

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

JAN 14 2002

OFFICE OF
MANAGING DIRECTOR

Larry L. Schrecongost, President
Vernal Enterprises, Inc.
Post Office Box 1032
Indiana, Pennsylvania 15701

Re: Vernal Enterprises, Inc.
Request for Refund of Application Fee
Fee Control No. 9605218195242001

Dear Mr. Schrecongost:

This is in response to your April 17, 2000 request (reiterated in correspondence transmitted via facsimile on October 28, 2001) for a refund of the filing fee in connection with Vernal Enterprises, Inc.'s (Vernal's) application for new FM Channel 277 B1 facilities in Brookville, Pennsylvania. Our records reflect that you paid a filing fee of \$2,335.00.

In your request, you claim that Vernal is entitled to a refund of the filing fee because the Commission dismissed Vernal's mutually exclusive application for the new FM facilities after granting the "Joint Petition for Approval of Settlement Agreement" filed by Vernal and its mutually exclusive applicants on January 30, 1998 (Joint Petition). *See Notice of Action on FM Broadcast Settlement Agreements and Applications*, Report No. 44221A (released Apr. 16, 1998) (*April 16 Notice of Action*). You state that Robert M. Stevens (Stevens), a mutually exclusive applicant with Vernal for the Brookville, Pennsylvania facilities and a participant (with Vernal) in the Joint Petition, was granted a refund of his filing fee after his application was dismissed (along with Vernal's application) in the *April 16 Notice of Action*. *See* Letter from Mark Reger, Chief Financial Officer, Office of Managing Director, to Lee J. Peltzman, Esq., Shainis & Peltzman, Chartered (dated Jul. 15, 1999) (*July 15 Letter Decision*) (granting Stevens's October 19, 1998 request for a refund of application filing fees for a new FM station at Brookville, Pennsylvania); *Public Notice*, Fee Decisions of the Managing Director, DA 00-275, 15 FCC Rcd 2826 (released Feb. 14, 2000) (announcing the July 15, 1999 grant of Stevens's refund request). Despite the fact that your request was filed two years after the settlement agreement was approved, you contend that a grant of Vernal's request for a refund of its application filing fee would be consistent with the Commission's grant of Stevens's refund request in the *July 15 Letter Decision*.

In *Implementation of Section 309(j) of the Communications Act - Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses, First Report and Order*, 13 FCC Rcd 15920 (1998) (*Competitive Bidding First Report and Order*), the

Commission decided to exercise its discretion under Section 309(l) regarding comparative licensing cases and to resolve such cases by a system of competitive bidding pursuant to its newly authorized auction authority for commercial broadcast licenses. The Commission also determined to refund the filing fees paid by any applicant to a pending comparative proceeding that elected not to participate in the auction. *Id.* at para. 101.¹ The Commission, however, determined that it would not refund filing fees paid by applicants participating in the auction that were outbid by a competing applicant. *Id.* at para. 103. The Commission explained that it was taking the “extraordinary step” of refunding filing fees paid by those applicants not participating in the auction in recognition of the fact that “these applicants might not have filed their applications if they had known the permit would be awarded by *competitive bidding*.” *Id.* (emphasis added); *see also id.* at para. 104 (“the refund is premised on the fact that applications, filed in anticipation of a comparative hearing, are now decided by auction”). As explained in *Public Notice, Notice of Mass Media Bureau Action on AM and FM Broadcast Settlement Agreements and Applications; Notice of Amendment Requirements in Pending Settlements*, Report No. 44629A, footnote 2 (released: Dec. 10, 1999), the Commission’s decision in the *Competitive Bidding First Report and Order* to refund previously-paid application filing fees thus contemplates such refunds in circumstances where a permit is ultimately awarded *pursuant to the auction process*, not where a permit is awarded as a result of a settlement agreement among competing applicants.² We therefore find that under the circumstances, a grant of Vernal’s request for a refund of its application filing fees would be inconsistent with the Commission’s decision in the *Competitive Bidding First Report and Order*. We therefore deny Vernal’s request for a refund of the filing fees in connection with its application for new FM Channel 277 B1 facilities in Brookville, Pennsylvania. To the extent that the decision in the *July 15 Letter Decision* may be inconsistent with our determination here, it appears that decision was in error.

¹ *See also id.* at para. 102 (stating that to be eligible for a refund of application filing fees, “[o]n or before the date for filing a[n FCC Form 175] short-form application [which indicated the applicant’s intent to participate in the upcoming relevant auction], pending applicants in all comparative licensing cases subject to resolution by competitive bidding pursuant Section 309(l) may file a pleading disavowing any interest in participating in the auction and seeking the dismissal of their applications[;]” once the dismissal of any such application became final, the Commission would entertain requests for refunds of filing fees paid by applicants).

² *See also id.* (“to the extent Settlements contain provisions requesting that the Commission refund previously paid filing fees, those provisions are inconsistent with the Commission’s decision in the auction proceeding concerning filing fee refunds”; “refund requests purportedly embodied in, filed in conjunction with, or filed pursuant to settlement provisions, warrant no further consideration”). We note that section 73.3525 of the Commission’s rules in effect at the time of the filing of the instant settlement agreement permitted reimbursement of dismissing applicants’ previously-paid application filing fees. *See id.*

If you have any questions concerning this matter, please call the Revenue & Receivables Operation Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Reger". The signature is fluid and cursive, with a large initial "M" and "R".

 Mark A. Reger
Chief Financial Officer

9605218195242001

Fax Cover Sheet

Vernal Enterprises, Inc
724-543-1380
724-349-7330 (FAX)

Send to: Marva Dyson, FCC	From: Larry Schrecongost, Vernal Enterprises, Inc
Attention:	Date: October 28, 2001
Office Location:	Office Location:
Fax Number: 202-418-1411	Phone Number:

- Urgent
- Reply ASAP
- Please comment
- Please Review
- For your information

Total pages, including cover: 11

Comments:

LISA,
This came from MR. Schrecongost,
Vernal Enterprises.
He says if Robert Stevens received
A refund -- so should he!
Please see page 4

Public Notice
Released 2/14/2000

MARVA

Vernal Enterprises, Inc
P.O. Box 1032
Indiana, PA 15701
724-543-1380

VIA FAX 202-418-1411

October 28, 2001

Marva Dyson
Federal Communications Commission
445 12th Street S.W.
Washington, DC 20554

Dear Ms. Dyson:

This letter references Vernal Enterprises, Inc's (Vernal) letter of April 17, 2000 (copy attached) seeking a full fee refund of \$2335.00 in connection with its dismissed 301 application for new FM facilities at Brookville, PA. Vernal hereby desires to offer additional information and facts supporting its request.

Vernal's refund grant would be **entirely** consistent with the Commission's grant made to Robert M. Stevens (Stevens), where Stevens, as Vernal, was also a mutually exclusive applicant for the stated Brookville, PA facilities. Stevens, as Vernal, participated in the Joint Petition for Approval of Settlement Agreement filed on January 30, 1998. The joint Agreement was granted by the Commission by public notice released April 16, 1998. The joint Agreement dismissed the Stevens, as well as Vernal's application, and granted the application of Renda Radio.

