



PUBLIC NOTICE

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

News media information 202 / 418-5000
Fax-On-Demand 202 / 418-2830
Internet: <http://www.fcc.gov>
<ftp.fcc.gov>

DA-06-1644

DOCKET FILE COPY ORIGINAL

Before the
Federal Communications Commission
Washington, D.C. 20554

PUBLIC NOTICE

Released: August 16, 2006

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:

Borinquen Broadcasting Co., Inc. - Request for waiver of the late payment penalties for the FY 2005 regulatory fees. **Denied** (June 28, 2006) [See 47 C.F.R. §1.1164]

International Broadcasting Corporation - WGIT (AM) Request for refund of FY 2003 and 2004 regulatory fees. **Granted** (June 9, 2006) [See 47 C.F.R. §1.1160(a)(1)]

KCOH, Inc. - Request for waiver of FY 2005 regulatory fee late payment penalty. **Denied** (June 28,

2006) [See FY 2005 Report and Order at ¶¶ 45-49; 47 U.S.C. §159; 47 C.F.R. §1.1157]

LD Telecommunications, Inc. - Request for waiver of FY 2005 regulatory fee late payment penalty. **Denied** (June 10, 2006) [See 47 U.S.C. § 159(c)]

On Top Communications of Georgia, LLC. Request for waiver of FY 2005 regulatory fee. **Granted** (May 31, 2006) [See Implementation of Section 9 of the Communications Act, 10 FCC Rcd 12759, 12761-62, ¶¶ 13-14 (1995)]

On Top Communications of Louisiana LLC. - Request for waiver of FY 2005 regulatory fee. **Granted** (June 2, 2006) [See Implementation of Section 9 of the Communications Act, 10 FCC Rcd 12759, 12761-62, ¶¶ 13-14 (1995)]

On Top Communications of Virginia, LLC. Request for waiver of FY 2005 regulatory fee. **Granted** (June 2, 2006) [See Implementation of Section 9 of the Communications Act, 10 FCC Rcd 12759, 12761-62, ¶¶ 13-14 (1995)]

Ortiz Broadcasting Corporation - KTRG (TV) Request for deferment and reduction of FYs 2004 and 2005 regulatory fees. **Granted** (June 7, 2006) [See Implementation of Section 9 of the Communications Act, 10 FCC Rcd 12759, 12761-62 (1995)]

Hardman Broadcasting, Inc – WMBH (AM)
Request for waiver of FY 2005 regulatory fee. **Denied**
(June 9, 2006) [See Implementation of Section 9 of
the Communications Act, 9 FCC Rcd 5333, 5346
(1994), recon. granted, 10 FCC Rcd 12759 (1995)]

World Television of Washington, LLC. - KBCB
(TV) Request Partial refund of FY 2004 regulatory
fees. **Granted** (June 15, 2006) [See Implementation of
Section 9 of the Communications Act, 10 FCC Rcd
12759, 12763 (1995)]

**NOTE: ANY QUESTIONS REGARDING THIS
REPORT SHOULD BE DIRECTED TO THE
REVENUE AND RECEIVABLES OPERATIONS
GROUP AT (202) 418-1995.**

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

FILE

OFFICE OF
MANAGING DIRECTOR

June 28, 2006

DOCKET FILE COPY ORIGINAL

Susan A. Marshall, Esq.
Sima N. Chowdhury, Esq.
Fletcher, Heald & Hildreth, P.L.C.
1300 North 17th St., 11th Floor
Arlington, VA 22209

Re: Borinquen Broadcasting Co., Inc.
FY 2005 Regulatory Fees
Fee Control No. 0603038835816001

Dear Counsel:

This is in response to your request dated February 28, 2006 (*Request*), for waiver of the penalties for late payment of the Fiscal Year (FY) 2005 regulatory fees filed on behalf of Borinquen Broadcasting Co., Inc. (Borinquen), licensee of Stations WVJP-FM and WVJP(AM), Caguas, Puerto Rico, and auxiliary stations WLD760 and KP3620 (the Stations). Our records reflect that Borinquen paid the \$10,020.00 FY 2005 regulatory fees for these stations, but did not pay the \$2,500.00 late charge penalties associated with Stations WVJP-FM and WVJP(AM).¹ For the reasons stated herein, we deny your request.

You recite that Borinquen "timely submitted a payment by credit card on September 6, 2005 for . . . its 2005 regulatory fees [which were due on September 7, 2005.]"² You state that on September 8, 2005, Commission staff informed "Borinquen's Secretary and Director, Sandra Rodriguez . . . that the credit card payment . . . was less than the full amount due[.]"³ You assert that during this conversation on September 8, 2005, "Ms. Rodriguez authorized [Commission staff] . . . to charge the same credit card number provided in its September 6, 2005 submission for the total amount due[.]"⁴ You state

¹ Specifically, the FY 2005 regulatory fees for Stations WVJP-FM, WVJP(AM), WLD760, and KP3620 are \$7,025.00, \$2,975.00, \$10.00, and \$10.00, respectively (*i.e.*, \$10,020.00), and the late charge penalties for Stations WVJP-FM and WVJP(AM) are \$1,756.25 and \$743.75, respectively (*i.e.*, \$2,500.00), for a total of \$12,520.00.

² *Request* at 1.

³ *Id.*

⁴ *Id.* at 1-2.

that “upon receipt of the fee deficiency letters [from the Revenue and Receivables Operations Group of the Office of Managing Director dated January 31, 2006], Ms. Rodriguez determined that this charge was not made and the payment was never processed.”⁵ “[A]cknowledg[ing] that it must re-submit” the regulatory fees, Borinquen subsequently submitted a payment of \$10,020.00 in connection with the FY 2005 regulatory fees for the four stations.⁶

Our records reflect that on September 6, 2005, Borinquen submitted by facsimile to the Commission two identical FCC Forms 159, FCC Admittance Advice (Forms 159), authorizing payment of FY 2003 (as opposed to FY 2005) regulatory fees for the Stations in the amount of \$10,000.00.⁷ Specifically, the Forms 159 submitted by Borinquen identify the payment type codes for Stations WVJP-FM, WVJP(AM), WLD760, and KP3620 as 0352, 0327, 0369, and 0369, respectively, and thus as regulatory fee payments for FY 2003.⁸ Thus, to the extent Borinquen intended the Forms 159 to be in payment of FY 2005 regulatory fees for the Stations, the forms included neither the correct payment type codes, the accuracy of which is critical to ensuring the proper crediting of a licensee’s regulatory fee payments, nor the correct payment amount.⁹ As a result, the Forms 159 submitted on September 6, 2005 and the associated payments were not processed by Mellon Bank, the Commission’s lockbox bank, or the Commission.¹⁰ Our

⁵ *Id.* at 2.

⁶ *Id.*

⁷ Borinquen had no outstanding FY 2003 regulatory fees for the Stations on September 6, 2005.

⁸ See Regulatory Fees Fact Sheet, What You Owe – Media Services Licensees at 2 (July 2003). In contrast, the payment type codes for Stations WVJP-FM, WVJP(AM), WLD760, and KP3620 for FY 2005 are 0552, 0527, 0569, and 0569, respectively. See Regulatory Fees Fact Sheet, What You Owe – Media Services Licensees for FY 2005 at 2 (July 2005). This regulatory fee fact sheet provides general information regarding payment codes and regulatory fees and is available on the Commission’s website (*i.e.*, <http://www.fcc.gov/fees/regfees.html>), as is the specific information relating to the payment codes and regulatory fees for the stations at issue here. See <http://www.fcc.gov/fees/regfees.html#how> and <http://www.fcc.gov/fcc-bin/callsign.pl> (“2005 AM & FM Radio Station Fees Search Page”).

⁹ As noted above, the FY 2005 regulatory fees for the Stations are \$10,020.00.

¹⁰ We note that an FCC Form 159 must accompany standard regulatory fee payments such as those at issue here. See 47 C.F.R. §1.1157(c). We further note that the instructions associated with FCC Form 159 state that “[i]ncorrect or omitted payment type codes may result in your application or filing being returned to you without further processing.” See FCC Remittance Advice, FCC Form 159, Advice Reference Guide: How to Use FCC Form 159-Remittance Advice, Section C; see also Payment Methods and Procedures for Fiscal Year 2005 Regulatory Fees, *Public Notice*, 2005 WL 1773771

records also show that the Commission did not receive a corrected FCC Form 159 or full payment of the FY 2005 regulatory fees for the Stations by September 7, 2005, the filing deadline.¹¹

The Communications Act of 1934, as amended, requires the Commission to assess a penalty of 25 percent on any regulatory fee not paid in a timely manner.¹² The Commission's rules provide that a timely payment is one received at the Commission's lockbox bank by the due date.¹³ 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 Borinquen met this obligation with respect to Stations WVJP-FM and WVJP(AM) by submitting the FY 2005 regulatory fees by September 7, 2005, the filing deadline. Therefore, your request is denied.

Payment of the \$2,500.00 penalty for late payment of Borinquen's FY 2005 regulatory fees is now due. The late charge penalty of \$2,500.00 should be submitted, together with a Form 159 (copy enclosed), within 30 days of the day of this letter. If you have any questions concerning this matter, please contact the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,



Mark Stephens
Acting Chief Financial Officer

Enclosure

(Jul. 27, 2005) ("Failure to properly complete FCC Forms 159/159-C will delay the processing of your regulatory fee payment.").

¹¹ We note that the \$10,020.00 payment that Borinquen authorized Commission staff to make on September 8, 2005, was not only untimely for purposes of the FY 2005 regulatory fees, but was declined by the bank that issued the credit card on September 12, 2005. See 47 C.F.R. §1.1164 (credit card payment that is uncollectible is also considered late filed). Borinquen did not succeed in making full payment and providing a corrected FCC Form 159 until it submitted its waiver request on February 28, 2006.

