



PUBLIC NOTICE

Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

News media information 202 / 418-0500
Fax-On-Demand 202 / 418-2830
Internet: <http://www.fcc.gov>
<ftp.fcc.gov>

DA 99-1258

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

PUBLIC NOTICE

Released: June 25, 1999

FEE DECISIONS OF THE MANAGING DIRECTOR AVAILABLE TO THE PUBLIC

The Managing Director is responsible for fee decisions in response to requests for waiver or deferral of fees as well as other pleadings associated with the fee collection process. On a monthly basis, a public notice of these fee decisions is published in the FCC record.

The decisions are placed in General Docket 86-285 and are available for public inspection. A copy of the decision is also placed in the appropriate docket, if one exists.

The following Managing Director fee decisions are released for public information:

Donn Communications, Inc. – Petition for reconsideration of the dismissal of a request for waiver of FY 1994 regulatory fee for WMBA-AM at Ambridge, PA **Granted** (November 24, 1998) [See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), reconsideration granted, 10 FCC Rcd 12759 (1995).]

Max Bangerter d/b/a Microwave Telecommunications – Request for clarification of the FY 1998 Regulatory Fee. **Replied** (November 17, 1998)

Big Elk Meadows Association- Requests for waivers of FY 1998 Regulatory Fee for TV translators K08JK, K11OF and K13OU. **Granted** (November 17, 1998) [See Implementation of Section 9 of the Communications Act, FCC 95-257, ¶ 16 released 6/22/95]

Blue Mountain Translator District – Request for determination of Regulatory Fee exempt status. **Waived** (November 17, 1998)

Canby TV Club – Request for waiver of the FY 1998 Regulatory Fee for TV translator K76AL. **Waived** (November 17, 1998) [See Implementation of Section 9 of the Communications Act, FCC 95-257, ¶ 16 released 6/22/95]

First United, Inc. – Request for refund of FY 1996 and 1997 regulatory fee for TV translator W17BD. **Granted** (November 17, 1998)

Happy Broadcasting, Inc. - Request for waiver of FY 1997 regulatory fee for WPWC-AM at Dumfries, VA. **Denied** (November 17, 1998) [See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), reconsideration granted, 10 FCC Rcd 12759 (1995).]

WHVW-AM - Request for waiver of FY 1998 regulatory fee for WHVW-AM at Hyde Park, NY. **Denied** (November 17, 1998) [See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), reconsideration granted, 10 FCC Rcd 12759 (1995) see also 10 FCC Rcd at 12761-2762.]

WKQW-AM – Request for a reduction of FY 1998 regulatory fee for WKQW-AM at Oil City, PA. **Granted** (November 17, 1998)

Brazos Telephone Cooperative, Inc. and Brazos Telecommunications, Inc. - Request for refund of application fee. **Denied** (October 22, 1998) [See Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985, 2 FCC Rcd 947, 961 (1987); See also 47 CFR 1.1117; See also Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), reconsideration granted, 10 FCC Rcd 12759 (1995).]

Cap Rock Telephone Cooperative (Cap Rock) - Request for refund of application fee for Cap Rock. **Denied** (October 22, 1998) [See Establishment of a Fee Collection Program to Implement the Provisions

of the Consolidated Omnibus Budget Reconciliation Act of 1985, 2 FCC Rcd 947, 961 (1987); See also 47 CFR 1.1117; See also Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), reconsideration granted, 10 FCC Rcd 12759 (1995).]

Cass County Telephone Company - Request for refund of application fee for Cass County. **Denied** (October 22, 1998) [See Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation ACT of 1985, 2 FCC Rcd 947, 961 (1987); 47 CFR 1.1117. See also Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), reconsideration granted, 10 FCC Rcd 12759 (1995).]

Five Area Telephone Cooperative, Inc. and West Plains Telecommunications, Inc. (Five Area) - Request for refund of application fee for Five Area. **Denied** (October 22, 1998) [See Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation ACT of 1985, 2 FCC Rcd 947, 961 (1987); 47 CFR 1.1117. See also Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), reconsideration granted, 10 FCC Rcd 12759 (1995).]

