

C&DMC

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

FEB 15 2000

DOCKET FILE COPY ORIGINAL

OFFICE OF
MANAGING DIRECTOR

Guy N. Benson, Esq.
Bosari & Paxson
2033 M Street, N.W.
Suite 630
Washington, D.C. 20036

86-285

RE: Request for Waiver and Reduction of
Regulatory Fees for Fiscal Year 1998
WEYS Television
Fee Control No. 9809228835503001
Fee Paid \$1,075.00

Dear Mr. Benson:

This is in response to the request for waiver and reduction of regulatory fees for Fiscal Years (FY) 1998 and subsequent years, filed on behalf of WEYS Television Corporation, licensee of WEYS(TV), Key West, Florida (WEYS). Your request for partial waiver and reduction of regulatory fees for FY 1998 was filed with a check for \$1,075.00, the regulatory fee amount for a remaining market UHF television station. The FY 1998 regulatory fee established for WEYS is \$10,750.00, based on its presence in the 16th DMA, Miami.

In your request, you argue that it would be unfair for WEYS to pay its assessed regulatory fee as the Cable Services Bureau granted the request of two cable systems in the Miami DMA to exclude WEYS from carriage on their systems, citing *Dynamic Cablevision of Florida*, 11 FCC Rcd 9880, (1996) (*Dynamic*). In *Dynamic*, the Cable Services Bureau found that WEYS did not serve or have another nexus to the local markets of the counties served by the cable companies opposing must-carry claims by WEYS and therefore excluded such communities from WEYS' market for purposes determining carriage rights under the Cable Television Consumer Protection and Competition Act of 1992. *Id.*, at 9887-88. The Cable Service Bureau also stated that WEYS's payment of the assessed regulatory fee was irrelevant to the cable carriage issue and noted that WEYS could seek relief under the fee rules if it believed such payment was unfair or unduly burdensome. *Id.*, at 9890. You present no other evidence or reasoning for a regulatory fee reduction to the amount for a remaining market station in your request. We interpret your citation to *Dynamic* as a request to take administrative notice of the memorandum opinion and order, which we grant, and your representation that there have not been material changes to the facts as described in the memorandum opinion and order or as stated in your arguments as reported therein.

The Commission has set standards for determining whether the regulatory fees for a television station may be reduced below the fees assessed for stations in the relevant DMA. *Implementation of Section 9 of the Communications Act*, 10 FCC Rcd 12759, 12763 (1995). The Commission will reduce fees for television stations having certain characteristics. *Id.* Such a station may not be an affiliate of a major network, must be located outside the metropolitan area of the principal city in the assigned DMA, and may not provide a Grade B signal to a substantial portion of the assigned market's metropolitan areas. *Id.* Stations that meet this criteria and request fee reduction will be assessed regulatory fees based on the number of households they serve; stations that serve fewer television households than are in the top 100th market will be assessed the regulatory fee for remaining market stations. *Id.*

We note that WEYS is located outside of Miami, the principal city in its assigned DMA and, according to the *1998 Broadcasting & Cable Yearbook*, WEYS is an independent station. The *Dynamic* memorandum opinion and order states that WEYS' signal is broadcast to a population of 1,527,941 (out of 3,270,541) throughout the Miami DMA through the signals of translators owned by a related corporation, as determined by WEYS' technical report. *Dynamic*, at 9886. Similarly, the *1998 TV & Cable Factbook* indicates that WEYS served 446,460 of the 1,385,940 television households in its DMA. This figure best equates with the number of television households in the 62nd market. Therefore, your request for reduction of the FY 1998 regulatory fee is granted to the extent of the difference between the fee for a station in markets 11 to 25 and the fee for a station in markets 51 to 100.

For purposes of regulatory fee assessment in subsequent years, and absent significant changes in the factual situation, WEYS will not be treated as station in the Miami DMA. WEYS will be required to submit the regulatory fee for the market with the number of television households closest to, but not lower than, the figures for WEYS as reported in the *TV & Cable Factbook* for that year. You should note that WEYS is under a continuing obligation to report to the Commission any changes that could affect its qualification for regulatory fee reduction, such as change in network affiliation, service area, or population coverage. WEYS should retain this letter and submit a copy of it with any future correspondence with the Commission concerning the regulatory fee for WEYS.