¹² 47 U.S.C. §159(c)(1).

¹³ 47 C.F.R. §1.1164.

ANN BAVENDER*
HARRY F. COLE
ANNE GOODWIN CRUMP
VINCENT J. CURTIS, JR.
JOSEPH M. DI SCIPIO*
PAUL J. FELDMAN
JEFFREY J. GEE*
FRANK R. JAZZO
M. SCOTT JOHNSON*
MITCHELL LAZARUS
STEPHEN T. LOVELADY*
HARRY C. MARTIN
ALISON J. MILLER
FRANCISCO R. MONTERO
RAYMOND J. QUIANZON
MICHAEL W. RICHARDS*
JAMES P. RILEY
KATHLEEN VICTORY
HOWARD M. WEISS

* NOT ADMITTED IN VIRGINIA

FLETCHER, HEALD & HILDRETH, P.L.C.

ATTORNEYS AT LAW

11th FLOOR, 1300 NORTH 17th STREET

ARLINGTON, VIRGINIA 22209

OFFICE: (703) 812-0400

FAX: (703) 812-0486

www.fhhlaw.com

RETIRED MEMBERS
RICHARD HILDRETH
GEORGE PETRUTSAS
CONSULTANT FOR INTERNATIONAL AND
INTERGOVERNMENTAL AFFAIRS
SHELDON J. KRYS
U. S. AMBASSADOR (ret.)
OF COUNSEL
DONALD J. EVANS
EDWARD S. O'NEILL*
ROBERT M. GURSS*
EUGENE M. LAWSON, JR.
WRITER'S DIRECT

petro@fhhlaw.com
703-812-0453

April 4, 2006

06030388381600/

By Hand Delivery

Marlene H. Dortch, Esquire
Secretary
Federal Communications Commission
445 12th Street, S.W. – TW-B204
Washington, DC 20554

ATTN: Revenue & Receivables Operation Group

**RE: Bill For Collection – 0620000105
Borinquen Broadcasting Co., Inc. – FRN: 0005-0221-16**

Dear Ms. Dortch:

Borinquen Broadcasting Co., Inc. ("Borinquen"), by and through its attorneys, hereby responds to the Bill for Collection #0620000105, dated March 6, 2006 (the "Bill"), regarding the purported late payment of the 2005 Regulatory Fee for Station WVJP(AM), Caguas, Puerto Rico. In light of the information provided below, which has been previously provided to the Commission's staff, Borinquen respectfully requests that its responsibility for the submission of the fees requested be waived, and that the Bill be cancelled.

By way of background, Borinquen timely submitted a payment of its 2005 Regulatory Fees on September 6, 2005, with payment by credit card. Due to a typographical error, the FCC Form 159, Box 2, prepared by Borinquen did not accurately indicate the total amount due. A Commission staff member, Ms. Theresa Meeks, contacted Borinquen, and received authorization to make the necessary changes, and to charge the appropriate fee for the 2005 Regulatory Fees.

Inexplicably, the revised payment was not processed by the Commission's staff, even though Borinquen had specifically authorized this charge. Instead, Borinquen was not charged for any regulatory fees until February 2006, when it received two deficiency letters from the Commission. Borinquen promptly paid the 2005 Regulatory Fees on February 28, 2006, and respectfully requested that the penalty be cancelled due to the Commission's error (the "February Letter"). A copy of the February Letter is attached as Exhibit A.

Marlene H. Dortch, Esquire

April 4, 2006

Page 2

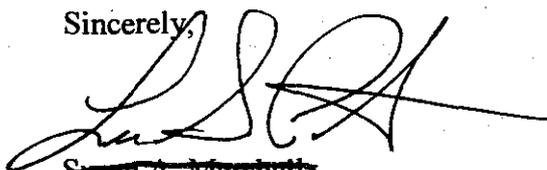
Upon receipt of the Bill, undersigned counsel contacted the Commission's staff in the Revenue and Receivable Operations Group of the Office of the Managing Director to request that the Bill be cancelled in light of the February Letter. Rather than acting on the request in the February Letter, undersigned counsel was informed by Ms. Loretta Edwards of the Revenue and Receivable Operations Group that Borinquen must submit an additional filing, in the context of responding to the Bill, and specifically request a "waiver" of the penalty amount. Since the February Letter did not include a "waiver" request, undersigned counsel was informed that an additional filing was necessary.

While Borinquen respectfully submits that the request contained in the February Letter sufficiently explained the basis for the Commission's avoidance of any penalty against Borinquen, in order to expedite the process, and to reach a final resolution of this matter, Borinquen hereby requests a waiver of the penalty assessed in the Bill, and requests that the Bill be cancelled. As clearly demonstrated in the attached documentation, Borinquen authorized the submission of the regulatory fees in September 2005, and took immediate steps upon notice that the FCC had not taken the necessary steps to process the regulatory fees payment in September 2005.

Whether fashioned as a "request" in the February Letter, or as a "waiver" in the instant submission, Borinquen should not be held responsible for payment of a penalty that would not have been created if Borinquen's payment had been properly processed in September 2005. Therefore, Borinquen respectfully requests that it be relieved of any responsibility with respect to Bill for Collection #0620000105, and that the Bill be cancelled.

Should there be any questions regarding this matter, please contact undersigned counsel.

Sincerely,



~~Susan A. Marshall~~

Lee G. Petro

Counsel for Borinquen Broadcasting Co., Inc.

Enclosures

cc: Anthony Dale, Acting Managing Director
Mark Stephens, Acting Chief Financial Officer
Ms. Theresa Meeks
Ms. Loretta Edwards
Office of the Managing Director

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

Adama

OFFICE OF
MANAGING DIRECTOR

June 9, 2006

Richard F. Swift, Esq.
Irwin, Campbell & Tannenwald, P.C.
1730 Rhode Island Ave., N.W.
Suite 200
Washington, D.C. 20036-3101

DOCKET FILE COPY ORIGINAL

Re: International Broadcasting Corporation
Station WGIT(AM)
FYs 2003 and 2004 Regulatory Fees
Fee Control No. 0408208835498001 and
0309268835072001

Dear Mr. Swift:

This is in response to your request dated February 28, 2006 (*Request*), filed on behalf of International Broadcasting Corporation (IBC) for a refund of the Fiscal Years (FY) 2003 and 2004 regulatory fees associated with Station WGIT(AM), Canovanas, Puerto Rico. Our records reflect that IBC filed a \$4,500.00 regulatory fee for Station WGIT(AM) for both FY 2003 and FY 2004. For the reasons stated herein, we grant your request.

You state, and our records confirm, that Station WGIT(AM) is an AM Expanded Band station. You assert that as an Expanded Band station, WGIT(AM) is "exempt from the payment of [regulatory fees.]"¹ We agree that the Commission does not require licensees of AM Expanded Band radio stations, *i.e.*, stations authorized for broadcast in the 1605-1705 kHz range, to pay regulatory fees for such stations.² Because Station WGIT(AM) is an AM Expanded Band station, we find a refund is warranted for the fiscal years in question. See 47 C.F.R. §1.1160(a)(1). Accordingly, your request is granted.

A check made payable to the maker of the original check, and drawn in the amount of \$9,000.00, will be sent to you at the earliest practicable time. If you have any questions concerning this matter, please call the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,



Mark Stephens
Acting Chief Financial Officer

¹ *Request* at 1.

² See *Assessment and Collection of Regulatory Fees for Fiscal Year 2005, Report and Order*, 20 FCC Rcd 12259, 12267 (2005) (explaining that "our decision not to require . . . regulatory fee payments for AM Expanded Band stations is not a permanent exemption" but a current policy).

IRWIN, CAMPBELL & TANNENWALD, P.C.

ATTORNEYS AT LAW
1730 RHODE ISLAND AVENUE, N.W.
SUITE 200
WASHINGTON, D.C. 20036-3101
(202) 728-0400
FAX (202) 728-0354
<http://www.ictpc.com>

ORIGINAL

0408208835498001
0309268835072001

RICHARD F. SWIFT
DIRECT LINE: (202) 777-3989
rswift@ictpc.com

February 28, 2006

RECEIVED - FCC

FEB 28 2006

Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Federal Communication Commission
Bureau / Office

Attention: Managing Director

Re: Radio Station WGIT(AM)
Facility ID 87150
Canovanas, Puerto Rico
Request for Refund of
2003 and 2004 Regulatory Fees

RECEIVED
2006 MAR -1 P
FEDERAL COMMUNICATIONS COMMISSION

Dear Sir:

On behalf of International Broadcasting Corporation (IBC), licensee of expanded band broadcast station WGIT, 1660 KHz, Canovanas, Puerto Rico, refund of the regulatory fees paid by IBC for Station WGIT in 2003 and 2004 in the amount of \$4,500 for each year is respectfully requested. A regulatory fee for Station WGIT was not paid in 2005 because the Commission had determined that expanded band stations are exempt from the payment of such a fee. Report and Order and Order on Reconsideration, FCC 05-137, MD Docket No. 05-59, para. 34-36, released July 7, 2005. In consequence, payment of the regulatory fees of \$4,500 for 2003 and 2004 for Station WGIT was not required and refund to IBC of those fees aggregating \$9,000 is therefore in order.

Enclosed with this letter are copies of Forms 159 reflecting payment of these regulatory fees for Station WGIT in 2003 (Exhibit 1) and 2004 (Exhibit 2).

Should any questions arise with respect to this request, please communicate with this office.