Subsequently, Stevens sought from the Commission, the refund of his application fees, in connection with his dismissed Brookville application. Stevens request was **granted** on July 15, 1999. The Commission made public this fact by its public notice, *Fee Decisions of the Managing Director*, released February 14, 2000 (copy attached). In relevant part the notice states:

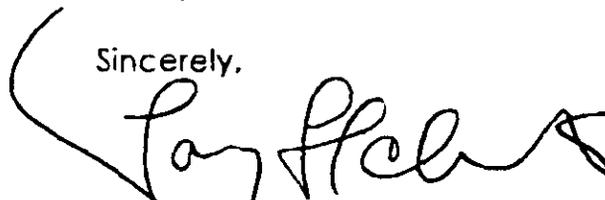
Stevens, Robert M. Request for refund of the application fees for a new FM Station at Brookville, PA. Granted. (July 15, 1999) (See Implementation of Section 309(j) of the Communications Act Competitive Bidding for Commercial Broadcast And Instructional Television Fixed Service Licenses, 13FCC Rcd 15920, 15957(1998); see also 47CFR 1.1113(a)(4).)

Marva Dyson
Federal Communications Commission
October 28, 2001
Page 2

Vernal submits, that it has proven its standing and eligibility for the full return of its \$2335.00 application fee, presented with its subsequently dismissed application for FM Channel 277B1, Brookville, PA.

Accordingly, Vernal's application, in all respects, is **identically** situated to that of Stevens, and in view of its longstanding request (April 17, 2000), should be granted without additional delay.

Sincerely,



Larry L. Schrecongost

Attachments:

Copy of Vernal letter of April 17, 2000 (3 pages)

Copy of FCC Public Notice dated February 14, 2000 (5 pages)



Good Tym Radio!
April 17, 2000

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

ATTN: Managing Director

IN RE: Request for Fee Refund

Dear staff:

Vernal Enterprises, Inc., ("Vernal"), herewith requests a refund of its application fee of \$2335.00, in connection with its dismissed 301 Application filed for new FM Channel 277 B1 facilities at Brookville, PA (Fee code MTR, BPH-960520MD).

Please be advised that Vernal was a mutually exclusive applicant for the stated Brookville facilities, then participated in a Joint Petition for Approval of Settlement Agreement ("Joint Agreement") filed on January 30, 1998 pursuant to the Balanced Budget Act of 1997, Pub. L. 33, 111 Stat. 251 (1977) ("Balanced Budget Act").

The Joint Agreement was granted by the Commission by public notice (copy attached) released April 16, 1998 (Report No. 44221A). The Joint Agreement dismissed Vernal's stated application and granted that of mutually exclusive applicant Renda Radio, Inc.

Accordingly, Vernal contends that it is eligible for a full refund of its \$2335.00 application fee and requests a prompt Commission refund. [See Implementation of Section 309(j) of the Communications Act Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses, 13 FCC Rcd 15920, 15957(1998); see also 47 C.F.R. 1.1113(a)(4).]

Please communicate directly with the undersigned if additional information is required.

Very truly yours,

Larry L. Schrecongost
President, Vernal Enterprises, Inc.

Attachment

P.O. Box 371, Kittanning, PA 16201
724/543-1380 Fax 724/543-1140



PUBLIC NOTICE

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

News media information 202 / 418-0500
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NOTICE OF MASS MEDIA BUREAU ACTION ON AM AND FM BROADCAST SETTLEMENT AGREEMENTS AND APPLICATIONS

NOTICE OF AMENDMENT REQUIREMENTS IN PENDING SETTLEMENTS

Report No. 44629A

Released: December 10, 1999

Prior to the August 20, 1999 deadline for filing a short-form application to participate in the September 28, 1999 Closed Broadcast Auction, a Joint Petition for Approval of Settlement Agreement was filed for each group of mutually exclusive applications for AM and FM construction permits listed below ("Settlements"). Based on an examination of the agreement and the attached declarations, by this Public Notice, the Mass Media Bureau finds that approval of the Settlements would serve the public interest and that the applications were not filed for the purpose of reaching or carrying out the settlements. Accordingly, the applicants have complied with the provisions of 47 U.S.C. § 311(c) and 47 C.F.R. § 73.3525.¹

For each community of license listed below, the Joint Petition for Approval of Settlement Agreement IS GRANTED² and for:

¹ As required by 47 C.F.R. § 73.3525 (a), each party to the various agreements has certified that it will not receive payments in excess of the legitimate and prudent expenses of the applicant.

² However, to the extent Settlements contain provisions requesting that the Commission refund previously paid filing fees, those provisions are inconsistent with the Commission's decision in the auction proceeding concerning filing fee refunds. The Commission's decision in the auction proceeding clearly contemplates such refunds in circumstances where a permit is awarded through the auction process, not where a permit is awarded pursuant to a settlement or merger agreement among competing applicants. See *First Report and Order*, MM Docket No. 97-234, GC Docket No. 92-52 and GEN Docket No. 90-264, 13 FCC Rcd 15920, ¶ 103 (1998) ("We take the extraordinary step of refunding filing fees paid by those applicants not participating in the auction, in recognition of the fact that these applicants might not have filed their applications if they had known the permit would be awarded by competitive bidding.") (*emphasis added*). See also *Notice of Proposed Rulemaking*, 12 FCC Rcd 22363, ¶ 16 (1997) ("All such refunds would be paid once the grant of the construction permit to the winning bidder is final and the license has been paid for in full") (*emphasis added*). Parties to a settlement are permitted to reimburse dismissing applicants for previously paid application filing fees. See 47 C.F.R. § 73.3525. Accordingly, refund requests purportedly embodied in, filed in conjunction with, or filed pursuant to settlement provisions, warrant no further consideration.

PARKER, ARIZONA

Farmworker Educational Radio Network, Inc.'s application (File No. BPH-971003ME) IS GRANTED;
Western Broadcasting System, Inc.'s application (File No. BPH-971002ME) IS DISMISSED.

NASHVILLE, ARKANSAS

Harold L. Sudbury, Jr.'s application (File No. BPH-970820MD) IS GRANTED;
Temperance Broadcasting Company's application (File No. BPH-970821MG) IS DISMISSED.

PANGBURN, ARKANSAS

White County Broadcasting, LLC's application (File No. BPH-970723MG) IS GRANTED;
Red River Radio's application (File No. BPH-970723MN) IS DISMISSED.

GALATIA, ILLINOIS

Galatia FM Joint Venture's application (File No. BPH-941208MH) IS GRANTED;
Daniel R. Johnson's application (File No. BPH-941208ML) IS DISMISSED;
Southern Illinois Broadcasting's application (File No. BPH-941205MB) IS DISMISSED.

POPLAR BLUFF, MISSOURI

VRF Broadcasting, LLC's application (File No. BPH-970708MB) IS GRANTED;
Viands Enterprises, Inc.'s application (File No. BPH-970708MA) IS DISMISSED;
George S. Flinn, Jr.'s application (File No. BPH-970708ME) IS DISMISSED.

WILBURTON, OKLAHOMA

Little Dixie Radio, Inc.'s application (File No. BPH-960826MQ) IS GRANTED;
DFWU, Inc.'s application (File No. BPH-960826MM) IS DISMISSED.

FOREST CITY, PENNSYLVANIA

STA Broadcasting's application (File No. BPH-970717MC) IS GRANTED;
Athomic Broadcasting's application (File No. BPH-970717MK) IS DISMISSED.

SNYDER, TEXAS

Delbert R. Foree's application (File No. BPH-960409MC) IS GRANTED;
Highland Broadcasters' application (File No. BPH-960411MB) IS DISMISSED;
Mrs. Frances Beane's application (File No. BPH-960412ME) IS DISMISSED.

