG-TV, Hagerstown, Maryland, licensed to Great Trails Broadcasting Corporation (Great Trails).

You maintain that, although WHAG-TV is located in the Washington, D.C. Nielsen Market, the station does not serve Washington, D.C., and its signal is not carried on any of the cable systems serving that city or the surrounding counties. You state that WHAG-TV is an NBC affiliate, indicating that NBC considers Hagerstown as a separate and distinct market because it has another affiliated station serving Washington. Hagerstown was formally recognized as the 192nd largest market by the Arbitron ratings, but there are no Arbitron ratings available for 1996. You contend that the Commission has proposed to use the 1995 Arbitron market data for implementing cable must carry provisions for 1996, and the same reasoning can be used to apply those ratings to 1996 fees when there has been no change in a station's characteristics or service area. You conclude, therefore, that WHAG-TV should be considered a remaining market station for FY 1996 and be assessed a fee of \$2,000, the regulatory fee applicable for a remaining market UHF station.

The contention that the Commission should continue to rely on Arbitron rankings is without merit. In the FY 1996 Notice of Proposed Rulemaking, FCC 96-153, ¶ 27 (April 9, 1996), interested parties were placed on notice that Arbitron ratings would no longer be available for television stations and that we proposed to utilize Designated Market Areas (DMA) as published by the A.C. Nielsen Co. This proposal was adopted in the FY 1996 Report and Order, FCC 96-295 (July 12, 1996). It provides the most accurate and recent service area computations that are currently available. Moreover, to the extent that the television stations

Michael H. Bader, Esquire  
Page 2

may not adequately serve their Nielsen DMAs, our policy of granting reductions in fees based on the actual populations served, will provide relief to licensees, such as Great Trails, which does not serve the major metropolitan-areas within its DMA. Finally, the fact that the Commission has elected to continue to use the Arbitron ratings for must carry determinations is not a basis for using them on an ad hoc basis for determining fees, after the Commission has made a reasoned determination to utilize the Nielsen DMAs in a formal rulemaking proceeding.

Our review of the record discloses that UHF Television Station WHAG-TV is included in the Washington, D.C., Television Market, the 7th largest television market. WHAG-TV, however, does not serve Washington, D.C., and its Grade B contour does not cover any part of the city. Television & Cable Factbook 1997, p. A539. Thus, we agree that WHAG-TV should not be considered a station serving the seventh largest market for purposes of assessment of the regulatory fee, and we will calculate WHAG-TV's fee based on the number of TV households served. The Factbook indicates that WHAG-TV serves 278,120 TV households which would place the station in the 51-100 largest TV markets for fee purposes. We will require Great Trails to pay a fee of \$7,000 for Fiscal Year 1996, the fee assessed for UHF television stations serving the 51-100 largest television markets.

Accordingly, your request is granted to the extent that the FY 1996 regulatory fee, for Television Station WHAG-TV, will be reduced to \$7,000. Crediting the \$2,000 payment that Great Trails tendered for its Fiscal Year 1996 regulatory fee, Great Trails will be required to submit the \$5,000 balance within 30 days from the date of this letter. Absent significant changes in population or WHAG-TV's service area, WHAG-TV will be considered as a UHF station serving the 51-100 largest markets in succeeding years. Great Trails should retain this letter and submit a copy with any future correspondence with the Commission concerning the regulatory fee for WHAG-TV.

If you have any questions concerning this matter, please call the Chief, Fee Section, at (202) 418-1995.

Sincerely,



Marilyn J. McDermett  
Associate Managing Director  
for Operations

9709028835291001  
9609238835496005

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LAW OFFICES

HALEY BADER & POTTS P.L.C.

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TELEPHONE (703) 841-0606

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AUG 29 1997

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

MELODIE A. VIRTUE  
ADMITTED IN VA & DC

DIRECT E-MAIL ADDRESS  
mvirtue@haleybp.com

OUR FILE NO.  
0080-108-61

August 29, 1997

Mr. Andrew S. Fishel  
Managing Director  
Federal Communications Commission  
Washington, DC 20554

RE: Petition for Reconsideration  
Great Trails Broadcasting Corporation  
Television Station WHAG-TV  
Hagerstown, MD

Dear Mr. Fishel:

Transmitted herewith, on behalf of Great Trails Broadcasting Corporation, licensee of Television Station WHAG-TV, Hagerstown, Maryland, are an original and four copies of its **PETITION FOR RECONSIDERATION** in support of its request for reduction of the 1996 Regulatory Fee payment for Station WHAG-TV.

We have filed today with the Pittsburgh Lockbox a check in the amount of \$5,000 to cover the additional amount of the 1996 regulatory fee imposed on WHAG-TV pursuant to the Letter dated July 30, 1997, to Michael H. Bader from Marilyn J. McDermott, partially denying its fee reduction request. A copy of WHAG-TV's supplemental fee filing is attached for association with the Petition and to demonstrate compliance with Rule 1.1167(b). It is also respectfully requested that the \$5,000 supplemental fee be refunded to Great Trails Broadcasting Corporation upon a favorable action on its Petition for Reconsideration.

Mr. Andrew S. Fishel  
August 29, 1997  
Page 2

Should further information be necessary regarding this matter, please communicate directly with this office.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Melodie A. Virtue".

Melodie A. Virtue

Enclosures  
cc(w/encs): Ms. Marilyn J. McDermott  
MAV/blr

RECEIVED

ORIGINAL

AUG 29 1997

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Before The

# Federal Communications Commission

Washington, D.C. 20554

In The Matter Of	)
	)
GREAT TRAILS BROADCASTING CORP.	)
Licensee of Station WHAG-TV,	)
Hagerstown, Maryland	)
	)
Request for Reduction of	)
Regulatory Fee	)

To: Office of Managing Director

## Petition for Reconsideration

GREAT TRAILS BROADCASTING CORP.