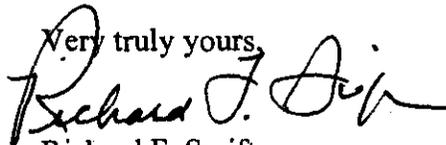
Very truly yours,

Richard F. Swift

EXHIBIT 1

IRWIN, CAMPBELL & TANNENWALD, P.C.
ATTORNEYS AT LAW
1730 RHODE ISLAND AVENUE, N.W.
SUITE 200
WASHINGTON, D.C. 20036-3101
(202) 728-0400
FAX (202) 728 0354
<http://www.ictpc.com>

RICHARD F. SWIFT
(202) 728-0401, Ext. 113
rswift@ictpc.com

September 24, 2003

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
Media Bureau
P. O. Box 358835
Pittsburgh, PA 15251-5835

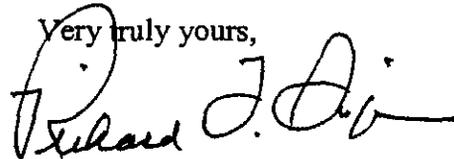
Re: International Broadcasting Corporation
FY 2003 Regulatory Fee

Dear Ms. Dortch:

Forwarded herewith, on behalf of International Broadcasting Corporation, are FCC Form 159 and a check in the amount of \$18,265.00 in payment of the regulatory fees associated with Stations WGIT, WIBS, WMTI, WVOZ-FM, WTCV, WVOZ-TV, WIVE-LP, WCHQ, and their auxiliary stations.

Should any questions arise concerning this submission, please communicate with this office.

Very truly yours,



Richard F. Swift

RFS:dab

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

DOCKET FILE COPY ORIGINAL

OFFICE OF
MANAGING DIRECTOR

June 28, 2006

Mike Petrizzo
Executive Vice President
KCOH, Inc.
5011 Almeda Road
Houston, TX 77004

Re: Request to Waive Late Payment Penalty
For FY 2005 Regulatory Fee for KCOH
Fee Control No. 0602078340886639
Bill No. 06RE000961

Dear Mr. Petrizzo:

This is in response to your request for waiver of the late payment penalty associated with the fiscal year (FY) 2005 regulatory fee for Radio Station KCOH (KCOH).¹ Our records reflect that on February 7, 2006, subsequent to the September 7, 2005 payment deadline,² we received a \$6,843.75 payment, including \$5,475.00 for KCOH's FY 2005 regulatory fee and \$1,368.00 for the penalty. As explained below, your request for waiver of the 25 per cent penalty is denied.

In support of your Request, you state that you never received notice of the September 7, 2005 payment due date, either from the FCC or any other source. You add that you recall always receiving a notice in writing regarding the dollar amount due for KCOH and the due date. You maintain that you would have paid the fee in an expedient manner had you received such notice. You request that we review KCOH's exemplary record of timely payments in the past. You allege that the late payment was not KCOH's fault and request that we waive the penalty.³

In FY 2003, the Commission determined that it would use its website rather than surface mail to disseminate regulatory fee public notices to inform its regulatees when regulatory fees were due.⁴ In the *FY 2005 Report and Order*, the Commission stated that it would

¹ Waiver Request from Mike Petrizzo, Executive Vice President, KCOH, dated Feb. 6, 2006 (Request).

² *Public Notice, Payment Methods and Procedures for Fiscal Year 2005 Regulatory Fees*, 20 FCC Rcd 12567 (2005) (*FY 2005 Reg Fee Deadline Public Notice*).

³ Request at 1-2.

⁴ *Assessment and Collection of Regulatory Fees for Fiscal Year 2003*, Report and Order, 18 FCC Rcd 15985, ¶¶ 17-19 (2003); *Assessment and Collection of Regulatory Fees for Fiscal Year 2004*, Report and Order, 19 FCC Rcd 11662, ¶¶ 33-34 (2004); *Assessment and Collection of Regulatory Fees for Fiscal Year 2005*, Report and Order, 20 FCC Rcd 12259, ¶ 27 (2005) (*FY 2005 Report and Order*).

generate public notices and fact sheets that notify regulatees of the fee payment due date and would make these items and other relevant fee payment information available on its website.⁵ Accordingly, the Commission took great care to inform its licensees of the FY 2005 due dates, amounts of the fees, and payment methods in public notices and on its website, www.fcc.gov.⁶

The Commission's rules are clear that licensees such as KCOH are required to pay to the Commission an annual regulatory fee in a timely manner.⁷ It is the obligation of the licensees responsible for regulatory fee payments to ensure the Commission receives the fee payment no later than the final date on which regulatory fees are due for the year.⁸ Your request does not indicate or substantiate compliance with this obligation. As a Commission licensee, KCOH is charged with the responsibility to familiarize itself with the Commission's rules and requirements. Therefore, KCOH's lack of familiarity with the Commission's rules governing and public notices concerning regulatory fee payments and due dates does not mitigate or excuse KCOH's failure to pay its FY 2005 regulatory fee in a timely manner. The Commission has repeatedly held that "[l]icensees are expected to know and comply with the Commission's rules and regulations and will not be excused for violations thereof, absent clear mitigating circumstances." *Sitka Broadcasting Co., Inc.*, 70 FCC 2d 2375, 2378 (1979), citing *Lowndes County Broadcasting Co.*, 23 FCC 2d 91 (1970) and *Emporium Broadcasting Co.*, 23 FCC 2d 868 (1970). Furthermore, the Communications Act of 1934, as amended, requires the Commission to assess a late payment penalty of 25 percent on any regulatory fee not paid in a timely manner.⁹

In addition to providing information regarding regulatory fees to all licensees on its website, for some services the Commission provides additional information by mail to assist those licensees.¹⁰ For media services, the Commission generates regulatory fee assessment postcards on a per-facility basis.¹¹ By providing this additional assistance to

⁵ *FY 2005 Report and Order* at ¶ 27.

⁶ See *FY 2005 Reg Fee Deadline Public Notice* at 1 (stating in first sentence that licensees and regulatees must make annual regulatory fees payments by 11:59 PM September 7, 2005); *Public Notice, Fee Filer Now Available for 2005 Regulatory Fees*, 20 FCC Rcd 23325 (2005) (including centered, bold printed statement "Due Date for Paying Regulatory Fees is September 7, 2005").

⁷ See *FY 2005 Report and Order* at ¶¶ 45-49; 47 U.S.C. §159; 47 C.F.R. §1.1157.

⁸ *Id.*

⁹ 47 U.S.C. §159(c).

¹⁰ See *FY 2005 Report and Order* at ¶ 28.

¹¹ *Id.* at ¶ 34.

Mike Petrizzo, Executive Vice President

3.

licensees, however, the Commission did not state or in any way suggest that licensees who did not receive a mailed postcard, for whatever reason, were relieved of their responsibility to pay their regulatory fees in a timely manner. Thus, KCOH's assertion that it did not receive written notice prior to the due date does not excuse or cancel its obligation to timely pay its FY 2005 regulatory fee.¹²

For the reasons discussed above, we deny your request to waive the penalty for late payment of the FY 2005 regulatory fee.

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

Sincerely,



Mark Stephens
Acting Chief Financial Officer

¹² To obtain the information needed to pay its regulatory fee by the September 7, 2005 due date, KCOH could have either used the Commission's website or contacted the Commission by telephone, as directed in the *FY 2005 Report and Order*. See *FY 2005 Report and Order* at ¶ 27.



5011 ALMEDA
HOUSTON, TEXAS 1770041
PHONE AREA CODE 713 522-1001

FCC/MZLLON

FEB 10 2006

0602078340 8866 39

6875

MIKE PETRIZZO
EXEC. VICE PRESIDENT

**Federal Communications Commission
P.O. Box 358340
Pittsburgh, PA 15251-5340**

**Attn: M. Washington, Acting Chief
Revenue & Receivables Operations Group**

**Re: KCOH
Re: 06RE000961**

February 6, 2006

Gentlemen:

I am enclosing FCC Form 159B, duly executed, with a copy being mailed today to FCC, Revenue & Receivables Operations Group P.O. Box 358340, Pittsburgh, PA 15251-5340.

With this copy, I am indicating a payment of \$5,475.00, be made with KCOH credit Card- American Express No. [REDACTED] 3001, expiration date, [REDACTED]
Payment type Code: KCOH 0580 *NUMBER ON THE FACE OF THE CARD: 9051*
FCC Code: 33737

Applicant FRN No. 0004983268 – Bill Dated: 1/31/06
This notice was received in my office today- Feb. 6, 2006.

I must apologize for this late payment, as I never received any notice of due payment no later than Sept. 7, 2005, either from the FCC or any other source. I would certainly have paid this amount before the due date, but if I recall, I always receive a notice from the FCC, in writing, regarding what dollar amount is due from KCOH, and before what date. If I had received such a notice, this matter would have been taken care of in a most expedient manner. Please review KCOH's past experience in

FEB 16 REC'D

ABOVE ALL . . . established community service and results

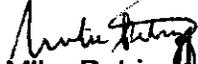
February 6, 2006

payment of regulatory fees to the FCC- and you will find our experience in paying had been most exemplary.

I therefore must ask you, in view of these facts, that you wave the 25% penalty of \$1,368.75, as the late payment was of no fault of KCOH. Thank you for your consideration.

