

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

MAR 1 2010

OFFICE OF
MANAGING DIRECTOR

Dan J. Alpert
2120 N. 21st Road
Arlington, VA 22201

Re: Confessora Peralta
Station WHDY-LP, Panama City, FL
Fiscal Year 2009 Regulatory Fee Waiver Request
Fee Control No. RROG-09-00012096

Dear Counsel:

This letter is in response to your request filed on September 21, 2009, on behalf of Confessora Peralta, licensee of Station WHDY-LP, Panama City, Florida, for waiver and refund of the \$400.00 fiscal year 2009 regulatory fee ("*Waiver Request*"). Our records show that Confessora Peralta has paid the regulatory fee. For the reasons below, we grant your request.

In support of your request, you state that the "station is currently dark."¹ In addition, the attachment accompanying your request indicates that the FCC authorized Station WHDY-LP to remain silent from "June 1, 2009 to December 1, 2009."²

The Commission has determined that the imposition of a regulatory fee could be an impediment to the restoration of broadcast service and therefore will grant "petitions for waivers of the regulatory fees on the grounds of financial hardship from licensees of broadcast stations which are dark (not operating)." *Implementation of Section 9 of the Communications Act*, 10 FCC Rcd 12759, 12762 (1995). Because Station WHDY-LP was not operating on the date that the fiscal year 2009 regulatory fees were due (*i.e.*, September 22, 2009), we grant your request for waiver and for refund of the fee.

A check in the amount of \$400.00, made payable to the maker of the original check, will be sent to you on the earliest practicable date. If you have any questions concerning this matter, please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,



 Mark Stephens
Chief Financial Officer

¹ *Waiver Request* at 1 (dated September 21, 2009).

² July 30, 2009 Federal Communications Commission Letter to Confessora Peralta.

RR0G-09-00012096 FO WAIVER TRACKING SYSTEM
CONTROL # 12096

The Law Office of

Dan J. Alpert

2120 N. 21st Rd.
Arlington, VA 22201
DJA@COMMLAW.TV

(703) 243-8690

(703) 243-8692 (FAX)

September 21, 2009

Mr. Steven VanRoekel
Managing Director
Federal Communications Commission
445 12th St. S.W.
Washington, DC 20554

RECEIVED - FCC

SEP 21 2009

Federal Communications Commission
Bureau / Office

**Re: Station WHDY-LP
Facility No. 130063
Panama City, FL**

Dear Mr. VanRoekel:

Confessora Peralta, by its attorney, hereby requests a waiver and refund of its 2009 Annual Regulatory Fee. In support thereof, the following is stated.

In the Memorandum Opinion and Order issued with respect to Implementation of Section 9 of the Communications Act, FCC 95-257 (June 22, 1995), the FCC recognized that waiver of the annual Regulatory Fee was appropriate in certain instances, and specifically determined that it would grant waivers to licensees of broadcast stations which are dark (not operating). The Commission recognized that an imposition of regulatory fees could be an impediment to the restoration of broadcast service, and that such it would be unnecessary for such stations to make any further showing to warrant grant of a waiver. Id. at ¶ 15.

Confessora Peralta is licensee of Station ~~WHDY-LP~~. The station currently is dark. See Attachment. Accordingly, a waiver and refund of the \$400.00 2009 Annual Regulatory Fee that has been paid is appropriate.

WHEREFORE, it respectfully is requested that this request be granted.

Very truly yours,

Dan J. Alpert

Counsel for Confessora Peralta

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

MAR 29 2010

OFFICE OF
MANAGING DIRECTOR

John E. Benedict, Director
Federal Regulatory Affairs
Century Link
701 Pennsylvania Ave., N.W.
Suite 820
Washington, D.C. 20004

Re: CenturyTel Fiber Company II (d/b/a
Lightcore), Madison River Long Distance
Solutions, Gulf Long Distance, Coastal
Long Distance Services, and Mebtel Long
Distance Solutions
Fiscal Year 2009 Regulatory Fees
Fee Control No. RROG-09-00012358

Dear Mr. Benedict:

This is in response to your request dated September 25, 2009 (*Request*), filed on behalf of CenturyTel Fiber Company II (d/b/a Lightcore) (CenturyTel), Madison River Long Distance Solutions (Madison), Gulf Long Distance (Gulf), Coastal Long Distance Services (Coastal), and Mebtel Long Distance Solutions (Mebtel) (collectively, the Companies) for waiver of the penalties for late payment of fiscal year (FY) 2009 regulatory fees. Our records reflect that you paid the \$8,931.00, \$3,275.00, \$6,902.00, \$6,596.00, and \$2,189.00 FY 2009 regulatory fees for CenturyTel, Madison, Gulf, Coastal, and Mebtel, respectively, but not the associated \$2,232.75, \$818.75, \$1,725.50, \$1,649.00, and \$547.25 late payment penalties (totaling \$6,973.25). For the reasons set forth below, we deny your request.

You state that 2009 was the first year that the Commission mandated electronic payment of the regulatory fees and that the Companies are “geared to process hardcopy invoices.”¹ You contend that because the Commission changed its payment policy on July 31, 2009, the Companies had insufficient time to change their processing procedures and “inevitably made such inadvertent errors[.]”² You state that the Companies submitted their payments as soon as they learned that the payments were overdue.³ You aver that the Companies have a history of timely payment, that the instant late payments were innocent and inadvertent, and that the payments were made prior to the end of the Commission’s fiscal year.⁴

¹ *Request* at 1.

² *Id.*

³ *Id.*

⁴ *Id.*

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 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 The Companies paid the regulatory fees on October 7, after the September 22, 2009, deadline for filing regulatory fees, and therefore failed to meet this obligation.

The Commission takes 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 2009 regulatory fees, the Commission released several public notices informing licensees of the September 22, 2009, deadline for filing regulatory fees and posted these items on its web site.⁷

Further, the Commission determined in *Assessment and Collection of Regulatory Fees for Fiscal Year 2009, Report and Order*, 24 FCC Rcd 10301, 10308-10309 (2009), that it would no longer mail pre-bills via surface mail to licensees such as the Companies. That decision, which was adopted on July 28, 2009, and released on July 31, 2009, adopted without change a proposal announced by the Commission in *Assessment and Collection of Regulatory Fees for Fiscal Year 2009, Notice of Proposed Rulemaking*, 24 FCC Rcd 5966, 5972-73 (2009), which was released on May 14, 2009. The Commission adopted the modifications to the notifications procedures at issue here almost two months before the due date for filing the FY 2009 regulatory fees, and proposed those modifications over four months before the due date.

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 You have not presented circumstances sufficient to mitigate your responsibility as a licensee to apprise yourself of your obligation to pay the FY 2009 regulatory fee by the announced deadline of September 22,

⁵ 47 U.S.C. §159(c)(1).

⁶ See 47 C.F.R. §1.1164, and see *Public Notice, Payment Methods and Procedures for FY 2009*, 24 FCC Rcd 11513, 11513 (Sept. 2, 2009) (*September 2009 Public Notice*), *Public Notice, FY 2009 Regulatory Fees Due No Later Than September 22, 2009, Eastern Time (ET)*, 24 FCC Rcd 10890, 10890 (Aug. 21, 2009), and *Public Notice, Fee Filer Mandatory for FY 2009 Regulatory Fees*, 24 FCC Rcd 10893, 10893 (Aug. 21, 2009) (stating that FY 2009 regulatory fees must be received by the Commission no later than September 22, 2009, and that payments received after that date will be charged a 25 percent late payment penalty).

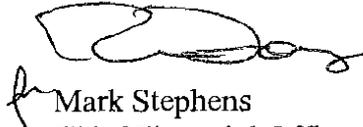
⁷ *Id.*

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).

2009. We therefore deny your request for waiver of the penalties for late payment of the fiscal year 2009 regulatory fees for the Companies.