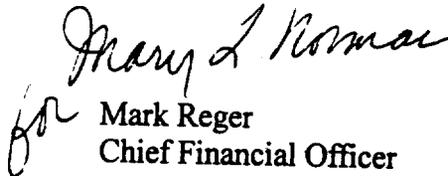
The correct FY 1998 regulatory fee for WEYS is \$3,975.00. WEYS paid \$1,075.00, leaving a balance due of \$2,900.00. Payment in the amount of \$2,900.00 must be submitted together with a Form FCC 159 (copy enclosed) within 30 days from the date of this letter. A late charge penalty of 25% will be assessed and due if the Commission does not receive full payment 30 days from the date of this letter. You are cautioned that failure to submit payment may result in further sanctions, including but not limited to, the initiating of a proceeding to recover the unpaid fee amount, late charge penalty, and interest pursuant to the provisions of the Debt Collection Improvement Act of 1996.

Guy N. Benson, Esq.

3.

If you have any questions concerning this letter, please call the Credit & Debt Management Center at 418-1995.

Sincerely,


Mark Reger
Chief Financial Officer

7809228835503001

ORIGINAL

BORSARI & PAXSON

ATTORNEYS & COUNSELLORS AT LAW
2033 M STREET, N.W., SUITE 630
WASHINGTON, D.C. 20036

TELEPHONE NUMBER
(202) 296-4800

*Per Miami
Action
RZ*

FACSIMILE NUMBER
(202) 296-4460

GEORGE R. BORSARI, JR.
ANNE THOMAS PAXSON

GUY N. BENSON
(ADMITTED ONLY IN CALIFORNIA)

March 23, 1999

VIA HAND DELIVERY

Ms. Regina W. Dorsey
Chief, Billings & Collections Branch
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RECEIVED
MAR 23 1999
FCC MAIL ROOM

*WEYS Television Corp.
1998 Annual Regulatory Fees*

Dear Ms. Dorsey:

On behalf of WEYS Television Corp. ("WEYS"), this letter responds to your letter dated March 3, 1999, in which you ask that WEYS explain the circumstances surrounding its payment of the regulatory fee due for 1998. WEYS paid one thousand seventy-five dollars (\$1,075) for its 1998 fee. In your letter, you state that "the correct fee for this station should be \$10,725."

Attached is a copy of the request for waiver that was filed with the Commission, at the suggestion of the Cable Services Bureau, on September 18, 1998, along with what WEYS believes was the appropriate regulatory fee. That waiver request points out that the Cable Services Bureau has determined that WEYS is not a part of the Miami ADI, and therefore, it should not be assessed a regulatory fee based on that market.

As of today, the Commission has yet to act on WEYS's request for waiver.

Respectfully submitted,

BORSARI & PAXSON



Guy N. Benson

BORSARI & PAXSON

ATTORNEYS & COUNSELLORS AT LAW

2033 M STREET, N.W., SUITE 630

WASHINGTON, D.C. 20036

TELEPHONE NUMBER

(202) 296-4800

FILE COPYGEORGE R. BORSARI, JR.
ANNE THOMAS PAXSONGUY N. BENSON
(ADMITTED ONLY IN CALIFORNIA)

FACSIMILE NUMBER

(202) 296-4460
SEP 18 1998**FCC/MELLON**

September 17, 1998

VIA FEDERAL EXPRESS

Federal Communications Commission
c/o Mellon Bank
Three Mellon Bank Center
525 William Penn Way
27th Floor, Room 153-2713
Pittsburgh, PA 15259-0001
ATTN: FCC Module Supervisor

*WEYS(TV), Key West, FL—Request for Partial
Waiver of Regulatory Fee*

Sir:

Forwarded herewith, on behalf of WEYS Television Corp., is its Remittance Advice (FCC Form 159) and a check, made payable to the Federal Communications Commission in the amount of One Thousand Seventy-Five Dollars (\$1,075.00), to cover the annual regulatory fee for WEYS(TV), Key West, Florida.