Respectfully yours,

KCOH RADIO STATION



Mike Petrizzo

Executive Vice President/
General Manager

MP/sh

Enclosure

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

Adama

OFFICE OF
MANAGING DIRECTOR

DOCKET FILE COPY ORIGINAL

June 10, 2006

Juan Carlos Canto
Chief Financial Officer
LD Telecommunications, Inc.
2801 Ponce De Leon Blvd.
Suite 860
Coral Gables, FL 33134

Re: Request to Waive Late Payment Penalty
For FY 2005 Regulatory Fee for LD
TeleCom
Fee Control No. 0601198365088001
Bill No. 05RE007136

Dear Mr. Canto:

This is in response to your request for waiver of a late payment penalty associated with the fiscal year (FY) 2005 regulatory fee for LD Telecommunications, Inc. (LD TeleCom).¹ Our records reflect that on January 19, 2006, subsequent to the September 7, 2005 payment deadline,² we received a \$6,104.70 payment for LD Telecom's FY 2005 regulatory fee, but we have not received the \$1,526.18 penalty. As explained below, your request for waiver of the 25 percent penalty is denied.

In support of your request, you state that on December 21, 2005 you received a communication from the FCC regarding a past due balance in the amount of \$7,630.99, comprised of \$6,104.70 for the FY 2005 regulatory fee and \$1,526.18 for the penalty. You maintain that this was the first time you received notification of the amounts owed as your company moved its offices in July 2005. You theorize that the invoice was sent to your previous address, 444 Bricknell Avenue, Suite P-60, Miami, FL 33131. You request that we waive the penalty as you never received the invoice and thus were unaware that payment was due.³

¹ Waiver Request from Juan Carlos Canto, Chief Financial Officer, LD Telecom, dated January 23, 2006 (Canto Request).

² Public Notice, *Payment Methods and Procedures for Fiscal Year 2005 Regulatory Fees*, 20 FCC Rcd 12567 (2005) (FY 2005 Reg Fee Deadline Public Notice).

³ Canto Request at 1.

Since FY 2003, the Commission has used its website rather than surface mail to disseminate regulatory fee public notices to inform all those required to pay regulatory fees the date the fees were due.⁴ In the *FY 2005 Report and Order*, the Commission stated that it would generate public notices and fact sheets to notify all those required to pay FY 2005 regulatory fees of the fee payment due date and would make available this and other relevant fee payment information on its website.⁵ Accordingly, the Commission took great care to inform its regulatees and licensees of the FY 2005 due dates, amounts of the fees, and payment methods in public notices and on its web site, www.fcc.gov.⁶

The Commission's rules are clear that regulatees such as LD Telecom are required to pay to the Commission an annual regulatory fee in a timely manner.⁷ It is the obligation of the regulatees responsible for regulatory fee payments to ensure the Commission receives the fee payment no later than the final date on which regulatory fees are due for the year.⁸ Your request does not indicate or substantiate compliance with this obligation. As a Commission regulatee, LD Telecom is charged with the responsibility to familiarize itself with the Commission's rules and requirements. The Commission has repeatedly held that "[l]icensees are expected to know and comply with the Commission's rules and regulations and will not be excused for violations thereof, absent clear mitigating circumstances." *Sitka Broadcasting Co., Inc.*, 70 FCC 2d 2375, 2378 (1979), citing *Lowndes County Broadcasting Co.*, 23 FCC 2d 91 (1970) and *Emporium Broadcasting Co.*, 23 FCC 2d 868 (1970). Furthermore, the Communications Act of 1934, as amended, requires the Commission to assess a late charge penalty of 25 percent on any regulatory fee not paid in a timely manner.⁹

We also note that for Interstate Telecommunications Service Providers (ITSP), such as LD Telecom, beginning in FY 2001, the Commission began sending a pre-completed FCC Form 159-W, which shows the amount due, to carriers in an effort to assist them in

⁴ *Assessment and Collection of Regulatory Fees for Fiscal Year 2003*, Report and Order, 18 FCC Rcd 15985 ¶¶ 17-19 (2003); *Assessment and Collection of Regulatory Fees for Fiscal Year 2004*, Report and Order, 19 FCC Rcd 11662 ¶¶ 33-34 (2004); *Assessment and Collection of Regulatory Fees for Fiscal Year 2005*, Report and Order, 20 FCC Rcd 12259 ¶ 27 (2005) (FY 2005 Report and Order).

⁵ *FY 2005 Report and Order* at ¶ 27.

⁶ See FY 2005 Reg Fee Deadline Public Notice at 1 (stating in first sentence that licensees and regulatees must make annual regulatory fees payments by 11:59 PM September 7, 2005); *Public Notice, Fee Filer Now Available for 2005 Regulatory Fees*, 20 FCC Rcd 23,325 (2005) (including centered, bold printed statement "Due Date for Paying Regulatory Fees is September 7, 2005").

⁷ See *FY 2005 Report and Order* at ¶¶ 45-49; 47 U.S.C. §159; 47 C.F.R. §1.1157.

⁸ *Id.*

⁹ 47 U.S.C. §159(c).

paying the ITSP regulatory fee.¹⁰ Moreover, the *Regulatory Fees Fact Sheet: What You Owe—Interstate Telecommunications Service Providers* provided detailed instructions to help ITSPs pay their ITSP regulatory fees, including what an ITSP should do if it did not receive a bill.¹¹ Thus, LD Telecom's assertion that it never received notification or an invoice prior to the due date does not excuse or cancel its obligation to timely pay its FY 2005 regulatory fee.¹²

For the reasons discussed above, we deny your request to waive the penalty for late payment of the FY 2005 regulatory fee.

Payment of the penalty of \$1,526.18 is now due. It should be submitted, together with a copy of Bill Number 05RE007136, within 30 days of the date of this letter. If you have any questions concerning this matter, please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,



Mark Stephens
Acting Chief Financial Officer

¹⁰ See *Assessment and Collection of Regulatory Fees for Fiscal Year 2001*, Report and Order, 16 FCC Rcd 13525, 13590, ¶ 67 (2001).

¹¹ *Regulatory Fees Fact Sheet, What You Owe—Interstate Telecommunications Service Providers*, July 2005 at 4 (ITSP Fact Sheet). Our records indicate that Form 159-W was mailed to LD Telecom in July, 2005 at its address of record: 444 Bricknell Ave., Suite P-60, Miami FL 33131. That is the same address that appeared on LD Telecom's 499-A submission on April 1, 2005, three months earlier. It is your responsibility to make sure that LD Telecom's correct address is on file with the Commission. To change LD Telecom's mailing address, you may either file an FCC Form 5027, which can be downloaded from our website, or may file electronically by using the CDDBS electronic filing system.

¹² Moreover, as noted, LD Telecom should have been fully aware of the Commission's assessment and billing methods for ITSPs not only from the Public Notices, Fact Sheets, and the Report and Orders available on our website, but also because the Commission has been sending Form 159-W's to each ITSP since FY 2001. See *FY 2005 Report and Order* at ¶¶ 29-30. As directed in the FY 2005 Report and Order, LD Telecom could have either used the Commission's website or contacted the Commission by telephone to obtain the information needed to pay its regulatory fee by the September 7, 2005 due date. *Id.* at ¶ 27.



060198365098001
 FY 05 Payment was received
 01/19/06 \$6,104.70
 Penalty of 1,526.18 outstanding
 Coral Gables, FL - January 23, 2006

FEDERAL COMMUNICATION COMISSION

445 12th St. SW
 Washington D.C. 20554
 Att. Accounts Receivables Department

RE: Letter 05RE007136

To whom it may concern,

On December 21, 2005, LD Telecommunications INC received a communication from the FCC regarding a past due balance in the amount of \$7,630.99, which comprised of \$6,104.70 for 2005's the Annual Regulatory Fee; and a Penalty of \$1,526.18. This was the first time we received notification of the amounts owed as our company moved its offices on July 2005, and imagine the invoice was sent to the previous address (444 Brickell Ave., Suite P-60, Miami FL 33131). Payment in the amount of \$6,104.70 was issued on January 12, 2006 covering the regulatory fees due. However, we would kindly request the FCC to wave the penalty of \$1,526.18 as we never received the invoice and thus unaware that payment was due.

We thank you in advance for your consideration.



Sincerely,
JUAN CARLOS CANTO
 Chief Financial Officer
 Tel. 305.503.5267
 Fax: 305.371.2329
 Email: Jcanto@ldtelecom.com

RECEIVED FCC/POSTOG

JAN 3 2006

BY: _____

RECEIVED FCC/POSTOG

JAN 3 0 2006

BY: _____

MAR 16 REC'D

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

Adama

OFFICE OF
MANAGING DIRECTOR

DOCKET FILE COPY ORIGINAL

May 31, 2006

Dawn M. Sciarrino
Patricia M. Chuh
Sciarrino & Associates, PLLC
5425 Tree Line Drive
Centreville, VA 20120-1676

Re: On Top Communications
of Georgia, LLC
Regulatory Fees Waiver Request
Fee Control No. RROG-06-00006907

Dear Counsel:

We have reviewed the January 3, 2006, request on behalf of On Top Communications of Georgia, LLC (On Top Communications Georgia) for waiver of regulatory fees for fiscal year (FY) 2005.¹ On Top Communications Georgia is licensee of the following stations: WFFM (FM), Ashburn, Georgia; WLE401; WRXZ (FM), Sylvester, Georgia; KPM406, and WMF735. For the reasons set forth below, we grant your request for waiver of \$1,705.00 in regulatory fees due for FY 2005.²

Based on proof of bankruptcy filed pursuant to Chapter 11 of the Federal Bankruptcy Code of the United States,³ we find that you established evidence of financial hardship and good cause to warrant granting the requested relief from the Section 9⁴ regulatory fees. *Implementation of Section 9 of the Communications Act*, 10 FCC Rcd 12759, 12761-62, ¶¶ 13-14 (1995) (evidence of bankruptcy or receivership is sufficient to establish financial hardship).

¹ Petition for Waiver and Deferral of FY 2005 Regulatory Fees, filed January 3, 2006 on behalf of On Top Communications of Georgia. (Petition). See Petition, at 1.