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

090930908474 6502

12287



CenturyLink

October 30, 2009

By Electronic Mail and First Class Mail

Steven VanRoekel, Managing Director
c/o ar inquiries@fcc.gov
Federal Communications Commission
Office of the Managing Director
445 12th Street, S.W., Room 1-A625
Washington, D.C. 20554

John E. Benedict
Director
Federal Regulatory Affairs
701 Pennsylvania Ave., NW
Suite 820
Washington, DC 20004

Voice: (202) 393-1516
Fax: (913) 397-3836
john.e.benedict@centurylink.com

Attn: Regulatory Fee Waiver Request
CenturyTel Long Distance, Inc. (FRN 0003749520)

Dear Mr. VanRoekel:

CenturyTel Long Distance respectfully requests a waiver of the 25% penalty recently invoiced to the company after its FY 2009 Regulatory Fees inadvertently were submitted one week late. The penalty invoiced is \$100,448.75. Waiver is appropriate and in the public interest because of the special circumstances here.

First, this is the first year that the Commission has mandated electronic payment. CenturyTel Long Distance, like many carriers, historically has been geared to processing hardcopy invoices. The Commission changed its policy only on July 31, 2009 -- just seven weeks before the FY 2009 payment due date. Such short notice allowed the company little time to change its processing and, inevitably, made such inadvertent errors more likely.

Second, as soon as CenturyTel Long Distance learned that its 2009 regulatory fee payment was overdue, it immediately contacted the Commission and promptly submitted its payment. The Commission received the FY 2009 Regulatory Fee payment from CenturyTel Long Distance on September 30, just 6 business days after the original due date and before the close of the Commission's fiscal year.

Third, CenturyTel Long Distance's late payment clearly was not intentional, nor done for any financial gain. It was strictly an innocent and inadvertent procedural error. To its knowledge, the company has never before been late in submitting its annual regulatory fee, and it is highly unlikely to repeat this one-time error. The company's history of timely payment confirms that the root cause of the inadvertent delay was the new procedures instituted by the Commission just weeks before the 2009 payment date.

Fourth, a penalty of \$100,448.75 is plainly excessive and unreasonable for an innocent error (1) brought about by a very recent change in Commission invoicing policy, (2) promptly remedied by the company, and (3) involving a company that has been consistently timely in submitting its regulatory fees.

Office of the Managing Director
October 30, 2009
Page 2

Fifth, given that this year is the first under the Commission's new online procedures, it would be reasonable and in the public interest for the Commission to exercise leniency, or allow a reasonable grace period, particularly for companies that made prompt payment of FY 2009 regulatory fees by the Commission's fiscal year end.

CenturyTel Long Distance appreciates the Commission's consideration of this waiver request.

Sincerely,

A handwritten signature in black ink, appearing to read "John E. Benedict", written in a cursive style.

John E. Benedict

attachment

cc: By Electronic Mail
Roland Helvajian, OMD
roland.helvajian@fcc.gov
Donnie Aultman, CenturyTel Long Distance

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

MAR 29 2010

OFFICE OF
MANAGING DIRECTOR

Michael Bauguss, President
Clear Vision Cable Systems, Inc.
1785 U.S. Route 40
Greenup, Illinois 62428

Re: ClearVision Cable Systems, Inc.
Fiscal Year 2009 Regulatory Fee Waiver Request
Fee Control No. RROG-09-00012212

Dear Mr. Bauguss:

This letter is in response to your request dated October 5, 2009, on behalf of ClearVision Cable Systems, Inc. ("ClearVision") for waiver of the 25 percent penalty charged to it for late payment of its Fiscal Year ("FY") 2009 regulatory fee ("*Waiver Request*"). Our records show that ClearVision's payment for fiscal year 2009 regulatory fees was not made when due (*i.e.*, September 22, 2009), and therefore, ClearVision was assessed a late payment penalty of \$183.48. ClearVision paid the regulatory fee but not the assessed late payment penalty. For the reasons below, we deny your request for waiver.

In support of your request, you state ClearVision "mailed [its] payment on September 21, 2009" and also that the "company does not feel comfortable paying bills online with a credit card."¹

Section 9(c)(1) of the Communications Act, as amended, requires the Commission to assess a late payment penalty of 25 percent on any regulatory fee not paid in a timely manner.² The Commission's rules provide that a timely payment of a regulatory fee is one received at the Commission's lockbox bank by the due date.³

It is the obligation of 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, which for FY 2009 was September 22, 2009. The Commission, however, did not receive payment of ClearVision's FY 2009 regulatory fees until September 23, 2009.