Freemont Telecom Co. (Freemont) - Request for refund of application fee for Freemont. **Denied** (October 22, 1998) [See Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation ACT of 1985, 2 FCC Rcd 947, 961 (1987); 47 CFR 1.1117. See also Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), reconsideration granted, 10 FCC Rcd 12759 (1995).]

Glades Media Company (WAFC) - Request for reduction of FY 1997 regulatory fee for WAFC-AM at Clewiston, FL. **Granted** (October 27, 1998) [Based on fee derived from population of daytime protected service area.]

Hughes Communications, Inc. (HCI) - Request for waiver and partial refund of filing fees for geostationary-orbit satellites. **Granted** (October 20, 1998) [See Filing Waiver Established for Applications Proposing Geosynchronous Space Stations in Response to Report Nos. SPB-88 and SPB-89 - Cut-Offs Established in the 2 GHz and 36-51.4 Frequency Bands (1997).]

KCMN and KCBR Radio Stations - Request for reduction of FY 1997 regulatory fees for KCMN-AM at Colorado Springs, CO and KCBR-AM at Monument, CO.

Denied (October 20, 1998) [Based on fee derived from population of daytime protected service area.]

Lonerock Television Company - Request for waiver of FY 1997 regulatory fee for Lonerock TV at Condon, OR. **Waived** (October 20, 1998) Request for waiver of FY 1997 application fee for Lonerock, TV. **Dismissed** (October 20, 1998) [See Establishment of a Fee Collection Program, 2 FCC Rcd 947, 961 (1985) and Implementation of Section 9 of the Communications Act, FCC 95-257 (1995).]

MetroCom Corp. - Request for waiver of FY 1997 regulatory fee for WKKN-FM at Cordele, GA. **Granted** (October 22, 1998) [See Implementation of Section 9 of the Communications Act, FCC 95-257 (1995).]

Mobile Media Corporation - Request for waiver of FY 1998 regulatory fees for Mobile Media and subsidiaries. **Granted** (October 19, 1998) [See Implementation of Section 9 of the Communications Act, FCC 95-257 (1995).]

Northeast Radio, Inc. - Request for refund of FY 1997 regulatory fee for WCAP-AM Lowell, MA. **Granted** (October 22, 1998) [See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994).]

Santa Rosa Telephone Cooperative, Inc. - Request for refund of application fee for Santa Rosa. **Denied**. (October 22, 1998) [See Establishment of a Fee Collection Program, 2 FCC Rcd 947, 961 (1987); 47 CFR 1.1117. See also Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), reconsideration granted, 10 FCC RCD 12759 (1995).]

Sumiton Broadcasting Co., Inc. - Request for waiver of FY 1997 regulatory fee and late payment penalty for WRSM Radio at Sumiton, AL. **Denied** (October 8, 1998) [See FY 1997 Mass Media Regulatory Fees and Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5345 (1994).]

WHVW-AM Radio Station - Request for waiver of late payment penalty for WHVW-AM at Poughkeepsie, NY. **Denied** (October 22, 1998) [See FY 1997 Mass Media Regulatory Fees and Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5345 (1994).]

WWSJ Radio Station- Request for waiver of FY 1997 regulatory fee for WWSJ-AM at St. Johns, MI. **Granted** (October 22, 1998) [See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), reconsideration granted, 10 FCC Rcd 12759 (1995).]

Woonsocket Broadcasters, Ltd. - Request for reduction of FY 1997 regulatory fee for WOON Radio Station at Woonsocket, RI. **Granted** (October 19, 1998) [Based on fee derived from population of daytime protected service area.]