² By this letter, we are also granting your request for a deferral of the requirement to submit the fees until a decision is rendered on the request for the waiver, making unnecessary the payment of a 25 % late payment penalty.

³ The licensee filed at Attachment 1 of its Petition copies of the Notice of Chapter 11 Bankruptcy Case for On Top Communications of Georgia, LLC (licensee and debtor-in-possession) (Case No. 05-27042), dated August 1, 2005, United States Bankruptcy Court, District of Maryland; and Notice of Chapter 11 Bankruptcy Case for On Top Communications, LLC (parent company of licensee) (Case No. 05-27037), dated August 1, 2005, United States Bankruptcy Court, District of Maryland.

⁴ 47 U.S.C. § 159.

Therefore, your request is granted. If you have any questions concerning this letter, you may call the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,

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

Mark Stephens
Acting Chief Financial Officer

SCIARRINO & ASSOCIATES, PLLC
BROADCAST LEGAL SERVICES

Dawn M. Sciarrino
dawn@sciarrinolaw.com
www.SciarrinoLaw.com

January 3, 2006

RR06-06-00006908

VIA FEDERAL EXPRESS - STANDARD

Federal Communications Commission
Office of the Managing Director
445 12th Street, S.W., Room 1-A625
Washington, D.C. 20554

Attn: Regulatory Fee Waiver/Reduction Request

**Re: REQUEST FOR WAIVER AND DEFERMENT OF FY 2005
REGULATORY FEES AND LATE PAYMENT PENALTIES
Licensee: On Top Communications of Louisiana, LLC
FRN: 0008-0028-83
KNOU(FM), Empire, Louisiana (FIN 89100)
WPSS604
WPSS609**

Dear Sir/Madam:

On Top Communications of Louisiana, LLC ("Licensee"), the licensee of the above-referenced stations, by its counsel and pursuant to Section 1.1166 of the Commission's rules, hereby respectfully requests a waiver of Section 1.1153 with regard to the FY 2005 annual regulatory fees owed by the Licensee. In lieu of submitting the FY 2005 regulatory fees and pursuant to Section 1.1166(c) of the Commission's rules, the Licensee requests a deferment of the submission of the FY 2005 regulatory fees and late payment penalties as well as a waiver of these fees based on financial hardship. A total of \$745.00 in FY 2005 regulatory fees plus a 25% late payment penalty is owed by the Licensee.

On July 29, 2005, the Licensee and its parent company, On Top Communications, LLC, filed voluntary petitions for bankruptcy in the US Bankruptcy Court, District of Maryland, seeking to reorganize under Chapter 11 of the US Bankruptcy Code. See attached Notice of Chapter 11 Bankruptcy Case for On Top Communications of Louisiana, LLC (Case No. 05-27043); Notice of Chapter 11 Bankruptcy Case for On Top Communications, LLC (Case No. 05-27037). As such, the Licensee is currently operating as a debtor-in-possession. On January 3, 2006, the Licensee filed an involuntary pro forma assignment of license application on FCC Form 316 to assign the licenses for the above-referenced stations to the Licensee, as debtor-in-possession (CDBS File No. 20060103ACN). This application is currently pending before the Commission.

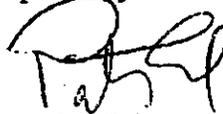
5425 TREE LINE DR. CENTREVILLE, VA 20120-1676
703.830.1679 (phone) 703.991.7120 (fax)

In light of the Chapter 11 bankruptcy proceeding, the Licensee requests a deferment of the submission of the FY 2005 regulatory fees and late payment penalties as well as a waiver of these fees based on financial hardship. The Commission's grant of such a waiver is in the public interest and consistent with the Commission's precedent. Section 1.1166 provides for a waiver of regulatory fees "where good cause is shown and where waiver, reduction or deferral of the fees would promote the public interest." 47 C.F.R. §1.1166. It has been long established by the Commission that reorganization under Chapter 11 bankruptcy is sufficient in and of itself to demonstrate financial hardship. *See Implementation of Section 9 of the communications Act*, 10 FCC Rcd 12,759, 12761-62 (1995); Letter from Mark A. Reger, Chief Financial Officer, Office of Managing Director, FCC, to Stuart W. Nolan, Jr. (dated May 25, 2005) (granting waiver of FY 2003 and FY 2004 regulatory fees for licensee undergoing Chapter 11 bankruptcy when the request for waiver was filed on December 7, 2004, January 5, 2005, and February 23, 2005 and the licensee filed for Chapter 11 bankruptcy on November 3, 2000).

As evidenced by the Chapter 11 bankruptcy proceeding, the Licensee is in financial distress. Further, as established by Commission precedent, it is in the public interest for the FCC to grant a deferral and waiver of the FY 2005 regulatory fees and late payment penalties for the above-referenced stations so that the Licensee may conserve its financial resources and use them to continue operating the stations. Accordingly, the Licensee hereby respectfully requests that the Commission defer the submission of the FY 2005 regulatory fees and late payment penalties as well as grant a waiver of these fees based on financial hardship.

Should any questions arise concerning this matter, please contact the undersigned counsel.

Respectfully submitted,



Dawn M. Sciarrino
Patricia M. Chuh

Encls.

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

Ntana

OFFICE OF
MANAGING DIRECTOR

DOCKET FILE COPY ORIGINAL
June 2, 2006

Dawn M. Sciarrino
Patricia M. Chuh
Sciarrino & Associates, PLLC
5425 Tree Line Drive
Centreville, VA 20120-1676

Re: On Top Communications
of Louisiana, LLC
Regulatory Fees Waiver Request
Fee Control No. RROG-06-00006908

Dear Counsel:

We have reviewed the January 3, 2006, request on behalf of On Top Communications of Louisiana, LLC (On Top Communications Louisiana) for waiver of regulatory fees for fiscal year (FY) 2005.¹ On Top Communications Louisiana is licensee of the following stations: KNOU (FM), Empire, Louisiana; WPSS604; and WPSS609. For the reasons set forth below, we grant your request for waiver of \$ 745.00 in regulatory fees due for FY 2005.²

Based on proof of bankruptcy filed pursuant to Chapter 11 of the Federal Bankruptcy Code of the United States,³ we find that you established evidence of financial hardship and good cause to warrant granting the requested relief from the Section 9⁴ regulatory fees. *Implementation of Section 9 of the Communications Act*, 10 FCC Rcd 12759, 12761-62, ¶¶ 13-14 (1995) (evidence of bankruptcy or receivership is sufficient to establish financial hardship).

¹ Petition for Waiver and Deferral of FY 2005 Regulatory Fees, filed January 3, 2006 on behalf of On Top Communications Louisiana. (Petition). See Petition, at 1.

² By this letter, we are also granting your request for deferral of the requirement to submit the fees until a decision is rendered on the request for the waiver, making unnecessary the payment of a 25 % late payment penalty.

³ The licensee filed at Attachment 1 of its Petition copies of the Notice of Chapter 11 Bankruptcy Case for On Top Communications of Louisiana, LLC (licensee and debtor-in-possession) (Case No. O5-27043), dated August 1, 2005, United States Bankruptcy Court, District of Maryland; and Notice of Chapter 11 Bankruptcy Case for On Top Communications, LLC (parent company of licensee) (Case No. O5-27037), dated August 1, 2005, United States Bankruptcy Court, District of Maryland.

⁴ 47 U.S.C. § 159.

Dawn M. Sciarrino & Patricia M. Chuh

2.

Therefore, your request is granted. If you have any questions concerning this letter, you may call the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,



Mark Stephens
Acting Chief Financial Officer

SCIARRINO & ASSOCIATES, PLLC
BROADCAST LEGAL SERVICES

Dawn M. Sciarrino
dawn@sciarrinolaw.com
www.SciarrinoLaw.com

January 3, 2006

~~008~~
~~RRG-06-0006885~~
RRG-06-0006907

VIA FEDERAL EXPRESS - STANDARD

Federal Communications Commission
Office of the Managing Director
445 12th Street, S.W., Room 1-A625
Washington, D.C. 20554

Attn: Regulatory Fee Waiver/Reduction Request

**Re: REQUEST FOR WAIVER AND DEFERMENT OF FY 2005
REGULATORY FEES AND LATE PAYMENT PENALTIES
Licensee: On Top Communications of Georgia, LLC
FRN: 0008-0027-19
WFFM(FM), Ashburn, Georgia (FIN 72056)
WLE401
WRXZ(FM), Sylvester, Georgia (FIN 33058)
KPM406
WMF735**

Dear Sir/Madam:

On Top Communications of Georgia, LLC ("Licensee"), the licensee of the above-referenced stations, by its counsel and pursuant to Section 1.1166 of the Commission's rules, hereby respectfully requests a waiver of Section 1.1153 with regard to the FY 2005 annual regulatory fees owed by the Licensee. In lieu of submitting the FY 2005 regulatory fees and pursuant to Section 1.1166(c) of the Commission's rules, the Licensee requests a deferment of the submission of the FY 2005 regulatory fees and late payment penalties as well as a waiver of these fees based on financial hardship. A total of \$1,705.00 in FY 2005 regulatory fees plus a 25% late payment penalty is owed by the Licensee.

On July 29, 2005, the Licensee and its parent company, On Top Communications, LLC, filed voluntary petitions for bankruptcy in the US Bankruptcy Court, District of Marland, seeking to reorganize under Chapter 11 of the US Bankruptcy Code. See attached Notice of Chapter 11 Bankruptcy Case for On Top Communications of Georgia, LLC (Case No. 05-27042); Notice of Chapter 11 Bankruptcy Case for On Top Communications, LLC (Case No. 05-27037). As such, the Licensee is currently operating as a debtor-in-possession. On January 3, 2006, the Licensee filed an involuntary pro forma assignment of license application on FCC Form 316 to assign the licenses for the above-referenced stations to the Licensee, as debtor-in-

5425 TREE LINE DR. CENTREVILLE, VA 20120-1676
703.830.1679 (phone) 703.991.7120 (fax)

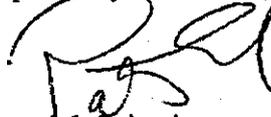
possession (CDBS File No. 20060103ACG). This application is currently pending before the Commission.