¹ *Waiver Request*.

² See 47 U.S.C. § 159(c)(1) ("The Commission shall prescribe by regulation an additional charge which *shall* be assessed as a penalty for late payment of fees required by subsection (a) of this section [Regulatory Fees]. Such penalty shall be 25 percent of the amount of the fee which was not paid in a timely manner").

³ 47 C.F.R. § 1.1164.

The Commission takes 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 2009 regulatory fees, the Commission released several public notices informing licensees of the September 22, 2009, deadline for filing regulatory fees and posted these items on its web site.⁴

Further, the Commission determined in *Assessment and Collection of Regulatory Fees for Fiscal Year 2009, Report and Order*, 24 FCC Rcd 10301, 10308-10309 (2009), that it would no longer mail pre-bills via surface mail to licensees such as the Companies. That decision, which was adopted on July 28, 2009, and released on July 31, 2009, adopted without change a proposal announced by the Commission in *Assessment and Collection of Regulatory Fees for Fiscal Year 2009, Notice of Proposed Rulemaking*, 24 FCC Rcd 5966, 5972-73 (2009), which was released on May 14, 2009. The Commission adopted the modifications to the notifications procedures at issue here almost two months before the due date for filing the FY 2009 regulatory fees, and proposed those modifications over four months before the due date.

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.”⁵ You have not presented circumstances sufficient to mitigate your responsibility as a licensee to apprise yourself of your obligation to pay the FY 2009 regulatory fee by the announced deadline of September 22, 2009. We therefore deny your request for waiver of the penalties for late payment of the fiscal year 2009 regulatory fees for the Companies.

We find that ClearVision failed to meet its obligation to timely pay its FY 2009 regulatory fees and that its request for waiver presents no extraordinary circumstances that would warrant waiver of the penalty. Accordingly, we deny your request for waiver of the 25 percent penalty assessed against ClearVision for late payment of its FY 2009 regulatory fees.

⁴ *Id.*

⁵ 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).

Payment of the \$183.48 penalty is now due. The payment should be submitted, together with a Form 159 (copy enclosed), within 30 days of the date of this letter. If you have any questions concerning this matter, please contact the Revenue & 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
Chief Financial Officer

Enclosure

Clear Vision Cable Systems, Inc.

1785 US Route 40
Greenup, Illinois 62428
(866) 923-5594 • Fax (217) 923-5681

12212

0909249084597004

October 5, 2009

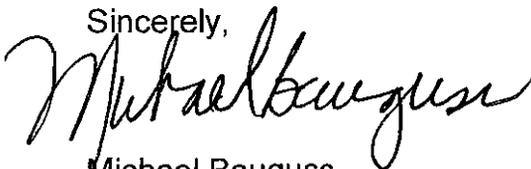
Attn: Regulatory Fee Waiver/Reduction Request
FCC
Office of the Managing Director
445 12th St., SW Room 1-A625
Washington, D.C. 20554

In re: Bill Number 0920000177 FRN# 005086061

We received notice that we are being charged a penalty for a late regulatory fee payment (copy enclosed). We mailed our payment on September 21, 2009. We filed a fee filer on 9/21/09 and we assumed that mailing the payment out on the same day would be sufficient. Also your web site contained 2 (two) different due dates. We usually mail a hard copy of Form 159 with a check for payment, but your web site stated that this is no longer acceptable, so we filed the fee filer form and mailed a check on the same day. Our company does not feel comfortable paying bills online with a credit card. We would appreciate a one-time waiver of the late fee for the reasons stated above.

Please feel free to contact us with any questions or concerns.