CHINCOTEAGUE, VIRGINIA

Sebago Broadcasting Company's application (File No. BPH-970911NE) IS GRANTED;
Keith A. Mayo and Chih Ping Mayo's application (File No. BPH-970910MW) IS DISMISSED;
Island Broadcasting Company, Inc.'s application (File No. BPH-970814MP) IS DISMISSED.

The Mass Media Bureau has on file additional settlements which remain pending, awaiting receipt of requested amendments, including, for example, technical data, ownership information, and reformation of merger agreement terms. Action on these settlements will be taken separately.

PUBLIC NOTICE
 FEDERAL COMMUNICATIONS COMMISSION
 1919 M STREET N.W.
 WASHINGTON, D.C. 20554

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NOTICE OF ACTION ON FM BROADCAST SETTLEMENT
 AGREEMENTS AND APPLICATIONS

Report No. 44221A

Released: 16 April 1998

We have received a Joint Petition for Approval of Settlement Agreement for each of mutually exclusive applications for FM construction permits listed below ("Settlement"). These Settlements were filed pursuant to the Balanced Budget Act of 1997, Pub. L. 105-33, 111 Stat. 251 (1997) ("Balanced Budget Act").

All applicants have complied with the relevant requirements of the Communications Act of 1934, as amended. Further, each of the applications granted below either conforms with or warrants a waiver of, any relevant Commission rules. See Balanced Budget Act; Concomitant Broadcasting, Inc., 12 FCC Rcd 12253, 12555-56 (1997).

Accordingly, for each community of license listed below the Joint Petition for Approval Settlement Agreement IS GRANTED and for:

SMITHS, AL

Cumulus Licensing Corp.'s application (original applicant - Smiths Broadcasting, L (File No. BPH-930301MG) IS GRANTED;
 Smiths Station Broadcasting's application (File No. BPH-930301MH) IS DISMISSED;
 Dan D. Greene's application (File No. BPH-930301MI) IS DISMISSED;
 Cheryl Davis's application (File No. BPH-930301MF) IS DISMISSED;
 Arthur C. & Margaret R. Angell's application (File No. BPH-930302MJ) IS DISMISSED;
 Shirley A. Caswell's application (File No. BPH-930226MD) IS DISMISSED.

ATKINS, AR

KVOM, Inc.'s application (File No. BPH-950724MB) IS GRANTED;
 Stephen A. Womack's application (File No. BPH-950724MF) IS DISMISSED.

EL DORADO, AR

Jerome Orr's application (File No. BPH-970116MA) IS GRANTED;
 Three Guys Radio Partnership's application (File No. BPH-970115MA) IS DISMISSED.

HARRISBURG, AR

Mid-South Sing's application (File No. BPH-941215MC) IS GRANTED;
 Bobby Caldwell's application (File No. BPH-941214MC) IS DISMISSED;
 Todd P. Robinson's application (File No. BPH-941216MA) IS DISMISSED.

HATFIELD, AR

Bobby Caldwell's application (File No. BPH-961031MB) IS GRANTED;
 Jay W. Bunyard & Edward W. Stevenson's application (File No. BPH-961031MC) IS DISMISSED;
 Natural Communications, LLC's application (File No. BPH-961101MB) IS DISMISSED.

MENA, AR

Bobby Caldwell's application (File No. BPH-970220MI) IS GRANTED;
 Jay W. Bunyard's application (File No. BPH-970221MA) IS DISMISSED;
 Natural Communications, LLC's application (File No. BPH-970220MN) IS DISMISSED.

LAKE HAVASU CITY, AZ

Rick L. Murphy's application (File No. BPH-950828MG) IS GRANTED;

Beehive Entertainment Corporation's application (File No. BPH-960826MN) IS DISMISS

NEWPORT, OR

Yaquina Bay Communications, Inc.'s application (File No. BPH-960429ME) IS GRANTED
Eric Dausman & Gina Jones d/b/a Whale B/cast. Co.'s application (File No. BPH-9605
Stewart Broadcasting, Inc.'s application (File No. BPH-960507M2) IS DISMISSED;
Hubert G. Timmerman's application (File No. BPH-960507MJ) IS DISMISSED;
Q Media, LLC's application (File No. BPH-960508MD) IS DISMISSED;
Thomas D. Hodgins' application (File No. BPH-960507M4) IS DISMISSED;

BARNESBORO, PA

Vernal Enterprises, Inc.'s application (File No. BPH-960520ME) IS GRANTED;
Dubois Area B/casting Co., Inc.'s application (File No. BPH-960516MA) IS DISMISSED
Robert M. Stevens' application (File No. BPH-960517MA) IS DISMISSED;
B.S. Broadcasting, Inc.'s application (File No. BPH-960520MI) IS DISMISSED.

BROOKVILLE, PA

Renda Radio, Inc.'s application (File No. BPH-960516MB) IS GRANTED;
Strattan Broadcasting, Inc.'s application (File No. BPH-960516MC) IS DISMISSED;
Vernal Enterprises, Inc.'s application (File No. BPH-960520MD) IS DISMISSED;
Magnum Broadcasting, Inc.'s application (File No. BPH-960520MM) IS DISMISSED;
B.S. Broadcasting, Inc.'s application (File No. BPH-960521MC) IS DISMISSED;
Robert M. Stevens' application (File No. BPH-960520MC) IS DISMISSED;
Priority Communications, Inc.'s application (File No. BPH-960521ML) IS DISMISSED.

CROSS HILL, SC

Southeastern B/cast Associates, Inc.'s application (File No. BPH-961121MA) IS GRAN
Douglas M. Sutton, Jr., d/b/a Sutton Radiocasting Co.'s application (File No. BPH-

CLEAR LAKE, SD

Daniel Sorenson's application (File No. BPH-970627MA) IS GRANTED;
Lac Qui Parle Broadcasting Co., Inc.'s application (File No. BPH-970619MD) IS DISM
Robert Lynn Faehn's application (File No. BPH-970624MJ) IS DISMISSED;
Three Eagles of Brookings, Inc.'s application (File No. BPH-970626MH) IS DISMISSED
Christensen Broadcast Group, Inc.'s application (File No. BPH-970630ME) IS DISMISS

HENRY, TN

Benton-Weatherford B/casting, Inc. of TN's application (File No. BPH-970206MB) IS
Forked Deer Broadcasting, Inc.'s application (File No. BPH-970206MC) IS DISMISSED.

NORRIS, TN

Newko, LLC's application (original applicant - JP Broadcasting)
(File No. BPH-950512MD) IS GRANTED;
Freeman Broadcasters's application (File No. BPH-950505MC) IS DISMISSED;
Russell H. Castel's application (File No. BPH-950511MN) IS DISMISSED;
Carrie Ann Tutera's application (File No. BPH-950510MG) IS DISMISSED;
Michael J. Benns' application (File No. BPH-950510MH) IS DISMISSED;
Powell-Clinton Broadcasting, Inc.'s application (File No. BPH-950511MC) IS DISMISS
Ronald C. Meredith, Jr.'s application (File No. BPH-950502MD) IS DISMISSED.

PARKER'S CROSSROADS, TN

Crossroads Broadcasting's application (File No. BPH-970204MA) IS GRANTED;
Forked Deer Broadcasting, Inc.'s application (File No. BPH-970206MD) IS DISMISSED.

