

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

August 6, 1998

OFFICE OF  
MANAGING DIRECTOR

RECEIVED

OCT - 8 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Mr. Pablo Aponte  
President  
Torrecillas Broadcasting Corporation  
P.O. Box 13895  
Santurce Station  
San Juan, Puerto Rico 00908

Re: Petitions for Deferment and Waiver  
of Regulatory Fee Increase  
Fee Control # 9710018835482004  
Fee Paid: \$1,002.50

Dear Mr. Aponte:

This is in response to your requests for a deferment and reduction of the Fiscal Year (FY) 1997 regulatory fees for AM Radio Station WOLA, Barranquitas, Puerto Rico. Please excuse our failure to respond to your request in a more timely manner.

You argue that because of Puerto Rico's small area, mountainous terrain and rural population, the Commission has waived its rules to permit stations to operate with greater power and higher antenna than would otherwise be allowed. As a result, you contend that WOLA is credited for fee purposes with a larger theoretical area of coverage than it actually serves, and a larger but unreachable population base, resulting in a disproportionate increase in its fee obligations. You further argue that the Puerto Rican population is not mobile, that each station serves its community of license, and while a station's signal may extend into other communities, that does not mean the station serves those communities. Finally, you argue that because of the depressed nature of the Puerto Rican economy, payment of the full fee will cause a severe financial strain and affect WOLA's ability to serve the public. You paid a total of \$1,000.00 in regulatory fees for Radio Station WOLA and two auxiliary stations.

In order to determine the population attributable to WOLA for fee purposes, we calculated the station's field strength contours, considering all factors such as mountainous terrain which may reduce coverage. The calculated field strength signal contour was then overlaid on U.S. Census data to obtain an estimate of population coverage for each station. Thus, the fee schedule accurately reflects the population within WOLA's protected contour.

We recognize that by relying on WOLA's protected daytime contour, WOLA was credited with serving populations not considered to be within its "core" service area. However, the FY 1997 regulatory fees for all AM stations were derived by calculating the populations within the 0.5 mV/m contour of each individual station, which is their daytime protected service contour. The 0.5 mV/m contour extends beyond and includes populations not within a licensee's primary service area. Therefore, as a matter of equity, recalculating a station's service area using a different contour for measuring population would require recalculating the service areas, populations, and fees, at a minimum, for all radio broadcast stations, in order to insure the Commission's ability to collect the required amount in fees and that licensees are treated equally.

We also recognize that some broadcasters believe that the city grade contour which each licensee is required to place over its community of license may be a better reflection of the "core" population served by that station. WOLA, for example, has complained that it is attributed with service to populations from other communities which it does not serve. We have decided to use the city grade contour to calculate FY 1998 radio regulatory fees. However, the 0.5 mV/m contour is appropriate for calculating the FY 1997 regulatory fees because that contour represents the area in which listeners receive the station's protected signal. Thus, the Commission will not reduce, on an ad hoc basis, an individual station's regulatory fee solely because its population served would be lower had we relied on a different service contour.

We further note that you argue that the regulatory fee will cause the licensee to suffer severe financial strain, and could affect its ability to serve the public. In establishing its regulatory fee program, the Commission recognized that in certain instances payment of a regulatory fee may impose an undue financial hardship upon a licensee. Thus, the Commission decided to grant waivers or reductions of its regulatory fees in those instances where a "petitioner presents a compelling case of financial hardship." Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), reconsideration granted, 10 FCC Rcd 12759 (1995). The Commission further held that regulatees can establish financial need by submitting:

[I]nformation such as a balance sheet and profit and loss statement (audited, if available), a cash flow projection . . . (with an explanation of how calculated), a list of their officers and their individual compensation, together with a list of their highest paid employees, other than officers, and the amount of their compensation, or similar information.

Mr. Pablo Aponte

3.

In determining whether a licensee has sufficient revenues to pay its regulatory fees, the Commission relies upon a licensee's cash flow, as opposed to the entity's profits. Thus, although deductions for amortization and depreciation, which do not affect cash flow, and payments to principals, reduce gross income for tax purposes, those deductions also represent money which is considered to be available to pay the regulatory fee.

In the absence of appropriate documentation, you have failed to establish a compelling case of financial hardship and your request for a reduction of WOLA's FY 97 regulatory fee is dismissed. However, in view of your allegations of financial hardship, you may refile WOLA's request for waiver with appropriate supporting documentation, within 30 days from the date of this letter.

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

Sincerely,



Mark Reger  
Chief Financial Officer

9710018855482004

Jerry

RECEIVED

MAY 14 2 27 PM '98

FCC  
FEES SECTION

OTHER  
P.A.

In the Matter of )  
)  
Petition for Deferment )  
of Payment )  
)  
TORRECILLAS BROADCASTING, CORP. )

TO: The Commission

**PETITION FOR DEFERMENT OF  
PAYMENT OF REGULATORY FEE INCREASE**

TORRECILLAS BROADCASTING ("Licensee"), licensee of WOLA - BARRANQUITAS, P.R. U.S.A.

(the "Station"), pursuant to Section 1.1166 of the Federal Communications Commission's Rules, hereby petitions for a deferment of the payment of part of the regulatory fee increase applicable to this Station. A petition is being filed simultaneously herewith requesting a ruling declaring Licensee to be exempt from payment of the regulatory fee increase over and above a 38% increase on the basis that any additional increase is due to the FCC's new fee methodology, which when applied to the Station results in a disproportionate and inequitable fee requirement. In support of this request, the following is submitted.

1. On June 26, 1997, the FCC issued its revised schedule of annual regulatory fees for 1997. See Commission Report and Order, MD Docket No. 96-186 (Released June 26, 1997). With respect to Licensee, the regulatory fees contained therein represented a substantial increase in the fees due for the Station as compared to previous years.

2. Part of the regulatory fee increase results from an overall increase in costs for enforcement, policy and rulemaking, international and user information activities in FY 1997, which the Commission is obligated to recover. The amount of such increase attributable to the radio industry is 38%. The remainder of the fee increase is due to the Commission's new methodology of calculating annual regulatory fees for AM and FM Stations.

3. Licensee is willing to pay the amount of last year's annual regulatory fee and an additional 38% of that amount. However, because the increase over and above 38% is based on the FCC's fees determination methodology, which results in a disproportionate fee increase when applied to Licensee, it is seeking a reduction of any increase over and above the 38%.

4. Requiring Licensee to pay the fees currently due would be unfair, inequitable and contrary to the Commission's intent in establishing the new fee methodology, which was designed to more accurately associate population density and service area contours with license data. Here, the Station is obligated to pay a disproportionate share of the regulatory fee increase because such increase is tied to the Station's population base, which is artificially inflated due to the influences of geography and certain technical standards utilized by the Station pursuant to FCC rules and regulations. Additionally, because the fee increase is so substantial in comparison with previous years and because the economy of Puerto Rico is generally depressed, requiring Licensee to pay the full amount of the fee increase will cause Licensee to suffer significant financial strain and will severely limit its ability to serve the public.

Accordingly, pending the outcome of Licensee's Petition for Declaratory Ruling, Licensee requests deferment of the payment of the portion of the regulatory fee increase over and above the 38% mandated by Congress.

Respectfully submitted,



A handwritten signature in black ink, appearing to read 'Pablo Aponte', is written over a horizontal line. The signature is fluid and cursive.

PABLO APONTE  
PRESIDENT

Dated: 9/19/97

In the Matter of )  
 )  
Petition for Declaratory )  
Ruling )  
 )  
 )  
TORRECILLAS BROADCASTING CORP )

TO: The Commission

**PETITION FOR DECLARATORY RULING AND FOR  
WAIVER OF REGULATORY FEE INCREASE**

TORRECILLAS BROADCASTING ("Licensee"), pursuant to Section 1.2 of the Federal Communications Commission's Rules, hereby petitions for a ruling declaring that its exempt, in part, from payment of the regulatory fee increase applicable to its radio station. This submission is accompanied by a Petition for Reduction of Payment of Regulatory Fee Increase.