Uzona Broadcasting Co. - Request for waiver of FY 1997 regulatory fee for KCCA FM at Colorado City, AZ. **Denied** (December 8, 1998) [See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 ¶ 34 (1994)]

KVSN-AM Request for reconsideration of FY 1998 regulatory fee for KVSN-AM at Tumwater, WA **Denied** (December 8, 1998)

L W & M Watson Audio Enterprises - Request for reduction of FY 1997 regulatory fee for WXLL at Decatur, GA. **Denied** (December 30, 1998) [See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), reconsideration granted, 10 FCC Rcd 12759 (1995).]

Steven R. Hicks - Request for refund of an application fee for a new FM station at Round Rock, TX **Granted** (December 8, 1998) [See Memorandum Opinion and Order, FCC 98M-33 (March 20, 1998)]

Multi-Cablevision Co. of Livingston/Washtenaw - Request for waiver and refund of the filing fee in connection with its petition for special relief. **Denied** (December 8, 1998) [See Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year, 9 FCC Rcd 5333, 5368 (1994), see also Small Systems Order, 10 FCC Rcd at 7398.]

Pathnet, Inc. - Request for refund of an application fee in connection with an amendment to four previously filed applications to operate a fixed point-to-point microwave system. **Granted** (December 8, 1998) [See 47 CFR 1.1109(d) and 1.1113(a)(1)]

Cox Broadcast Group, Inc. - Request for waiver of FY 1997 regulatory fee and late payment penalty for WCGA at St. Simons Island, GA. **Denied** (December 8, 1998) [See 47 CFR 1.1164]

Viking Communications, Inc. - Request for waiver of FY 1998 regulatory fee for LPTV Station WRIW at Providence, RI. **Granted** (December 30, 1998)

KTC Broadcasting, Inc. - Requests for reduction of FY 1997 regulatory fees for WLON at Lincolnton, NC, WOHS at Shelby, NC and WCSL at Cherryville, NC. **Denied** (December 30, 1998)

Concord Area Broadcasting - Request for waiver of FY 1998 regulatory fee for KRHT-AM at Concord, CA. **Dismissed** (December 30, 1998) [See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), reconsideration granted, 10 FCC Rcd 12761-2762.]

NOTE: ANY QUESTIONS REGARDING THIS REPORT SHOULD BE DIRECTED TO THE PREPARER, CLAUDETTE PRIDE, CREDIT & DEBT MANAGEMENT CENTER ON (202) 418-1995.

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

DOCKET FILE COPY ORIGINAL

OFFICE OF
MANAGING DIRECTOR

NOV 24 1998

86-245

Barry D. Wood, Esquire
Wood, Maines & Brown
1827 Jefferson Place, N.W.
Washington, D.C. 20036

Re: Petition for Reconsideration from the Denial
of a Request for Waiver of the FY 1994 and
Waiver and Refund of the FY 1995 Regulatory
Fees for Donn Communications, Inc.

Dear Mr. Wood:

This is in response to the Petition for Reconsideration of the dismissal of a request for waiver of the Fiscal Year (FY) 1994 regulatory fee for AM Radio Station WMBA, Ambridge, Pennsylvania. Your reconsideration request, which also requested waiver and refund of the FY 1995 regulatory fee, was supported by a Monthly Income Statement, including complete data for 1995, as of September 24, 1995.

You request that the financial data submitted be granted confidential protection from public disclosure. Your request for confidentiality is granted. The financial data submitted will not be routinely available for public inspection.

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 financial documents submitted establish that WMBA was operating with financial losses at the time payment of the FY 1994 regulatory fee was due, and during the period covered by the FY 1995 regulatory fee. The losses are not off set by deductions for depreciation. In addition you assert that WMBA's principal has not received any salary or return on his investment in the station. Under these circumstances, WMBA has established a pattern of financial losses constituting a compelling case of financial hardship and meriting waiver of the FY 1994 and FY 1995 regulatory fees. In view of the foregoing, we will waive and refund WMBA's 1995 regulatory fee payment of \$250.

Barry D. Wood, Esquire

2.

The waiver, however, is limited to the FY 1994 and 1995 regulatory fees. If WMBA continued to experience financial hardship, you may file request waivers of the regulatory fees for subsequent years supported by appropriate documentation.