Sincerely,



Michael Bauguss
President

TLG

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

MAR 29 2010

OFFICE OF
MANAGING DIRECTOR

Robert J. Rini, Esq.
Jonathan E. Allen, Esq.
Rini Coran, PC
1140 19th Street, N.W., Suite 600
Washington, D.C. 20036

Re: Cranston Acquisition, LLC,
Debtor-in-Possession
Station KMCC(TV), Laughlin, NV
FY 2009 Regulatory Fee
Fee Control No. RROG-09-00012121

Dear Counsel:

This letter responds to your request dated September 18, 2009 (*Request*), on behalf of Cranston Acquisition, LLC, Debtor-in-Possession (Cranston Acquisition DIP), licensee of Station KMCC(TV), Laughlin, Nevada, for waiver of the fiscal year (FY) 2009 regulatory fee. Our records reflect that Cranston Acquisition DIP has not paid the \$13,370.00 FY 2009 regulatory fee. For the reasons stated herein, we grant your request.

You state that on June 17, 2008, Cranston Acquisition, LLC (Cranston Acquisition) and Cranston II, LLC (Cranston II), the sole member and 100 percent owner of Cranston Acquisition, filed voluntary petitions for reorganization under Chapter 11 with the United States Bankruptcy Court, Southern District of New York (Bankruptcy Court),¹ and were in bankruptcy on the date that the FY 2009 regulatory fees were due, *i.e.*, September 22, 2009.² You submit copies of the voluntary petitions for Chapter 11 bankruptcy protection filed by Cranston Acquisition and Cranston II with the Bankruptcy Court (*Bankruptcy Petitions* and the *Notices of Bankruptcy Case Filing* issued by the Bankruptcy Court (*Bankruptcy Court Notices*)).³ You state that on July 17, 2008, Cranston Acquisition and Cranston II filed an application for transfer of control of Cranston Acquisition from Cranston II to Cranston II, LLC Debtor-in-Possession, and that the application was granted on July 30, 2008.⁴

¹ See *Request* at 2.

² See email from Robert Rini to Joanne Wall (Nov. 30, 2009).

³ See *Request*, Exhibit 1.

⁴ *Id.* at 2; see also email from Robert Rini to Joanne Wall (Dec. 1, 2009) (stating that Cranston II, LLC Debtor-in-Possession is the parent of Cranston Acquisition DIP).

The Commission has determined that it will waive regulatory fees for licensees who are bankrupt or are in receivership at the time the fees are due.⁵ Based on the evidence that you provide that Cranston Acquisition and Cranston II were in bankruptcy on the September 22, 2009, due date for filing FY 2009 regulatory fees,⁶ including the *Bankruptcy Petitions* and the *Bankruptcy Court Notices*, we grant Cranston Acquisition DIP a waiver of the FY 2009 regulatory fee.

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

Sincerely,



Mark Stephens
Chief Financial Officer

⁵ See *Implementation of Section 9 of the Communications Act*, 10 FCC Rcd 12759, 12762 (1995).

⁶ See *Public Notice, FY 2009 Regulatory Fees Due No Later Than September 22, 2009, Eastern Time (ET)*, DA 09-1837, 2009 WL 2595896 (Aug. 21, 2009).

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

MAR 24 2010

OFFICE OF
MANAGING DIRECTOR

Kathleen A. Kirby, Esq.
Wiley Rein LLP
1776 K Street, N.W.
Washington, D.C. 20006

Re: Cumulus Media Inc. and CMP
Susquehanna Holdings Corp.
FY 2009 Regulatory Fees
Fee Control No. 0909259084743003

Dear Ms. Kirby:

This is in response to your request dated September 28, 2009 (*Request*), on behalf of Cumulus Media Inc. (CMI) and CMP Susquehanna Holdings Corp. (CMP) (collectively, Cumulus) for waiver of the penalties for late payment of the Fiscal Year (FY) 2009 regulatory fees. Our records reflect that CMI and CMP paid the \$787,915.00 and \$113,825.00 regulatory fees at issue here, respectively, but not the associated \$196,978.75 and \$28,456.25 penalties (totaling \$225,435.00). For the reasons stated herein, we deny your request.