**I. Introduction**

1. On June 26, 1997, the FCC issued its revised schedule of annual regulatory fees for 1997. See Commission Report and Order, MD Docket No. 96-186 (Released June 26, 1997) ("FY 1997 Fee Order"). The regulatory fees contained therein represented a substantial increase in the fees due for these stations in previous years. Part of that increase results from an overall increase in costs for enforcement, policy and rulemaking, international and user information activities in FY 1997, which the Commission is obligated to recover. The amount of such increase attributable to the radio industry is 38%. Accordingly, the Licensee is submitting

herewith the amount of last year's annual regulatory fee and an additional 38% of that amount. The remainder of the fee increase is due to the FCC's new methodology of calculating annual regulatory fees for AM and FM Stations. Licensee is willing to pay the amount submitted herewith, and seeks only a reduction of any increase over and above the 38%, as such increase is based on the FCC's fees determination methodology. In support of this request, the following is submitted.

## II. Argument

2. Section 9(d) of the Communications Act of 1934, as amended, provides that “[t]he Commission may waive, reduce, or defer payment of a fee in any specific instance for good cause shown, where such action would promote the public interest.” 47 U.S.C. 159(d); see also 47 C.F.R. § 1.1166 (1995). Petitions for reduction of a fee must be accompanied by the full fee payment less the amount of the requested reduction. 47 C.F.R. § 1.1166(d) (1995).

3. In its FY 1997 Fee Order, the FCC instituted a new fee structure for assessment of AM and FM broadcast fees for FY 1997. The Commission's objective in doing so was to more accurately “associate population density and service area contours with license data.” FY 1997 Fee Order, at page 19. By basing fees on class of station and population served, the FCC hoped to provide “a fair and equitable means of distinguishing between stations located in metropolitan areas and those located in rural areas.” Id. at 23. The expected result is that generally larger stations and those located in larger metropolitan areas will be more likely to be assessed higher fees and small stations and those located in rural areas will be more likely to be assessed lower fees. Id. While Licensee does not challenge the Commission's contention that generally these objectives have been realized due to its implementation of the new methodology, it is noted that proportionately, with respect to the fee increase, small rural stations on the island of Puerto Rico,

including the Station at issue here, are bearing a significantly greater share of the increase than the large metropolitan stations.

4. The disproportionate fee increase appears to be the combined result of several factors unique to Puerto Rico, not just one specific circumstance. As is more fully described below, these factors include the Island's unusual geographical characteristics, its dense but predominately rural population, the implementation of certain technical standards, which although in compliance with Commission requirements, are at variance with similarly situated stations located in the 48 contiguous states, and the inherent localism of the stations.

5. First, a number of factors particular to an island location converge to result in disproportionate fees for small stations in Puerto Rico. Geographically, Puerto Rico is small and its terrain is quite rugged. Puerto Rico is approximately 90 miles long (east to west) and thirty miles wide (north to south), bisected east to west by a central mountain range which effectively blocks broadcast signals directed across its heights. Isolated high points also exist throughout the island which make it difficult to sustain a good quality broadcast signal even at shorter distances.

6. Recognizing the inherent difficulties these geographical considerations pose to coverage and the need to enhance the abilities of the Puerto Rico stations to better serve the needs of their audiences, the FCC has authorized, through waivers and/or specific rules and regulations, the use of more powerful transmitters and/or larger antennas than would otherwise be permitted.<sup>1/</sup> Additionally, the FCC has adopted special short spacing rules for Puerto Rico

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<sup>1/</sup> For example, Class A stations in Puerto Rico are authorized a maximum ERP of 6kW and a reference HAAT of 240 m. While Class A stations in the 48 contiguous states are authorized the same maximum ERP, the maximum authorized reference HAAT is only 100 m. The same comparison applies to Class B1 and Class B stations. While the maximum allowable ERP is the same, Puerto Rico stations have been authorized a greater reference HAAT. See 47 C.F.R. § 73.211.

stations, which permit the construction of a greater number of stations in a smaller area than would be the case on the mainland. See 47 C.F.R. § 73.215. Taken together, these specialized technical rules artificially inflate the annual regulatory fees due for these stations under the FCC's new fee methodology.

7. While admittedly the variances mentioned above are necessary to Puerto Rican radio operations, their impact with respect to the regulatory fee obligations of small rural stations in Puerto Rico, including the Station at issue here, is profound. First, the short spacing rules create significant congestion in the radio market, particularly in the rural areas. Consequently, there is more contour overlap and thus more contour interference. The effects of this congestion are further magnified by the fact that 90% of the radio stations on the Island are located along the coastline. The implication being that some portion of these stations' signals are transmitting over the ocean. Finally, even though the terrain, contour overlap and interference generally preclude the Station from transmitting a signal of any quality beyond its community of license, the expanded facilities requirements (i.e., ERP and HAAT variances) produce a greater maximum theoretical class contour distance for the Station.<sup>2/</sup> Thus, because the new fee methodology is tied to both the class of the station and the population being served, and because the Station has a larger theoretical area of coverage and therefore a seemingly larger population base, albeit a technically unreachable population base, the Station has seen a disproportionate increase in its fee obligations.

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<sup>2/</sup> This is best illustrated by comparing the maximum limits for Puerto Rico FM stations to those of the same class in the 48 contiguous states. The maximum contour distances for FM stations in Puerto Rico is as follows: 42 k for Class A stations, 46 k for Class B1 stations, and 78 k for Class B stations. In contrast, the maximum contour distances for the same class of stations on the mainland is: 28 k for Class A stations, 39 k for Class B1 stations, and 52 k for Class B stations.

8. Moreover, although Puerto Rico is rather small, it has a strong radio presence. Roughly 120 licensed or authorized radio stations exist on the island, the majority of which are small, privately owned stations who serve rural communities. Puerto Rico is also densely populated. Approximately the size of the State of Connecticut, it is home to a total 1990 Census population of 3,522,037 persons. These people, however, are not highly mobile like the residents of Connecticut who commute daily to New York to work. Rather, all of the daily activities of the residents of Puerto Rico occur within their own or neighboring communities, which are considered as distinct as the cities of Washington, New York and Boston. This localization is further evidenced by the findings of the U.S. Census Bureau, which has divided the Island into four Metropolitan Statistical Areas (“MSAs”),<sup>2/</sup> and by the Commission, who has utilized such MSAs when considering waivers of the one-to-a-market multiple ownership rule to help define applicable broadcast markets in Puerto Rico. See WLDL, Inc. (Assignor) and Pedro Roman Collazo (Assignee) for Assignment of License of Station WRAI(AM), San Juan, Puerto Rico, 1 CR 862, 10 FCC Rcd 12150 (September 28, 1995).

9. The existence of these alternative MSAs demonstrates that population, commuting, and business patterns are fractured. Thus, the mere fact that a station’s signal from one market might spill into the population center of another’s doesn’t mean people there will be listeners, or more importantly, that advertisers will buy time on the station. This impact is even greater on the rural stations which have populated areas but are not considered stations in the

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<sup>2/</sup> An MSA comprises one or more counties containing either a place with at least 50,000 inhabitants or an urbanized area and a Metropolitan Area (MA) total population of at least 100,000. Contiguous counties are included if they have close social and economic links with the area’s population nucleus.

populated area by listeners or advertisers.<sup>4/</sup>

10. Given the Commission's intent to treat Puerto Rico specially, as evidenced by these different technical rules and standards, and given its intent to more accurately associate the regulatory fee assessment with population density and the fact that a completely opposite result is reached when this methodology is applied to the Station because of the artificial factors which inflate the Station's population base, it would be unfair and inequitable to require Licensee to pay the full amount of the fees currently due. Moreover, because of the generally more depressed nature of the Puerto Rico economy, increases such as these confer a disproportionately greater burden on Puerto Rico licensees. In this instance, the increase will cause the Licensee to suffer severe financial strain and limit its ability to serve the public.