HALEY BADER & POTTS P.L.C.  
 Suite 900  
 4350 North Fairfax Drive  
 Arlington, VA 22203-1633  
 703/841-0606

Its Attorneys

August 29, 1997

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## SUMMARY

WHAG-TV seeks reconsideration of the FCC's Letter partially granting its request for a reduction of its 1996 annual regulatory fee. Owing to the FCC's switch from Arbitron ADIs to Nielsen DMAs in 1996, WHAG-TV had been reclassified as a UHF Station in Nielsen's Market No. 7 instead of Arbitron's Market No. 192. Although the FCC decided that WHAG-TV should not be required to pay a fee based on being in the seventh largest market, it concluded that WHAG-TV should pay a fee based on being in markets 51 to 100.

This petition submits that the FCC committed legal error in not considering the ADI market ranking for the limited purpose of this reduction request. It further demonstrates that the FCC compared apples with oranges in placing WHAG-TV in markets 51 to 100, as it compared a figure based on WHAG-TV's DMA and non-DMA TV Households served with markets ranked only by their DMA TV Households served. When WHAG-TV's DMA-only numbers are compared with Nielsen's market rankings, the station places in markets outside the top 100. WHAG-TV's DMA and non-DMA numbers are even smaller than the DMA and non-DMA numbers of stations in markets smaller than the top 100. In addition, in reviewing market data, such as Metropolitan Statistical Areas or Basic Trading Areas, the Hagerstown market is about half the size of Savannah, Georgia, which Nielsen ranks as the 100th largest market. By any rational measure, WHAG-TV should pay a fee based on markets smaller than the top 100, not the fee for markets 51 to 100.

AUG 29 1997

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Before The

# Federal Communications Commission

Washington, D.C. 20554

In The Matter Of )  
 )  
 GREAT TRAILS BROADCASTING CORP. )  
 Licensee of Station WHAG-TV, )  
 Hagerstown, Maryland )  
 )  
 Request for Reduction of )  
 Regulatory Fee )

To: Office of Managing Director

## Petition for Reconsideration

Great Trails Broadcasting Corporation, licensee of Television Station WHAG-TV, Hagerstown, Maryland, by its attorneys and pursuant to Sections 1.106, 1.1160(b)(3), 1.1166, and 1.1167 of the Commission's Rules, hereby respectfully requests reconsideration of the Letter dated July 30, 1997, from Marilyn J. McDermott, Associate Managing Director of Operations, to WHAG-TV's counsel Michael H. Bader (hereinafter "FCC Letter"). In support thereof, the following is submitted:

### I. Introduction

The FCC assesses varying amounts of annual regulatory fees for TV stations depending on whether they operate on VHF or UHF channels and whether they are in Markets 1 through 10, 11 through 25, 26 through 50, 51 through 100, or higher. 47 C.F.R. § 1.1153. WHAG-TV operates on UHF Channel 25 and, until 1996, was considered to be in a small market ranked above 100. In 1996, however, the FCC changed how it defined a market. Prior

to 1996, the FCC relied on the Arbitron-defined Area of Dominant Influence ("ADI"). Last year, it began to use Nielsen's Designated Market Area ("DMA"). The change had the effect of moving WHAG-TV from Market No. 192 to Market No. 7.

By letter of September 18, 1996, WHAG-TV sought a reduction in the 1996 regulatory fee from \$25,000 to \$2,000, and submitted \$2,000 as its fee, which was the fee applicable to UHF stations in markets smaller than the largest 100.<sup>1</sup> The FCC agreed that "WHAG-TV should not be considered a station serving the seventh largest market for purposes of assessment of the regulatory fee." FCC Letter at p. 2. Nevertheless, it rejected WHAG-TV's argument that it should be treated as a market above number 100, as it had been when Arbitron was used. Instead, the FCC Letter compared the total number of TV Households (including DMA and non-DMA TV Households) listed for WHAG-TV in the *1997 Television & Cable Factbook*, p. A-539, with the number of DMA-only TV Households in markets ranked between 51 and 100. Using those dissimilar numbers, WHAG-TV fell between Markets Nos. 94 and 95.

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<sup>1</sup> As set forth in its initial request, WHAG-TV is the NBC affiliate in Hagerstown on Channel 25 and Washington has a different NBC affiliate, WRC-TV, on Channel 4. There is very little overlap in Channel 4's and WHAG-TV's Grade B coverage contours. Syndicated programming is sold separately for each market. WHAG-TV is not carried on D.C., Montgomery County, or Northern Virginia cable systems. WHAG-TV's national sales representative firm, Katz, also represents a D.C. station. The local advertising rates for the NBC affiliate in Washington are more than ten times higher than are WHAG-TV's local rates. The network rate is also more than ten times higher in Washington than it is for WHAG-TV in Hagerstown. Based on advertising rates alone, it stands to reason that WHAG-TV's regulatory fee should be less than one-tenth of the Washington, D.C. UHF stations' fees -- the difference between \$2,000 and \$25,000.

Consequently, the FCC Letter ruling assessed WHAG-TV an additional \$5,000, which together with the \$2,000 WHAG-TV already paid, would amount to the \$7,000 fee for UHF television stations in markets 51 to 100.<sup>2</sup> WHAG-TV respectfully submits that there is no rational basis for considering it to be in the top 100 markets.

As the FCC's method for determining the fee applicable to WHAG-TV is novel -- based either on the total TV Households served or "actual population served" as opposed to "market" -- WHAG-TV's petition for reconsideration is the proper procedure for review. It is the first opportunity WHAG-TV has had to present to the Commission facts relating to the Commission's methodology that should be considered in reconsideration of the fee to be imposed on WHAG-TV.

