

FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554  
JAN 22 2003

OFFICE OF  
MANAGING DIRECTOR

Paul H. Brown  
Wood, Maines & Brown  
1827 Jefferson Place, N.W.  
Washington, D.C. 20036

Re: Request for Waiver of FY 2002 Regulatory Fee  
Fee Control No.: 00000RROG-03-044

Dear Mr. Brown:

This letter responds to your request dated September 25, 2002 for waiver of the regulatory fee for Fiscal Year (FY) 2002 in the amount of \$4,100 submitted on behalf of AM station KMRI, West Valley City, Utah, licensed to KMRI Radio, LLC.

In support of your request for waiver of the regulatory fee on the ground of financial hardship, you attach copies of KMRI's financial statements for 1999, 2000, 2001, and the first seven months of 2002. You assert that KMRI has never been profitable and that you are therefore unable to pay the regulatory fee.

In establishing a regulatory fee program, the Commission recognized that in certain instances payment of a regulatory fee may impose an undue financial hardship upon a licensee. The Commission therefore decided to grant waivers or reductions of its regulatory fees in those instances where a "petitioner presents a compelling case of financial hardship." See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994); recon. granted, 10 FCC Rcd 12759 (1995).

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.

Our review of KMRI's statements of revenues and expenditures indicates that in 2001 the station suffered a loss of \$46,633, but that this loss was almost entirely attributable to depreciation expense of \$46,506. Moreover, KMRI's most recent statement for the period January through July 2002 indicates that while the station showed an operating loss of \$21,517, this loss resulted from depreciation expense of \$24,362. Thus KMRI had money from its deduction for depreciation from which it could pay the fee. In these circumstances, KMRI has not made a compelling showing of financial hardship and therefore your request for waiver of the FY 2002 regulatory fee is denied.

Paul H. Brown

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You have also requested confidential treatment of the materials that you submitted with your fee waiver request. Pursuant to Section 0.459(d)(1) of the Commission's rules, 47 C.F.R. 0.459(d)(1), we do not routinely rule on requests for confidential treatment until we receive a request for access to the records. The records are treated confidentially in the meantime. If a request for access to the information submitted in conjunction with your regulatory fees is received, you will be notified and afforded the opportunity to respond at that time.

If you have any questions concerning this letter, please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Reger", written over a horizontal line.

for Mark A. Reger  
Chief Financial Officer

00002206-03-044

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\*Admitted in Virginia only

**FOR INTERNAL USE ONLY**  
**NON-PUBLIC** September 25, 2002

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

**RECEIVED**

SEP 25 2002

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Attn: Managing Director

Re: KMRI Radio, LLC  
KMRI, West Valley City, Utah  
Facility Id No. 25405  
Request for Waiver of Regulatory Fees  
Request for Deferral of Regulatory Fees  
FY 2002

**CONFIDENTIAL TREATMENT REQUESTED**

Dear Ms. Dortch:

On behalf of our client KMRI Radio, LLC, licensee of AM radio broadcast station KMRI, West Valley City, Utah, and pursuant to Section 1.1166 of the Rules, we hereby request a waiver of regulatory fees for FY 2002. Confidential treatment is requested regarding the financial data that is voluntarily disclosed to the Commission in this letter and the accompanying financial statements.

KMRI Radio, LLC purchased AM station KMRI in 1998. Radio station KMRI is the sole asset of KMRI Radio, LLC. Pat Openshaw, the sole member of KMRI Radio, LLC, has no ownership interest in any other radio station.

As is shown more fully by the enclosed financial statements, KMRI has never been profitable. Extreme financial hardship on the part of the licensee prevents payment of the regulatory fee, and even prevents payment of the regulatory fee pending action by the Commission on this request for a waiver of the fee.

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September 25, 2002  
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Section 1.1165 of the Rules allows the Commission to waive, reduce or defer regulatory fees where good cause is shown and where waiver, reduction or deferral of the fee would promote the public interest. Waiver of the FY 2002 regulatory fee for KMRI would promote the public interest by allowing KMRI to remain on the air and serve its community of license.