11. As indicated above, the Commission has the authority to reduce or defer the regulatory fee requirement in instances where reduction or deferral would promote the public interest. See 47 C.F.R. § 1.1166 (1997). For the reasons noted above, the Commission should exercise this discretion in the case of Licensee.

### III. Conclusion

Licensee has demonstrated that as a result of the artificial factors influencing the Station's area of coverage and population base, application of the current fee schedule and imposition of a regulatory fee increase over and above the amount mandated by Congress would result in a grossly unfair burden. In order for Licensee to continue its operations and meet the needs of its listeners, Licensee respectfully requests that the Commission exercise its authority in this case

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<sup>4/</sup> Because stations are strongly tied to their community of license, most if not all of a station's advertising dollars come from local advertisers. These advertisers service only local consumers and therefore do not generally purchase advertising outside the community of license.

and exempt Licensee from the regulatory fee increase requirement, over and above the 38% increase mandated by Congress.

Respectfully submitted,

A handwritten signature in cursive script, reading "Pablo Aponte", is written over a horizontal line. The signature is fluid and stylized.

PABLO APONTE  
PRESIDENT

Dated: 9/19/97

# Payment Transactions Detail Report

Date: 8/5/98

BY: FEE CONTROL NUMBER

Fee Control Number	Payor Name	Account Number	Received Date
9710018835482004	TORRECILLAS BROADCASTING PO BOX 13895 SANTURCE STATION SAN JUAN PR 00908	FCC2047413	09/28/97

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
\$1,002.50	\$1,002.50	4	COD7	1		TORRECILLAS BROADCASTING	00908		\$2.50	1	PMT
\$1,002.50	\$1,002.50	1	MNF7	1		TORRECILLAS BROADCASTING	00908		\$950.00	1	PMT
\$1,002.50	\$1,002.50	5	MNF7	1		TORRECILLAS BROADCASTING	00908		(\$950.00)	1	ADJ
\$1,002.50	\$1,002.50	2	MUB7	1		TORRECILLAS BROADCASTING	00908		\$25.00	1	PMT
\$1,002.50	\$1,002.50	3	MUB7	1		TORRECILLAS BROADCASTING	00908		\$25.00	1	PMT
\$1,002.50	\$1,002.50	6	MNF7	1	WOLA	TORRECILLAS BROADCASTING	00908		\$950.00	1	PMT
<b>Total</b>	<b>6</b>								<b>\$1,002.50</b>		

FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554

July 6, 1998

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OCT - 8 1998

OFFICE OF  
MANAGING DIRECTOR

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Mr. Clay Dotson  
President  
Tri-County TV Booster Club, Inc.  
P.O. Box 57  
Hiawassee, GA 30546

Re: Request for Waiver of Regulatory Fee  
Tri-County TV Booster Club, Inc.

Dear Mr. Dotson:

This is in response to your request for a waiver of the FY 1997 regulatory fees for Tri-County TV Booster Club, Inc., which has licenses for Television Translator Stations in the Hiawassee, Georgia, area. You maintain that the translators are not licensed to and do not have common ownership with the licensee of a commercial broadcast station, they do not derive any income from advertising, and that the costs of operating the transmitters are supported by contributions from residents of the community.

In implementing the regulatory fee program, the Commission indicated that it would waive the regulatory fees for any translator station that:

(1) is not licensed to, in whole or in part, and does not have common ownership with, the licensee of a commercial broadcast station; (2) does not derive income from advertising; and (3) is dependent on subscriptions or contributions from the members of the community served for support.

Implementation of Section 9 of the Communications Act, FCC 95-257, ¶ 16 (June 15, 1995).

Based upon your representations, we will waive the regulatory fees for Tri-County TV Booster Club, Inc. The waiver shall remain in effect until there is an assignment of your licenses or a substantial change in the financing of your translator service. You should retain this letter, and a copy should be included in any correspondence with the Commission concerning the regulatory fees for the translator stations.

Mr. Clay Dotson

2.

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

Sincerely,

  
Thomas M. Holleran  
Acting Associate Managing  
Director - Financial Operations

000000 ~~BOB~~ -98-005

Jerry

TRI-COUNTY TV BOOSTER CLUB, INC.

POST OFFICE BOX 57

HIAWASSEE, GA 30546

FC MAIL ROOM

September 10 1997

RECEIVED

Federal Communications Commission  
1919 M Street NW  
Washington, D.C. 20554

RE: FY 1997 MASS MEDIA REGULATORY FEES

Gentlemen:

As the licensee of TV Translator Stations, W0BB, W0BE, W10AM, W10AX, W13AX and W13AY we feel that the regulatory fees for these stations should be waived for the following reasons:

- (1) The stations are not licensed to, in whole or in part with the licensee of any commercial broadcast station.
- (2) These stations do not derive income from advertising.
- (3) These stations are dependent on contributions from the members of the communities served for support.
- (4) There are no paid employees and all work performed on these stations is performed by volunteers.

For the above-named reasons we trust that Commission will waive all regulatory fees.

Sincerely,

*Clay Watson*  
Clay Watson,  
President

FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554

August 31, 1998

OFFICE OF  
MANAGING DIRECTOR

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OCT - 8 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

James L. Oyster, Esq.  
108 Oyster Lane  
Castleton, VA 22716-9720

Re: Request for Waiver of Regulatory Fee  
VI Stereo Communications Corp.

Dear Mr. Oyster:

This is in response to your request for a waiver of the Fiscal Year (FY) 1997 regulatory fee for FM Radio Station WVIS, Christiansted, St. Croix, Virgin Islands, licensed to VI Stereo Communications Corporation. You maintain that FM Radio Station WVIS was dark and not operating. The Commission's records indicate WVIS resumed broadcasting on August 2, 1998.

In Implementation of Section 9 of the Communications Act, FCC 95-257, ¶ 15, released June 22, 1995, the Commission determined that the imposition of a regulatory fee could be an impediment to the restoration of service by dark stations and that it would therefore, waive the fee requirement for stations which have ceased operation.

Thus, because WVIS(FM) was dark when payment of the fee was due, your request is granted, and the FY 1997 regulatory for VI Stereo Communications Corporation is waived. However, because WVIS has resumed operation, the waiver is limited to the FY 1997 regulatory fee.

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

Sincerely,

  
Mark Reger  
Chief Financial Officer

*Jerry*

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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SEP 16 1997

FILE

In re Annual Regulatory Fee for )  
 )  
V.I. STEREO COMMUNICATIONS CORP. )  
 )  
WVIS (FM), Christiansted, St. Croix, U.S.V.I. )

*Dark  
Call  
Janice*

To: Managing Director

**PETITION TO DEFER AND/OR WAIVE ANNUAL REGULATORY FEE**

V.I. Stereo Communications Corp., licensee of FM broadcast station WVIS, St. Croix, U.S.V.I., by its counsel, hereby requests that the Commission defer and/or waive the annual regulatory fee for the station (in the amount of \$800.00). In support whereof, the following is stated:

1. The instant request is based on extreme hardship, a fact which is documented by the Commission records. Official notice may be taken of the fact that station WVIS is off the air. In addition, it makes no economic sense for the station to return to the air until the Commission grants the pending application for modification of facilities for the station (BPH-970116IF).