WMBA is entitled to an aggregate refund of \$250 for the FY 1995 regulatory fee. A check, made payable to the maker of the original check in the amount of \$250, will be sent to you at the earliest practicable time.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Reger', is written over the typed name and title.

Mark Reger
Chief Financial Officer

WOOD, MAINES & BROWN

CHARTERED

ATTORNEYS AT LAW

1827 JEFFERSON PLACE, N.W.

WASHINGTON, D.C. 20036

TELEPHONE - (202) 293-5333

FACSIMILE - (202) 293-9811

BARRY D. WOOD
RONALD D. MAINES
PAUL H. BROWN
HANS K. WILD

RECEIVED

JUL 29 1998

Federal Communications Commission
Office of Secretary
OF COUNSEL

MARK A. BRINTON*

*Admitted in Virginia only

000000 BCB-98-064

July 29, 1998

RECEIVED
JUL 31 3 00 PM '98
FEDERAL COMMUNICATIONS COMMISSION

Ms. Claudette E. Pride
Billings & Collections Branch
Federal Communications Commission
1919 M Street, N.W., Room 452
Washington, D.C. 20554

Dear Ms. Pride:

This is in response to the letter dated July 16, 1998 which you signed on behalf of Regina Dorsey, Chief of the Billings & Collections Branch of the Federal Communications Commission. In that letter, you requested payment of the regulatory fee from our client, Donn Communications, Inc., licensee of AM radio broadcast station WMBA, Ambridge, Pennsylvania, for the 1994 federal fiscal year.

This firm filed a petition on September 2, 1994 requesting an exemption from the 1994 regulatory fee for station WMBA. By letter dated September 21, 1995, the FCC dismissed the petition. Nevertheless, in the dismissal letter the Commission noted that the licensee could file a supplemental request for waiver accompanied by financial statements establishing that the licensee was entitled to a waiver of the fee.

On October 23, 1995, this firm filed a petition for reconsideration of the FCC's action of September 21, 1995. Balance sheets and income statements of the licensee were submitted along with other facts set forth in the petition reasonably sufficient to demonstrate financial hardship.

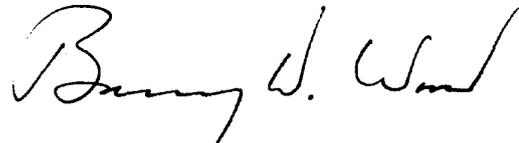
Ms. Claudette E. Pride
July 29, 1998
Page 2

Our firm's records do not reflect that the Commission has taken any action on the petition for reconsideration. If the FCC has acted, we would appreciate a copy of the document reflecting such action. If the FCC has not acted on the reconsideration petition, we request that the Commission now consider the petition.

For your convenient reference, attached are copies of the above documents. As before, these materials are being submitted to the agency contingent on a grant of confidentiality with respect to all financial information set forth therein pursuant to Section 0.459 of the Commission's Rules. The financial documents attached hereto contain sensitive proprietary information. The public release of this information would place WMBA at a competitive disadvantage and would subject the licensee to potentially embarrassing public attention.

If you have any questions regarding this letter, please call Hans Wild of this firm or the undersigned.

Yours truly,



Barry D. Wood
Counsel for Donn
Communications, Inc.

BDW/cjl
Enclosures

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

COPY

OFFICE OF
MANAGING DIRECTOR

JUN 16 1998

Donn Communications, Inc.
Barry D. Woods, Esquire
Jones, Waldo, Holbrooke & McDonough, P.C.
2300 M Street, N.W.
Suite 900
Washington, DC 20037

REF: BCB96REG08

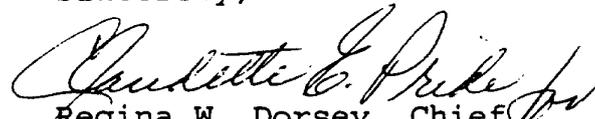
Dear Mr. Woods:

This is the second demand for payment. If payment is not made within 30 days of this letter, or in the alternative, proof of payment or documentation establishing that you are exempt from the regulatory fee requirement, any pending actions for this station will be dismissed, and any subsequent requests for Commission action may be subject to denial.