BORGER, TX

Zia Broadcasting Company's application (File No. BPH-950213MC) IS GRANTED;
Romero Broadcasting's application (File No. BPH-950213MJ) IS DISMISSED.

GREGORY, TX

EK Radio's application (File No. BPH-951108MR) IS GRANTED;
Humberto L. Lopez d/b/a Wildcat B/casting's application (File No. BPH-951109ML) IS
Gerald Benavides' application (File No. BPH-951018MA) IS DISMISSED;
Carl Como Tutera's application (File No. BPH-951107MA) IS DISMISSED;

Nancy Schrecongost

From: "Nancy Schrecongost" <larry@twd.net>
To: <dbarger@mindspring.com>
Sent: Wednesday, March 22, 2000 9:39 PM
Subject: Fcc web page info attached re filing fee refund. Stevens' Brookville info is about 3/4 into page. - Larry S. da000275.bt

0 News media information 202 / 418-500 Fax-On-Demand 202 / 418-2830 Internet:
<http://www.fcc.gov> [ftp.fcc.gov](ftp://ftp.fcc.gov) 1 PUBLIC NOTICE Federal Communications Commission
 445 12th Street N.W. Washington, D.C. 20554 DA 00-275

Before the Federal Communications Commission Washington, D.C. 20554 PUBLIC NOTICE Released: February 14, 2000 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. 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: Abacus Communications Company - Request for refund of a filing fee submitted in connection with its applications for special temporary authority for W28AS at Wheeling, WV. Granted. (July 15, 1999) ACME Television, LLC. - Request for refund of application fee for Acme Television, LLC at. Denied. (November 18, 1999) Aerial Communications, Inc. - Request for waiver and deferment of FY 1999 regulatory fees for Aerial Communications, Inc. at Chicago, IL. Denied and granted respectively. (December 9, 1999) [See Implementation of Section 9 of the Communication Act, 10 FCC Rcd 12759, 12762 (1995); See also, Implementation of Section 9 Communications Act, 9 FCC Rcd 5333, 5345 (1994).] ARDIS Company - Request for refund and waiver or reduction of late charge penalty payment of FY 1998 regulatory fees for ARDIS Company at Lincolnshire, IL. Denied. (November 18, 1999) Bisbee Mountain Translator Association - Request for deferment and waiver of the FY 1998 regulatory fees on KO8HY, K10GJ, and K131Q at Colville, WA. Granted. (December 7, 1999) [See Implementation of Section 9 of the Communications Act, FCC 95-257, 16, released June 22, 1995.] BK Radio - Request for refund of application fee for BK Radio at Wake Village, TX. Granted. (September 16, 1999) [See Implementation of Section 309(j) of the Communications Act Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses, 13 FCC Rcd 15920, 15957 (1998); see also 47 C.F.R. 1.1113(a)(4).] Bonneville Holding Company - Request for permanent reduction of regulatory fee for KCSG-TV at Cedar City, UT. Denied. (December 17, 1999) [See Implementation of Section 9 Communications Act, 9 FCC Rcd 5333, 5345 (1994).] Booth American Company - Request for reconsideration dated September 15, 1998 for Booth American Company at Detroit, MI. Denied. (July 15, 1999) [See Implementation of Section 9 of the Communications Act Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year, 9 FCC Rcd 5333, 5351-52 (1994); See also 47 C.F.R. 1.1106(7).] Brunson Communications - Request for waiver or refund of regulatory fee. Dismissed. (December 7, 1999) Cellular Unreserved Areas - Request for refund of application fees for Cellular Unreserved Areas at Los Angeles, CA and Minneapolis, MN. Denied. (December 20, 1999.) [See Establishment of a Fee Collection Program to Implement the Provision of the Consolidated Omnibus Budget Reconciliation Act of 1985, 2 FCC Rcd 947,949 (1987).] Citizens Communications - Request for waiver of the late penalties for certain FY 1996 and 1997 regulatory fees for Citizen Communications at Dallas, TX. Denied. (June 22, 1999) [See 47 U.S.C. 159 (c) (1).] Colorado Communications, Corp. - Request for reduction of FY 1998 regulatory fee for KBNO at Denver, CO. Dismissed. (April 20, 1999) [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.] Columbia Communications, Corp. - Request for payment of interest on portion regulatory fees refunded for FY 1994 through FY 1998. Denied. (November 18, 1999) [See 47 U.S.C. 159.] Costa de Oro Television, Inc. - Request for refund filing fee for KSTV-TV at Ventura, CA. Granted. (July 13, 1999) [See 47 C.F.R. Section 1.1104(h) and 1.1113 (a)(1).] Dietz, Lester J. - Request for waiver of the regulatory fee for Lester J. Dietz at North Mendocino County, CA. Denied. (August 10, 1999) [See Implementation of Section 9 Communications Act, 10 FCC Rcd 12759, 12762 16 (1995).] Estate of Quinton W. Goode. - Request for waiver of filing fee. Denied. (July 15, 1999) [See 47 C.F.R. 1.1115 (c) (d), 1.1113 and 1.1117 (a); See also Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994).] First Greenville Corporation - Request for waiver and refund of the FY 1994, 1995, 1996, 1997, and 1998 regulatory fee for KGVV and KIKT-FM at Greenville, TX. FY 1994-1997 were Dismissed. FY 1998 was Granted. (December 7, 1999) [See 47 C.F.R. 1.1166(c). See also, Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), reconsideration granted, 10 FCC Rcd 12759 (1995).] Florida Media Broadcasters, Inc. - Request for waiver of FY 1998 regulatory fee for WNTD at Daytona, FL. Dismissed. (September 16, 1999) [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.] Garden Valley Telephone Company - Request for a refund of the FY 1994 and 1995 regulatory fee for Garden Valley Telephone Company at Erskine, MN. Granted. (September 13, 1999) Giannettino, John - Request for waiver of FY 1997 regulatory fee for KCPS-AM at Burlington, IA. Denied. (September 16, 1999) [See Report and Order In the Matter of Assessment and Collection of Regulatory Fees for Fiscal Year 1997, MD Doc No. 96-186, 12 FCC Rcd. 17161 (1997).] Hancock Broadcasting - Request for defer payment of the FY 1997 regulatory fees for WSBL at Bay St. Louis, MS. Denied. (May 14, 1999) Happy Broadcasting Company - Request for waiver of regulatory fee for WPWC at Dumfries, VA. Denied. (December 1, 1999) [See 47 C.F.R. 1.1164 and 1.1166.] Happy Broadcasting Company - Request for waiver of the FY 1997 regulatory fee for WPWC at Dumfries, VA. Dismiss. (May 11, 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.] Heartland Communications - Request for refund of the application fee for a new FM Radio Station. Denied. (November 18, 1999) [See First Report and Order in the Matter of Implementation of Section 309(j) of the Communications Act, 13 FCC Rcd. 15920 (1998) (First Report and Order).] I-Link Communications, Inc. - Request for extension of time of the FY 1998 regulatory fees for I-Link Communications, Inc at Phoenix, AZ. Denied. (June 22, 1999.) [See 47 U.S.C. 159 (c) (1).] Jasas Broadcasting, 27, LP - Request for reduction and partial refund of the FY 1996, 1997, and 1998 regulatory fees for WUNI at Worcester, MA. Denied. (May 14, 1999) Jones College - Request for waiver of the late penalty payment of the FY 1998 regulatory fees for WKTZ and WJAX at Jacksonville, FL. Denied. (December 17, 1999) KCCB - Request for waiver of FY 1998 regulatory fees for KCCB at Corning, AR. Granted. (September 16, 1999) [See Implementation of Section 9 of the Communications Act, FCC 95-257 15 released June 25, 1995.] KCLJ-TV - Request for waiver of the late penalty payment for FY 1998 regulatory fee for KCLJ-TV at Neosha, MO. Granted. (May 4, 1999) KGVV - Request for refund of the FY 1998 regulatory fee for KGVV at Green Valley, AZ. Granted. (December 7, 1999) King Broadcasting - Request for reduction and partial refund of the FY 1994, 1995 and reduction of FY 1997 regulatory fees for KBIM at Rosewell, NM. Granted. (June 22, 1999) KJOP-AM - Request for waiver of the FY 1998 regulatory fee for KJOP-AM at Leemore, CA. Dismiss. (May 4, 1999) KMFG-FM - Request for reduction of waiver of FY 1998 regulatory fee for KMFG-FM at Nashwauk, MN. Denied. (May 4, 1999) KRZI and KEYR - Request for waiver of the FY 1997 regulatory fees for KRZI and KEYR at Waco, TX. Denied. (December 10, 1999) [See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), reconsideration granted, 10 FCC Rcd 12759 (1995).] KTC Broadcasting, Inc. - Request for partial refund of the FY 1997 regulatory fees for WGNC at Gastonia, NC. Denied. (April 20, 1999) L M Communications, Inc. - Request for waiver of late penalty for FY 1998 regulatory fees for WYBB-FM, WNST-FM, WLXG-AM, and WGKS-FM at Charleston, SC. Denied. (April 20, 1999) [See 47 U.S.C. 159 (c) (1).]