In light of the Chapter 11 bankruptcy proceeding, the Licensee requests a deferment of the submission of the FY 2005 regulatory fees and late payment penalties as well as a waiver of these fees based on financial hardship. The Commission's grant of such a waiver is in the public interest and consistent with the Commission's precedent. Section 1.1166 provides for a waiver of regulatory fees "where good cause is shown and where waiver, reduction or deferral of the fees would promote the public interest." 47 C.F.R. §1.1166. It has been long established by the Commission that reorganization under Chapter 11 bankruptcy is sufficient in and of itself to demonstrate financial hardship. *See Implementation of Section 9 of the communications Act*, 10 FCC Rcd 12,759, 12761-62 (1995); Letter from Mark A. Reger, Chief Financial Officer, Office of Managing Director, FCC, to Stuart W. Nolan, Jr. (dated May 25, 2005) (granting waiver of FY 2003 and FY 2004 regulatory fees for licensee undergoing Chapter 11 bankruptcy when the request for waiver was filed on December 7, 2004, January 5, 2005, and February 23, 2005 and the licensee filed for Chapter 11 bankruptcy on November 3, 2000).

As evidenced by the Chapter 11 bankruptcy proceeding, the Licensee is in financial distress. Further, as established by Commission precedent, it is in the public interest for the FCC to grant a deferral and waiver of the FY 2005 regulatory fees and late payment penalties for the above-referenced stations so that the Licensee may conserve its financial resources and use them to continue operating the stations. Accordingly, the Licensee hereby respectfully requests that the Commission defer the submission of the FY 2005 regulatory fees and late payment penalties as well as grant a waiver of these fees based on financial hardship.

Should any questions arise concerning this matter, please contact the undersigned counsel.

Respectfully submitted,



Dawn M. Sciarrino
Patricia M. Chuh

Encls.

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

Adams

DOCKET FILE COPY ORIGINAL

OFFICE OF
MANAGING DIRECTOR

June 2, 2006

Dawn M. Sciarrino
Patricia M. Chuh
Sciarrino & Associates, PLLC
5425 Tree Line Drive
Centreville, VA 20120-1676

Re: On Top Communications
of Virginia, LLC
Regulatory Fees Waiver Request
Fee Control No. RROG-06-00006904

Dear Counsel:

We have reviewed the January 3, 2006, request on behalf of On Top Communications of Virginia, LLC (On Top Communications Virginia) for waiver of regulatory fees for fiscal year (FY) 2005.¹ On Top Communications Virginia is licensee of WWHV (FM), Virginia Beach, Virginia. For the reasons set forth below, we grant your request for waiver of \$3,750.00 in regulatory fees due for FY 2005.²

Based on proof of bankruptcy filed pursuant to Chapter 11 of the Federal Bankruptcy Code of the United States,³ we find that you established evidence of financial hardship and good cause to warrant granting the requested relief from the Section 9⁴ regulatory fees. *Implementation of Section 9 of the Communications Act*, 10 FCC Rcd 12759, 12761-62, ¶¶ 13-14 (1995) (evidence of bankruptcy or receivership is sufficient to establish financial hardship).

¹ Petition for Waiver and Deferral of FY 2005 Regulatory Fees, filed January 3, 2006 on behalf of On Top Communications of Virginia. (Petition). See Petition, at 1.

² By this letter, we are also granting your request for deferral of the requirement to submit the fees until a decision is rendered on the request for the waiver, making unnecessary the payment of a 25 % late payment penalty.

³ The licensee filed at Attachment 1 of its Petition copies of the Notice of Chapter 11 Bankruptcy Case for On Top Communications of Virginia, LLC (licensee and debtor-in-possession) (Case No. 05-27044), dated August 1, 2005, United States Bankruptcy Court, District of Maryland; and Notice of Chapter 11 Bankruptcy Case for On Top Communications, LLC (parent company of licensee) (Case No. 05-27037), dated August 1, 2005, United States Bankruptcy Court, District of Maryland.

⁴ 47 U.S.C. § 159.

Dawn M. Sciarrino & Patricia M. Chuh

2.

Therefore, your request is granted. If you have any questions concerning this letter, you may call the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Stephens", written in a cursive style.

15 Mark Stephens
Acting Chief Financial Officer

SCIARRINO & ASSOCIATES, PLLC
BROADCAST LEGAL SERVICES

Dawn M. Sciarrino
dawn@sciarrinolaw.com
www.SciarrinoLaw.com

January 3, 2006

VIA FEDERAL EXPRESS - STANDARD

Federal Communications Commission
Office of the Managing Director
445 12th Street, S.W., Room 1-A625
Washington, D.C. 20554

Attn: Regulatory Fee Waiver/Reduction Request

**Re: REQUEST FOR WAIVER AND DEFERMENT OF FY 2005
REGULATORY FEES AND LATE PAYMENT PENALTIES
Licensee: On Top Communications of Virginia, LLC
FRN: 0008-0029-41
WVHV(FM), Virginia Beach, Virginia (FIN 14327)**

Dear Sir/Madam:

On Top Communications of Virginia, LLC ("Licensee"), the licensee of the above-referenced stations, by its counsel and pursuant to Section 1.1166 of the Commission's rules, hereby respectfully requests a waiver of Section 1.1153 with regard to the FY 2005 annual regulatory fees owed by the Licensee. In lieu of submitting the FY 2005 regulatory fees and pursuant to Section 1.1166(c) of the Commission's rules, the Licensee requests a deferment of the submission of the FY 2005 regulatory fees and late payment penalties as well as a waiver of these fees based on financial hardship. A total of \$3,750.00 in FY 2005 regulatory fees plus a 25% late payment penalty is owed by the Licensee.

On July 29, 2005, the Licensee and its parent company, On Top Communications, LLC, filed voluntary petitions for bankruptcy in the US Bankruptcy Court, District of Marland, seeking to reorganize under Chapter 11 of the US Bankruptcy Code. See attached Notice of Chapter 11 Bankruptcy Case for On Top Communications of Virginia, LLC (Case No. 05-27044); Notice of Chapter 11 Bankruptcy Case for On Top Communications, LLC (Case No. 05-27037). As such, the Licensee is currently operating as a debtor-in-possession. On January 3, 2006, the Licensee filed an involuntary pro forma assignment of license application on FCC Form 316 to assign the licenses for the above-referenced stations to the Licensee, as debtor-in-possession (CDBS File No. 20060103ACK). This application is currently pending before the Commission.

5425 TREE LINE DR. CENTREVILLE, VA 20120-1676
703.830.1679 (phone) 703.991.7120 (fax)

In light of the Chapter 11 bankruptcy proceeding, the Licensee requests a deferment of the submission of the FY 2005 regulatory fees and late payment penalties as well as a waiver of these fees based on financial hardship. The Commission's grant of such a waiver is in the public interest and consistent with the Commission's precedent. Section 1.1166 provides for a waiver of regulatory fees "where good cause is shown and where waiver, reduction or deferral of the fees would promote the public interest." 47 C.F.R. §1.1166. It has been long established by the Commission that reorganization under Chapter 11 bankruptcy is sufficient in and of itself to demonstrate financial hardship. *See Implementation of Section 9 of the communications Act*, 10 FCC Rcd 12,759, 12761-62 (1995); Letter from Mark A. Reger, Chief Financial Officer, Office of Managing Director, FCC, to Stuart W. Nolan, Jr. (dated May 25, 2005) (granting waiver of FY 2003 and FY 2004 regulatory fees for licensee undergoing Chapter 11 bankruptcy when the request for waiver was filed on December 7, 2004, January 5, 2005, and February 23, 2005 and the licensee filed for Chapter 11 bankruptcy on November 3, 2000).

As evidenced by the Chapter 11 bankruptcy proceeding, the Licensee is in financial distress. Further, as established by Commission precedent, it is in the public interest for the FCC to grant a deferral and waiver of the FY 2005 regulatory fees and late payment penalties for the above-referenced stations so that the Licensee may conserve its financial resources and use them to continue operating the stations. Accordingly, the Licensee hereby respectfully requests that the Commission defer the submission of the FY 2005 regulatory fees and late payment penalties as well as grant a waiver of these fees based on financial hardship.

Should any questions arise concerning this matter, please contact the undersigned counsel.

Respectfully submitted,



Dawn M. Sciarrino

Patricia M. Chuh

Encls.

Adana

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

OFFICE OF
MANAGING DIRECTOR

DOCKET FILE COPY ORIGINAL
June 7, 2006

James A. Stenger
Thelen Reid & Priest LLP
Counsel for Ben B. Floyd, Trustee,
Ortiz Broadcasting Corporation
701 Pennsylvania Avenue, N.W.
Suite 800
Washington, DC 20004

Re: KTRG (TV), Del Rio, Texas
Request for Deferment of FY 2004 and
FY 2005 Regulatory Fees
Fee Control No. 00000RROG-05-054

Dear Mr. Stenger:

This responds to your June 15, 2005, letter on behalf of Ben B. Floyd, Trustee for Ortiz Broadcasting Corporation (Ortiz Broadcasting), requesting deferment and reduction of the regulatory fees for fiscal years (FYs) 2004 and 2005 for KTRG (TV) in Del Rio, Texas. You request deferment on grounds of financial hardship because Ortiz Broadcasting is in bankruptcy. In support of fee reduction, you assert that KTRG (TV) was assessed a fee of \$29,175, due for stations in DMA markets 26-50, but should be assessed a fee of \$4,050, due for stations in "Remaining Markets." Our records indicate that you have not paid the regulatory fees at issue.

