

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

MAR 2 2005

OFFICE OF  
MANAGING DIRECTOR

David Tillotson, Esq.  
4606 Charleston Terrace, NW  
Washington, D.C. 20007-1911

Re: FYs 2001, 2002, 2003 and 2004 Regulatory  
Fees for Station WQSN (AM)  
Fee Control No. 0209068885517001

Dear Mr. Tillotson:

This is in response to your request filed on behalf of Fairfield Broadcasting Corporation (Fairfield) for refund of regulatory fees for the fiscal years (FYs) 2001, 2002, 2003 and 2004 for Station WQSN (AM) (WQSN).<sup>1</sup> You provide documentation that shows that Fairfield paid regulatory fees in all four years for WQSN, for a total of \$5,705.00.<sup>2</sup> As explained below, we are granting your request for a refund of those regulatory fees.

In your request, you cite to paragraph 35 of the *Notice of Proposed Rulemaking, Assessment and Collection of Regulatory Fees for Fiscal Year 2005*, 20 FCC Rcd 3885 (2005) (NPRM), where the Commission discussed the issue of the uncertainty of the fee status of AM Expanded Band radio service.<sup>3</sup> In the Report and Order in that proceeding, the Commission concluded it does not "require AM Expanded Band radio stations to pay section 9 regulatory fees for their expanded band AM stations at this time." *Report and Order, Assessment and Collection of Regulatory Fees for Fiscal Year 2005*, 20 FCC Rcd 12,259, ¶¶ 24, 25 (2005) (Report and Order).

A review of our records confirms that Fairfield paid regulatory fees for WQSN for FYs 2001 through 2004 and that WQSN is an expanded band station, broadcasting at 1660 kHz in the AM expanded band. Accordingly, we will refund the regulatory payments for WQSN for the years in question. We will forward a check for \$5,705.05 (\$280 for FY 2001, \$1,575.00 for FY 2002, \$1,925.00 for FY 2003, and \$1,925.00 for FY 2004) to Fairfield Broadcasting Company, as requested.<sup>4</sup>

We bring to your attention that expanded band stations may be subject to regulatory fees in the future. In the Report and Order, the Commission stated:

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<sup>1</sup> Refund Request from David Tillotson on behalf of Fairfield Broadcasting Corporation, dated February 16, 2005 (Tillotson Letter).

<sup>2</sup> Tillotson Letter, Attachment entitled "FCC RAMIS Account Receivables," p. 3.

<sup>3</sup> Tillotson Letter, p. 1.

<sup>4</sup> The instant request is dated February 16, 2005, one day subsequent to release of the NPRM cited above, in which the Commission acknowledged uncertainty in the fee status of the subject stations. In view of these circumstances, we do not consider the request to be untimely filed for any of the fee years in question.

We will continue to refrain from requiring AM Expanded Band radio stations to pay section 9 regulatory fees for their stations. However, we note that our decision not to require section 9 regulatory fee payments for AM Expanded Band stations is not a permanent exemption from regulatory fees for AM Expanded Band Radio Service. Because the movement to the expanded band is voluntary and helps to reduce interference in the standard bandwidth, we will continue our policy of not subjecting this relatively small group of stations to regulatory fees. However, at some future point when the migration of standard band broadcasters to the Expanded Band has advanced, we may consider establishing section 9 regulatory fee requirements for AM Expanded Band stations.

Report and Order at ¶25.

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

Sincerely,



 Mark A. Reger  
Chief Financial Officer

02090688355/7001

WTS No. 3622

# DAVID TILLOTSON STAMP & RETURN

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February 16, 2005

Mr. Andrew Fischel  
Managing Director  
Federal Communications Commission  
The Portals, 445 Twelfth Street, S.W.  
Washington, D.C. 20554

Re: Request for Refund of Regulatory Fees Paid  
for Expanded Band Station WQSN Facility ID 87325

Dear Mr. Fischel:

I am writing on behalf of Fairfield Broadcasting Company ("FBC") to request a refund of regulatory fees that FBC paid for expanded band Station WQSN, Kalamazoo, Michigan, for fiscal years 2001 through 2004 in the following amounts

FY 2001	\$ 280.00 (construction permit fee)
FY 2002	\$1,575.00
FY 2003	\$1,925.00
FY 2004	\$1,925.00

Total Refund \$5,705.00

Attached hereto are copies of remittance advices showing the regulatory fees that FBC paid with respect to Station WQSN for FY 2001 and FY 2002 and Reports showing the regulatory fees that FBC paid through the FCC's on line Fee Filer system in FY 2003 and FY 2004.

This refund request is based upon the Commission's acknowledgment at paragraph 35 of the *Notice for Proposed Rulemaking re Assessment and Collection of Regulatory Fees for Fiscal Year 2005* (MD Docket No. 05-59) released February 15, 2005 that "[u]ncertainty about the fee status of AM Expanded Band stations may exist because AM Expanded Band radio service is not among our categories for general exemptions from regulatory fees, as defined in 47 CFR 1.1162," and its clarification in that same paragraph that "licensees of AM Expanded Band radio stations—stations authorized for broadcast in the 1605-1705 kHz range—are not required to pay regulatory fees for such stations."

FBC paid regulatory fees with respect to Station WQSN in FY 2001 through FY 2004 based on the fact that both the Schedules J (list of AM and FM station regulatory fees) to the Reports and Orders adopted with respect to regulatory fees in each of those fiscal years and the broadcast

regulatory fee look up system that the FCC made available on line in each of those fiscal years incorrectly (as it now appears) listed expanded band Station WQSN as being liable for the fees that FBC paid for the station in those years. A copy of the page from Schedule J for FY 2003 showing WQSN as being liable for a regulatory fee in the amount of \$1,925.00 is attached hereto. (The undersigned did not retain copies of Schedule J for the other years in question).

Since the Commission has now "clarified" that licensees of expanded band stations have never been obligated to pay regulatory fees and since FBC mistakenly believed that it was obligated to pay regulatory fees for WQSN, on pain of incurring a 25% penalty if the fees were not paid on time, based upon the Commission specifically identifying WQSN as a station for which regulatory fees were owed, FBC is entitled to a full and prompt refund of the \$5,705.00 in fees that it paid.

Sincerely,

David Tillotson

c: Mark Reger (with attachments) (via email)