Lampasas Radio. - Request for waiver of FY 1997 regulatory fees for KCYL-AM at Lampasas, TX and for the construction permit for KACQ-FM at Lomata, TX, and for an associated Radio auxiliary Station. Denied. (September 16, 1999) [See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5345-34, 5346 (1994), reconsideration granted, 10 FCC Rcd 12759 (1995), 12764 (1995).] Las Raices Pepinianas, Inc. - Request for a deferment and reduction of the FY 1997 regulatory fees for WLRP-AM at San Sebastian, PR. Dismissed. (June 22, 1999) [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.] Lonerock Television Company - Request for waiver of the FY 1998 regulatory fees for Lonerock Television Company at Condon, OR. Denied. (November 18, 1999) [See Implementation of Section 9 of the Communication Act, 9 FCC Rcd 5333, 5345 (1994).] Long Family Partnership - Request for waiver of the FY 1998 regulatory fees for Lonerock Television Company at Condon, OR. Denied. (November 18, 1999) [See Implementation of Section 9 of the Communication Act, 9 FCC Rcd 5333, 5345 (1994).] Mark Media, Inc. - Request for a reduction and partial refund of FY 1997 regulatory fee for WKYK at Burnsville, NC. Denied. (April 20, 1999) Middleton Radio - Request for refund of application fee for a new FM radio station. Denied. (November 18, 1999) [See First Report and Order in the Matter of Implementation of Section 309(j) of the Communications Act, 13 FCC Rcd. 15920 (1998) (First Report and Order).] Migala Communications, Inc. - Request for waiver of FY 1997 and FY 1998 regulatory fee for WCEV at Cicero, IL. Denied. (October 26, 1999) [See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5345 (1994), 10 FCC Rcd 12759, 12764 (1995). See also, 47 C.F.R. Section 73.21.] Mountain Valley Media, Inc - Request for a reduction and partial refund of the FY 1997 regulatory fees for WTOE at Spruce Pine, NC. Denied. (August 10, 1999) Multimedia, Inc. - Request for refund of the FY 1998 regulatory fee for KNAZ-TV at Flagstaff, AZ. Granted. (July 15, 1999) New Age General Partners - Request for refund of the filing fee filed by Romulus Engineering. Granted. (June 15, 1999) [See 47 C.F.R. Section 1.1113 (a)(4); Establishment of a Fee Collection Program to Implement the Provision of the Consolidated Omnibus Reconciliation Act 1985, 2 FCC Rcd 947, 950 (1987), reconsidered in part, 3 FCC Rcd 5987, 5988 (1988); see also Amendment of the Commission's Rules Regarding Multiple Address System, 13 FCC Rcd 17954 (1998); Refund of Application Fees for 932-932.5/941-941.5 MHz Multiple Address System Applications, (October 1, 1998) (WESTLAW library) ("Public Notice").] Northeast Radio, Inc. - Request for waiver of FY 1998 regulatory fee for AM Radio Station WCAP, Lowell, MA. Denied. (October 26, 1999) [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.] Orbital Communication Corporation, Inc. - Request for reduction of the FY 1998 regulatory fees. Denied. (June 22, 1999) [See Assessment and Collection of Regulatory Fees for Fiscal Year 1997, FCC 97-215 73-75 (June 26, 1997); see also 47 C.F.R. 1.1164 (c) and (d).] PanAmSat Licensee Corp. - Request for waiver of application fee for PAS-10 Ka-band and waiver of the application fee for PAS-12 C/Ku band satellites. Denied. Request for waiver of application fee for PAS-21, a hybrid C/Ku band satellite that will be collocated with PAS-6 at 68.5 E.L. Denied. Request for refund of eight of eleven GSO satellites. Denied. Request for refund of three of eleven GSO satellites. Granted. (July 15, 1999) Paxson Decatur License, Inc. - Request for refund of the FY 1998 regulatory fees for WPXU (TV) Denied. (July 15, 1999.) [See Implementation of Section 9 of the Communications Act, 10 FCC Rcd 12759 (1995), the Commission amended Section 1.1162(c) of the Rules, 47 C.F.R. 1.1162(c); See also 47 C.F.R. 1.1162(c) (1) and (2).] Phillips Broadcasting Co. Inc. - Request for refund of the filing fee submitted with application for extension of Construction Permit. Denied. (November 18, 1999) [See The Report and Order ("Streamlining of Mass Media Applications, Rules, and Processes"), MM Docket No. 98-43, FCC 98-281 (Released Nov 25, 1998).] Ponce Broadcasting Corp. - Request for waiver or reduction of FY 1998 regulatory fees for Puerto Rican Radio Stations, WZAR- FM, WLEO-AM, WKFE-AM, WLEY-AM, and WZUR-AM. Denied. (September 26, 1999.) [See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), reconsideration granted, 10 FCC Rcd 12759 (1995).] Pro-Radio, Inc. - Request for waiver of FY 1997 regulatory fee for WFAD-AM and WMNM-