**II. The Total Rejection of an ADI-Based Market Rank for the Limited Purpose of Ruling on an Individual Regulatory Fee Waiver Request is Arbitrary.**

In *Regulatory Fees for Fiscal Year 1996*, 3 CR 739, 745 (1996), the Commission decided to define TV markets based on Nielsen's research because Arbitron discontinued rating television viewership and publishing its rankings

---

<sup>2</sup> Pursuant to Rule 1.1167, WHAG-TV has tendered the additional \$5,000 to supplement its \$2,000 fee. Through this petition for rulemaking, it requests that the \$5,000 filed simultaneously herewith be refunded.

of the TV markets based on audience size.<sup>3</sup> Arbitron had defined Hagerstown as its own separate market, not included in the Washington, D.C. market; whereas, Nielsen combines the two markets.<sup>4</sup> When WHAG-TV asked the FCC to determine its market size based on its old ADI ranking, pointing in part to the use of ADIs in must carry cases, the FCC Letter concluded: “the fact that the Commission has elected to continue to use the Arbitron ratings for must carry determinations is not a basis for using them on an ad hoc basis for determining fees, after the Commission has made a reasoned determination to utilize the Nielsen DMAs in a formal rulemaking proceeding.” FCC Letter p. 2. The FCC Letter’s rejection of the use of ADIs as an exception in the case of WHAG-TV is arbitrary and contrary to the Commission’s treatment of the Hagerstown market in another proceeding.

**a. The FCC Staff Erred in Refusing to Consider Hagerstown’s Separate ADI Market Ranking.**

The mere fact that the Commission decided in its fee rulemaking order to change the market definition to DMAs is an insufficient reason to reject the use of ADI rankings in individual waiver or fee reduction requests. As the

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<sup>3</sup> Actually, Arbitron ceased publishing ADIs prior to 1996. In fact, the FCC recognized in 1994 that Arbitron no longer provided TV rating services when it adopted its fee decision in 1994, which relied on Arbitron data. *Implementation of Section 9 of the Communications Act*, 9 FCC Rcd. 5333, 5360 (1994). Likewise, in 1995 the FCC declined to use Nielsen-defined markets: “We are unable to obtain sufficient information to properly evaluate the merits of using the Nielsen Station Index for establishing fees.” *Assessment and Collection of Regulatory Fees for Fiscal Year 1995*, 10 FCC Rcd. 13512, 13534 (1995).

<sup>4</sup> *Definition of Markets for Purposes of the Cable Television Mandatory Television Broadcast Signal Carry Rules*, 11 FCC Rcd. 6201, 6208 n.22 (1996)(“*Must Carry Definition of Markets Decision*”).

Court of Appeals found in *WAIT Radio v. FCC*, “[i]t is manifest error to deny a waiver on the ground that there would be a violation in the absence of the waiver sought.” 418 F.2d 1153, 1158 n.12 (D.C. Cir. 1969), *aff’d* 459 F.2d 1203 (D.C. Cir. 1972), *cert. Denied*, 409 U.S. 1027 (1972). The FCC Letter ruling does just that -- it denied WHAG-TV’s individual waiver request to rely on its old ADI market ranking because the general rule no longer uses ADIs.

**b. The Staff’s Refusal to Rely on the Hagerstown’s ADI Ranking Conflicts with the Commission’s Treatment of Hagerstown in the Must Carry Definition of Markets Decision.**

The Commission has given special recognition to the impact that including Hagerstown in the Washington DMA would have on WHAG-TV. That was a primary consideration in delaying a change from ADIs to DMAs for must carry determinations. Indeed, the Commission decided to wait to implement use of DMAs until January 1, 2000, in order to allow for a smooth transition. *Must Carry Definition of Markets Decision*, 11 FCC Rcd. at 6222.

When the Commission decided upon its phased-in approach to change the must carry market determinations, it took WHAG-TV’s situation specifically into account -- “we are concerned about the impact of changing the market definition in certain types of situations, such as cases where the differences in methodology and procedures between Arbitron and Nielsen result in significant changes in market areas (e.g., when one service combines a smaller market with a larger market and the other service lists them separately).” *Id.* at 6221. The Commission also requested additional comments

on facilitating the transition from ADIs to DMAs, citing as a specific example the potential impact of the change from ADIs to DMAs on Hagerstown, Maryland. *Id.* at 6224-5.

The Commission's specific sensitivity to the effect of the combination of the Hagerstown and Washington markets in the *Must Carry Definition of Markets Decision* renders the staff's ruling in the FCC Letter that much more insupportable. WHAG-TV is not asking that all television regulatory fees be decided based on ADIs, only that the FCC take into account the special circumstances of this unique case.<sup>5</sup> The Commission has recognized the unique circumstances of the Hagerstown market in the *Must Carry Definition of Markets Decision*; it should follow that course in WHAG-TV's fee ruling, as well.

### **III. The Ranking of WHAG-TV in Markets 51 to 100 is Not Supported by the Facts.**

Although the FCC Letter concluded that WHAG-TV does not serve Washington, D.C., and should not be considered a station serving the seventh largest market, the staff created a new basis for determining how to rank WHAG-TV, thereby placing it within markets 51 to 100 as opposed to its old ADI rank of 192. The FCC Letter described its "policy of granting reductions in fees based on the actual populations served" as a means of providing relief.

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<sup>5</sup> There are only a few instances in the country where Nielsen combines markets that Arbitron ranked separately. Reliance on WHAG-TV's old ADI rank, therefore, will not open the floodgates to reduction requests.

