

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

MAR 25 2008

OFFICE OF
MANAGING DIRECTORJames R. Kerr
Operations Manager
Dick Broadcasting Co.
One 92 E. Lewis Street
Greensboro, NC 27406Re: Station WKZL-FM
Dick Broadcasting Company, Inc.
Fiscal Year 2007 Regulatory Fee
Fee Control No. 0711159365888279

Dear Mr. Kerr:

This is in response to your letter dated November 15, 2007 (*Request*), filed on behalf of Dick Broadcasting Company, Inc. (DBC), licensee of station WKZL-FM, for waiver of the penalty for late payment of the fiscal year (FY) 2007 regulatory fee. Our records reflect that you paid the \$2,200.00 penalty. For the reasons set forth below, we deny your request.

You recite that there was “insufficient notification by the FCC [of the regulatory fee].”¹ You state that “[e]ven after repeated requests, the FCC continues to sends [*sic*] notices to our former corporate offices at 4711 Old Kingston Pike in Knoxville, TN.”² You assert that the “property was sold to [another entity] . . . in 2000 . . . [and that w]e can’t rely on another company to forward our mail from the FCC[.]”³ You aver that DBC “has a long history of timely filing[.]”⁴

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.⁵ It is the

¹ *Request* at 1.

² *Id.* Our records reflect that the Commission received payment of the regulatory fee and penalty on November 11, 2007, almost two months after the due date for payment of the FY 2007 regulatory fee, *i.e.*, September 19, 2007. *See Public Notice, FY 2007 Regulatory Fees Due No Later Than September 19, 2007* (Aug. 13, 2007) (*August 13 Public Notice*).

³ *Request* at 1.

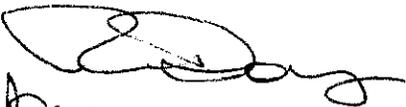
⁴ *Id.*

⁵ 47 U.S.C. §159(c)(1).

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.⁶ Your request does not indicate or substantiate that DBC met this obligation. The Commission takes great care to inform its licensees of the due dates, amounts of the fees, and payment methods in public notices and fact sheets, which information it also posts on its web site, www.fcc.gov. For the FY 2007 regulatory fees, the Commission timely released several public notices and news releases informing licensees of the September 19, 2007, deadline for filing regulatory fees and posted these items on its web site.⁷ 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.”⁸ Further, contrary to your assertion that regulatory fee notifications were mailed to the wrong address, the FRN information registered in the FCC database regarding the licensee as supplied by DBC was the address to which the notifications were sent. We therefore find that DBC did not meet its obligation to file its FY 2007 regulatory fee to be received by the Commission in a timely manner. Accordingly, we deny your request for waiver of the penalty for late payment of the fiscal year 2007 regulatory fee.

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

Sincerely,



Mark Stephens
Chief Financial Officer

⁶ See 47 C.F.R. §1.1164.

⁷ See *Assessment and Collection of Regulatory Fees for Fiscal Year 2007, Report and Order and Further Notice of Proposed Rulemaking*, 22 FCC Rcd 15712 (2007); *Public Notice, Payment Methods and Procedures for Fiscal Year 2007 Regulatory Fees*, DA 07-3758 (Aug. 28, 2007) (reminding of filing deadline and late payment penalty); *Public Notice, Fee Filer Now Available for 2007 Regulatory Fees*, 22 FCC Rcd 16051, 16051 (Aug. 23, 2007) (Aug. 23, 2007) (reminding of filing deadline and late payment penalty); *August 13 Public Notice* (announcing the September 19, 2007 filing deadline and stating that late payments will be assessed a 25 percent late payment penalty); *Regulatory Fees Fact Sheet, What You Owe – Media Services Licensees for FY 2007* (Aug. 2007) (providing instructions as to which media services licensees must pay FY 2007 regulatory fees and how to calculate and pay the fee).

⁸ See *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).



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2007 NOV 21 P 9:40

November 15, 2007

FILED/ACCEPTED

NOV 19 2007

Federal Communications Commission
Office of the Secretary

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

2007 NOV 30 A:00

RECEIVED

Managing Director:

I am writing to request a waiver of the penalty of \$2,200.00 assessed against Dick Broadcasting Company, Inc. of TN (FRN:0001772870) for the late filing of the Mass Media Regulatory Fee. I'm requesting the penalty be waived as a result of insufficient notification by the FCC.

Even after repeated requests, the FCC continues to send notices to our former corporate offices at 4711 Old Kingston Pike in Knoxville, TN. That property was sold to Citadel Communications in 2000. Enclosed you'll find copies of our 2006 notifications with incorrect addresses; a Citadel employee was kind enough to forward to us last year. I wish I could produce 2007, but I never saw them. We can't rely on another company to forward our mail from the FCC simply because somewhere, in some FCC database, there resides an erroneous address that, seemingly, no one will change.

Also enclosed is a copy of a screenshot of the CDBS database reflecting our correct address, which indicates to me: the FCC does indeed have our correct address in one database and has a different address contained in another database used for the Regulatory Fee Notification. Even the CDBS dbase is flawed, it reflects Citadel's primary phone number, which was formally ours, but everything else appears correct.

The final enclosure is a copy of our payment confirmation of the Regulatory Fee, including the penalty.

Dick Broadcasting has a long history of timely filing with the FCC and that history would still be intact if we had been notified at the correct address. I realize this is a yearly filing and should be fairly automatic on my part, but that reminder notification from the FCC certainly helps! Thank you for your consideration and if you need additional information, please don't hesitate to ask.

Sincerely,

James R. Kerr
Operations Manager

Payment received 11/15/07
\$2,200 for late
fee payment of FY 07
AJ

DICK BROADCASTING Co.

ONE 92 E. LEWIS STREET, GREENSBORO, NORTH CAROLINA 27406
PHONE 336-274-8042 FAX 336-274-1629