FM at Middlebury, VT. Granted. (October 19, 1999.) [See Implementation of Section 9 of the Communications Act, 10 FCC Rcd 12759, 12762, Section 14 (1995).] Reading Broadcasting, Inc. - Request for reduction of FY 1998 regulatory fee for WTVE at Reading, PA. Granted. (May 4, 1999.) [See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), reconsideration granted, 10 FCC Rcd 12759 (1995).] Skytel Corp. - Request for waiver of "per call sign" fee. Denied. (September 16, 1999) [See Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year, 9 FCC Rcd 6957, 6970 (1994) (the Commission applied the analysis of the Section 8 (d)(2) standard to its discussion of the Section 9(d) waiver). See In the Matter of Establishment of a Fee Collection Program to Implement the Provisions of the Omnibus Budget Reconciliation Act of 1989, 5 FCC Rcd 3558, 3574 (1990). See also Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Reconciliation Act of 1985, 2 FCC Rcd 961 (1987).] Socorro Satellite Systems - Request for partial waiver of the FY 1998 regulatory fees. Denied. (December 17, 1999) [See Financial Qualifications Standards, 72 FCC 2d 784 (1979).] Stevens, Robert M. Request for refund of the application fees for a new FM station at Brookville, PA. Granted. (July 15, 1999) [See Implementation of Section 309(j) of the Communications Act Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses, 13 FCC Rcd 15920, 15957(1998); see also 47 C.F.R. 1.1113(a)(4).] Television Properties, Inc. - Request for partial waiver of the FY 1998 regulatory fees for WHCP-TV at Portsmouth, OH. Denied. (May 14, 1999) [See Financial Qualifications Standards, 72 FCC 2d 784 (1979).] TelQuest Satellite Services, LLC - Request for fee determination in connection with its application to deploy multiple technically identical receive-only earth stations. Determined. (July 6, 1999) [See Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act 1985. 2 FCC Rcd 947, 948, and 961 (1987); see Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Space Stations to Provide Domestic and International Satellite Service in the United States. IB Docket 96-11 (Released May 14, 1996) (80); see also 47 C.F.R. 1.1117 and 1.107 (6)(a). Section 0.231(a) of the Commission's rules.] TSR Wireless, LLC. - Request for refund of filing fee for call sign KNKB250. Granted. (December 20, 1999) Turnpike Television - Request for refund of filing fee. Granted. (July 15, 1999) [See Establishment of a Fee Collection Program. 2 FCC Rcd 947, 949 (1987), recon. Denied, 3 FCC Rcd 5987 (1988); see also, 47 C.F.R. 1.1113(a).] United Broadcasting Enterprise, Inc. - Request for partial refund of the FY 1997 regulatory fees for WISE at Asheville, NC and WTZQ at Hendersonville, NC. Denied. (April 20, 1999) V.I. Stereo Communications Corp. - Request for waiver of FY 1998 regulatory fees for WWIS at Christiansted, St. Croix, U.S.V.I. Dismissed. (July 13, 1999) [See 10 FCC Rcd at 12761-2762.] Wade Communications, Inc. - Request for refund of the application fee for a new FM radio station. Denied. (November 18, 1999) [See First Report and Order in the Matter of Implementation of Section 309(j) of the Communications Act, 13 FCC Rcd. 15920 (1998) (First Report and Order).] Wagonwheel Communications Corp. - Request for refund of FY 1998 regulatory fee for a FM radio station 960925MD, Green River, WY. Granted. (October 19, 1999) WCNET, Inc. - Request for a waiver of the late charge penalty payment of the FY 1998 regulatory fee. Denied. (November 18, 1999) WCNR 930 AM - Request for waiver and refund of FY 1998 regulatory fee. Denied. (October 26, 1999) WCRK-AM - Request for a waiver of the late charge penalty payment of the FY 1998 regulatory fee. Denied. (November 18, 1999) Western Community TV - Request for reduction, waiver and refund in reference to rebate of regulatory fee. Dismissed. (November 18, 1999) [See 47 C.F.R. 1.1166 and 1.1167. See also 47 U.S.C.] White Mountain Communications - Request for waiver of filing all regulatory fees for a White Mountain Communication at Roswell, NM. Dismissed. (July 13, 1999) [See Implementation of Section 9 of the Communications Act, 10 FCC 12762 paragraph 14 (1995).] Whitehall Broadcasting Company- Request for waiver of the late chare penalty payment of the FY 1998 regulatory fee on WAAM-AM at Ann Arbor, MI. Denied. (November 18, 1999) Winnett Community TV System - Request for exemption of regulatory fees for Winnett Community TV System at Winnett, MT. Granted. (July 13, 1999) [See Section 1.1162(b).] WIZK - Request for waiver of FY 1998 regulatory fees for WIZKAM at Bay

Springs, MS. Granted. (September 16, 1999) [See Implementation of Section 9 of the Communications Act, FCC 95-257, (1995).] WMEI - Request for waiver of FY 1998 regulatory fees for WMEI television station at Arecibo, PR. Denied. (August 10, 1999) [See Financial Qualifications Standards, 72 FCC 2d 784 (1979).] Young Broadcasting of Lansing - Request for waiver of late charge penalty payment of the FY 1998 regulatory fees for WLNS at Lansing, MI Denied. (November 18, 1999) NOTE: ANY QUESTIONS REGARDING THIS REPORT SHOULD BE DIRECTED TO THE CREDIT & DEBT MANAGEMENT CENTER AT (202) 418-1995

Payment Transactions Detail Report

Date: 12/07/2001

BY: FEE CONTROL NUMBER

Fee Control Number	Payor Name	Fcc Account Number	Payer TIN	Received Date							
9605218195242001	VERNAL ENTERPRISES INC PO BOX 371 KITTANNING PA 16201	FCC2011440		5/20/1996 00:00:0							
Payment Amount	Current Balance	Seq Num	Payment Type Code	Quantity	Catsign Other Id	Applicant Name	Applicant Zip	Bad Check	Detail Amount	Trans Code	Payment Type
\$2,335.00	\$2,335.00	1	MTR	1	NA	VERNAL ENTERPRISES INC	16201		\$2,335.00	1	PMT
Total	1								<u>\$2,335.00</u>		

**FEDERAL
COMMUNICATIONS
COMMISSION
F. O. C.
REVENUE &
RECEIVABLES
OPERATIONS GROUP**

Memo

To: The Office of General Counsel
Administrative Law Division

From: Tom Putnam 

Date: December 7, 2001

Re: Vernal Enterprises, Inc.

Vernal Enterprises, Inc. is requesting a refund of a filing fee based upon a decision reached in a similar case concerning Robert M. Stevens.

The case was decided in 1999 and is included in its entirety for your reference.

The Mass Media Bureau's position is that Vernal Enterprises' request should be denied.

From: Marva Dyson
To: Claudette Pride, Diane Douglas
Date: 10/9/01 8:36AM
Subject: Re: Vernal Enterprises Request for Refund

Hi Claudette and Diane,

Vernal was a mutually exclusive applicant for Brookville, Pennsylvania but later participated in a Joint Petition for Approval of Settlement Agreement. As a result of that agreement, Vernal's application was dismissed and Renda Radio, Inc.'s application was granted. However, parties to a settlement are *permitted* to reimburse dismissing applicants for previously paid application fees. You may want to take note of the Public Notice entitled "*Notice of Mass Media Bureau Action on AM and FM Broadcast Settlement Agreements and Application/Notice of Amendment Requirements in Pending Settlements,*" Report NO. 44629A, released December 10, 1999 which explains why such a refund request as Vernal's is denied by the FCC.

10/05 1:38 PM >>>

Hi Marva,

I spoke to Claudette regarding the refund request for Vernal Enterprises and we need for you to tell us in an E-mail to Claudette Pride why this refund was denied so we can proceed with this app.