FCC Letter at 2. Nevertheless, the FCC Letter's determination was based on Nielsen DMA and non-DMA TV Households served. *Id.*<sup>6</sup>

Citing to the *Factbook*, the FCC Letter concludes that WHAG-TV serves 278,120 Total TV Households. *Factbook* at A-539. That figure is the total of cable and non-cable households as well as households within the DMA and outside the DMA. Service to 278,120 DMA and non-DMA TV Households placed WHAG-TV in the 51-100 largest markets for fee purposes. *Factbook*, p. A-3.

While that process initially may appear to have the virtue of simplicity, it does not accurately reflect Hagerstown as the small market that it truly is. The Nielsen TV Household market numbers also bear this out when the proper numbers are reviewed.

By using the Television Market Rankings, the FCC Letter mistakenly compared DMA-only figures for the market with DMA and non-DMA figures for WHAG-TV, thereby inflating the Station's number vis-à-vis the data with which the FCC compared it. The Television Market Rankings in the *Factbook* list markets according to the DMA TV Households served within the particular market boundaries Nielsen defines. Those market rankings do not include non-

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<sup>6</sup> The FCC Letter's reference to basing reductions on actual populations served is confusing, as it did not actually use population but instead based its determination on TV Households. If Congress had wanted the FCC to base Television regulatory fees on the population covered or on TV Households served by individual stations, it would not have specified fee breaks based on the rank of the "market" in Section 9 of the Communications Act. 47 U.S.C. § 159. In other services, such as cable and common carrier services, the fee is based on the number of subscribers served. *Id.* Reliance on Total TV Households is akin to reliance on subscribers, which Congress declined to do.

DMA TV Households served by stations licensed to that market. To use an apt cliché, the methodology is akin to comparing apples with oranges.<sup>7</sup>

As a result, by comparing WHAG-TV's Total DMA and non-DMA TV Households with only the DMA Households, WHAG-TV has been unduly penalized. When non-DMA TV Households are excluded, the total DMA TV Households figure for WHAG-TV is 228,370. *Factbook* at A-539. Use of the Commission's own methodology, but corrected to exclude non-DMA TV Households, places WHAG-TV between markets 108 and 109 -- *i.e.*, in markets above the largest 100. *Factbook* at A-3.

No.	Market	DMA-only TV Households
108	Tyler-Longview, TX	229,080
	WHAG-TV	228,370
109	Charleston, SC	223,730

As a further demonstration of the arbitrariness of counting WHAG-TV's DMA and non-DMA TV Households and comparing that figure only to a

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<sup>7</sup> For example, stations licensed to Washington, D.C., which pay the regulatory fees based on being in the seventh largest market, serve more Total DMA and non-DMA TV Households than are listed for the Washington market. The Television Market Ranking list shows that Washington has 1,908,470 DMA TV Households. *Factbook* at A-1. The stations actually licensed to Washington, D.C., however, serve more TV Households than exist inside the Nielsen DMA, as shown below:

		Total TV Households (DMA and non-DMA)
WBDC-TV	Channel 50	2,114,220
WDCA	Channel 20	2,617,710
WJLA-TV	Channel 7	2,453,000
WRC-TV	Channel 4	2,462,670
WTTG	Channel 5	2,983,340
WUSA	Channel 9	3,908,260

*Factbook* at A-225 to A-230. Nevertheless, those stations pay a fee based on being in the Washington DMA, not on Total DMA and non-DMA Households served.

market's DMA TV Households, Charleston, South Carolina (Nielsen Market No. 109, *Factbook* at A-3), has licensed to it Station WTAT-TV, on UHF Channel 24, which serves 382,010 total DMA and non-DMA TV Households (*Factbook* at A-983), in excess of 100,000 more DMA and non-DMA TV Households than WHAG-TV is reported to serve.

<u>Station</u>	<u>Market</u>	<u>Market No.</u>	<u>DMA and non-DMA TV Households</u>
WTAT-TV	Charleston, SC	109	382,101
WHAG-TV	Hagerstown, MD		278,120

Yet, contrary to WHAG-TV, WTAT-TV is assessed as a UHF station in markets smaller than the top 100 at a fee of only \$2,000.

In the absence of relying on WHAG-TV's old ADI ranking, WHAG-TV is sensitive to the fact that the Commission needs some firm basis for determining the appropriate fee "rank" in the unusual case that WHAG-TV presents. Counting WHAG-TV's DMA and non-DMA TV Households against only a market's DMA TV Households does not supply that basis, as demonstrated above. WHAG-TV knows that with respect to the programming and advertising communities, it is not considered to be in the top 100 markets. The FCC should not impose a fee on WHAG-TV greater than the market rank its programmers and advertisers consider it to be.

WHAG-TV therefore suggests, as an alternative to relying on its old ADI ranking, that the Commission can rationally review the population,

households, and retail sales figures for the Basic Trading Areas (“BTAs”)<sup>8</sup> that contain Savannah, Georgia, the 100th largest Nielsen market, and Hagerstown, Maryland, which is in the “Hagerstown, MD-Chambersburg, PA-Martinsburg, WV” BTA. A comparison of the population, households, and total retail sales in both markets follows:

BTA	1990 Census Population	Households	Total Retail Sales
Savannah, GA	630,180	228,400	\$4,077,562,000
Hagerstown, MD- Chambersburg, PA- Martinsburg, WV	327,693	125,300	\$2,036,556,000

*1993 Rand McNally Commercial Atlas & Marketing Guide*, pp. 41, 43. A comparison of those markets shows that Savannah is a much larger market than the Hagerstown-Chambersburg-Martinsburg market. As Savannah is the 100th largest Nielsen market, and Hagerstown is much smaller than Savannah, Hagerstown should be considered smaller than the top 100 markets for fee purposes.