In support of your request, on July 14, 2005 and September 8, 2005, you submitted additional documentation, which shows that Ortiz Broadcasting filed a petition for Chapter 11 bankruptcy in the U.S. Bankruptcy Court, Southern District of Texas, on June 3, 2002. The documentation also shows that Ortiz remained in bankruptcy through and including September 7, 2005, the close of the FY 2005 fee window.

The Commission will grant waivers of its regulatory fees on a sufficient showing of financial hardship. Evidence of bankruptcy or receivership at the time the fees are due is sufficient to establish financial hardship. See Implementation of Section 9 of the Communications Act, 10 FCC Rcd 12759, 12761-62 (1995) (waivers granted for licensees whose stations are bankrupt, undergoing Chapter 11 reorganization, or in receivership). Based on the documents you submitted concerning Ortiz Broadcasting's bankruptcy status, we will grant a waiver of the regulatory fees for FY 2004 and FY 2005.¹

¹ In light of this result, it is unnecessary to address your "Remaining Markets" argument for fee reduction.

James A. Stenger

2.

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. Stephens', with a stylized flourish at the end.

 Mark A. Stephens
Acting Chief Financial Officer

James A. Stenger
202.508.4308 Direct Dial
202.654.1805 Direct Fax
jstenger@thelenreid.com

701 Pennsylvania Avenue, N.W., Suite 800
Washington, DC 20004
Tel. 202.508.4000
Fax 202.508.4321
www.thelenreid.com

RECEIVED FCC

2005 JUN 16 P 2:23

FINANCIAL INSTITUTIONS
CENTER

June 15, 2005

Marlene H. Dortch, Secretary
Federal Communications Commission
c/o Natek, Inc.
236 Massachusetts Avenue, N.E., Suite 110
Washington, DC 20002

Attention: Ms. Claudette E. Pride, Chief Group
Revenue & Receivables Operations

Re: Ortiz Broadcasting Corporation, Licensee of KTRG (TV), Del Rio, Texas
Letter 05RE002982
FRN: 0003750643
Request for Deferment of Regulatory Fees for 2004 and 2005
And Request for Reduction of Regulatory Fees

Dear Sir/Madam:

On behalf of Mr. Ben B. Floyd, court-appointed Chapter 11 trustee in bankruptcy for Ortiz Broadcasting Corporation ("OBC"), we are responding to the Commission's letter of May 19, 2005, regarding overdue regulatory fees, copy attached hereto as Exhibit 1. The Commission approved the involuntary transfer of control of OBC to Mr. Floyd as trustee on April 6, 2005, in File No. BTCCT 20050323ADQ, copy attached hereto as Exhibit 2. As the Commission will note, KTRG is the lead call sign but OBC also is the licensee of several LPTV stations.

Request for Deferment of Regulatory Fees for 2004 and 2005

OBC respectfully requests a deferment of the 2004 and 2005 regulatory fees for KTRG and the listed LPTV stations on the grounds that OBC is in bankruptcy. Mr. Floyd is actively seeking a buyer for the assets of OBC. We fully expect that any contract will include a condition that the buyer pay in full any outstanding regulatory fees as we understand that failure to do so could delay or prevent Commission approval of an application to assign the licenses to the buyer.

We understand that prior to the appointment of Mr. Floyd as trustee in this matter, OBC (as the Chapter 11 debtor-in-possession), through other counsel, obtained deferments of regulatory fees for 2003 and additional prior years. We also understand that OBC apparently inadvertently overlooked filing a deferment request for 2004. OBC had grounds to request deferral in 2004 as OBC also was in bankruptcy at that time. Accordingly, we respectfully request that the Commission accept this letter as a late-filed request for deferment of the 2004

fees, as well as a request for the deferment of the 2005 fees that will be due in August. Please accept this deferment request as applicable both to KTRG and to the LPTV stations licensed to OBC as shown on the attached consent letter.

We also respectfully request that the Commission forbear from assessing the 25% late payment penalty given that the failure to request deferment in 2004 was inadvertent and we understand deferment was granted in earlier years.

Request for Reduction of Regulatory Fees

We respectfully request that the Commission reduce the \$29,175 annual fee assessed on KTRG to \$4,050. The \$29,175 fee assessed on KTRG is applicable only to stations in the top 26-50 DMA's in the United States. KTRG is located in Del Rio, Texas, a very small community. The fee assessment appears to be based upon an incorrect determination that Del Rio, Texas should be included within the San Antonio, Texas DMA (No. 37) for regulatory fee purposes. While Del Rio, Texas is located in Val Verde County and that county technically is included within the San Antonio DMA, nevertheless, the inclusion of KTRG within the San Antonio DMA for regulatory fee purposes is grossly unrealistic from an economic standpoint and is contrary to Commission precedent.

The economics of operating a television station in the very small community of Del Rio, Texas do not support a regulatory fee intended for stations in the top 26-50 DMAs. The Commission determined that KTRG is located *140 miles* from San Antonio and denied KTRG must carry rights in San Antonio. *See paras. 10 and 13 of the Commission's decision In the Matter of Petition of KBL Cablesystems of the Southwest, Inc., 12 FCC Rcd 21923 1997 FCC Lexis 7107 (CSB Dec. 19, 1997), copy attached hereto as Exhibit 3.* The fact that Neilson has chosen to include Del Rio County in the San Antonio DMA apparently is based upon the fact that some *San Antonio* stations may have viewers in Del Rio County. The converse, however, does not follow. The Commission cannot assume for regulatory fee purposes that KTRG, located in Del Rio, Texas, 140 miles from San Antonio, has any significant coverage in San Antonio.

On the contrary, the Commission specifically held the opposite. The Commission found that KTRG's signal "reaches eastward toward San Antonio only to the western edges of Uvalde and Zavala counties and falls approximately 115 miles short of the relevant [San Antonio] communities." *KBL Cablesystems*, para. 13. It is readily apparent that KTRG cannot draw revenue from San Antonio and cannot support a regulatory fee classification that is based upon a station being in the top 26-50 DMAs. In fact, the Commission flatly stated: "The record contains no evidence that KTRG(TV) is viewed in San Antonio." *KBL Cablesystems*, para. 14.

In examining a map of the area, the Commission will note that Del Rio, Texas, where KTRG is located, is closer to San Angelo, Texas than it is to San Antonio. The Commission also will note that San Angelo, Texas is a much larger city than Del Rio. Yet San Angelo is ranked DMA No. 196 - far outside the top 100 markets. Stations in San Angelo therefore are assessed a fee of \$4,050. Assessment of a fee of \$29,175 on KTRG - a fee 7 times what KTRG would pay if it were located in San Angelo - clearly is inappropriate and unrealistic when KTRG is located in Del Rio, a city that is far smaller than San Angelo.

Accordingly, we respectfully request that the Commission forbear from imposing a \$29,175 fee on KTRG, notwithstanding the inclusion of Val Verde County in the San Antonio, Texas DMA, and instead impose a fee of \$4,050 on KTRG.

Should additional information be necessary in connection with the matter, kindly communicate directly with the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "James A. Stenger". The signature is fluid and cursive, with a large initial "J" and "S".

James A. Stenger

cc: Ben B. Floyd, Esq.
Ortiz Broadcasting Corporation

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554
DOCKET FILE COPY ORIGINAL

Adama

OFFICE OF
MANAGING DIRECTOR

June 9, 2006

James Z. Hardman
Hardman Broadcasting, Inc.
2510 West 20th Street
Joplin, Missouri 64804

Re: WMBH-AM, Joplin, Missouri
Request for Waiver of Regulatory Fees
Fee Control No. RROG-06-00006962

Dear Mr. Hardman:

This responds to your August 26, 2005 letter (Letter)¹ requesting waiver of the fiscal year (FY) 2005 regulatory fee for WMBH-AM, Joplin, Missouri (WMBH), on account of financial hardship. Our records show that the FY 2005 regulatory fee in the amount of \$1,406.25, including late charge penalty, has not been paid. As explained below, your request is denied.

In your Letter, you state that you purchased the station for \$1 and \$75,000 in finance charges, and that you also pay tower and other rental fees.² You further state that your funds are extremely short and that you are unable to pay the regulatory fee at this time.³

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). Regulatees can establish financial hardship by submitting:

information such as a balance sheet and profit and loss statement (audited, if available), a cash flow projection . . . (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. 10 FCC Rcd at 12762.

¹ Letter from James Z. Hardman, Hardman Broadcasting, Inc. to FCC (August 26, 2005).

² *Id.*

³ *Id.*

In reviewing a showing of financial hardship, the Commission relies upon a licensee's cash flow, as opposed to the entity's profits, to determine whether the station lacks sufficient funds to pay the regulatory fee and maintain service to the public. Thus, even if a station loses money, any funds paid to principals, as well as deductions for depreciation and amortization and similar items that do not affect cash flow, are considered funds available to pay the fees.

In the absence of such documentation, or other relevant showing, you have failed to establish a compelling case for relief. Therefore, your request for waiver is denied. Payment of the FY 2005 regulatory fee in the amount of \$1,125, plus a penalty of \$281.25 for late payment of the regulatory fee is now due. The regulatory fee and the late charge penalty (*i.e.*, \$1,406.25) should be filed with a Form FCC 159 (copy enclosed) within 30 days from the date of this letter. However, insofar as you may be relying on financial hardship, in lieu of payment, you may refile the request for relief together with appropriate supporting documentation and a request to further defer payment of the fee, within 30 days from the date of this letter.