2. In essence, WVIS is a "lame duck" facility. Official notice may be taken that WVIS was ordered to move from St. Croix to Vieques in MM Docket No. 91-259. It makes no economic sense to return the station to the air on St. Croix when the station has been ordered to move to Vieques. This is particularly true in light of the fact that the island of St. Croix has been hit hard by hurricanes over the past year, which have led to a downward economic spiral, whereby the local government can barely meet payroll. Due

to this harsh economic reality and the need to replace equipment damaged by the hurricanes, WVIS is laboring under an extreme economic hardship until such time as the Commission approves the move to Vieques, which has been previously ordered subject to a grant of the pending application.

WHEREFORE THE PREMISES CONSIDERED, it is respectfully requested that the annual regulatory fee be deferred until such time as the Commission grants the permit to move to Vieques and the station can be reestablished at its new location. It is further requested that the fee be waived in light of the current economic hardship demonstrated herein.

Respectfully submitted,

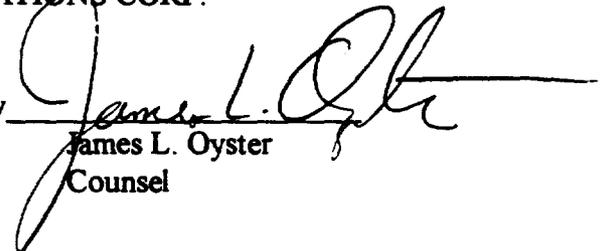
Law Offices  
JAMES L. OYSTER  
108 Oyster Lane  
Castleton, Virginia 22716-9720

(540) 937-4800

September 15, 1997

V.I. STEREO COMMUNI-  
CATIONS CORP.

By



James L. Oyster  
Counsel

**WECC Radio**  
2101 Highway 40 East  
St. Marys GA 31558

*Healey*

March 19, 1998

**RECEIVED**

OCT - 8 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Mr Thomas M. Holleran  
Acting Assoc. Managing Director  
for Operations  
Federal Communications Commission  
1919 M Street N.W. - Room # 848

Dear Mr Holleran,

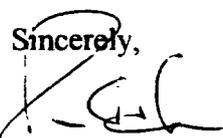
I appreciate very much your taking the time to talk with me, and for your consideration regarding our 1997 regulatory fee for WECC Radio.

I deeply regret my not responding before now. It was a very unintentional oversight. As I mentioned, WECC is a small Christian broadcast station that I manage with my wife and a couple of part-time employees. The Licensee, (Mrs) Lois Casey Moun, operates the station as a non-commercial, non-profit ministry, with all the time donated for religious/educational purposes. Income to the station comes from offerings and donations by listeners, Churches, and businesses. She further plans to donate the station and license to a non-profit ministry for it to continue operating in this manner.

The annual regulatory fee for WECC has climbed from \$250 in 1994, \$310 in 1995, \$345 in 1996, to \$1200 in 1997. Mr Terry Johnson explained that this extraordinary jump was due to a method of determining the population in our coverage for the purpose of setting the fee. WECC (AM1190) is a 2.5KW, daytime station, in St Marys GA (pop. 6000-city; 37,000-Camden county) The new fee calculation method determined the population coverage as 657,661. He explained the method is being changed for 1998.

In view of the non-commercial, non-profit operation of WECC-AM, I respectfully ask your consideration in waiving the 1997 regulatory fee. When FCC approval has been granted to transfer ownership of WECC-AM to a non-profit ministry organization, I will forward to IRS declaration for that organization to you as you suggested.

Thank you once again very kindly for your consideration on this.

Sincerely,  
  
Paul Hafer  
Manager

RECEIVED  
MAR 27 10 35 AM '98  
FEEES SECTION  
ASSOC. MNG. DIR.  
FINANCIAL OPERATIONS  
(AM-D-FO)



WECC Radio am1190  
2101 Highway 40 East  
St Marys, Georgia 31558

912-882-1190  
912-882-WECC (fax)

April 2, 1998

To: CLAUDETTE PRIDE  
 Organization: CHIEF, FCC FEE SECTION  
 Fax: 202-412-1996  
 Voice: \_\_\_\_\_  
 From: PAUL HAFER  
 Total Pages: 2 (Including cover)

DEAR CLAUDETTE,

THANK YOU SO MUCH FOR YOUR HELP AND  
 HOPEFUL CONSIDERATION.

Sincerely,  
 PAUL HAFER  
 ✍



Contemporary Music of Hope, Joy, & Praise! Teaching & Testimony to Equip and Encourage.  
 News & Information to be Aware!

Jesus said, "I am the light of the world. Whoever follows me will never walk in darkness, but will have the light of life." John 8:12

**WECC Radio  
2101 Highway 40 East  
St. Marys GA 31558**

**March 19, 1998**

**Mr Thomas M. Holleran  
Acting Assoc. Managing Director  
for Operations  
Federal Communications Commission  
1919 M Street N.W. - Room # 848**

**Dear Mr Holleran,**

**I appreciate very much your taking the time to talk with me, and for your consideration regarding our 1997 regulatory fee for WECC Radio.**

**I deeply regret my not responding before now. It was a very unintentional oversight. As I mentioned, WECC is a small Christian broadcast station that I manage with my wife and a couple of part-time employees. The Licensee, (Mrs) Lois Casey Moun, operates the station as a non-commercial, non-profit ministry, with all the time donated for religious/educational purposes. Income to the station comes from offerings and donations by listeners, Churches, and businesses. She further plans to donate the station and license to a non-profit ministry for it to continue operating in this manner.**

**The annual regulatory fee for WECC has climbed from \$250 in 1994, \$310 in 1995, \$345 in 1996, to \$1200 in 1997. Mr Terry Johnson explained that this extraordinary jump was due to a method of determining the population in our coverage for the purpose of setting the fee. WECC (AM1190) is a 2.5KW, daytime station, in St Marys GA (pop. 6000-city; 37,000-Camden county) The new fee calculation method determined the population coverage as 657,661. He explained the method is being changed for 1998.**

**In view of the non-commercial, non-profit operation of WECC-AM, I respectfully ask your consideration in waiving the 1997 regulatory fee. When FCC approval has been granted to transfer ownership of WECC-AM to a non-profit ministry organization, I will forward to IRS declaration for that organization to you as you suggested.**

**Thank you once again very kindly for your consideration on this.**

**Sincerely,**  
  
**Paul Hafer  
Manager**

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

August 10, 1998

OFFICE OF  
MANAGING DIRECTOR

Mr. Paul Hafer  
Manager  
Radio Station WECC  
2101 Highway 40 East  
St. Marys, GA 31558

Re: Request for Reconsideration of  
Regulatory Fee

Dear Mr. Hafer:

This is in response to your request for reconsideration of the Fiscal Year (FY) 1997 regulatory fee for AM Radio Station WECC, St. Marys, Georgia, licensed to Lois Casey Moun.

You argue that WECC is operated as a nonprofit station, and that the licensee intends to transfer ownership to a nonprofit corporation.

In establishing the regulatory fee program, Congress provided an exemption for non-profit entities. 47 U.S.C. § 159(h). In Implementation of Section 9 of the Communications Act, 10 FCC Rcd 12759 (1995) the Commission amended 47 C.F.R. § 1.1162(c) to exempt from regulatory fees:

. . . an organization duly qualified as a nonprofit, tax exempt entity . . . or an entity with current certification as a nonprofit corporation or other nonprofit entity by a state or other governmental authority.

However, in order to qualify for a refund, the Commission requires regulatees to submit documentation of their non-profit status with a Section 501 letter from IRS, papers showing incorporation as a non-profit entity, or similar documentation from a governmental entity certifying that the licensee is nonprofit. In the absence of such documentation, your petition is deficient and is dismissed.

Payment of the FY 1997 regulatory fee of \$1,200 for AM Radio Station WECC is now due. Thus, either documentation establishing the nonprofit status of WECC's licensee, or the \$1,200 regulatory fee together with a Form FCC 159 (copy enclosed), should be filed within 15 days from the date of this letter.