The Commission is requested to partially waive its regulatory fee. WEYS is licensed to Key West, Florida. Key West is in Monroe County, Florida, and Monroe County comprises one of the three counties of the Miami-Ft. Lauderdale ADI. The Miami-Ft. Lauderdale ADI is the sixteenth (16th) market, and the regulatory fee would normally be Ten Thousand Seven Hundred Twenty-Five Dollars (\$10,725.00). In the past, WEYS has paid a regulatory fee based on its presence in the 16th DMA. However, cable television systems in Broward and Dade Counties filed Petitions for Special Relief with the Cable Services Bureau asking that the market of television station WEYS be modified to exclude the communities served by the petitioning cable systems in Broward and Dade County (which include Ft. Lauderdale and Miami, respectively). The Cable Services Bureau granted that request, modified the WEYS market to exclude the cable systems in Broward and Dade Counties, and in the process held that it was irrelevant that WEYS had paid the full regulatory fee, and suggested that WEYS seek a modification of the regulatory fee.¹

WEYS believes that the Cable Services Bureau was wrong to delete Miami from its ADI and

¹ *Dynamic Cablevision of Florida, Ltd.*, 11 FCC Rcd 9880, para. 23 (1996).

BORSARI & PAXSON

has requested that the Commission review the decision. In the meantime, however, in light of the order of the Cable Services Bureau and the facts stated therein, WEYS submits that it would be unfair and inappropriate to charge WEYS as a major market station, when its market has been modified to exclude the major market area. Instead, WEYS has submitted the fee due for markets that more resemble the one as determined by the Cable Services Bureau..

Respectfully submitted,

BORSARI & PAXSON

A handwritten signature in black ink, appearing to read "Guy N. Benson", with a long horizontal line extending to the right.

Guy N. Benson

Payment Transactions Detail Report

Date: 07/14/1999

BY: FEE CONTROL NUMBER

Fee Control Number	Payor Name				Fcc Account Number	Payer TIN	Received Date				
9809228835503001	WEYS TV CORP 10858 WARWICK BLVD SUITE A NEWPORT NEWS VA 23602				FCC2062998		9/18/1998 00:00:0				
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
\$1,075.00	\$1,075.00	1	MJU8	1	WEYSTV WEYS TV CORP		80437		\$1,075.00	1	PMT
Total									<u>\$1,075.00</u>		

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

FEB 15 2000

CREDIT & DEBIT MANAGEMENT
CENTER, OMD

DOCKET FILE COPY ORIGINAL

OFFICE OF
MANAGING DIRECTOR

86-285

Mr. L. Jay Mapstone
General Manager
Radio Station WLVA
22 Terrace Drive
Nyack, New York 10960-3698

RE: Request for Deferral of Regulatory Fee; Radio Station
WLVA-AM, Lynchburg, Virginia;
Fee Control No. 000000BCB-99-005

Dear Mr. Mapstone:

This responds to your letter of February 18, 1999 requesting further consideration of a request to defer the fiscal year (FY) 1998 regulatory fee for radio station WLVA-AM, Lynchburg, Virginia. For the reasons stated below, your request is dismissed and the full fee plus a penalty of 25% is due within 30 days of the date of this letter.

On September 9, 1998, you requested that the Commission defer collection of the FY 1998 regulatory fee of your station until sale of the station. You asserted that the license holder, Madison Broadcasting Group, Inc., experienced financial difficulties because it had not received its profit share from the business operating the radio station. You anticipated a sale of the station before the end of calendar year 1998. On February 11, 1999, the Commission dismissed your request because you "failed to establish a compelling case of financial hardship." We informed you that the fee of \$1,250 was due within 30 days. You were also informed that because you alleged financial hardship, "in the alternative, you may file a request for a further deferment and waiver of the regulatory fee payment, together with appropriate supporting documentation establishing a basis for a waiver." Instead of filing a request for a deferment and waiver, you requested reconsideration of the dismissal and further deferral of the fee. You provided two documents labeled as profit and loss statements for calendar years 1996 and 1997.

Regulatory fees may be "waived, reduced or deferred in specific instances, on a case-by-case basis, where good cause is shown and where waiver, reduction or deferral of the fee of the fee would promote the public interest." 47 CFR § 1.1166. Deferral, if granted, postpones the payment of the fee "for a period of six months following the date that the fee is initially due." 47 CFR § 1.1166(b).

