

DUPLICATE

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON DC 20554

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APR 12 2006

Federal Communications Commission
Office of Secretary

Bill Nos. 05RE004081
06RE001530

7381

RROG-06-00007381

In the Matter of

LA TERR BROADCASTING CORPORATION)
)
)
KTIB (AM), Thibodaux, LA)
(Facility ID 36183))
)
For Regulatory Fee and Penalties)

To: Office of the Secretary
Attention: Office of Managing Director

REQUEST FOR WAIVER OF FEES AND PENALTIES

La Terr Broadcasting Corporation, a Louisiana corporation ("La Terr"), licensee of AM Broadcast Station KTIB ("the Station"), 640 kHz, Thibodaux, Louisiana (Facility ID 36183), pursuant to Section 1.1166 of the Rules, hereby requests (a) waiver of the above-captioned Bill Numbers (copies of which are set forth as Attachment A) for delinquent 2004 and 2005 regulatory fees (in the respective amounts of \$2,925 and \$2975) and associated late payment penalties (in the respective amounts of \$731.25 and \$743.75), a total of \$7,375.00, on financial hardship grounds and (b) removal of the red light status restricting La Terr from doing business with the Commission. In support of such waiver request, the following information is set forth.

The majority (98%) owner of La Terr is Delta Starr Broadcasting, LLC, a Louisiana limited liability company ("Delta Starr"). The equity members of Delta Starr are Michael F. Starr (66.6%) and Vincent Bruno (33.3%).

Set forth as Attachment B are the 2003 and 2004 tax returns for La Terr. In calendar year 2003, La Terr had total income of \$218,385 and expenses \$221,871 resulting in a net loss of

\$3,486. Significantly, in 2003 La Terr paid no salaries to its officers or owners and indeed there were outstanding loans to the La Terr from Michael Starr and Vincent Bruno in the respective amounts of \$68,139 and \$4,000. In calendar year 2004, La Terr's total income declined to \$142,851 with expenses of \$155,854 for a net loss of \$13,003; again, officers and owners received no compensation and outstanding loans to La Terr from Michael Starr and Vincent Bruno had increased to \$108,770 and \$4,494, respectively. No tax return for 2005 has been filed by La Terr as of this date, but as discussed below, the Station has been silent for most of 2005 and La Terr is currently in bankruptcy.

On May 12, 2005, the Station went silent for financial reasons and so notified the Commission and requested Special Temporary Authority (File No. BLSTA-20050512AEY) to remain silent, which request was granted on May 17, 2005; other than operating for a brief period of time on March 30 and March 31, 2006, the Station has remained silent pursuant to special temporary authority.¹

On August 28, 2005, Hurricane Katrina struck New Orleans and the surrounding area, including Thibodaux, resulting in damage to the Station's studio and transmission facilities. Subsequently, in December 2005, the Station's studio building was vandalized and much of the Station's equipment was either stolen or damaged and disabled to the point where the Station can neither originate programming from the studio nor retransmit programming produced off-site and received at the Station via satellite or telephone (all programming must be originated at the transmitter site).

¹ The Station resumed operation for one hour on March 30, 2006 and for three hours on March 31, 2006 in order to preclude termination of its license pursuant to 47 U.S.C. § 312 (g) which provides that if a broadcast station fails to transmit broadcast signals for any consecutive 12 month period, then the station license shall expire at the end of such 12 month period.

On March 8, 2006, Both La Terr and its majority owner, Delta Starr, were converted from Chapter 11 to Chapter 7 in the United States Bankruptcy Court, Eastern District of Louisiana (Bankruptcy Case Nos. 05-12087-Section B and 06-10107-Section B, respectively). See Attachment C for copy of Bankruptcy Court Order. Michael F. Starr, the majority owner of Delta Starr, suffered catastrophic losses to his home and personal property in Slidell, Louisiana as a result of Hurricane Katrina and is currently residing with his family in a FEMA trailer; accordingly, there is no possibility of La Terr being financially restored by its existing owners and investors. Set forth as an Attachment D is the declaration under penalty of perjury of Michael F. Starr as to the truthfulness of the facts set forth herein.

La Terr respectfully submits that the above showing constitutes good cause for waiver of the above-captioned fees and penalties and requests that such relief be expeditiously granted so as to permit the filing of a short-form application (FCC Form 316) for consent to an involuntary transfer of control of La Terr to Michael Chiasson, the court-appointed bankruptcy trustee.