Mr. Paul Hafer

2.

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

Sincerely,



Mark Reger  
Chief Financial Officer

Enclosure

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

August 31, 1998

OFFICE OF  
MANAGING DIRECTOR

RECEIVED

OCT - 8 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Dennis J. Kelly, Esquire  
P.O. Box 6648  
Annapolis, MD 21401

Re: W. Russell Withers  
Radio Station WRXX  
Fee Control # 9805048835123002  
Fee Paid: \$600

Dear Mr. Kelly:

This is in response to your letter concerning the Fiscal Year (FY) 1997 regulatory fee for Radio Station WRXX, Centralia, Illinois, licensed to W. Russell Withers. The Commission's records confirm that the assignment of the license for WRXX to Withers was not consummated until after September 19, 1997, the date on which payment of the FY 1997 regulatory fee was due.

Thus, Withers is not subject to the FY 1997 regulatory fee for WRXX, and the fee paid will be refunded. A check, payable to the maker of the original check, and drawn in the amount of \$600, 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,

  
Mark Reger  
Chief Financial Officer

000000BCB-98-049

ORIGINAL

*Jerry*

Law Office of  
**DENNIS J. KELLY**  
Post Office Box 6648  
Annapolis, Maryland 21401

WAIVER

TELEPHONE: 888-322-5291  
202-293-2300

TELECOPIER: 410-626-1794  
E-MAIL: dkellyfclaw1@msn.com

MEMBER, DISTRICT OF COLUMBIA BAR ONLY;  
PRACTICE LIMITED TO FEDERAL COMMUNICATIONS LAW

May 11, 1998

RECEIVED

BY TELECOPIER (202) 418-2843

Ms. Claudette Pride, Chief  
Fee Section, Billings & Collections Branch  
Office of Managing Director  
Federal Communications Commission  
Washington, DC 20554

MAY 12 1998  
FEDERAL COMMUNICATIONS COMMISSION  
Office of Secretary  
MAY 11 1998  
RECEIVED

RE: WRXX(FM), Centralia, Illinois

Dear Ms. Pride:

This office serves as communications counsel to W. Russell Withers, Jr., the new licensee of FM Broadcast Station WRXX, Centralia, Illinois. This is to respond to the letter of April 21, 1998 of Regina Dorsey, Chief, Billings & Collections Branch, to Mr. Withers, regarding the 1997 regulatory fee for station WRXX. As an initial matter, station WRXX is licensed to Centralia, Illinois (not Mount Vernon, as reflected in the April 21, 1998 letter). Further, the April 21, 1998 letter makes reference to a letter of March 6, 1998 on the same subject. It is to be noted that the undersigned, whose role as communications counsel for station WRXX has been duly noted in the records of the Commission, was not served with either the March 6 or April 21, 1998 letters. Section 1.12 of the Commission's Rules requires the Commission to provide the undersigned with copies of letters it sends to Mr. Withers.

1997 "regulatory fees" were due and payable during the week of September 15-19, 1997. Mr. Withers was not the licensee of station WRXX at that time. Indeed, the FCC Form 314 application for Commission consent to the assignment of license of WRXX was filed with the Commission on September 19, 1997, and was assigned the file number BALH-970919GH. This application was granted by the Commission on November 4, 1997.

Ms. Claudette Pride  
Federal Communications Commission  
May 11, 1998  
Page 2

The consummation of this transaction occurred on January 5, 1998, and the Commission was notified of said consummation on January 9, 1998 (see attached letter).

From the foregoing you can see that Mr. Withers was not the licensee of station WRXX as of September 19, 1997, the last day for payment of 1997 regulatory fees. As such, he has no liability for such fees; the first year for which he would have a regulatory fee liability would be 1998.

The licensee of station WRXX as of September 19, 1997 was Centralia Radio Communications, Inc. (CRCI). As of September 19, 1997, CRCI was in Chapter 11 bankruptcy before the United States Bankruptcy Court for the Southern District of Illinois, Case No. BK-96-60607. Station WRXX was sold by CRCI to Mr. Withers to raise money to pay CRCI's debts (see an attached court order of October 24, 1997).

The Commission has made it clear that it has waived regulatory fees "for licensees whose stations are bankrupt, undergoing Chapter 11 reorganizations or in receivership". **In the Matter of Implementation of Section 9 of the Communications Act**, FCC 95-257, 10 FCC Rcd 12759, 78 RR 2d 210, at paragraph 14 (1995). The full text of paragraph 14 follows:

14. We have also received petitions for waivers from licensees of stations which are legally bankrupt, undergoing Chapter 11 reorganizations, or are in receivership. Evidence of bankruptcy or receivership is sufficient to establish financial hardship. Moreover, where a bankruptcy trustee, receiver, or debtor in possession is negotiating a possible transfer of a license, the regulatory fee could act as an impediment to the negotiations and the transfer of the station to a new licensee. Thus, we will waive the regulatory fees for licensees whose stations are bankrupt, undergoing Chapter 11 reorganizations or in receivership.

In view of the above showing, this is to request that the Commission acknowledge that (1) Mr. Withers is not liable in any way for 1997 regulatory fees for station WRXX and (2) the Commission had waived as a matter of law the 1997 regulatory

Ms. Claudette Pride  
Federal Communications Commission  
May 11, 1998  
Page 3

fee requirement for Centralia Radio Communications, Inc.  
because it was in Chapter 11 bankruptcy.

Should additional information be desired in connection with  
this matter, kindly communicate with this office.

Very truly yours,



Dennis J. Kelly

Attachments

cc: Mr. W. Russell Withers, Jr.

Law Office of  
**DENNIS J. KELLY**  
Post Office Box 6648  
Annapolis, Maryland 21401

TELEPHONE: 888-322-5291  
202-293-2300

TELECOPIER: 410-626-1794  
E-MAIL: dkellyfcclaw1@msn.com

MEMBER, DISTRICT OF COLUMBIA BAR ONLY;  
PRACTICE LIMITED TO FEDERAL COMMUNICATIONS LAW

January 9, 1998

RECEIVED

JAN - 9 1998

Federal Communications Commission  
Office of Secretary

**CONSUMMATION LETTER-FOR BAPS INPUT**

Federal Communications Commission  
Washington, DC 20554

RE: WILY(AM), Centralia, Illinois  
WRXX(FM), Centralia, Illinois  
File Nos. BAL-970919GG  
BALH-970919GH

Gentlemen:

On behalf of W. Russell Withers, Jr., this is to report that all actions necessary to complete the assignment of licenses of Standard Broadcast Station WILY and FM Broadcast Station WRXX, Centralia, Illinois, from Centralia Radio Communications, Inc. to W. Russell Withers, Jr. were consummated January 5, 1998 and made effective that day.

An ownership report for W. Russell Withers, Jr. is being filed this date under separate cover.

It is requested that all communications pertaining to Stations WILY(AM) and WRXX(FM) be directed to the following (with a copy to the undersigned):

Mr. W. Russell Withers, Jr.  
Post Office Box 1508  
Mount Vernon, Illinois 62864  
Daytime Telephone: 618-242-3500  
Telecopier: 618-242-2490

Federal Communications Commission  
January 9, 1998  
Page Two

Should additional information be desired in connection with the above matter, kindly communicate with this office.