The Commission's decision on February 11, 1999 stated that the fee was due within 30 days of the date of the letter, or March 13, 1999. Even if your original request had demonstrated good cause, the time permitted for deferral would have expired on March 17, 1999. Our letter offered you two courses of action; pay the regulatory fee by the established date, or request deferment and waiver of the fee payment. Although our letter specified the documentation required to support a request for waiver, your reply dated February 18, 1999 did not request a waiver of the fee, and it did not include the required evidence. Specifically, you did not meet the Commission's standard:

We will grant waivers of the fees on a sufficient showing of financial hardship. Mere allegations or documentation of financial loss, standing alone, will not support a waiver request. Rather, we will grant a waiver only when the impact of the regulatory fee will affect a regulatee's ability to serve the public. It will be incumbent upon each regulatee to fully document its financial position and show that it lacks sufficient funds to pay the regulatory fees and to maintain its service to the public. In order to establish a basis for waiver predicated on financial need, regulatees who do not initially submit an adequate showing of financial hardship, may be asked to provide information such as a balance sheet and profit and loss statement (audited, if available), a cash flow projection for the next twelve months (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. [Footnotes deleted.]

Memorandum Opinion and Order *In re Implementation Of Section 9 Of The Communications Act*, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year, 10 FCC Rcd. 12759, 12761. Applicants for a waiver of the regulatory fee must submit the fee or submit a request to defer the fee pending a determination on the request for waiver. Supporting documentation must be provided. 47 CFR § 1.1166(c). Unaudited profit and loss statements for calendar years 1996 and 1997 are not proper documentation supporting a claim of financial hardship for the payment of the regulatory fee for fiscal year 1998.

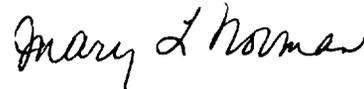
Accordingly, to the extent your request was to review the Commission's decision dismissing your request to defer the payment of the fee, your request is moot and it is dismissed. We could not reasonably construe your letter as a request for waiver of the fee. Even so, however, the request failed to meet stated requirements that you furnish "appropriate supporting documentation." Because the fee was due on or before March 13, 1999, and you did not make the proper request accompanied by the proper level of evidence, your fee is subject to a 25% penalty of the amount owed. 47 CFR § 1.1164. The total of \$1,562.50 is due and payable within 30 days of the date of this letter. We invite your attention to other penalties for late or insufficient regulatory fee payments as well as the Federal debt collection procedures. 47 CFR § 1.1164.

Mr. L. Jay Mapstone

3.

If you have any questions concerning this letter, please call the Credit & Debt Management Center at 418-1995.

Sincerely,



for Mark Reger
Chief Financial Officer

RECEIVED

009000BCB-99-005

L. Jay Mapstone - 22 Terrace Drive - Nyack, New York 10960-3698

Phone: (914) 358 7063 - Fax: (914) 358 4315 - E-mail: Lmapstone@AOL.com

February 18, 1999

FEDERAL COMMUNICATIONS COMMISSION

Mr. Andrew S. Fishel
Managing Director
Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554

RECEIVED
MAR 5 8 34 AM '99
ASSOC. MGR. DIR.
FINANCIAL OPERATIONS
(MIS-FO)

Re: Request for Deferral of Regulatory Fee

Dear Mr. Fishel:

I recently received a letter from Mr. Regel, your Chief Financial Officer, relating to the request for deferral of the regulatory fee for radio station WLVA-AM in Lynchburg Virginia owned by Madison Broadcasting Group, Inc. When I called the number given in the letter I was instructed to write to you. Thank you for seeing that this letter is properly directed. The point in question was the need for station WLVA to provide verification for the claim of financial hardship as a precondition of deferring the regulatory fee. I will do that as best I can.

Since November of 1996 WLVA has been leased to JLR Communications. JLR has failed to make any lease payments to Madison Broadcasting for most of 1997 and all of 1998. Since Madison currently has only one station, WLVA, the lease payments from JLR Communications represent Madison's only source of revenue. Since no lease payments were made for 1998 and most of 1997, Madison has had no income for that period.

