

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Assessment and Collection of Regulatory Fees for Fiscal Year 2008)	MD Docket No. 08-65 RM-11312
)	
)	
To: Office of the Secretary)	
Attn: The Commission)	

COMMENTS

Multicultural Radio Broadcasting Licensee, LLC, and Way Broadcasting Licensee, LLC (together, “MRBI”) hereby submit their comments in response to the Commission’s *Notice of Proposed Rule Making* (the “*NPRM*”) in the above captioned proceeding.¹ One of the proposals in the *NPRM* concerns the regulatory fee obligations of AM expanded band licensees.² Specifically, MRBI wishes to comment on the imposition of a separate regulatory fee on those broadcasters who are operating an expanded band station beyond the five (5) year period for dual operation.

MRBI is the licensee of four AM expanded band stations.³ It is currently operating these stations (or the paired standard band station) pursuant to special

¹ *Assessment and Collection of Regulatory Fees for Fiscal Year 2008*, Notice of Proposed Rule Making, MD Docket No. 08-65, FCC 08-126 (2008).

² *Id.* at ¶¶ 6-7.

³ WWRU(AM), Jersey City, New Jersey (paired with standard band station WJDM(AM), Elizabeth, New Jersey); WTTM(AM), Lindenwold, New Jersey (paired with standard band station WHWH(AM), Princeton, New Jersey); KFSG(AM), Roseville, California (paired with standard band station KLIB(AM), Roseville, California); WJCC(AM), Miami Springs, Florida (paired with standard band station WNMA(AM), Miami Springs, Florida).

temporary authority (STA).⁴ MRBI believes that any such separate regulatory fee would be premature due to the provisional nature of the STAs under which the stations are operated. A review of the procedural history surrounding the creation of the AM expanded band will illustrate why a separate regulatory fee is inequitable and contrary to the Commission's policies.

The AM expanded band (1605–1705 kHz) was created to help improve AM band quality by reducing interference.⁵ To do this, the Commission permitted only current AM broadcasters to apply for an expanded band frequency.⁶ Once the expanded band licenses were granted, licensees were permitted to operate the expanded band station for a period of five years. At the end of this five year period, the licensee had to surrender either its expanded band license or its regular band license. Importantly, the Commission, recognizing the temporary nature of the expanded band license and the purpose of such license (to reduce interference in the standard AM band), made a decision not to charge a separate regulatory fee for expanded band stations.⁷ The Commission's decision was also grounded in the fact that “the concept of the AM Expanded Band has its basis in the Commission's rules regarding experimental stations.”⁸ This is an important point because “holders of experimental licenses are not required to

⁴ See BLSTA-20080408AFE (STA for WJDM); -20071009ALW (STA for WHWH); -20070820AHD (STA for KLIB); BLSTA-20060407ACQ (STA for WJCC).

⁵ See *Review of the Technical Assignment Criteria for the AM Broadcast Service*, 6 FCC Rcd 6273 (1991).

⁶ *Id.*

⁷ *Assessment and Collection of Regulatory Fees for Fiscal Year 2005 (R&O) Fiscal Year 2004 (Order on Reconsideration)*, 20 FCC Rcd 12259, 12267 (2005).

⁸ *Assessment and Collection of Regulatory Fees for Fiscal Year 2005*, 20 FCC Rcd 3885, ¶34 (2005).

pay regulatory fees for such licenses.”⁹ Additionally, due to the lack of receivers with expanded band capability, the imposition of a regulatory fee on a station that would not have a viable audience for years, would discourage operation and investment in such station.

MRBI acknowledges that the expanded band is now a mature enough service to be considered for paying regulatory fees. MRBI is not commenting on whether the Commission should impose a separate regulatory fee on stations whose expanded license has not existed for the full five (5) year period. Similarly, MRBI is not commenting on whether the Commission should impose a regulatory fee on those expanded band stations for which the licensee has surrendered and is no longer operating the standard band station. Rather, MRBI takes issue with imposing a separate regulatory fee on a station with only temporary authorization.

As discussed above, MRBI is the licensee of four expanded band stations. Pursuant to the Commission’s requirement that AM expanded band broadcasters surrender one of their licenses for cancellation five years after receiving their expanded band license,¹⁰ MRBI has now relinquished licenses for four stations. However, MRBI is operating these four stations pursuant to STA. Additionally, MRBI, along with other expanded band licensees have petitioned the Commission to waive its requirement that the licenses be returned. MRBI’s request for waiver is still pending before the Commission, and until it is decided, consideration of a separate regulatory fee on expanded band licenses is premature. MRBI is only able to continue operating the

⁹ *Assessment and Collection of Regulatory Fees for Fiscal Year 2006*, 21 FCC Rcd 8092, ¶23 (2006).

¹⁰ 47 C.F.R. § 73.3555, Note 10.

stations due to the STAs. Given that the STAs are only approved for maximum of six months and can be terminated at any time, implementing a separate regulatory fee is inequitable. MRBI is limited in its ability to invest in the station's programming or improve the facilities of the station. Additionally, MRBI is unable to obtain financing for the stations because of their temporary nature. Even normal repairs and maintenance are uncertain when it is not known how long the station may be able to continue to operate. Thus, assessing a separate regulatory fee for AM expanded band stations when the broadcasters only have temporary authority to operate is premature and unnecessarily burdensome.

For the foregoing reasons, the parties respectfully request that the Commission refrain from implementing a separate regulatory fee for those AM band broadcasters operating one of their AM expanded/regular band stations under STA.

Respectfully submitted,

MULTICULTURAL RADIO
BROADCASTING LICENSEE, LLC

WAY BROADCASTING LICENSEE, LLC

By: _____/s/_____

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