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

Sincerely,



Mark Stephens
Acting Chief Financial Officer

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

Adams

DOCKET FILE COPY ORIGINAL

OFFICE OF
MANAGING DIRECTOR

June 15, 2006

Lawrence Rogow, Chairman
World Television of Washington, LLC
4164 Meridian - Suite 102
Bellingham, WA 98226

Re: Request for Reduction of Fiscal Year
2004 Regulatory Fees
World Television of Washington, LLC
KBCB(TV), Bellingham, Washington
Fee Control No. 0408208835411018

Dear Mr. Rogow:

This is in response to your request dated August 22, 2005 (*Request*), filed on behalf of World Television of Washington, LLC (WTW), licensee of KBCB(TV), Channel 24, Bellingham, Washington, for a partial refund of the fiscal year (FY) 2004 regulatory fee. You request a refund reflecting the difference between the regulatory fee that Station KBCB(TV) paid for FY 2004 (\$16,175.00) and the amount charged to UHF television stations in markets 51 through 100 under section 1.1153 of the Commission's rules, 47 C.F.R. §1.1153 (\$5,550.00), *i.e.*, \$10,625.00. Our records reflect that you paid the \$16,175.00 FY 2004 regulatory fee. For the reasons stated herein, we grant your request.

KBCB(TV) is in the Seattle-Tacoma Designated Market Area (DMA), which is the 12th largest market.¹ You recite that KBCB(TV)'s "signal cannot be received over-the-air in either Seattle or Tacoma" and that the station's "Grade B service area can only be received by 817,227 people within the Seattle-Tacoma DMA[, which means that the] . . . signal reaches less than 20 percent of the Seattle-Tacoma DMA populace."² You assert that because "there are 2.62 persons per television households within the Seattle-Tacoma DMA and 311,919 television households within the Grade B service area of KBCB, the [station] . . . is effectively serving a market equivalent to DMA market size number 94 (which is currently Davenport, Iowa)."³ You also state that KBCB(TV) is not a network affiliate.⁴

¹ See *Television & Cable Factbook*, No. 72, A-2186 (2004) (*Factbook*).

² *Request* at 1-2. You attach a map that depicts KBCB(TV)'s Grade B coverage area with a population underlay. See *Request*, Attachment A.

³ *Request* at 2 (citing Attachment A and *BIA's Television Market Report 2005*).

⁴ *Id.* at 2.

In deciding whether to reduce regulatory fees for a television station below the fees assessed for stations in the relevant DMA, the Commission has considered factors such as whether the station is located outside the principal city's metropolitan area, whether it provides a Grade B signal to a substantial portion of the market's metropolitan area, and whether it lacks network affiliation.⁵ Stations that meet these criteria and request fee reductions 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.⁶

For purposes of the FY 2000 regulatory fee, the Office of Managing Director (OMD) found that because KBCB(TV) is not a network affiliate, is located outside the Seattle-Tacoma, Washington metropolitan area, and its Grade B signal (encompassing 79,600 television households) does not serve a substantial portion of the Seattle-Tacoma, Washington metropolitan area (*citing the 2000 Television & Cable Factbook*), KBCB(TV) should be treated as a remaining market station.⁷ Similarly, for purposes of the FYs 2001, 2002, and 2003 regulatory fees, OMD found that circumstances had not changed since the *FY 2000 Letter Decision* so as to affect KBCB(TV)'s qualification for a regulatory fee reduction.⁸ OMD therefore found that KBCB(TV) should be treated as a remaining market station for those years as well.

With respect to the FY 2005 regulatory fee, OMD found that because KBCB(TV) is located outside the principal city's metropolitan area in its assigned DMA, does not provide a Grade B signal to a substantial portion of its market's metropolitan area, and is not a network affiliate, the station had met the Commission's standards for reducing the station's regulatory fee. In the absence of Nielsen data reflecting the number of television households covered by KBCB(TV), OMD found that the data submitted by KBCB(TV) reflected that the station's Grade B contour covered 311,919 television households and thus served households comparable to those served by stations in the 94th

⁵ *Implementation of Section 9 of the Communications Act*, 10 FCC Rcd 12759, 12763 (1995).

⁶ *Id.*

⁷ See Letter from Mark Reger, Chief Financial Officer (CFO), OMD, FCC, to Elizabeth E. Goldin, Esq., Wiley, Rein & Fielding (Feb. 8, 2001) (noting that WTW is under a continuing obligation to report to the Commission any circumstances that could affect KBCB(TV)'s qualification for regulatory fee reduction) (*FY 2000 Letter Decision*).

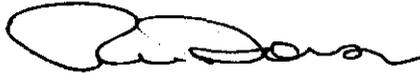
⁸ See Letter from Mark A. Reger, CFO, OMD, FCC, to Eve J. Klindera, Esq., Wiley, Rein & Fielding (Nov. 27, 2001) (refund of FY 2001 regulatory fees); Letter from Mark A. Reger, CFO, OMD, FCC, to Paul Koplín, President, WTW (Jan. 9, 2004) (refund of FY 2002 regulatory fees); Letter from Mark A. Reger, CFO, OMD, FCC, to Brooke Temple, Vice President, WTW (Jan. 9, 2004) (refund of FY 2003 regulatory fees).

DMA. Therefore, for fee purposes, OMD treated KBCB(TV) as comparable to a UHF commercial television station in markets 51 through 100.⁹

It appears from your submission that KBCB(TV)'s circumstances for FY 2004 are substantially similar to those in FY 2005. Accordingly, for the same reason that the station qualified for a regulatory fee reduction in FY 2005, we find that it qualifies for a fee reduction in FY 2004. Specifically, in the absence of Nielsen data reflecting the number of television households covered by KBCB(TV), our review of the data you have submitted reflects that the station's Grade B contour covers 311,919 television households and thus serves households comparable to those served by stations in the 92nd DMA.¹⁰ Under the circumstances, we find that it is appropriate that KBCB(TV) be treated as comparable to a UHF television commercial station in markets 51 through 100 and be subject to a \$5,550.00 regulatory fee for FY 2004. We therefore grant station KBCB(TV) a refund of the FY 2004 regulatory fee in the amount of \$10,625.00.

A check made payable to the maker of the original check and drawn in the amount of \$10,625.00 will be provided at the earliest practicable time. If you have any questions concerning this letter, please call the Revenue & Receivables Operations Group at 418-1995.

Sincerely,



Mark Stephens
Acting Chief Financial Officer

⁹ See Letter from Mark A. Reger, CFO, OMD, FCC, to Lawrence Rogow (Mar. 2, 2006).

¹⁰ See *U.S. TV Household Estimates; September 2003* (Estimates as of January 2004) (Nielsen Media Research, Inc., Media Research Services Group) at 3 (2003 Nielsen Media Research).

world television

4164 Meridian
Suite 302
Bellingham, WA
98225-1717

T-360 830 8872
F-360 847 8204

August 22, 2005

0408208835411018

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VIA OVERNIGHT DELIVERY
Office of the Managing Director
Attn: Regulatory Fee Waiver/Reduction Request
Federal Communications Commission
445 12th Street, S.W.
Room 1-A625
Washington, D.C. 20554

Re: Request for Partial Refund of Regulatory Fees for Fiscal Year 2004
World Television of Washington, LLC
KBCB, Channel 24, Bellingham, Washington
Facility Id. No. 53586

Dear Office of the Managing Director:

As it has over the past few years, World Television of Washington, LLC ("WTW"), licensee of KBCB, Channel 24 at Bellingham, Washington, hereby requests a reduction in its regulatory fees pursuant to "FY2000 Mass Media Regulatory Fees," Public Notice 20318, August 2, 2000.

The Seattle-Tacoma Designated Market Area ("DMA") is a Top 25 DMA and stations in this market are required to pay \$16,175 as their annual regulatory fee in the 2004 Fiscal Year. The Seattle-Tacoma DMA includes 4,432,000 persons. (BIA's Television Year Book 2005).

In the implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year, the Commission concluded that stations that "lack network affiliations, and are located outside of the principle city's metropolitan area and do not provide a grade B signal to a substantial portion of the market's metropolitan areas....will be assessed a fee based on the number of television households served, and will be charged the same as stations serving markets within the same number of television households." 10 FCC Rcd 12759 (1995), paras. 21-22.

KBCB is licensed to Bellingham, Washington, which is in the far northern end of the Seattle-Tacoma DMA. Due to this location, the KBCB signal cannot be received over-the-air in either Seattle or Tacoma. In fact, as illustrated in the attached map of KBCB's Grade B contour (Attachment A), KBCB's Grade B service area can only be

received by 817,227 people within the Seattle-Tacoma DMA. In other words, the KBCB over-the-air signal reaches less than 20% of the Seattle-Tacoma DMA populace. Additionally, KBCB is not a network affiliate. KBCB is predominately a foreign language broadcaster.

Accordingly, WTW believes that circumstances dictate that the KBCB regulatory fees be adjusted in accordance with the Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year, 10 FCC Rcd 12759 (1995), paras. 21-22. As there are 2.62 persons per television household within the Seattle-Tacoma DMA and 311,919 television households within the Grade B service area of KBCB, the Licensee is effectively serving a market equivalent to DMA market size number 94 (which is currently Davenport, Iowa). See BIA's Television Market Report 2005 and Attachment A. Stations in markets 51-100 pay a regulatory fee of \$5,550, which is \$10,625 less than what WTW paid in 2004 as indicated in Attachment B.

~~We therefore request a refund of \$10,625.00.~~

Sincerely,



Lawrence Rogow
Chairman
World Television of Washington, LLC

Attachments.