In addition, Savannah and Hagerstown each have their own Metropolitan Statistical Areas (“MSA”) from which data on market size can be

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<sup>8</sup> The Commission uses BTAs, as defined in the *1992 Rand McNally Commercial Atlas and Marketing Guide*, in several services for determining market areas, including the newly authorized Local Multipoint Distribution Service (“LMDS” or “Cellular Television”). *Rules and Policies for Local Multipoint Distribution Service*, FCC 97-82, released March 13, 1997, at ¶ 135; 47 C.F.R. § 101.1007.

compared:

<u>MSA</u>	<u>1990 Census Population</u>	<u>Households</u>	<u>Total Retail Sales</u>
Savannah, GA	242,622	91,500	\$1,912,718,000
Hagerstown, MD	121,393	45,200	\$868,139,000

*1993 Rand McNally Commercial Atlas & Marketing Guide*, pp. 56-57. As with the BTA analysis, the MSA data shows that the Savannah market is generally twice as large as Hagerstown in total population and retail sales and nearly twice as large in the number of households category. As the Hagerstown market is smaller than the Savannah market, WHAG-TV should not have to pay a regulatory fee commensurate with a market larger than Savannah.

#### **IV. Conclusion**

The FCC Letter's determination that WHAG-TV should pay a regulatory fee as though it were in the 51 to 100 largest markets is arbitrary and contrary to the facts. The refusal to rely on the old ADI ranking of the Hagerstown market for the limited purpose of WHAG-TV's request simply because the FCC in a rulemaking proceeding decided to stop using the Arbitron rankings generally is, at law, "a tautology inevitable in its application for waiver, but which the Commission mistakenly takes as a reason for denial." *WAIT Radio v. FCC*, 418 F.2d at 1158.

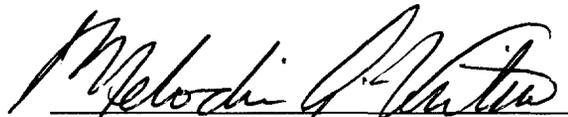
By any rational basis, such as comparison of DMA-only figures, or combined DMA and non-DMA with other combined DMA and non-DMA figures, BTAs, or MSAs, Hagerstown is smaller than the 100 largest television markets,

just as its old ADI ranking confirmed. The FCC Letter, which instead ranks WHAG-TV by its Total DMA and non-DMA TV Households compared to other market rankings which used DMA-only figures, arbitrarily compares overlapping but unequal sets of data. When equivalent data is compared, WHAG-TV places in a market smaller than the top 100. WHAG-TV, therefore, requests that the Commission reconsider its decision so that WHAG-TV will be considered a station serving a market smaller than the top 100 markets. It also respectfully requests a refund of the \$5,000 fee submitted simultaneously herewith that is being paid as ordered in the FCC Letter which is the subject of this petition.

Respectfully submitted,

GREAT TRAILS BROADCASTING CORP.

HALEY BADER & POTTS P.L.C.  
Suite 900  
4350 North Fairfax Drive  
Arlington, VA 22203-1633  
703/841-0606  
August 29, 1997



Michael H. Bader  
Melodie A. Virtue

Its Attorneys

FCC REMITTANCE ADVICE

ORIGINAL

PAGE NO. 1 OF

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SPECIAL USE

FCC USE ONLY

(Read instructions carefully BEFORE proceeding.)

PAYOR INFORMATION

(1) FCC ACCOUNT NUMBER	Did you have a number prior to this? Enter it.	(2) TOTAL AMOUNT PAID (dollars and cents)
0   3   1   1   1   9   3   1   2   4		\$ 5000 • 00

(3) PAYOR NAME (If paying by credit card, enter name exactly as it appears on your card)

Great Trails Broadcasting Corporation

(4) STREET ADDRESS LINE NO. 1  
c/o Haley Bader & Potts P.L.C.

(5) STREET ADDRESS LINE NO. 2  
4350 North Fairfax Drive, Suite 900

(6) CITY: Arlington (7) STATE: VA (8) ZIP CODE: 22203-1633

(9) DAYTIME TELEPHONE NUMBER (Include area code): 703/841-0606 (10) COUNTRY CODE (if not U.S.A.):

ITEM #1 INFORMATION

(11A) NAME OF APPLICANT, LICENSEE, REGULATEE, OR DEBTOR	FCC USE ONLY
Great Trails Broadcasting Corporation	

(12A) FCC CALL SIGN/OTHER ID	(13A) ZIP CODE	(14A) PAYMENT TYPE CODE	(15A) QUANTITY	(16A) FEE DUE FOR PAYMENT TYPE CODE IN BLOCK 14
WHAG-TV		M   J   U   6	1	\$ 5000.00

(17A) FCC CODE 1: Channel 25 (18A) FCC CODE 2: MD, Hagerstown

(19A) ADDRESS LINE NO. 1 (20A) ADDRESS LINE NO. 2 (21A) CITY/STATE OR COUNTRY CODE

ITEM #2 INFORMATION

(11B) NAME OF APPLICANT, LICENSEE, REGULATEE, OR DEBTOR	FCC USE ONLY

(12B) FCC CALL SIGN/OTHER ID	(13B) ZIP CODE	(14B) PAYMENT TYPE CODE	(15B) QUANTITY	(16B) FEE DUE FOR PAYMENT TYPE CODE IN BLOCK 14
				\$

(17B) FCC CODE 1 (18B) FCC CODE 2

(19B) ADDRESS LINE NO. 1 (20B) ADDRESS LINE NO. 2 (21B) CITY/STATE OR COUNTRY CODE

CREDIT CARD PAYMENT INFORMATION

(22) MASTERCARD/VISA ACCOUNT NUMBER:

Mastercard  Visa

EXPIRATION DATE:

Month Year

(23) I hereby authorize the FCC to charge my VISA or Mastercard for the service(s)/authorization(s) herein describe.