Respectfully submitted

LA TERR BROADCASTING CORPORATION

By



Richard A. Helmick

COHN AND MARKS LLP
1920 N Street, N.W.
Suite 300
Washington, D.C. 20036
(202) 293-3860

Its Counsel

April 12, 2006

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

JUL 26 2006

OFFICE OF
MANAGING DIRECTOR

John Wells King, Esq.
Garvey Schubert Barer
Flour Mill Building
1000 Potomac Street, NW
Fifth Floor
Washington, D.C. 20007-3501

Re: Paul Bunyan Broadcasting Co.
Request for Waiver of Late Charge Penalty
for FY 2005 Regulatory Fees
Fee Control Nos. 0603148340827002 and
0603148340828002

Dear Mr. King:

This is in response to your request dated March 30, 2006 (*Request*), for waiver of the penalty for late payment of the Fiscal Year (FY) 2005 regulatory fees, filed on behalf of Paul Bunyan Broadcasting Co. (PBB), licensee of Stations KBUN and KBHP(FM), Bemidji, Minnesota. Our records reflect that you have paid the \$281.25 FY 2005 regulatory fees for each station (for a total of \$562.50), but not the \$93.00 late charge penalty for each station (for a total of \$186.00). For the reasons stated herein, we deny your request.

You recite that PBB "timely tendered its Form 159 Remittance by letter of transmittal dated August 22, 2005, for payment by credit card."¹ You state that "[i]t was sent to the Commission's lockbox bank fee filing facility at Mellon Bank by UPS overnight, and received and signed for on August 23, 2006[.]"² In support, you submit two UPS documents entitled "Track by Tracking Number" and "Shipment Receipt" indicating that a package was sent by UPS from your office to Mellon Bank on August 23, 2005.³ You assert that PBB "did everything within its power and control to pay its regulatory fee in a timely manner."⁴ You maintain "that administrative error or oversight occurred on the other side of the fee cage" and that "the failure to timely process the licensee's annual regulatory fee was due to . . . error [on the part of Mellon Bank, the Commission's lockbox bank]."⁵ You state that "[i]t was not due to circumstances within the licensee's control, nor was the credit card payment uncollectible."⁶

¹ *Request* at 1.

² *Id.*

³ See Letter from John Wells King, Esq. to Marvin Washington, Acting Chief, Office of the Managing Director, FCC, Attachments (Feb. 21, 2006). The UPS documents reflect that the UPS-assigned tracking number for the package was 1Z8V41410199237760.

⁴ *Request* at 1.

⁵ *Id.*

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. 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. Although you assert timely payment was made, Mellon Bank's records reflect that the UPS package associated with the tracking number that you claim contained PBB's FCC Form 159 and credit card payments for the FY 2005 regulatory fees for the stations in question in fact contained Form 159's and check payments for three unrelated entities in amounts that do not correspond to the FY 2005 fees associated with Stations KBUN and KBHP(FM).⁷ Further, our records show that the Commission did not receive an FCC Form 159 or full payment of the FY 2005 regulatory fees for Stations KBUN and KBHP(FM) by September 7, 2005, the filing deadline. Because your request does not indicate or substantiate that PBB submitted the FY 2005 regulatory fees for Stations KBUN and KBHP(FM) by the deadline for filing regulatory fees, we deny your request for waiver of the late charge penalties.

Payment of the \$186.00 late charge penalties for Stations KBUN and KBHP(FM) for FY 2005 is now due. The late charge penalties 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 418-1995.

Sincerely,



Mark Stephens
Acting Chief Financial Officer

Enclosure

⁶ *Id.*

⁷ The package contained FCC Form 159's and check payments associated with Conner Family Broadcasting, Inc. (licensee of Stations WRMS-FM and WLG803), Radio Plus of Fond du Lac (licensee of Stations WFDL-FM and WMF992), and Radio Plus, Inc. (licensee of Stations WFDL, WMDC, KK4433, and WPUU989). The checks were for \$160.00, \$1,560.00, and \$1,245.00.