You state that on September 21, 2009, Cumulus submitted the FY 2009 regulatory fees via the FCC's Fee Filer and received confirmation notices.¹ You say that on September 24, 2009, Commission staff advised Cumulus that Cumulus's bank (*i.e.*, U.S. Bank) had refused payment of the regulatory fees.² You explain that although Cumulus had sufficient funds in its U.S. Bank accounts to honor the FY 2009 regulatory fee payment, Cumulus had placed a security filter on the accounts to reject unauthorized transactions and had failed to set up the Commission as an approved party to withdraw funds from the Cumulus accounts.³ As a result, U.S. Bank refused payment of the regulatory fees.⁴ You state that U.S. Bank's rejection of the transactions "would not have been apparent or communicated to the FCC until September 23."⁵ You say that Cumulus notified U.S.

¹ *Request* at 1.

² *Id.* (stating that Cumulus first learned of the refused payment transaction from Commission staff on September 24, 2009).

³ *Id.*, Exhibit 2 (Letter from Gail F. Scannell, Senior Vice President, US Bank, to Regina Dorsey, FCC (Sept. 25, 2009) (*US Bank Letter*)).

⁴ *Id.*

⁵ *Id.*

Bank of the rejected transactions at 5:00 p.m. EST on September 24, 2009, and “[b]ecause the Federal Reserve wire transfer system was closed at that time, Cumulus was unable to initiate new wires/ACH [Automated Clearing House] transactions until . . . September 25, which . . . [Cumulus] did.”⁶ You assert that Cumulus staff that set up the U.S. Bank security filter is no longer employed by Cumulus and that the replacement staff is new and was unaware of the security filter at the time the regulatory fee was due.⁷ You assert that the penalty is of “extraordinary magnitude” given Cumulus’s good faith effort to pay the regulatory fee and, citing section 1.1164(b) of the Commission’s rules, that “there was no communication from the bank to Cumulus that payment to the FCC had been denied.”⁸

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.⁹ 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.¹⁰ Your assertion that Cumulus’s staff had no knowledge of the security filter put in place by people who were no longer employed by Cumulus at the time the fees were due does not constitute an extraordinary circumstance that would justify a waiver of the penalties for late payment of the FY 2009 regulatory fees. Assuring that the security filters Cumulus placed on its accounts would allow payment of FCC regulatory fees was a matter that was at all times Cumulus’s responsibility and under Cumulus’s control. It was Cumulus’s responsibility to take all reasonable and necessary steps to ensure that its regulatory fees were paid on time and Cumulus failed to do this. Under these circumstances, we deny your request for waiver of the penalties.

With respect to your reliance upon section 1.1164(b) of the rules, the *US Bank Letter* that you submit does not state or otherwise provide grounds to support a finding that the untimely payment of the regulatory fee was due to US Bank’s error. Rather, the *US Bank Letter* supports our finding that the untimely payment of the regulatory fee was entirely due to Cumulus’s establishment of a security filter on its US Bank accounts and Cumulus’s failure to include the Commission as an approved party to withdraw funds from those accounts. Because your request does not indicate or substantiate that

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* at 2; *see also* 47 C.F.R. §1.1164(b) (if “a fee payment fails due to error by the payor’s bank, as evidenced by an affidavit of an officer of the bank, the date of the original submission will be considered the date of filing”).

⁹ 47 U.S.C. §159(c)(1).

¹⁰ *See* 47 C.F.R. §1.1164.

Cumulus submitted the FY 2009 regulatory fees by the September 22, 2009, filing deadline, we deny your request for waiver of the late payment penalty.¹¹

Payment of the \$225,435.00 penalties for late payment of the FY 2009 regulatory fees is now due. The penalties should be submitted, together with a Form 159 (copy enclosed), within 30 days of the date 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
Chief Financial Officer

Enclosure

¹¹ Our records indicate that the Commission received the regulatory fee on September 25, 2009.