AUTHORIZED SIGNATURE DATE

LAW OFFICES  
**HALEY BADER & POTTS P.L.C.**  
4350 NORTH FAIRFAX DR., SUITE 900  
ARLINGTON, VIRGINIA 22203-1633  
TELEPHONE (703) 841-0606  
FAX (703) 841-2345  
E-MAIL: haleybp@haleybp.com

MELODIE A. VIRTUE  
ADMITTED IN VA & DC

DIRECT E-MAIL ADDRESS  
mvirtue@haleybp.com

OUR FILE NO.  
**0080-108-61**

August 29, 1997

**VIA BERRY BEST COURIERS**

Mr. William F. Caton, Acting Secretary  
Federal Communications Commission  
Regulatory Fees  
P. O. Box 358835  
Pittsburgh, PA 15251-5835

**ATTN: Fee Supervisor**

RE: Supplemental 1996 Regulatory Fee Payment  
Great Trails Broadcasting Corporation  
Television Station WHAG-TV  
Hagerstown, MD  
Identification No.: 0311193124

Dear Mr. Caton:

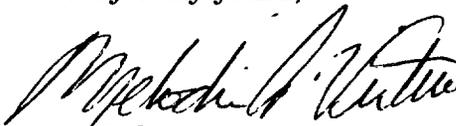
Transmitted herewith, on behalf of Great Trails Broadcasting Corporation, is Check No. 038217 in the amount of \$5,000 to cover the additional fee imposed on Television Station WHAG-TV, Hagerstown, Maryland, as required pursuant to the Letter of July 30, 1997, to Michael H. Bader from Marilyn J. McDermett. The enclosed \$5,000 supplements the previously submitted \$2,000 fee paid for 1996, bringing its total fee payment for the 1996 annual regulatory fee for UHF Station WHAG-TV to \$7,000. A Petition for Reconsideration of the July 30, 1997 Letter has been filed simultaneously herewith under separate cover at the Commission Secretary's office in Washington, D.C.

Also attached herewith for your reference is a copy of WHAG's Petition, a copy of its September 18, 1996, Request for Reduction of Fee and the Commission's Letter of July 30, 1997 regarding this matter.

Mr. William F. Caton  
August 29, 1997  
Page 2

Should further information be necessary, please communicate directly  
with this office.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Melodie A. Virtue". The signature is written in dark ink and is positioned above the printed name.

Melodie A. Virtue

Enclosures  
cc: Ms. Marilyn McDermott  
MAV/blr

LAW OFFICES  
HALEY BADER & POTTS P.L.C.  
4350 NORTH FAIRFAX DRIVE, SUITE 900  
ARLINGTON, VIRGINIA 22203-1633  
TELEPHONE (703) 841-0606  
FAX (703) 841-2345

September 18, 1996

Mr. Andrew S. Fishel  
Managing Director  
Federal Communications Commission  
Washington, D.C. 20554

OUR FILE NO.  
0080-104-61

Re: **REQUEST FOR REDUCTION OF FEE**  
Television Station WHAG-TV  
Hagerstown, Maryland

Dear Mr. Fishel:

This statement is filed on behalf of Great Trails Broadcasting Corporation, licensee of Television Station WHAG-TV, Channel 25, Hagerstown, Maryland, in support of its request for reduction of Annual Regulatory Fees.

WHAG-TV, Hagerstown, Maryland, licensed to Great Trails Broadcasting Corporation, respectfully requests reduction of its 1996 regulatory fee from \$25,000 to \$2,000. This request is filed pursuant to the provisions of Paragraph 32 of the *Report and Order in the Matter of Assignment and Collection of Regulatory fees for Fiscal Year 1996*, MB Docket No. 96-84, and particularly the Commission's statement as follows:

"We will consider the equities concerning the fees of licensees that change markets on a case-by-case basis, upon request, and, where a licensee demonstrates that it does not serve its assigned market, we will consider reducing the assigned fees to a more equitable level, based upon the area actually served by the licensee."

WHAG-TV is licensed to Hagerstown, Maryland, and it has operated in that market for many years. The market consists of portions of North Central

Mr. Andrew S. Fishel  
September 18, 1996  
Page 2

Maryland and South Central Pennsylvania. In 1994 and 1995, in connection with the prior regulatory fees paid by the station, its status as a station in a small television market which is not within the first 100 markets, was recognized, and for 1995 the fee was \$4,975 whereas in 1994 it was \$4,000.

This year, however, because of the termination of Arbitron ranking data, as the Commission points out in Paragraph 32 of the *Report and Order*, Hagerstown is considered to be part of the Washington, D.C. Nielsen market, and Nielsen figures are employed by the Commission in determining the market for a station and, therefore, the quantity of the fee for that station. The reason for the drastic change in that there is no Arbitron system this year.

If that abrupt change in the Commission's procedures were carried out, WHAG-TV's fee would soar to \$25,000, rather than \$2,000, the fee for UHF stations not in the first 100 markets.

It is shown herein that WHAG-TV does not serve the Washington, D.C. market; that its market is Hagerstown, Maryland and the rural areas around it; and the more realistic and equitable level should be paid, reflecting what has traditionally been known and what is factually correct in describing the Hagerstown market, or a small station market.

Accordingly, it is respectfully requested that the fee be reduced to the fee required for UHF commercial stations in markets not in the top 100, namely, \$2,000. The fee filing submitted separately, copy included with this request, reflects that reality.

In the past, when Hagerstown was recognized as its own television market by Arbitron and by the Commission, it was Market No. 192. If Arbitron were

Mr. Andrew S. Fishel  
September 18, 1996  
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still reporting figures concerning these markets, it would still be somewhere in the neighborhood of No. 192 among national markets.