Payment of the \$500 1994 regulatory fee, and the 25% late payment penalty assessed under 47 C.F.R. § 1.1164, are now due. Payment in full of \$625 should be remitted with the enclosed Form 159 to the Federal Communications Commission, P.O. Box 358835, Pittsburgh, PA 15251-5835, pursuant to instructions on the Form 159. You should also review your records to ensure that payments are made for any auxiliary stations associated with the reference call sign, for any other calls signs assigned to you, or for any prior fiscal years for which payments are due.

You are advised that failure to pay the regulatory fees and penalties as described above may result in the imposition of further sanctions under 47 C.F.R. § 1.1164. If you have any questions concerning the fees, you may contact me at (202) 418-1995.

Sincerely,


Regina W. Dorsey, Chief
Billings & Collections Branch

Enclosure

BEFORE THE

Federal Communications Commission

WASHINGTON, D. C. 20554

STAMP &
RETURN

In re

DONN COMMUNICATIONS, INC.
WMBA (AM), Ambridge, Pennsylvania
Exemption from Regulatory Fees

RECEIVED
OCT 23 1995
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

To: The Managing Director

PETITION FOR RECONSIDERATION

Donn Communications, Inc. ("Donn"), by its attorneys, hereby petitions for reconsideration of the dismissal, by letter dated September 21, 1995, of the petition it filed in 1994 for waiver of the regulatory fees imposed by Section 9 of the Communications Act of 1934, as amended, and as specifically authorized by the Omnibus Budget Reconciliation Act of 1993, 47 U.S.C. § 159.

Donn Communications is the licensee of AM radio station WMBA, Ambridge, Pennsylvania. WMBA is a truly local radio facility which has served Ambridge for many years. While WMBA is authorized to broadcast with nominal power at night, interference after sunset severely limits the station's coverage once it begins to receive the effects of skywave propagation of other cochannel stations. Thus, it is extremely difficult for WMBA to compete against FM stations, as well as the higher powered AM stations out of the Pittsburgh area which are heard in WMBA's market.

Recently, AM station WBVP, Beaver Falls, Pennsylvania discontinued its morning talk show in connection with a pending sale of an affiliated FM station. This change leaves WMBA as the only source of significant local news and talk in the entire Beaver Valley.

In its original petition, Donn pointed out that it would like to have the revenues and profits sufficient to pay regulatory fees in addition to its operating expenses. Unfortunately, it does not have them.

In the petition, Donn expressed a willingness to provide detailed financial information supporting its statement that the station has operated at a loss, provided that conditions of confidentiality were observed. The Commission's letter of September 21 appears to invite the filing of such information, suggesting that confidentiality can at least be requested as to such documents.

Accordingly, subject to a grant of such confidentiality, Donn submits herewith its most recent balance sheet and income statements, with a request that the Commission treat these documents as confidential.

The balance sheet shows that Donn does not have any substantial financial resources to support payment of continuing regulatory fees. The assets of the station have a total book value of only \$81,858.94. By contrast, the station's liabilities come to \$361,606.62. The listed assets include a valuation of the license derived from what Donn paid for the station some nine years ago.

It is not based on its actual value today -- which, given the station's difficult technical situation and lack of revenues, is probably zero.

Similarly, the station's "income" statement accurately reflects the company's discouraging financial situation. It shows that for the year to the date of the statement, the station lost \$26,929.61. Net cash revenues came to only \$183,575.01 (total net revenues less trade sales). This sum is not sufficient to pay the station's minimal operating expenses, much less cover debt service.

The figures shown on the attached financial documents do not involve the payment of any salary to Donn Wycik, the sole owner of the licensee corporation. On the contrary, Mr. Wycik has poured money into the station since Donn acquired WMBA, without ever receiving a return on his investment or compensation for his losses.

