

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

MAR 14 2008

OFFICE OF
MANAGING DIRECTOR

Heather L. Green, Paralegal
Thompson Hine LLP
1920 N Street, N.W.
Washington, D.C. 20036-1600

Re: Gow Communications, L.L.C.
Station KGOW
FY 2007 Regulatory Fee
Fee Control No. 07100188351111001

Dear Ms. Green:

This is in response to your request filed December 26, 2007 (*Request*), for waiver of the penalty for late payment of the Fiscal Year (FY) 2007 regulatory fee on behalf of Gow Communications, L.L.C., licensee of Station KGOW. Our records reflect that Gow has not paid the \$950.00 penalty. For the reasons stated herein, we deny your request.

You claim that “the Gow Communications filing was submitted on time.”¹ In support, you submit Gow’s FCC Form 159, Remittance Advice (*Form 159*), correspondence from the Commission dated September 12, 2007,² and a copy of a check from Gow dated September 4, 2007, made payable to the FCC in the amount of \$3,800.00. You also assert in separate correspondence that “[t]he [FY 2007 regulatory fee] filing was returned to us because of wrong payment type code and FCC code . . . [and you were] told to resubmit and no fee would be charged.”³ You state that “[t]his filing was resubmitted on October 22, 2007[.]”⁴

Our records reflect that on September 11, 2007, Gow filed *Form 159* for Station KGOW along with a check in the amount of \$3,800.00. Because GOW failed to include the correct payment type code in Box 24A (the accuracy of which is critical to ensuring the proper crediting of a licensee’s regulatory fee payment) and failed to complete Box 29A

¹ *Request* at 1.

² See Letter from FCC to Gow Communications, LLC (Sept. 12, 2007) (*September 12 Letter*).

³ See Facsimile Cover Page from Heather L. Green to Monique Goodman, FCC at 1 (Nov. 14, 2007).

⁴ *Id.*

(FCC Code 2) on the *Form 159*, the Commission returned the check and *Form 159* to Gow as unprocessable under cover of the *September 12 Letter*.⁵ As a result, the *Form 159* submitted on September 11, 2007 and the associated payment \$3,800.00 were not processed by Mellon Bank, the Commission's lockbox bank, or the Commission.⁶ The Commission received a corrected *Form 159* along with the associated FY 2007 regulatory fee for Station KGOW on September 28, 2007, nine days after the September 19, 2007, filing deadline.

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.⁷ The Commission's rules provide that a timely payment is one received at the Commission's lockbox bank by the due date.⁸ 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 Gow met this obligation with respect to Station KGOW by submitting the FY 2007 regulatory fee by September 19, 2007, the filing deadline. Although we regret that Commission staff may have informally advised you that we would waive the late payment penalty, that erroneous advice provides no basis for a waiver of the penalty in these circumstances, particularly given that the Act requires the Commission to assess a penalty on regulatory fees not paid in a timely manner. Therefore, your request is denied.

⁵ See *September 12 Letter* (referencing "Return of Unprocessable Application" and stating that "[t]he payment type code is needed [on the *Form 159*]. . . [and that p]ayment for your electronically filed application cannot be processed without the confirmation number in the FCC Code 2 block of the [*Form 159*]").

⁶ 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 2007 Regulatory Fees, *Public Notice*, DA 07-3758 (Aug. 28, 2007) ("Failure to properly complete FCC Forms 159/159-C will delay the processing of your regulatory fee payment."); *Regulatory Fees Fact Sheet, What You Owe – Media Services Licensees for FY 2007* (Aug. 2007) (providing detailed instructions on how to correctly complete FCC *Form 159*). These documents can be found at the Commission's website at <http://www.fcc.gov/fees/regfees.html>.

⁷ 47 U.S.C. §159(c)(1).

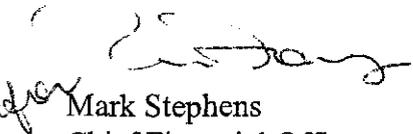
⁸ 47 C.F.R. §1.1164.

Heather Green, Paralegal

3.

Payment of the \$950.00 penalty for late payment of Gow's FY 2007 regulatory fee is now due. The penalty 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,


for Mark Stephens
Chief Financial Officer

Enclosure

THOMPSON HINE

ATLANTA

CINCINNATI

COLUMBUS

NEW YORK

BRUSSELS

CLEVELAND

DAYTON

WASHINGTON, D.C.

copy

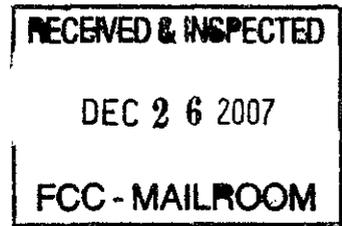
07/00/8835111001

December 20, 2007

DEC 26 2007

Ann Monahan
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

BY: _____



RE: Gow Communications, L.L.C.
Sign: KGOW

Dear Ms. Monahan:

This is to request a waiver of a late fee. In support of my request the following are enclosed with this letter:

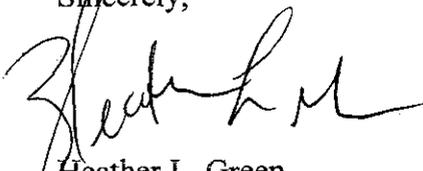
Form 159 – stamped as received by FCC on Sept. 11, 2007 and again on Sept. 28, 2007.

Correspondence from FCC Financial Operations dated Sept. 12, 2007 requesting the payment type code for Form 159

Copy of check No. 1153 made payable to Federal Communications Commission in the amount of \$3,800.00 from Gow Communications, LLC.

As evidenced by these enclosures, the Gow Communications filing was submitted on time.

Sincerely,



Heather L. Green
Paralegal

Enclosures

Heather.Green@ThompsonHine.com Phone 202.263.4115 Fax 202.331.8330