

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

FEB 5 1999

DOCKET FILE COPY ORIGINAL

86285

OFFICE OF
MANAGING DIRECTOR

Richard D. Stone, President
Stone Communications, Inc.
2175 Click Road
Petoskey, Michigan 49770

Re: Request for Waiver of Regulatory
Fee
Fee Control # 9809238835210009
Fee Paid: \$200

Dear Mr. Stone:

This is in response to your request for a waiver of the Fiscal Year (FY) 1998 regulatory fee submitted for AM Radio Station WJML(AM), Petoskey, Michigan, licensed to Stone Communications, Inc.

You maintain that WJML is a small market AM station which operates at night with reduced power. WJML was assessed a \$600 FY 1998 regulatory fee. You argue that the fee is unfair when compared to the \$300 FY 1998 regulatory fee for AM Radio Station WMBN which has a nighttime power of 1000 watts. WJML argues that it should not be assessed a fee higher than any full time competing station.

The fee schedule for AM radio considers both the class of station and population served. In order to determine the population attributable to each station for fee purposes, we calculated each station's city grade field strength contours, considering all factors such as terrain, frequency and signal strength, which may affect coverage. The calculated field strength signal contours for each station were than overlaid on a U.S. Census Map to obtain an estimate of the population coverage for each station. Using this methodology, we found that the population within WJML's city grade coverage area was over twice the population located within WMBN's city grade coverage area. Moreover, within each population range, we further differentiated between the fees paid for different class of licensees. Thus, the fee assessed WJML was the same as the fee assessed all Class D Radio Stations serving areas with similar populations and you have not presented a basis for a waiver of the regulatory fee.

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

Richard D. Stone, President

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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.

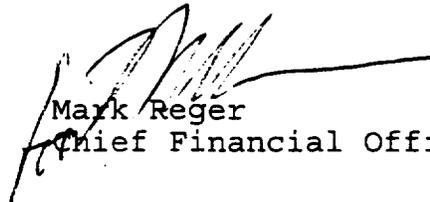
10 FCC Rcd at 12761-2762.

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 of financial hardship, your request for a waiver of the filing fee is denied. The unpaid balance of \$400 is now due, and should be submitted with a completed FCC Form 159 (copy enclosed) within 30 days from the date of this letter. However, in light of your allegations of financial hardship and in lieu of payment, you may submit a further request for deferment and waiver of the regulatory fee, supported by appropriate documentation of financial hardship, within 30 days from the date of this letter.

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

Sincerely,


Mark Reger
Chief Financial Officer

Enclosure

Jenny

WJML Radio
Stone Communications, Inc.
2175 Click Road
Petoskey, MI 49770

September 14, 1998

Federal Communications Commission
Washington, DC 20554

Re: Regulatory Fee Waiver Request
WJML (AM) - Petoskey, Michigan

Dear Sir/Madam:

This is a request for waiver of the regulatory fee for WJML (AM), Petoskey, Michigan.

This waiver is requested for the following reasons:

1. WJML is a small-market stand-alone AM station that is struggling financially. WJML's financial situation was studied by the Commission in 1995-96 and the Commission granted the station a waiver for its filing fee in seeking a construction permit for 10-watt nighttime operation. (per Andrew Fischel, Feb. 28, 1996). Since that time the financial position of the station remains the same. Gross cash revenues for the first eight months of 1998 are less than \$60,000 total. The \$600 regulatory fee would be a major hardship on the station in its struggle to survive.
2. The \$600 fee is very unfair when compared to a competing station in the same city of license. The fee for WMBN (AM), Petoskey, Michigan is only \$300. WMBN has a nighttime power of 1,000 watts and is able to gain substantial revenue from high school sports broadcasts. In contrast, WJML is a daytimer with a tiny 10 watts at night, unable to sell its small night signal to advertisers. While Arbitron states that the largest radio audience nationally occurs at 7:10 AM daily, WJML cannot go to full power until 7:15 AM this month (September) and it gets worse as we move to December with full-power sign-on at 8:15 AM and sign-off at 5:00 PM. WJML's daytime license is truly inferior to its 1,000-watt competitor and should not have a fee imposed that is any higher than that of any fulltime station.

For the above reasons, I respectfully request a waiver of the 1998 regulatory fee for WJML (AM). I certify that the foregoing is true and correct to the best of my knowledge, information and belief.

Sincerely,



Richard D. Stone
President/General Manager

Payment Transactions Detail Report

Date: 11/25/98

BY: FEE CONTROL NUMBER

| Fee Control Number | Payor Name | Account Number | Received Date |
|--------------------|---|----------------|---------------|
| 9809238835210009 | STONE COMMUNICATIONS INC 2175 CLICK ROAD | FCC2009321 | 09/21/98 |

PETOSKEY MI 49770

| 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 |
|----------------|-----------------|---------|-------------------|----------|-------------------|--------------------------|---------------|-----------|-----------------|------------|--------------|
| \$200.00 | \$200.00 | 1 | MDC8 | 1 | WJMLAM | STONE COMMUNICATIONS INC | 49770 | | \$200.00 | 1 | PMT |
| Total | 1 | | | | | | | | \$200.00 | | |