Donn tendered payment of a modest regulatory fee to the Commission for fiscal year 1995, but did so as the result of confusion over its class as defined by the new FCC classifications for AM radio broadcast stations. Payment of the greater amount suggested by the Commission's letter represents even more of a hardship. Therefore, a refund of the 1995 fee, as well as a waiver of the fee for other years, plainly is justified.

The Commission should commend Mr. Wycik for his sacrifice in maintaining local live radio in the Beaver Valley, instead of saddling him with additional taxes and fees.

In view of the foregoing, Donn requests that the regulatory fee for WMBA(AM) for the 1994 and 1995 fiscal year be waived. Payment of the 1994 fee should be deferred until the waiver is granted. In addition, Donn hereby requests a refund of the \$250 fee it paid for fiscal year 1995.

Respectfully submitted,

DONN COMMUNICATIONS, INC.

By: 

Barry D. Wood
JONES, WALDO, HOLBROOK
& McDONOUGH, P.C.
Suite 900
2300 M Street, N.W.
Washington, D.C. 20037
(202) 296-5950

Its Attorneys

October 23, 1995

Donn

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

OFFICE OF
MANAGING DIRECTOR

SEP 21 1995

Barry D. Woods, Esquire
Jones, Waldo, Holbrook & McDonough, P.C.
Suite 900
2300 M Street, N.W.
Washington, D.C. 20037

Re: Donn Communications, Inc.
Request for Waiver of FY 1994
Regulatory Fee

Dear Mr. Woods:

This is in response to your request for waiver of the Fiscal Year (FY) 1994 regulatory fee due from Donn Communications, Inc. (Donn), licensee of AM station WMBA, Ambridge, Pennsylvania.

You state that WMBA is a daytime-only station that the station is the main source of immediate local news and information in Ambridge and the surrounding area. You maintain that WMBA has operated at a loss for the last three years, despite the diligent efforts of its licensee. Further, you state that Donn will submit, upon request, specific financial information to demonstrate its station's financial hardship, subject to confidential treatment by the Commission.

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), reconsidered in part, FCC-257, released July 22, 1995. Therein, the Commission required licensees seeking a waiver on grounds of financial hardship to submit supporting materials presenting sufficient evidence of financial hardship. 9 FCC Rcd at 5346.

In its reconsideration, the Commission stated that regulatees could 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.

Barry D. Woods, Esquire
Page 2

FCC-257 at ¶ 13.

Our review of your submission discloses that you have submitted no financial documentation supporting your claim that Donn is undergoing financial hardship. Therefore, your request is dismissed and a regulatory fee of \$500 for WMBA, a Class B AM station, is now due.

Accordingly, Donn should file a completed FCC Form 159 (copy enclosed) together with its \$500 total fee payment within 30 days from the date of this letter. In view of the Commission's recent clarification of the showing required by petitioners requesting waiver of the fee for financial hardship, the payment may be filed with a supplemental request for a waiver, accompanied by financial statements and other relevant information, if any, establishing that Donn is entitled to a waiver of the fee requirement for Station WMBA because of financial hardship. Also, Donn may file a request for deferral of the fee with its waiver request. A request for confidentiality may be submitted with any financial information submits to support Donn's claim of financial hardship. See 47 C.F.R. 0.459.

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

Sincerely,



Marilyn J. McDermott
Associate Managing Director
for Operations

BEFORE THE

Federal Communications Commission

WASHINGTON, D. C. 20554

In re)
)
DONN COMMUNICATIONS, INC.)
WMBA(AM), Ambridge, Pennsylvania)
)
Exemption from Regulatory Fees)

TO: The Managing Director

RECEIVED
SEP 2 1994
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

**PETITION FOR EXEMPTION FROM REGULATORY FEE
AND FOR DEFERRAL OF PAYMENT**

Donn Communications, Inc., by its attorneys, and pursuant to Section 1.1165 of the Commission's Rules, hereby petitions for waiver of the regulatory fees imposed generally by Section 9 of the Communications Act of 1934, as amended by the Omnibus Budget Reconciliation Act of 1993, 47 U.S.C. § 159.

