

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

JUN 06 2001

*no action
necessary*

86-285

OFFICE OF
MANAGING DIRECTOR

David Tillotson
4606 Charleston Terrace, N.W.
Washington, D.C. 20007-1911

RE: Request for Refund of Application Fee
Fee Control No. 9609128195805001

Dear Mr. Tillotson:

This is in response to the September 28, 1999 request for refund of fees submitted in connection with the application for a new FM station (File No. BPH-960911ME), Pullman, Washington of Radio Palouse, Inc.

You note that the Commission has stated that it would refund upon request all filing fees paid by pre-July 1, 1997 applicants within the scope of 47 U.S.C. § 309(l) who elect not to participate in an auction for the facilities specified in their applications. *See Implementation of Section 309(j) of the Communications Act*, 13 FCC Rcd 15920, 15939 ¶ 49 (1999). You claim that Radio Palouse did not file the Form 175 required to establish eligibility to participate in the auction for the facility specified in its application. Asserting that Radio Palouse thus elected not to participate in that auction, you request a refund of \$2,335.00.

The Commission's records, however, show that Radio Palouse did file a Form 175 with respect to the auction for the facility specified in its application, but that it was incomplete and Radio Palouse ultimately did not participate in the auction in question.

Moreover, the Commission's Report and Order, *supra*, specifically stated that applicants seeking refunds should file pleadings on or before the date for filing a Form 175, disavowing any interest in participating in the auction and seeking dismissal of their applications, and that requests for refunds would be considered once the dismissal of any such application is final. *See* 13 FCC Rcd 15957 ¶ 102. By its initial filing of the Form 175 Radio Palouse, rather than disavowing such an interest, chose to manifest an intent to participate in the auction, thereby excluding itself from the class of applicants afforded relief by the Commission's Report and Order cited above. Finally, even if your request for refund of the filing fee could be construed as disavowing an intent not to participate in the auction, it came more than a month after the due date, August 20, 1999, for the filing of a Form 175. Therefore, your request for refund of the application filing fee is denied.

If you have any questions concerning this letter, please call the Revenue & Receivables Operations Group at 418-1995.

Sincerely,



for Mark Reger
Chief Financial Officer