Very truly yours,



Dennis J. Kelly

OCT 24 1997

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

CLERK - U.S. BANKRUPTCY COURT  
SOUTHERN DISTRICT - ILLINOIS

IN RE:	)	In Proceedings Under
	)	Chapter 11
CENTRALIA RADIO COMMUNICATIONS, INC.,	)	
	)	BK-96-60607
Debtor.	)	

ORDER

This matter having come before this court on October 17, 1997,  
on the following issues:

1. The Debtor's Motion to Approve Sale of Radio Station, Modify the Plan to conform to the Offer to Purchase and to Approve the Distribution and Close the Case;
2. The Debtor's Objection to the claim filed by Boatmen's Bank;
3. The Debtor's Objection to the claim filed by Betty McKee;
4. The Debtor's Objection to the claim filed by Westwood One;
5. The Debtor's Objection to the claim filed by ABC;
6. The Debtor's Objection to the claim filed by I.D.E.S.;
7. The Debtor's Objection to the claim filed by Fortner Insurance;
8. Motion to Allow Claims and Objection to Claims; and
9. Objection by the U.S. Trustee to the closing of the case; and

this Court being fully advised finds as follows:

No objections to the Motions set forth above in one (1) through eight (8) were filed and no one appeared at the hearing to object to the relief requested.

The U.S. Trustee received a report of distributions by the

1  
2

debtor for the third quarter of 1997 and the fourth quarter of 1997 along with a check for the fees. The U.S. Trustee withdrew its objection described in number nine (9) above to this Court's order to show cause why the case should not be closed.

The attorney for the debtor, Centralia Radio Communications, Inc., submitted to the court a document detailing the claim filed by James Warner and withdrew its objection to James Warner's claim which was a part of the Motion described in paragraph eight (8) above.

The objections to the claims described in paragraphs one (1) through seven (7) above requested the claims to be denied for the amount requested and to be reduced to the sums set forth in the objections.

It is therefore ordered as follows:

1. The Debtor's Motion to Approve Sale of Radio Station, Modify the Plan to conform to the Offer to Purchase and to Approve the Distribution and Close the case is granted. Therefore, the debtor is directed to proceed to accept the offer to purchase and to distribute the sale proceeds in a manner consistent with the motion. Upon the entry of this order, a final decree shall be entered closing the case.

2. The claim filed by Boatmen's Bank for \$255,808.01 is hereby denied. Boatmen Bank's claim is allowed for \$235,230.48 as unsecured.

3. The claim filed by Betty McKee for \$192,600.92 is hereby denied. Betty McKee's claim is allowed for \$178,600.92 as unsecured.

4. The claim filed by Westwood One for \$810.10 is hereby denied. Westwood One's claim is allowed for \$450.00

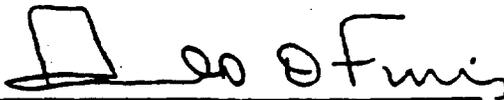
5. The claim filed by ABC for \$300.00 is hereby denied. ABC's claim is allowed for \$150.00

6. The claim filed by I.D.E.S. for \$33,881.95 is hereby denied. I.D.E.S. claim is allowed for \$23,182.16.

7. The claim filed by Fortner Insurance is allowed as filed for \$21,780.60 as unsecured.

8. The Motion to Allow Claims and Objection to Claims is approved and as no objections to the claim filed by James Warner were sustained, his claim is allowed as filed.

DATED OCT 24 1997

  
JUDGE

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

August 10, 1998

OFFICE OF  
MANAGING DIRECTOR

Mr. Edward J. Rickard  
General Manager  
Radio Station WJMS  
222 South Lawrence Street  
Ironwood, MI 49938

RECEIVED  
OCT - 8 1998  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: Request for Reduction of Regulatory  
Fee  
Fee Control # 9709228835547002  
Fees Paid: \$2,075

Dear Mr. Rickard:

This is in response to your request for a reduction of the Fiscal year 1997 regulatory fee for AM Radio Station WJMS, Ironwood, Michigan. Please excuse our failure to respond to your request in a more timely manner.

WJMS was assessed a regulatory fee of \$1,200 based upon coverage of a population of 327,408. You maintain that after reviewing WJMS's 0.5 mV/m contour, you concluded the station only reached about 150,000 people.

For fee purposes, the population covered by each AM station was calculated by placing the 0.5 mV/m contour over United States' census data. Your unsupported allegation, without supporting documentation, is insufficient to raise questions concerning the accuracy of the regulatory fee assessment.

Accordingly, your request for reduction of the regulatory fee is denied. If you have any questions concerning the regulatory fees, please call the Chief, Fee Section, at (202) 418-1995.

Sincerely,



Mark Reger  
Chief Financial Officer

4704228835547002

144 9/25/97  
→ FOD/BJ

# WJMS am 59 WIMI 99.7 fm

222 S. Lawrence Street Ironwood, MI 49938  
906/932-2411  
FAX: 906/932-2485

Tori  
TO OGC  
223 97  
E-9/29

Jenny

September 15, 1997

Federal Communications Commission  
c/o Mr. Tom Holleran  
1919 M Street, NW  
Room 848  
Washington, DC 20554

Dear Tom:

This letter is sent in dispute of the assigned fees and population figures for WJMS AM 590, Ironwood, Michigan. The fee listed is \$1,200.00 and the population is listed at 327,408.

After careful review of the WJMS 0.5 MV/M contour, I find the population would be approximately 150,000 which would set a regulatory fee at \$400.00.

Thank you for any consideration given, and I look forward to the commission's response to this request.

Very truly yours,

*Edward J. Rickard*

Edward J. Rickard  
General Manager  
Radio Station WJMS  
222 South Lawrence Street  
Ironwood, MI 49938

# Payment Transactions Detail Report

Date: 11/7/97

BY: FEE CONTROL NUMBER

Fee Control Number	Payor Name	Account Number	Received Date
9709228835547002	ROBERTS BROADCASTING INC 222 SOUTH LAWRENCE ST  IRONWOOD MI 49938	FCC2029463	09/18/97

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
\$2,075.00	\$2,075.00	3	MUB7	1	KF3115RPU	ROBERTS BROADCASTING INC	49938		\$25.00	1	PMT
\$2,075.00	\$2,075.00	2	MGG7	1	WIMIFM	ROBERTS BROADCASTING INC	49938		\$800.00	1	PMT
\$2,075.00	\$2,075.00	1	MGE7	1	WJMSAM	ROBERTS BROADCASTING INC	49938		\$1,200.00	1	PMT
\$2,075.00	\$2,075.00	4	MUB7	1	WLG573STL	ROBERTS BROADCASTING INC	49938		\$25.00	1	PMT
\$2,075.00	\$2,075.00	5	MUB7	1	WMG260	ROBERTS BROADCASTING INC	49938		\$25.00	1	PMT
<b>Total</b>									\$2,075.00		

Lynn

FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554

OFFICE OF  
MANAGING DIRECTOR

July 6, 1998

RECEIVED

OCT - 8 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Mr. Attila Kossanyi  
Vice President  
Radio Station WKTX  
11906 Madison Ave.  
Cleveland, OH 44107

Re: Request for Waiver of Regulatory Fees

Dear Mr. Kossanyi:

This is in response to your request for a waiver of the Fiscal Year (FY) 1997 regulatory fees for AM Radio Station WKTX, Cortland, Ohio. You maintain that WKTX has lost money and in the past year has had the added expense of moving its tower. In support of your request, you have submitted a profit and loss statement for the first nine months of 1997, the period immediately preceding the due date for the regulatory fees.

In establishing its regulatory fee program, the Commission recognized that in certain instances payment of a regulatory fee may impose an undue financial hardship upon a licensee. Thus, the Commission decided to grant waivers or reductions of its regulatory fees in those instances where a "petitioner presents a compelling case of financial hardship." Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), reconsideration granted, 10 FCC Rcd 12759 (1995).

In determining whether a licensee has sufficient revenues to pay its regulatory fees, the Commission relies upon a licensee's cash flow, as opposed to the entity's profits. Thus, although deductions for amortization and depreciation, which do not affect cash flow, and payments to principals, reduce gross income for tax purposes, those deductions also represent money which is considered to be available to pay the regulatory fee.