One would wonder why last year's Arbitron rankings are not maintained in the current regulatory fee structure, particularly since the Federal Communications Commission in another context only a few months ago proposed "continued use of Arbitron definitions in 1996 for an important regulatory tool—the implementation of the must-carry retransmission rules provided by the Commission pursuant to Section 614 of the Communications Act." In proposing that this be done, Public Notice of December 8, 1995, the Commission stated that, even though Arbitron was terminating its service, the Commission would rely on its rankings for the vital implementation of Section 614 of the Communications Act because "it has the advantage of providing stability in the television broadcast signal carriage process." The same thinking could be applied to the consideration of regulatory fees, where nothing at all has changed—the reality of the market, the geography, station coverage, market conditions, site, power, height and antenna characteristics, and every other facet of the operations of the station in the small Hagerstown market and the huge Washington, D.C. metropolitan area remain the same as they did in 1994 and 1995.

As can be seen by comparison of the coverage maps of a typical Washington, D.C. station (WRC-TV, Channel 4, an NBC affiliate) and WHAG-TV (Channel 25, an NBC affiliate in Hagerstown) there is practically no overlap. The Grade B contours just barely touch. The Grade A contours do not touch. The city grade contours do not touch. See TV Factbook, 1996, Stations, pp. A-221-221 and A-531.

Furthermore, there are no audience viewing data for WHAG-TV in Washington, D.C. or in Montgomery County, Maryland which is the adjacent county located on a line between Washington, D.C. and Hagerstown where, if there were to be some WHAG-TV viewing, it would likely be encountered.

Other indicia of the separate identity of the Hagerstown market and Washington, D.C. markets are as follows:

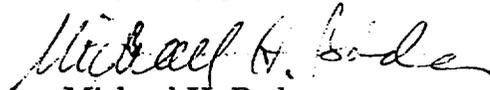
1. Separate NBC affiliates are located in each market—WHAG-TV being such affiliate in the Hagerstown market. If the stations were in the same market, it is not at all likely that there would be two separate affiliates.
2. Syndicated programming is sold separately for each market.
3. The Washington, D.C. cable companies do not carry WHAG-TV. The Montgomery County, Maryland cables do not carry WHAG-TV. Neither do the Northern Virginia systems.
4. Station sales representation for national business is provided by certain firms such as Katz and Blair for Washington, D.C. stations and in the Hagerstown market Katz represents WHAG-TV—a condition which is unlikely to exist if the stations were in the same market.
5. The rates of the Washington, D.C. and Hagerstown stations are totally different—that for the Washington NBC station for a thirty-second prime time being approximately \$6,000 whereas the Hagerstown NBC station similar service costs approximately \$400. The “network rate” for WHAG-TV is \$240, whereas for the typical Washington, D.C. station it is approximately \$2,500.

Mr. Andrew S. Fishel  
September 18, 1996  
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Quite clearly, there is no way that WHAG-TV could be classified as a Washington, D.C. market station, and it should not be charged an FCC regulatory fee as such. Using its current and past experience with such fees, it must be billed as an "above 100<sup>th</sup> market" UHF, or \$2,000.

We request the Commission to accept our payment.

Very truly yours,

  
Michael H. Bader

Attachments

cc(w/ attchs): Mr. Scot L. Freeman  
Mr. Alexander J. Williams

CHR/das

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

July 30, 1997

OFFICE OF  
MANAGING DIRECTOR

Michael H. Bader, Esquire  
Haley, Bader & Potts  
4350 North Fairfax Drive  
Suite 900  
Arlington, VA 22203-1633

Re: Request for Reduction of Regulatory Fee  
Great Trails Broadcasting Corporation  
Fee Control # 9609238835496005  
Fee Paid: \$2,000

Dear Mr. Bader:

This is in response to your request for a reduction of the Fiscal Year 1996 (FY 1996) regulatory fee for UHF Television Station WHAG-TV, Hagerstown, Maryland, licensed to Great Trails Broadcasting Corporation (Great Trails).

You maintain that, although WHAG-TV is located in the Washington, D.C. Nielsen Market, the station does not serve Washington, D.C., and its signal is not carried on any of the cable systems serving that city or the surrounding counties. You state that WHAG-TV is an NBC affiliate, indicating that NBC considers Hagerstown as a separate and distinct market because it has another affiliated station serving Washington. Hagerstown was formally recognized as the 192nd largest market by the Arbitron ratings, but there are no Arbitron ratings available for 1996. You contend that the Commission has proposed to use the 1995 Arbitron market data for implementing cable must carry provisions for 1996, and the same reasoning can be used to apply those ratings to 1996 fees when there has been no change in a station's characteristics or service area. You conclude, therefore, that WHAG-TV should be considered a remaining market station for FY 1996 and be assessed a fee of \$2,000, the regulatory fee applicable for a remaining market UHF station.

The contention that the Commission should continue to rely on Arbitron rankings is without merit. In the FY 1996 Notice of Proposed Rulemaking, FCC 96-153, ¶ 27 (April 9, 1996), interested parties were placed on notice that Arbitron ratings would no longer be available for television stations and that we proposed to utilize Designated Market Areas (DMA) as published by the A.C. Nielsen Co. This proposal was adopted in the FY 1996 Report and Order, FCC 96-295 (July 12, 1996). It provides the most accurate and recent service area computations that are currently available. Moreover, to the extent that the television stations

Michael H. Bader, Esquire  
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may not adequately serve their Nielsen DMAs, our policy of granting reductions in fees based on the actual populations served, will provide relief to licensees, such as Great Trails, which does not serve the major metropolitan-areas within its DMA. Finally, the fact that the Commission has elected to continue to use the Arbitron ratings for must carry determinations is not a basis for using them on an ad hoc basis for determining fees, after the Commission has made a reasoned determination to utilize the Nielsen DMAs in a formal rulemaking proceeding.