Since the advent of FM radio broadcasting, and the Commission's action mandating FM tuners in virtually all broadcast receivers, FM broadcasting has gradually taken over the audio radio market. Powerful AM stations located in the largest markets can compete with FM broadcast stations for listeners. Small AM stations, such as KMRI, cannot. KMRI, like many AM broadcast stations, ekes out a meager existence on the fringes of radio broadcasting.

During 1999, KMRI had gross revenue from time sales of only \$27,374, and net revenue after cost of sales of only \$11,474. The station's expenses for the year (including \$57,319 in depreciation) were \$92,865, resulting in a loss of \$81,391. Wages only constituted \$4,918 of these expenses, so these losses did not stem from any sort of feather bed employment of KMRI's owner or her relatives. Indeed, KMRI is able to stay on the air only because of the support of volunteers who are committed to its religious format and because Mrs. Openshaw has, as it were, opened a vein to cover the station's losses. She is not doing so out of any realistic hope of profits but because she believes that the public service which the station provides is important to the community.

During 2000, KMRI sold only \$21,734 worth of time. However, because sales commissions were not paid that year, this figure also represents net revenue. Station expenses (including \$51,810 depreciation) were \$81,082, resulting in a loss of \$59,348. No wages were paid in 2000. The station was staffed entirely through volunteer labor.

Matters only got worse in 2001. Revenue amounted to only \$17,796, with expenses of \$64,633. The net loss was \$46,633. Again, no wages were paid during 2001. Advertising expenses were less than half those paid in 2000. Other expenses were also tightly controlled.

Red ink continues to cover KMRI's accounts thus far in 2002. As of July 31, losses amounted to \$21,517. If these losses are indicative of the rest of the year, 2002 will end with a loss of approximately \$36,000.

KMRI never had any "fat" in its budget. KMRI has excised even what other stations consider essential expenses. There is no more to cut. Payment of the assessed regulatory fee would therefore work an extreme hardship on this station. The Commission should appreciate that KMRI's owner is providing service, in the public interest, to West Valley City and the surrounding area, without any financial benefit to the owner whatsoever.

Confidential Treatment of Data

This request for waiver or deferral of regulatory fees necessarily requires that KMRI submit to the Commission confidential financial data. Pursuant to Section 0.459(b) of the Rules, we therefore request confidential treatment of all financial data.

*(b) Each such request shall contain a statement of the reasons for withholding the materials from inspection (see §0.457) and of the facts upon which those records are based, including:*

*(1) Identification of the specific information for which confidential treatment is sought;*

KMRI seeks confidential treatment of all of the financial data included in this letter.

*(2) Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission;*

KMRI is requesting a waiver of payment regulatory fees for FY 2002.

*(3) Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged;*

KMRI does not disclose this data to others, except its attorneys and accountants, who are under an ethical obligation not to disclose it.

*(4) Explanation of the degree to which the information concerns a service that is subject to competition;*

Marlene Dortch  
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KMRI competes in the commercial broadcast radio service and is subject to competition from other such broadcasters, as well as other commercial media, in the Salt Lake City market.

*(5) Explanation of how disclosure of the information could result in substantial competitive harm;*

Disclosure of the financial information would result in substantial competitive harm for the reasons that led the Commission to provide blanket confidentiality on all Form 324 financial reports filed by broadcasters over several decades. Those reasons include the danger that a given station's suppliers and customers may go elsewhere if they learn of the nature of the broadcaster's financial situation. Customers may not commit to longer-term contracts if they have any reason to believe that a station may go dark because of a lack of funding. In addition, a station's competitors may be quick to exploit a perceived inability to match marketing efforts. In this case, such competitive harm to KMRI could damage its ability to contract for optimum programming, and to fund equipment purchases.

*(6) Identification of any measures taken by the submitting party to prevent unauthorized disclosure;*

KMRI has not shared its financial information with others.

*(7) Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties;*

The information is not available to the public and has not been previously disclosed except to KMRI's accountants and attorneys.

*(8) Justification of the period during which the submitting party asserts that material should not be available for public disclosure; and*

The financial material presented to the Commission should not be available for public disclosure for a period of ten years after a final decision regarding the grant of KMRI's request. After ten years, the financial data should no longer compromise KMRI with respect to the station's competitors.