The Profit and Loss statement establishes that WKTX lost money over the first 9 months of 1997. After offsetting the losses with payments to officers, the station's cash flow was still not sufficient to cover WKTX's \$1,825 regulatory fee. Under these circumstances, you have established a compelling case of financial hardship, and the FY 1997 regulatory fee for WKTX is waived.

The waiver, however, is limited to the FY 1997 regulatory fee. If WKTX continues to experience financial hardship, you may file a request for waivers of the regulatory fees for FY 1998 and succeeding years, supported by suitable documentation of the licensee's financial condition.

Mr. Attila Kossanyi

2.

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

Sincerely,



Thomas M. Holleran  
Acting Associate Managing  
Director - Financial Operations



A NATIONALITY BROADCASTING  
NETWORK STATION

---

Corporate Offices: 11906 MADISON AVE.\* CLEVELAND, OH 44107  
178 NORTH MECCA \* CORTLAND, OH 44410

---

000000BCB - 98-011

Cortland Studio (330) 638-0830  
Cleveland Offices (216) 221-0330  
FAX (216) 221-3638  
E-MAIL nbn@mail.multiverse.com  
Internet ph IP:207.170.129.151

9/9/97

FCC

Dear Sirs,

I am writing to you regarding the new regulatory fees, We received the news that our fees went up 620% and we have been given a little over thirty days to come up with the increased amount totaling \$1,825.00. I have included a profit and loss statement to date a expected cash flow for the next twelve months officers, compensation is included in the payroll portion of the profit and loss statement.

In addition to not having a great year in sales WKTX moved its tower. This cost alone was \$127,000 We are respectfully requesting a waiver at this time on the grounds of financial hardship.

Sincerely,

Attila Kossanyi  
WKTX Vice President

---

**SERVING ALL OF NORTHEAST OHIO AND WESTERN PENNSYLVANIA**

---

READ INSTRUCTIONS CAREFULLY BEFORE PROCEEDING

APPROVED BY OMB 3060-0589

FEDERAL COMMUNICATIONS COMMISSION REMITTANCE ADVICE

SPECIAL USE

(1) LOCKBOX #

PAGE NO \_\_\_\_\_ OF \_\_\_\_\_

FCC/RELLON SEP 15 1997

SECTION A - PAYER INFORMATION

PAYER NAME: M. Klos Kossanuy; STREET ADDRESS: 30006 Lake rd; CITY: Bay Village; STATE: Oh; ZIP CODE: 44140; TOTAL AMOUNT PAID: \$ 1825

IF PAYER NAME AND THE APPLICANT NAME ARE DIFFERENT, COMPLETE SECTION B IF MORE THAN ONE APPLICANT, USE CONTINUATION SHEETS (FORM 159-C)

SECTION B - APPLICANT INFORMATION

APPLICANT NAME, STREET ADDRESS, CITY, STATE, ZIP CODE, DAYTIME TELEPHONE NUMBER fields.

COMPLETE SECTION C FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEETS (FORM 159-C)

SECTION C - PAYMENT INFORMATION

Payment details for 3KTX and MUB7 services, including call sign, payment type code, quantity, and fee due.

SECTION D - TAXPAYER INFORMATION (REQUIRED)

PAYER TIN: 0264605307; APPLICANT TIN: 0

SECTION E - CERTIFICATION

Certification statement by M. Klos Kossanuy, certifying the information is true and correct.

SECTION F - CREDIT CARD PAYMENT INFORMATION

Credit card payment fields for Mastercard or Visa, including account number, expiration date, and authorized signature.

FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554

August 5, 1998

OFFICE OF  
MANAGING DIRECTOR

RECEIVED

OCT - 8 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

David Tillotson, Esquire  
3421 M Street, N.W.  
Suite 1739  
Washington, D.C. 20007

Re: Woodcom, Inc.  
New television station  
Lewiston, Idaho  
Fee Control # 9312278195540005

Dear Mr. Tillotson:

This will respond to your request for refund of the \$2,030.00 filing fee submitted on behalf of Woodcom, Inc. ("Woodcom") in connection with its application for a new television station on Channel 2286A at Lewiston, Idaho.

You maintain that Woodcom is entitled to a refund of its filing fee because Section 3002 of the Balanced Budget Amendment of 1997 mandated that broadcast licenses be awarded in accordance with a competitive bidding scheme, because mutually exclusive broadcast licenses are subject to a freeze, and because Woodcom has entered into a settlement agreement under which it has agreed to dismiss its application.

Section 3002, codified as 47 U.S.C. § 309(l), authorizes the Commission to auction "initial licenses or construction permits for commercial radio or television stations that were filed with the Commission before July 1, 1997 . . . ." The Commission initiated a rulemaking proceeding to implement its general auction authority under 47 U.S.C. § 309(j), and specifically solicited comment on its proposal to implement Section 3002, 47 U.S.C. § 309(l), by using a competitive bidding scheme to decide all pending broadcast applications. See Notice of Proposed Rulemaking: Implementation of Section 309(j) of the Communications Act -- Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses, 12 FCC Rcd 22363, 22369-70 (1997).

In view of its proposal not to conduct hearings with respect to pending broadcast applications, the Commission also proposed to refund the hearing as well as the filing fees of any applicant that ultimately chooses not to participate in the auction and makes a refund request. Specifically, the Commission stated, "All such refunds would be paid once the grant of the construction permit to the winning bidder is final and the license has been

Mr. Tillotson  
Page 2

paid for in full." Id. At this juncture, however, the Commission merely has proposed to use auctions to resolve pending applications for new broadcast stations. Under the circumstances, given that the rulemaking is pending and that there is no final Commission decision with respect to pending broadcast applications and/or refunds, your refund request is premature.

Accordingly, at this time, your request is being denied without prejudice. In the event the Commission determines filing fee refunds are appropriate, you may refile your request in accordance with the Commission's decision.

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

Sincerely,

A handwritten signature in cursive script, appearing to read "Mark Reger".

Mark Reger  
Chief Financial Officer

931227819554005

Holl7

**DAVID TILLOTSON**  
**Attorney at Law**

3421 M Street, N.W., #1739  
Washington, D.C. 20007

Telephone: (202) 625-6241  
Facsimile: (202) 965-2018

February 13, 1998

Mr. Andrew Fishel, Managing Director  
Federal Communications Commission  
1919 M Street, N.W., Room 852  
Washington, DC 20554

Re: Request for Filing Fee Refund -BPH-931223MB

Dear Mr. Fishel:

I am writing on behalf of Woodcom, Inc. ("Woodcom") to request a refund of the \$2,030.00 filing fee that Woodcom paid in connection with their above-referenced application for a new television station to operate on Channel 2286A at Lewiston, Idaho.

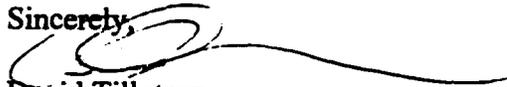
The Commission charges filing fees for applications for new broadcast facilities to defray its costs of processing applications. Because of the freeze on processing mutually exclusive applications which has been in effect as a consequence of the decision of the United States Court of Appeals in *Bechtel v. FCC*, 957 F. 2d 929 (D.C. Cir. 1992). Woodcom's application has never received any processing. Moreover, at the time Woodcom filed its application, it did so in response to a window filing notice which stated that the Lewiston channel would be awarded by comparative hearing. However, pursuant to amendments to the Communications Act which were enacted as part of the Balanced Budget Act of 1997, the Commission is no longer authorized to award new broadcast channels by comparative hearing. Instead, it is required to award them by auction. In light of this change in the procedures by which the Lewiston channel is to be awarded, Woodcom has entered into a global settlement with the other applicants for the channel pursuant to which it has agreed to dismiss its application in consideration of receiving a monetary payment. A Joint Petition for approval of this Global Settlement was filed with the Commission on or about January 28, 1998.