Madison has had no employees since July of 1996 when the station went dark for a period of 5 months prior to being reopened under the management of JLR communications in November of 1996. Since then until 1998, the year in question, the regulatory fee along with other operating expenses were to have been paid by JLR Communications in lieu of lease payments. This they have failed to do.

Madison Broadcasting therefore has had no income since 1997 and no way to care for a considerable outstanding indebtedness. In the meanwhile, The Board of Madison Broadcasting, preferring not to declare bankruptcy, has tried to keep the station operating until such time as it can be leased on a paying basis or sold to another operator. Given the above circumstances, Madison Broadcasting feels that it would constitute a severe financial hardship pay the 1998 regulatory fee at this time and would respectfully request that the payment be deferred..

I am enclosing a profit and loss statement for 1996, the last year Madison received any income

from WLVA and 1997, the last time lease payment was made by JLR Communications. As you can see, aside from investment capital, operating expenses far exceeded any revenue from WLVA. Madison Broadcasting has had no income from any source since 1997 and has no assets other than broadcasting equipment.

If you wish, I can have Dr. Ben Armstrong, President of Madison Broadcasting forward a sworn, notarized statement to the effect that Madison Broadcasting has had no income since early 1997 and no employees since July, 1996. I know that to be the case but will await your instruction.

As an investor in Madison Broadcasting I am writing on behalf of the Board in an effort to sort out what has become a very thorny problem. Any help you can give in this regard will be greatly appreciated.

Thank you for your patience and consideration.

Sincerely,

A handwritten signature in black ink that reads "L. Jay Mapstone". The signature is written in a cursive style with a long horizontal line extending from the end of the name.

L. Jay Mapstone

On behalf of Madison Broadcasting Group, Inc.

Encl.

Auto



PERFORM: Query Next Previous Add Update Remove Table Screen ...
Add a row to the active database table. ** 1: tracking table**

FCC FEE COLLECTION SYSTEM 11/12/91
WAIVER REQUEST ENTRY

FEE CONTROL NUMBER: [000000BIE-99-005]
APPLICANT NAME: [MADISON BROADCASTING GROUP, INC.]
CALL SIGN: [WLVA-AM] CITY: [LYNCHBURG] STATE: [VA]
DATE OF REQUEST (MM/DD/YYYY): [02/18/1999] TYPE OF REQUEST: [RC]
LEGAL REP: [L. JAY MAPSTONE] PHONE: [914-358-4315]

ATTORNEY ASSIGNED: []
RULE PART AFFECTED: []

DECISION: [] DECISION DATE (MM/DD/YYYY): []
LETTER SIGNED (MM/DD/YYYY): [] PUBLISHED (MM/DD/YYYY): []
STATUS 1: [FMD] DATE: [03/05/1999] STATUS 2: [OGC] DATE: [03/25/1999]
STATUS 3: [] DATE: [] STATUS 4: [] DATE: []
STATUS 5: [] DATE: [] STATUS 6: [] DATE: []
STATUS 7: [] DATE: [] STATUS 8: [] DATE: []

NAME ON APPLICANT TABLE:

Row added



WINDOWS 98

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554
FEB 23 2000

CREDIT & DEBIT MANAGEMENT
CENTER, OMD

DOCKET FILE COPY ORIGINAL

OFFICE OF
MANAGING DIRECTOR

Mr. Eugene Elian
Family Radio
WOAY 860 AM
P.O. Box 140
240 Central Avenue
Oak Hill West Virginia 25901

86-285

RE: Request for Waiver of Late Charge
Penalty for FY 1998 Regulatory Fees
WOAY 860 AM
Fee Control No. 9809238835203009

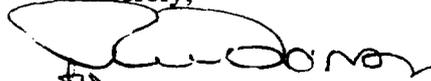
Dear Mr. Elian:

This is in response to the request for waiver of the late charge penalty for late payment of the Fiscal Year (FY) 1998 regulatory fees filed on behalf of WOAY 860 AM ("WOAY"). Your request states that the payment was not made in a timely manner due to human error and that payment of the late charge penalty would be a hardship on the station.