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0603148340828002

March 30, 2006

BY HAND DELIVERY

Marvin Washington, Acting Chief
Revenue & Receivables Operations Group
Office of the Managing Director
Federal Communications Commission
Washington, DC 20554

FO WAIVER TRACKING
CNTL# 7017

**Re: Paul Bunyan Broadcasting Co.
2005 Annual Regulatory Fee**

Subject: Request for Waiver of Penalty

Dear Mr. Washington:

This letter is filed at the informal direction of your staff concerning the 2005 annual regulatory fees paid by Paul Bunyan Broadcasting Co., for the following broadcast stations:

KBUN, Bemidji MN
KBHP(FM), Bemidji MN

The licensee respectfully requests waiver of the penalty prescribed by Section 1.1164, based on the following information. The licensee timely tendered its Form 159 Remittance by letter of transmittal dated August 22, 2005, for payment by credit card. It was sent to the Commission's lockbox bank fee filing facility at Mellon Bank by UPS overnight, and was received and signed for on August 23, 2006, by "Zeransky." By prior correspondence to you dated February 21, 2006, I provided you with a copy of the letter of transmittal and the confirmation of shipment and receipt.

The licensee did everything within its power and control to pay its regulatory fee in a timely manner. It is evident that administrative error or oversight occurred on the other side of the fee cage. When the failure to process the credit card charges came to the licensee's attention, it promptly and responsively worked with your office to ascertain the problem, and, at the request of your staff, the licensee resubmitted its Form 159 Remittance by transmittal dated March 9, 2006.

Evidently the failure to timely process the licensee's annual regulatory fee was due to bank error. It was not due to circumstances within the licensee's control, nor was the credit card payment uncollectible. The licensee has a long history of timely payment of its annual regulatory fees.



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Please reply to JOHN WELLS KING
jking@gsblaw.com TEL EXT 2520

February 21, 2006

BY HAND DELIVERY

Marvin Washington, Acting Chief
Revenue & Receivables Operations Group
Office of the Managing Director
Federal Communications Commission
Washington DC 20554

FO WAIVER TRACKING
CNTL# 7017

RE: Paul Bunyan Broadcasting Co.
Broadcast Station KBUN
Bemidji MN
2005 Annual Regulatory Fee

Your Reference: 06RE000953

Dear Mr. Washington:

This responds to your letter of January 31, 2006, notifying the above-referenced licensee that you have no record of its 2005 regulatory fee payment for the referenced broadcast station.

Paul Bunyan Broadcasting Co., is also the licensee of Broadcast Station KBHP-FM. A similar letter was directed to payment of its 2005 regulatory fee.

Paul Bunyan Broadcasting Co., is commonly-owned with the following licensees, each of which received similar letters directed to payment of their 2005 regulatory fees:

BL Broadcasting, Inc.:

KBLB(FM)	KUAL-FM
KKWS(FM)	KVBR
KLIZ	KWAD
KLIZ-FM	WJJY-FM
KNSP	

BDI Broadcasting, Inc.
KIKV-FM



February 21, 2006

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KULO(FM)

Paul Bunyan Broadcasting Co., is also commonly-owned with BG Broadcasting, Inc., licensee of Broadcast Stations KKZY(FM) and KLLZ-FM.

All of the foregoing licensees timely tendered their Form 159 Remittances by letters of transmittal dated August 22, 2005. A copy of the filing for Paul Bunyan Broadcasting Co., is **enclosed**. It and the filings for commonly-owned licensees were sent to the Commission's lockbox bank fee filing facility at Mellon Bank by UPS overnight, and were received and signed for on August 23, 2006, by "Zeransky." A copy of the confirmation of shipment and receipt is **enclosed**.

The regulatory fee filing for BG Broadcasting, Inc., was acknowledged by Mellon Bank. See the **enclosed** stamp-and-return transmittal. The regulatory fee filings for the other licensees were not acknowledged.

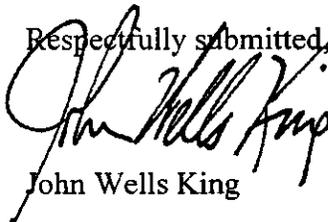
The licensees paid by credit card. Charges for the regulatory fees for BG Broadcasting, Inc., were processed. Charges for the regulatory fees for the other licensees have not been processed.

The licensee did everything within its power and control to pay its regulatory fee in a timely manner. It is evident that administrative error or oversight occurred on the other side of the fee cage.

Kindly accept the enclosed copy of the licensee's timely filing as its tender of the regulatory fee, and charge the indicated credit card account accordingly. Under the circumstances, it is respectfully submitted that no penalty is due and none should be assessed.

Kindly communicate any questions directly to this office.

Respectfully submitted,



John Wells King

Enclosures

JWK:yg

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