Donn Communications is the licensee of AM radio station WMBA, Ambridge, Pennsylvania. WMBA is a daytime-only facility which has served Ambridge for many years.

WMBA is the only broadcast station licensed to Ambridge, a historic community on the upper Ohio River. It is the main source of immediate local news and information in Ambridge and the surrounding area. WMBA's open mike shows are a mainstay for area residents, especially for those who are not physically able to leave their homes.

Donn Communications, Inc. would like to have the revenues and profits sufficient to pay regulatory fees in addition to its

operating expenses.¹ Unfortunately, despite the diligent efforts of WMBA's owner, it does not have them.

For the last three years and more, the station has operated at a loss. The burden of operating a station with live announcers is significant, and while the regulatory fee imposed on daytime AM stations is less than for FM and television facilities, it is nevertheless significant for a station that has no profits and no nighttime coverage of significance.

It has only been at the personal financial sacrifice of Donn Wuycik, owner of the licensee, that any station at all has been operating in Ambridge for the last eight years. Mr. Wuycik submits that recognition should be given to the positive accomplishment of keeping a station on the air during that period, rather than levying substantial fees on these stations.

Mr. Wuycik has had all he can do just to meet payroll and other essential costs of keeping the stations on the air.²

1 As a result of the station's financial condition, WMBA has been unable to pay its counsel for work performed as long as six and seven years ago, when WMBA's present facilities were reconstructed and relicensed. Counsel is submitting this waiver request as a public service in the belief that it is inimical to the public interest to tax stations like WMBA into silence.

2 If the Commission desires further specific financial information in connection with the statements made herein, WMBA would be happy to provide it under the provisions of confidentiality that were in force during the many years during which the Commission required the filing of FCC Form 324 annual financial reports.

The operating stations now serve the needs of listeners for local news. If forced to pay the regulatory fees for the current fiscal year, WMBA will likely have to curtail service.

This is not the objective Congress had in mind when it imposed the regulatory fees on the industry generally. Therefore, the regulatory fee for fiscal year 1993 should be waived for these stations. In addition, and for the reasons shown above, in the unlikely event that the Commission should require payment in spite of WMBA's financial straits, the stations should be permitted to defer payment of that fee until the Commission has ruled on the instant request.

As a matter of principle, regulatory fees are not a satisfactory vehicle for government fundraising. It is the public at-large, and not the station, that benefits from such regulation. Moreover, to the extent that any licensee makes enormous profits from the operation of a radio station, it must pay substantial income taxes on those profits. There is no justifiable reason to tax out of existence those operators who are already hemorrhaging, or even to add further charges to the taxes already paid by more successful licensees.

In view of the foregoing, the regulatory fee for WMBA(AM) for the current fiscal year should be waived. If the Commission determines that a fee should be paid, it should nevertheless be deferred until such a ruling is made.

Respectfully submitted,

DONN COMMUNICATIONS, INC.

By: 

Barry D. Wood
JONES, WALDO, HOLBROOK
& McDONOUGH, P.C.
Suite 900
2300 M Street, N.W.
Washington, D.C. 20037
(202) 296-5950

Its Attorneys

September 2, 1994

Payment Search Detail

Fee Control Number	Payor Name	Remittance ID	Payment Amount	0-A
9811138835057001	WOOD MAINES & BROWN CHTD	5064	\$250.00	

Credit Card Info

Payor Info

Bad Check Info

Changer Info

Acct Info

Sequence	Quantity	Payment Type Code	Payment Amount	Trans Code	CallSign Other Id	Treasury Symbol	Date Last Changed	Changer Initials
1	1	MHAN	\$250.00	PMT	VMBA	27X6725	11/16/98	SYS

Print Screen

Start

Novell delivered

FCC Collection...

Network

5:27 PM