The Communications Act of 1934, as amended, requires the Commission to assess a late charge penalty of 25% on any regulatory fee not paid in a timely manner. FY 1998 regulatory fees were due by September 18, 1998. It is the obligation of the licensees responsible for regulatory fee payments to ensure that the Commission receives the fee payment no later than the final date on which regulatory fees are due for the year. Your request does not indicate or substantiate that WOAY met this obligation. Therefore, your request is denied.

If you have any questions concerning this letter, please call the Credit & Debt Management Center at (202) 418-1995.

Sincerely,



Mark Reger
Chief Financial Officer

Payment Transactions Detail Report

Date: 12/29/1999

BY: FEE CONTROL NUMBER

Fee Control Number	Payor Name		Fcc Account Number	Payer TIN	Received Date						
9809238835203009	WOAY AM PO BOX 140		FCC2004184		9/21/1998 00:00:0						
	OAK HILL	WV	25901								
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
\$600.00	\$600.00	1	MDC8	1	WOAY WOAY AM		25901		\$600.00	1	PMT
Total									<u>\$600.00</u>		

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

FEB 15 2000

DOCKET FILE COPY ORIGINAL

CBDNC

OFFICE OF
MANAGING DIRECTOR

Mr. Peter V. Gureckis
10410 Windsor View Drive
Potomac, Maryland 20854

86-285

RE: WPVG (AM), Funkstown, Maryland
Fiscal Year 1997 Regulatory Fee and Penalty
Fee Number 000000-BCB-98077

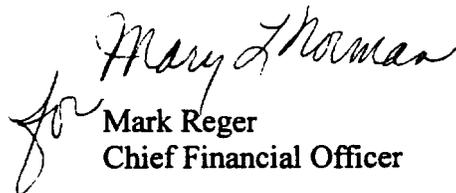
Dear Mr. Gureckis:

This responds to your letter of August 3, 1998 and our previous letters to WPVG, Inc., concerning the nonpayment of the regulatory fee for fiscal year 1997. In April 1998, we informed the station management that it was delinquent in paying the fee of \$1,000, and that it was subject to an additional penalty of \$250. You responded on August 3, 1998 to our second and third letters in June and July 1998 with information that the station returned its license. You included a copy of the Commission's action canceling the license and deleting the call sign.

That letter does reflect the cancellation of the license, and it establishes that the fee was due and payable for fiscal year 1997. The fee was due in September 1997, but the request to cancel the station was made later on February 19, 1998. On May 4, 1998, the Commission approved WPVG's request and canceled the station license. Pertinent to your station, regulatory fees are due for an authorization that existed on the first day of the fiscal year and are payable by the license holder as of the date the payment of the fee is due. This information was provided in the Public Notice, FY 1997 Mass Media Regulatory Fees, August 1, 1997 informing all license holders who were required to pay the fees, and the period of time for payment. During the period that the fee was due and payable, WPVG held a valid license.

Accordingly, you are required to pay the fee and the late penalty immediately. This debt should be resolved promptly to avoid additional collection efforts described at 47 CFR Subpart O. If you have questions concerning the form or method of payment, please call Credit & Debt Management Center at (202) 418-1995.

Sincerely,


for Mark Reger
Chief Financial Officer

000000 BCB-98-077

PETER V. GURECKIS & ASSOCIATES

BROADCAST ENGINEERING CONSULTANTS

10410 WINDSOR VIEW DR., POTOMAC, MARYLAND 20854

(301) 299-5383

PETER V. GURECKIS (MEMBER AFCCE)

TELECOPIER NUMBER (301) 299-5604

August 3, 1998

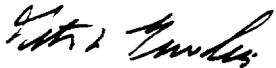
Ms. Regina W. Dorsey, Chief
Billings & Collections Branch
Federal Communications Commission
Room 450
1919 M Street N.W.
Washington, D. C. 20554

Dear Ms. Dorsey:

Station WPVG, Funkstown, Maryland has been off the air and its license has been returned to the F.C.C. Therefore, Station WPVG license has been deleted by the F.C.C.

If you have any questions, please let me know.

Sincerely,



Peter V. Gureckis