Our review of the record discloses that UHF Television Station WHAG-TV is included in the Washington, D.C., Television Market, the 7th largest television market. WHAG-TV, however, does not serve Washington, D.C., and its Grade B contour does not cover any part of the city. Television & Cable Factbook 1997, p. A539. Thus, we agree that WHAG-TV should not be considered a station serving the seventh largest market for purposes of assessment of the regulatory fee, and we will calculate WHAG-TV's fee based on the number of TV households served. The Factbook indicates that WHAG-TV serves 278,120 TV households which would place the station in the 51-100 largest TV markets for fee purposes. We will require Great Trails to pay a fee of \$7,000 for Fiscal Year 1996, the fee assessed for UHF television stations serving the 51-100 largest television markets.

Accordingly, your request is granted to the extent that the FY 1996 regulatory fee, for Television Station WHAG-TV, will be reduced to \$7,000. Crediting the \$2,000 payment that Great Trails tendered for its Fiscal Year 1996 regulatory fee, Great Trails will be required to submit the \$5,000 balance within 30 days from the date of this letter. Absent significant changes in population or WHAG-TV's service area, WHAG-TV will be considered as a UHF station serving the 51-100 largest markets in succeeding years. Great Trails should retain this letter and submit a copy with any future correspondence with the Commission concerning the regulatory fee for WHAG-TV.

If you have any questions concerning this matter, please call the Chief, Fee Section, at (202) 418-1995.

Sincerely,



Marilyn J. McDermett  
Associate Managing Director  
for Operations

**Payment Transactions Detail Report**

Date: 2/22/98

BY: FEE CONTROL NUMBER

Fee Control Number	Payor Name	Account Number	Received Date
9709198835427003	GREAT TRAILS BROADCASTING CORP 4350 NORTH FAIRFAX DRIVE SUITE 900 ARLINGTON VA 22203	FCC2011007	09/16/97

Payment Amount	Current Balance	Seq Num	Payment Type Code	Quantity	Callsign Other Id	Applicant Name	Applicant Zip	Bad Check	Detail Amount	Trans Code	Payment Type
\$1,400.00	\$1,400.00	2	MUB7	1	WBI22	GREAT TRAILS BROADCASTING CORP	222031633		\$25.00	1	PMT
\$1,400.00	\$1,400.00	3	MUB7	1	WBI25	GREAT TRAILS BROADCASTING CORP	222031633		\$25.00	1	PMT
\$1,400.00	\$1,400.00	1	MJU7	1	WHAGTV	GREAT TRAILS BROADCASTING CORP	222031633		\$1,350.00	1	PMT
<b>Total</b>		<b>3</b>							<b>\$1,400.00</b>		

**Payment Transactions Detail Report**

Date: 4/22/99

BY: FEE CONTROL NUMBER

Fee Control Number	Payor Name	Account Number	Received Date
9609238835496005	GREAT TRAILS BROADCASTING CORP 4350 NORTH FAIRFAX DRIVE SUITE 900 ARLINGTON VA 22203	FCC2011007	09/19/96

Payment Amount	Current Balance	Seq Num	Payment Type Code	Quantity	Callsign Other Id	Applicant Name	Applicant Zip	Bad Check	Detail Amount	Trans Code	Payment Type
\$6,150.00	\$6,150.00	6	MUB6	1	KC62836	GREAT TRAILS BROADCASTING CORP			\$35.00	1	PMT
\$6,150.00	\$6,150.00	7	MUB6	1	KFN318	GREAT TRAILS BROADCASTING CORP			\$35.00	1	PMT
\$6,150.00	\$6,150.00	9	MUB6	1	KPG288	GREAT TRAILS BROADCASTING CORP			\$35.00	1	PMT
\$6,150.00	\$6,150.00	2	MUB6	1	WBI22	GREAT TRAILS BROADCASTING CORP			\$35.00	1	PMT
\$6,150.00	\$6,150.00	3	MUB6	1	WBI25	GREAT TRAILS BROADCASTING CORP			\$35.00	1	PMT
\$6,150.00	\$6,150.00	4	MJU6	1	WFFTTV	GREAT TRAILS BROADCASTING CORP			\$2,000.00	1	PMT
\$6,150.00	\$6,150.00	10	MUB6	1	WGR855	GREAT TRAILS BROADCASTING CORP			\$35.00	1	PMT
\$6,150.00	\$6,150.00	8	MLF6	1	WGTZFM	GREAT TRAILS BROADCASTING CORP			\$1,250.00	1	PMT
\$6,150.00	\$6,150.00	1	MJU6	1	WHAGTV	GREAT TRAILS BROADCASTING CORP			\$2,000.00	1	PMT
\$6,150.00	\$6,150.00	5	MNA6	1	WINGAM	GREAT TRAILS BROADCASTING CORP			\$690.00	1	PMT
<b>Total</b>		<b>10</b>							<b>\$6,150.00</b>		

# Payment Transactions Detail Report

Date: 2/26/98

BY: FEE CONTROL NUMBER

Fee Control Number	Payor Name	Account Number	Received Date
9709028835291001	GREAT TRAILS BROADCASTING CORP	FCC2011007	08/29/97
	4350 NORTH FAIRFAX DRIVE		
	SUITE 900		
	ARLINGTON	VA	22203

Payment Amount	Current Balance	Seq Num	Payment Type Code	Quantity	Callsign Other Id	Applicant Name	Applicant Zip	Bad Check	Detail Amount	Trans Code	Payment Type
\$5,000.00	\$5,000.00	1	MJU6	1	WHAGTV	GREAT TRAILS BROADCASTING CORP			\$5,000.00	1	PMT
<b>Total</b>									\$5,000.00		