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*(9) Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted.*

Confidential treatment of these materials is essential if the privacy of KMRI's owner is to be respected.

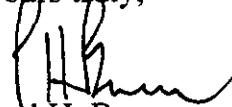
*(e) If the materials are submitted voluntarily (i.e., absent any direction by the Commission), the person submitting them may request the Commission to return the materials without consideration if the request for confidentiality should be denied. In that event, the materials will ordinarily be returned (e.g., an application will be returned if it cannot be considered on a confidential basis). Only in the unusual instance where the public interest so requires will the materials be made available for public inspection. However, no materials submitted with a request for confidentiality will be returned if a request for inspection is filed under §0.461. If submission of the materials is required by the Commission and the request for confidentiality is denied, the materials will be made available for public inspection.*

KMRI herewith submits the information voluntarily. Should the Commission determine that the information will not be afforded confidential treatment, KMRI requests that the Commission agree to consider a submission of the information, with the confidential materials therein redacted.

In the unlikely event that the Commission should inexplicably deny this request, it should be considered as a petition for deferral of any duty to pay off the errant regulatory fee due to financial hardship, for purposes of satisfying Section 1.1166 of the Rules.

Please call Barry Wood of this firm or the undersigned if you have any questions regarding this matter.

Yours truly,



Paul H. Brown  
counsel for  
KMRI Radio, LLC

kkb  
enc.

KMRI RADIO, LLC  
STATEMENTS OF ASSETS AND LIABILITIES  
December 31, 2000 and 1999

Unaudited

	ASSETS	
	2000	1999
Current assets:		
Cash in bank	1,724	9,265
Total current assets	1,724	9,265
Fixed assets:		
Buildings & Equipment	601,595	601,595
Less accumulated depreciation	(139,129)	(87,319)
Total fixed assets	462,466	514,276
Other assets:		
	464,190	523,541
<b>LIABILITIES AND MEMBERS' EQUITY</b>		
Current liabilities:		
Total current liabilities	0	0
Total long term liabilities	0	0
Members' equity:		
Members' capital	634,561	634,561
Retained earnings	(126,020)	(44,629)
Less distributions	15,000	15,000
Profit (loss) for period	(59,351)	(81,391)
Total Members' equity	464,190	523,541
	464,190	523,541

See Accountants compilation report

KMRI RADIO, LLC  
STATEMENT OF REVENUES AND EXPENDITURES  
12 Months Ended December 31, 2000 and 1999

Unaudited

	2000	1999
	-----	-----
Revenue:		
Sales	21,734	27,374
	-----	-----
	21,734	27,374
Cost of sales:		
Purchases	0	15,900
	-----	-----
	0	15,900
	-----	-----
Gross profit	21,734	11,474
Costs and expenses:		
Accounting and legal	4,393	4,054
Advertising	5,589	545
Bank charges	207	72
Depreciation	51,810	57,319
Insurance	412	402
Postage	123	73
Rent	6,000	6,600
Repairs and Maintenance	1,064	4,679
Taxes	1,203	4,057
Utilities	10,281	10,146
Wages	0	4,918
	-----	-----
	61,062	92,865
	-----	-----
Income (loss) from operations	(59,348)	(81,391)
	-----	-----

See Accountants compilation report

KMRI RADIO, LLC  
STATEMENT OF CASH FLOW  
12 Months Ended December 31, 2000

Unaudited

CASH PROVIDED BY OPERATIONS:	
Net earnings (loss) for the period	(59,351)
Items not requiring use of cash:	
Depreciation and amortization	51,810
	-----
Total cash provided by operations	(7,541)
USES OF CASH TO SUPPORT OPERATIONS:	
Decrease (increase) in working capital, exclusive of cash:	
	-----
Total funds used by operations	0
	-----
Net increase (decrease) in cash from operations	(7,541)
CASH PROVIDED BY FINANCIAL ACTIVITIES:	
Cash contributed by owners	0
	-----
	0
	-----
TOTAL CASH GENERATED	(7,541)
	-----
CASH USED BY FINANCING:	
	0
	-----
TOTAL CASH USED	0
	-----
INCREASE/(DECREASE) IN CASH	(7,541)
CASH AT BEGINNING OF YEAR	9,264
	-----
CLOSING CASH	1,723
	-----