Thanks,
Diane

non public for internal use only

CC: Lisa Scanlan

Dtd ✓

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554
JUL 21 1998

OFFICE OF
MANAGING DIRECTOR

Approved for
Payment

COPY

Lee J. Peltzman, Esquire
Shainis & Peltzman, Chartered
1901 L Street, N.W.
Suite 290
Washington, D.C. 20036

Broadcast Comm., INC

Re: Robert M. Stevens
New FM Station
Barnesboro, Pennsylvania
Fee Control # 9605208195235007

Dear Mr. Peltzman:

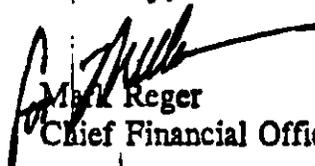
This is in response to your request for refund of the application fee filed on behalf of Robert M. Stevens, a former applicant for a new FM station at Barnesboro, Pennsylvania

You represent that Mr. Stevens "paid his application fee in anticipation that his application would be reviewed and . . . if found to be mutually exclusive, would be designated for hearing." You further represent that at the time he filed his application, Mr. Stevens did not know that the Barnesboro channel would be awarded through the competitive bidding procedures, and that when he became aware that the Commission adopted such procedures, he decided to dismiss its application pursuant to an universal settlement.

Under the circumstances, because Mr. Stevens timely disavowed any interest in participating in the auction and sought dismissal of his application, and further because Mr. Stevens' dismissal has been rendered final, refund of the filing fee is appropriate. *See Implementation of Section 309(j) of the Communications Act - Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses, 13 FCC Rcd 15920, 15957 (1998); see also 47 C.F.R. § 1.1113(a)(4).*

Accordingly, your request is granted. A check, made payable to the maker of the original check and drawn in the amount of \$2,335.00, will be sent to you at the earliest practicable time. If you have any questions concerning this refund, please contact the Chief, Fee Section at (202) 418-1995.

Sincerely,


Mark Reger
Chief Financial Officer

9605208195235007

RECEIVED

Shainis & Heltzman, Chartered

OCT 19 1998

Consultants at Law

Suite 290

1901 I Street, N.W.

Washington, D.C. 20036

(202) 293-0011

Fax (202) 293-0810

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Of Counsel

William M. DuRoss, III

Ruth S. Baker-Battist

Robert J. Keller

Anton P. Shainis
Lee J. Heltzman

October 19, 1998

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

Re: Request for Refund of Application Fee
Robert M. Stevens
Barnesboro, Pennsylvania
BPH-960517MA

RECEIVED
OCT 22 1998

Dear Mr. Fishel:

This letter is submitted on behalf of Robert M. Stevens ("Stevens"), former applicant for a new FM construction permit at Barnesboro, Pennsylvania. By this letter, Stevens requests the refund of his application fee submitted to the Commission as part of that Barnesboro, Pennsylvania application. A brief synopsis of the facts follows.

On May 17, 1996, Stevens filed his application for a new FM construction permit on Channel 228 at Barnesboro, Pennsylvania. A total of four applications were received by the Commission. None of them was reviewed or accepted for filing at that time. As part of Stevens' Barnesboro filing, he paid a Two Thousand Three Hundred Thirty-five Dollar (\$2,335.00) filing fee to the Federal Communications Commission. See Attachment A (copy of May 15, 1996 check to FCC in the amount of \$2,335.00). As noted, his application was not accepted for filing. Years later, on January 30, 1998, the four applicants filed a Joint Request for Approval of Settlement Agreement with the Commission, contemplating the grant of the application of Vernal Enterprises, Inc. As part of his Settlement Agreement, Stevens requested dismissal of his application. The Commission, on April 16, 1998, released a Public Notice which approved the Joint Request, dismissed Stevens' application, and granted the application of Vernal Enterprises, Inc. See Attachment B.

Stevens paid his application fee in anticipation that his application would be reviewed and granted, or, if found to be mutually exclusive, would be designated for hearing. Stevens did not file with knowledge that the Barnesboro channel would be awarded by auction. When Stevens

ORIGINAL

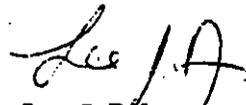
Shainis & Peltzman, Chartered

Mr. Andrew S. Fishel
October 19, 1998
Page Two

became aware that his application would not undergo a comparative hearing, he made the decision to dismiss his application as part of an overall settlement. Therefore, in light of the facts presented, Stevens respectfully requests that the Commission refund his application fee in the amount of \$2,335.00.¹

If the Commission has any questions with respect to this request, kindly contact the undersigned.

Sincerely yours,



Lee J. Peltzman
Counsel for
Robert M. Stevens

Enclosures

¹ The Commission has noted that it will refund filing fees paid by applicants who do not participate in an auction, stating that such refunds are premised on the fact such applications were filed in anticipation of hearings which were not held. See Implementation of Section 309(j) of the Communications Act, FCC 98-194, released August 18, 1998 at paras. 101, 103. The same principle applies here as well since Stevens dismissed his application so that he would not have to participate in an auction. It should also be noted that Stevens filed his application in anticipation that the Commission would utilize the services of its personnel in reviewing his application. Since no review occurred here -- Stevens' application was never accepted for filing -- it is only fair and equitable that he be reimbursed his filing fee.

ATTACHMENT A

ECCMELLON MAY 17 1996

Shainis & Feltzman

Counselors at Law
Suite 200
2000 I Street, N.W.
Washington, D.C. 20036

Aaron B. Shainis
Lee J. Feltzman

(202) 416-1633
Fax (202) 416-1823

Of Counsel
William H. Buross, III
Ruth S. Baker-Battist

May 17, 1996

Federal Communications Commission
Mass Media Services
P. O. Box 358195
Pittsburgh, PA 15251-5195

BPH - 960517MA

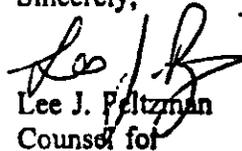
Re: Application for Construction Permit
for Commercial Broadcast Station
Barnesboro, Pennsylvania
228A

Dear Sir/Madam:

Transmitted herewith, on behalf of Robert M. Stevens, is an original and two (2) copies of an application for a construction permit for an FM commercial broadcast station on Channel 228A at Barnesboro, Pennsylvania. Attached hereto is a check in the amount of Two Thousand, Three Hundred Thirty-five Dollars (\$2,335.00) as the required FCC filing fee.

Please contact the undersigned should questions arise regarding this application.

Sincerely,



Lee J. Feltzman
Counsel for

ROBERT M. STEVENS

Enclosure

CS1964.P.FCC/BARNESBO

STAMP & RETURN

Approved by OMB
3060-0027
Expires 6/30/95

FCC 301

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20540

FOR FCC USE ONLY	

APPLICATION FOR CONSTRUCTION PERMIT
FOR COMMERCIAL BROADCAST STATION

FOR COMMISSION USE ONLY
FILE NO.

Section 1 - GENERAL INFORMATION

1. APPLICANT NAME
ROBERT M. STEVENS

MAILING ADDRESS (Line 1) (Maximum 95 characters)
1005 Treasure Lake

MAILING ADDRESS (Line 2) (if required) (Maximum 95 characters)

CITY Dubois	STATE OR COUNTRY (if foreign address) Pennsylvania	ZIP CODE 15801
TELEPHONE NUMBER (include area code) 814 375 2797	CALL LETTERS	OTHER FCC IDENTIFIER (IF APPLICABLE)

FOR MAILING THIS APPLICATION, SEE INSTRUCTIONS FOR SECTION 1 - GENERAL INFORMATION B.