As Woodcom's application has received no processing, and will not receive any processing since Woodcom has requested dismissal of its application, there is no basis for the Commission to retain Woodcom's filing fee which was paid to defray the costs of the processing that its application never received. It is particularly appropriate that the Commission should refund

Woodcom's filing fee since Woodcom's decision to withdraw its application resulted from a fundamental change in the methodology that the Commission will use to award the Lewiston channel that was made long after Woodcom's application was filed. In these circumstances, it would be fair to say that the fee was collected from Woodcom under false pretenses. Accordingly, it is requested that Woodcom's \$2,030.00 filing fee for its Lewiston, Idaho FM application be promptly refunded.

If you have any questions concerning this request, please call me.

Sincerely,

A handwritten signature in black ink, appearing to read "David Tillotson", with a long horizontal flourish extending to the right.

David Tillotson

c: Mark Bolland

Telnet - fees\_wl

Connect Ed. Terminal Help

PERFORM: **Query** Next Previous Add Update Remove Table Screen ...  
 Searches the active database table. \*\* 1: appl table\*\*

FEES II 05/21/91  
 APPLICANT QUERY SCREEN

Fee Control Number: [9312278195540005]  
 Applicant Name: [WOODCOM INC ]  
 Correspondence Address (Line 1): [ARTER & HADDEN PETER DOYLE ]  
 Correspondence Address (Line 2): [1801 K STREET NW SUITE 400 K ]  
 City: [WASHINGTON ] State/Country: [DC ] ZIP code: [200060000]  
 Call Sign: [ ] (Data Changed Flag: [N]) Debar Flag: [N]

(1) Fee Type Code:	MTR	Fee Multiple:	1	Fee Due:	\$2030.00
(2) Fee Type Code:		Fee Multiple:	0	Fee Due:	\$0.00
(3) Fee Type Code:		Fee Multiple:	0	Fee Due:	\$0.00
(4) Fee Type Code:		Fee Multiple:	0	Fee Due:	\$0.00
(5) Fee Type Code:		Fee Multiple:	0	Fee Due:	\$0.00
Overage Amount:	\$0.00	Total Amount Remitted:	\$2030.00		
Check Flag:		Current Amount:	\$2030.00		
Waiver:	Status:	Refund:	Payment:		

1 row(s) found

Start Notify In Box FCC Collection ... Telnet - fees... 8:48 AM

This is the fee payment record

Tom Putnam

Tuesday, August 04, 1998

FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554

June 30, 1998

OFFICE OF  
MANAGING DIRECTOR

RECEIVED  
OCT - 8 1998  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

David Tillotson, Esquire  
3421 M Street, N.W. , #1739  
Washington, D.C. 20007

Re: Fee Control # 9505258195482007

Dear Mr. Tillotson:

This will respond to your request for refund of an application fee submitted on behalf of Woodcom, Inc. (Woodcom) in connection with its application for a new FM station to operate on Channel 272A at Coeur d'Alene, Idaho.

You maintain that, due to the freeze on processing mutually exclusive broadcast applications, as a consequence of the decision by the United States Court of Appeals in Bechtel v. FCC, 957 F. 2d 929 (D.C. Cir. 1992), Woodcom's application has never received any processing. Further, you state that, pursuant to amendments to the Communications Act which were enacted as a part of the Balanced Budget Act of 1997, the Commission is no longer authorized to award new broadcast channels by comparative hearing. Instead, it is required to award mutually exclusive broadcast channels by auction. In light of this change by which the Coeur d'Alene channel is to be awarded, Woodcom and the competing applicants entered into a settlement agreement, filed with the Commission on January 30, 1998, in which it has agreed to dismiss its application in consideration of a monetary payment. You contend that Woodcom is entitled to a refund of its application fee since its application has not been processed to date and, in view of the requested dismissal of its application, will receive no processing. Moreover, you argue that a refund is due because the Commission has modified its methodology for selection of broadcast station licensees.

The Commission's rules do not provide for refund of a filing fee upon the filing or the grant of a motion to withdraw an application pursuant to a settlement agreement. Moreover, the Commission has explicitly stated that a refund will not be granted once an application has cleared the fee review process, except in certain circumstances enumerated in Section 1.1113 of the Commission's Rules. 47 C.F.R. 1.1113. Section 1.1113(a)(4) of the Rules provides for refund of a filing fee when either a change in the rules or in the law nullify an application

David Tillotson, Esquire

2.

already accepted for filing. In the case of Woodcom, however, because its application was dismissed on its own volition as part of a settlement agreement rather than as a consequence of a change in the rules or the law rendering it a nullity, no refund is due.

Thus, your request is denied.

Sincerely,

  
Thomas M. Holleran  
Acting Associate Managing  
Director - Financial Operations

9505258195482007

**DAVID TILLOTSON**  
Attorney at Law

3421 M Street, N.W., #1739  
Washington, D.C. 20007

Telephone: (202) 625-6241  
Facsimile: (202) 965-2018

February 11, 1998

Mr. Andrew Fishel, Managing Director  
Federal Communications Commission  
1919 M Street, N.W., Room 852  
Washington, DC 20554

Re: Request for Filing Fee Refund -BPH-950523MC

Dear Mr. Fishel:

I am writing on behalf of Woodcom, Inc. ("Woodcom") to request a refund of the \$2,335.00 filing fee that Woodcom paid in connection with its above-referenced application for a new FM station to operate on Channel 272A at Coeur d'Alene, Idaho.

The Commission charges filing fees for applications for new broadcast facilities to defray its costs of processing applications. Because of the freeze on processing mutually exclusive applications which has been in effect as a consequence of the decision of the United States Court of Appeals in *Bechtel v. FCC*, 957 F. 2d 929 (D.C. Cir. 1992). Woodcom's application has never received any processing. Moreover, at the time Woodcom filed its application, it did so in response to a window filing notice which stated that the Coeur d'Alene channel would be awarded by comparative hearing. However, pursuant to amendments to the Communications Act which were enacted as part of the Balanced Budget Act of 1997, the Commission is no longer authorized to award new broadcast channels by comparative hearing. Instead, is required to award them by auction. In light of this change in the procedures by which the Coeur d'Alene channel is to be awarded, Woodcom has entered into a settlement with the other applicant for the channel pursuant to which it has agreed to dismiss its application in consideration of receiving a monetary payment. A Joint Petition for approval of this Settlement was filed with the Commission on January 30, 1998.

As Woodcom's application has received no processing, and will not receive any processing in view of the fact that Woodcom has requested dismissal of its application, there is no basis for the Commission to retain Woodcom's filing fee which was paid to defray the costs of the processing that its application will never receive. It is particularly appropriate that the Commission should refund Woodcom's filing fee since Woodcom's decision to withdraw its application resulted from a fundamental change in the methodology that the Commission will use to award the Coeur

d'Alene channel that was made long after Woodcom's application was filed. In these circumstances, it would be fair to say that the fee was collected from Woodcom under false pretenses. Accordingly, it is requested that Woodcom's \$2,335.00 filing fee for its Coeur d'Alene FM application be promptly refunded.

If you have any questions concerning this request, please call me.

Sincerely,

  
David Tillotson

c: Mark Bolland (via fax)

# Payment Transactions Detail Report

Date: 3/13/98

BY: FEE CONTROL NUMBER

Fee Control Number	Payor Name	Account Number	Received Date
9505258195482007	BOLLINGER PLAZA 3RD & D STREETS SUITE 302 LEWISTON ID 83501	FCC2000705	05/23/95

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
\$2,335.00	\$2,335.00	1	MTR	1	NEWFM	WOODCOM INC	83501		\$2,335.00	1	PMT
Total									\$2,335.00		