See Accountants compilation report



KMRI RADIO, LLC  
STATEMENTS OF REVENUES AND EXPENDITURES  
12 Months Ended December 31, 2001 and 2000

Unaudited

	2001	2000
Revenue:		
Sales	17,796	21,732
Cost of sales:	0	0
Gross profit	17,796	21,732
Costs and expenses:		
Accounting and legal	826	4,393
Advertising	2,359	5,590
Bank charges	223	207
Depreciation	46,506	51,810
Insurance	377	412
Licences and dues	800	151
Postage	0	(28)
Rent	7,200	6,000
Repairs and Maintenance	290	1,064
Taxes	658	1,203
Utilities	5,190	10,281
Income (loss) from operations	(46,633)	(59,351)

See Accountants compilation report

KMRI RADIO, LLC  
STATEMENT OF CASH FLOW  
12 Months Ended December 31, 2001

Unaudited

<b>CASH PROVIDED BY OPERATIONS:</b>	
Net earnings (loss) for the period	(46,633)
Items not requiring use of cash:	
Depreciation and amortization	46,506
	-----
Total cash provided by operations	(127)
<b>USES OF CASH TO SUPPORT OPERATIONS:</b>	
Decrease (increase) in working capital, exclusive of cash:	
	-----
Total funds used by operations	0
	-----
Net increase (decrease) in cash from operations	(127)
<b>CASH PROVIDED BY FINANCIAL ACTIVITIES:</b>	
Cash contributed by members	0
	-----
	0
	-----
<b>TOTAL CASH GENERATED</b>	(127)
	-----
<b>CASH USED BY FINANCING:</b>	
	0
	-----
<b>TOTAL CASH USED</b>	0
	-----
<b>INCREASE/(DECREASE) IN CASH</b>	(127)
<b>CASH AT BEGINNING OF YEAR</b>	1,724
	-----
<b>CLOSING CASH</b>	1,597
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See Accountants compilation report

KMRI RADIO, LLC  
STATEMENTS OF REVENUES AND EXPENDITURES  
7 Months Ended July 31, 2002 and 2001

Unaudited

	2002	2001
Revenue:		
Sales	13,656	10,804
	-----	-----
	13,656	10,804
Cost of sales:		
	-----	-----
	0	0
	-----	-----
Gross profit	13,656	10,804
Costs and expenses:		
Accounting and legal	264	251
Advertising	688	1,885
Bank charges	85	108
Depreciation	24,362	27,129
Insurance	377	377
Licences and dues	0	600
Rent	4,200	4,800
Repairs and Maintenance	55	0
Taxes	1,028	658
Utilities	4,114	3,841
	-----	-----
	35,173	39,649
	-----	-----
Income (loss) from operations	(21,517)	(28,845)
	-----	-----

See Accountants compilation report

KMRI RADIO, LLC  
STATEMENT OF CASH FLOW  
7 Months Ended July 31, 2002

Unaudited

<b>CASH PROVIDED BY OPERATIONS:</b>	
Net earnings (loss) for the period	(21,519)
Items not requiring use of cash:	
Depreciation and amortization	24,362
	-----
Total cash provided by operations	2,843
<b>USES OF CASH TO SUPPORT OPERATIONS:</b>	
Decrease (increase) in working capital, exclusive of cash:	
	-----
Total funds used by operations	0
	-----
Net increase (decrease) in cash from operations	2,843
<b>CASH PROVIDED BY FINANCIAL ACTIVITIES:</b>	
Cash contributed by members	0
	-----
	0
	-----
<b>TOTAL CASH GENERATED</b>	<b>2,843</b>
	-----
<b>CASH USED BY INVESTING:</b>	
Aquisition of property and equipment	1,000
<b>CASH USED BY FINANCING:</b>	
	0
	-----
<b>TOTAL CASH USED</b>	<b>1,000</b>
	-----
<b>INCREASE/(DECREASE) IN CASH</b>	<b>1,843</b>
<b>CASH AT BEGINNING OF YEAR</b>	<b>1,597</b>
	-----
<b>CLOSING CASH</b>	<b>3,440</b>
	=====

See Accountants compilation report