2. A. Is a fee submitted with this application? Yes No

B. If No, indicate reason for fee exemption (see 47 C.F.R. Section 1.1112) and go to Question 8.

Governmental Entity

Noncommercial educational licensee

C. If Yes, provide the following information:

Enter in Column (A) the correct Fee Type Code for the service you are applying for. Fee Type Codes may be found in the "Mass Media Services Fee Filing Guide." Column (B) lists the Fee Multiple applicable for this application. Enter in Column (C) the result obtained from multiplying the value of the Fee Type Code in Column (A) by the number listed in Column (B).

(A)	(B)	(C)	FOR FCC USE ONLY
FEE TYPE CODE	FEE MULTIPLE (if required)	FEE DUE FOR FEE TYPE CODE IN COLUMN (A)	
(1) M T R	0 0 0 1	\$ 2,335.00	

To be used only when you are requesting concurrent actions which result in a requirement to list more than one Fee Type Code.

(A)	(B)	(C)	FOR FCC USE ONLY
(2)	0 0 0 1	\$	

ADD ALL AMOUNTS SHOWN IN COLUMN C, LINES (1) THROUGH (2), AND ENTER THE TOTAL HERE. THIS AMOUNT SHOULD EQUAL YOUR ENCLOSED REMITTANCE.

TOTAL AMOUNT REMITTED WITH THIS APPLICATION
\$ 2,335.00

FOR FCC USE ONLY

3. This application is for: (check one box)

AM

FM

TV

(b) Channel No. or Frequency
228A

(b) Principal Community	City	State
	Barnesboro	PA

ATTACHMENT B



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
1919 M STREET N.W.
WASHINGTON, D.C. 20554

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NOTICE OF ACTION ON FM BROADCAST SETTLEMENT AGREEMENTS AND APPLICATIONS

Report No. 44221A

Released: 16 April 1998

We have received a Joint Petition for Approval of Settlement Agreement for each group of mutually exclusive applications for FM construction permits listed below ("Settlements"). These Settlements were filed pursuant to the Balanced Budget Act of 1997, Pub. L. No. 105-33, 111 Stat. 251 (1997) ("Balanced Budget Act").

All applicants have complied with the relevant requirements of the Communications Act of 1934, as amended. Further, each of the applications granted below either conforms to, or warrants a waiver of, any relevant Commission rules. See Balanced Budget Act; *Gonzales Broadcasting, Inc.*, 12 FCC Rcd 12253, 12555-56 (1997).

Accordingly, for each community of license listed below the Joint Petition for Approval of Settlement Agreement IS GRANTED and for:

SMITHS, AL

Cumulus Licensing Corp.'s application (original applicant - Smiths Broadcasting, LP) (File No. BPH-930301MG) IS GRANTED;

Smiths Station Broadcasting's application (File No. BPH-930301MH) IS DISMISSED;

Dan D. Greene's application (File No. BPH-930301MI) IS DISMISSED;

Cheryl Davis's application (File No. BPH-930301MF) IS DISMISSED;

Arthur C. & Margaret R. Angell's application (File No. BPH-930302MJ) IS DISMISSED;

Shirley A. Caswell's application (File No. BPH-930226MD) IS DISMISSED.

ATKINS, AR

KVOM, Inc.'s application (File No. BPH-950724MB) IS GRANTED;

Stephen A. Womack's application (File No. BPH-950724MF) IS DISMISSED.

EL DORADO, AR

Jerome Orr's application (File No. BPH-970116MA) IS GRANTED;

Three Guys Radio Partnership's application (File No. BPH-970115MA) IS DISMISSED.

HARRISBURG, AR

Mid-South Sing's application (File No. BPH-941215MC) IS GRANTED;

Bobby Caldwell's application (File No. BPH-41214MC) IS DISMISSED;

Todd P. Robinson's application (File No. BPH-941216MA) IS DISMISSED.

JEWETT, NY

The Ridgefield Broadcasting Corp.'s application (File No. BPH-960826MO) IS GRANTED;
Beehive Entertainment Corporation's application (File No. BPH-960826MN) IS DISMISSED.

NEWPORT, OR

Yaquina Bay Communications, Inc.'s application (File No. BPH-960429ME) IS GRANTED
Eric Dausman & Gina Jones d/b/a Whale B/cast. Co.'s application (File No. BPH-960507MX) IS DISMISSED;
Stewart Broadcasting, Inc.'s application (File No. BPH-960507MZ) IS DISMISSED;
Hubert G. Timmerman's application (File No. BPH-960507MJ) IS DISMISSED;
Q Media, LLC's application (File No. BPH-960508MD) IS DISMISSED;
Thomas D. Hodgins' application (File No. BPH-960507M4) IS DISMISSED;

BARNESBORO, PA

Vernal Enterprises, Inc.'s application (File No. BPH-960520ME) IS GRANTED;
Dubois Area B/casting Co., Inc.'s application (File No. BPH-960516MA) IS DISMISSED;
Robert M. Stevens' application (File No. BPH-960517MA) IS DISMISSED;
B.S. Broadcasting, Inc.'s application (File No. BPH-960520MI) IS DISMISSED.

BROOKVILLE, PA

Renda Radio, Inc.'s application (File No. BPH-960516MB) IS GRANTED;
Stratan Broadcasting, Inc.'s application (File No. BPH-960516MC) IS DISMISSED;
Vernal Enterprises, Inc.'s application (File No. BPH-960520MD) IS DISMISSED;
Magnum Broadcasting, Inc.'s application (File No. BPH-960520MM) IS DISMISSED;
B.S. Broadcasting, Inc.'s application (File No. BPH-960521MC) IS DISMISSED;
Robert M. Stevens' application (File No. BPH-960520MC) IS DISMISSED;
Priority Communications, Inc.'s application (File No. BPH-960521ML) IS DISMISSED.

CROSS HILL, SC

Southeastern B/cast Associates, Inc.'s application (File No. BPH-961121MA) IS GRANTED;
Douglas M. Sutton, Jr., d/b/a Sutton Radiocasting Co.'s application (File No. BPH-961121MB) IS DISMISSED

CLEAR LAKE, SD

Danial Sorenson's application (File No. BPH-970627MA) IS GRANTED;
Lac Qui Parle Broadcasting Co., Inc.'s application (File No. BPH-970619MD) IS DISMISSED;
Robert Lynn Faehn's application (File No. BPH-970624MJ) IS DISMISSED;
Three Eagles of Brookings, Inc.'s application (File No. BPH-970626MH) IS DISMISSED;
Christensen Broadcast Group, Inc.'s application (File No. BPH-970630ME) IS DISMISSED.

HENRY, TN

Benton-Weatherford B/casting, Inc. of TN's application (File No. BPH-970206MB) IS GRANTED;
Forked Deer Broadcasting, Inc.'s application (File No. BPH-970206MC) IS DISMISSED.

NORRIS, TN

Newko, LLC's application (original applicant - JP Broadcasting)
(File No. BPH-950512MD) IS GRANTED;
Freeman Broadcasters's application (File No. BPH-950505MC) IS DISMISSED;
Russell H. Castel's application (File No. BPH-950511MN) IS DISMISSED;
Carrie Ann Tutera's application (File No. BPH-950510MG) IS DISMISSED;
Michael J. Benns' application (File No. BPH-950510MH) IS DISMISSED;
Powell-Clinton Broadcasting, Inc.'s application (File No. BPH-950511MC) IS DISMISSED;
Ronald C. Meredith, Jr.'s application (File No. BPH-950502MD) IS DISMISSED.