1776 K STREET NW
WASHINGTON, DC 20006
PHONE 202.719.7000
FAX 202.719.7049

7925 JONES BRANCH DRIVE
McLEAN, VA 22102
PHONE 703.905.2800
FAX 703.905.2820

www.wileyrein.com

Received & Inspected

ORIGINAL

RECEIVED

SEP 29 2009

FCC Mail Room

2009 SEP 30 P 5: 16

September 28, 2009

0909259084743003
Kathleen A. Kirby
202.719.3360
kkirby@wileyrein.com

FEDERAL COMMUNICATIONS COMMISSION

SEP 30 2009

Financial Operations Center

Federal Communications Commission
9300 East Hampton Drive
Capitol Heights, MD 20743

Attn: Regina Dorsey, Deputy Chief Financial Officer
Portals II - Room 1-A637

Dear Ms. Dorsey:

On behalf of Cumulus Media Inc. and CMP Susquehanna Holdings Corp. (collectively, "Cumulus"), we hereby request waiver of the 25 percent penalty for late payment of annual regulatory fees pursuant to Section 1.1164 of the Commission's rules, 47 C.F.R. § 1.1164.

SEP 30 2009
Financial Operations Center
RECEIVED

On September 21, 2009, employees in Cumulus' accounting department used FCC Fee Filer to prepare and submit regulatory fee payments in the amount of \$787,915.00 for licenses held by subsidiaries of Cumulus Media Inc. and \$113,825.00 for licenses held by subsidiaries of CMP Susquehanna Holdings Corp. Having received the Fee Filer confirmation notices attached as Exhibit A hereto, Cumulus personnel believed that the regulatory fees had been properly and timely submitted, in advance of the September 22, 2009 deadline.

On September 24, 2009, Gail Glasser of the FCC's Office of Managing Director contacted counsel for Cumulus to advise that Cumulus' bank had refused payment of the annual regulatory fees. Counsel immediately contacted Eric Richards, Cumulus' Vice President/Controller, and Micah McCain, Cumulus' Senior Corporate Accountant. In turn, Messrs. Richards and McCain immediately contacted their U.S. Bank representative.

As described in the affidavit from U.S. Bank attached as Exhibit B hereto, the bank was unable to release the funds because of security filters that had been placed on these Cumulus operating accounts. Messrs. Richards and McCain had no knowledge of these filters; the person in the corporate office who was aware that prior approval needed to be obtained for release of funds from these operating accounts left the company less than a month ago. Moreover, Cumulus was not notified by U.S. Bank that payment to the FCC was not completed on September 21, 2009, and first learned of the problem from Ms. Glasser.

Following discussion with Ms. Glasser and with U.S. Bank, Messrs. Richards and McCain swiftly took all steps necessary for immediate payment of the regulatory



September 28, 2009

Page 2

fees by wire transfer. As evidenced by the email correspondence from Ms. Glasser attached as Exhibit C, the fees were paid in full as of September 25, 2009.

It is Cumulus' understanding that the company will automatically be assessed a 25 percent penalty, totaling \$225,435.00, for late payment of its regulatory fees; certainly, this is a sum of extraordinary magnitude given the good faith efforts made by Cumulus to timely pay its fees and the economic hardships currently faced by many broadcast companies. Pursuant to Section 1.1164(b) of the Commission's rules, if a fee payment fails due to error by the payor's bank, the date of the original submission will be considered the date of filing. In this instance, there was no communication from the bank to Cumulus that payment to the FCC had been denied. Cumulus made every good faith effort to timely pay its regulatory fees in full as of September 21, 2009. Once notified by the FCC that the bank had not released the funds, Cumulus took steps to ensure that the fees were immediately paid, and the FCC received payment in full less than twenty-four hours after it first contacted Cumulus.

Cumulus respectfully submits, therefore, that the date of the original submission of Cumulus' regulatory fee filing, September 21, 2009, be considered the date of filing, and that the 25 percent penalty be waived.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kathleen A. Kirby".

Kathleen A. Kirby

cc: Gail Glasser, FCC

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

MAR 9 2010

OFFICE OF
MANAGING DIRECTOR

Mark B. Denbo, Esq.
Drinker, Biddle & Reath, LLP
1500 K Street, N.W.
Washington, D.C. 20005-1209

Re: Double O Corporation
FY 2008 and 2009 Regulatory Fees
Fee Control Nos. 0909109084898619,
0909109084898635, 0909109084898626,
0909109084898618, and
0909109084898621

Dear Mr. Denbo:

This letter responds to your request filed on November 2, 2009 (*Request*), on behalf of Double O Corporation (Double O), the sole shareholder of Double O Central New York Corporation, Double O South Carolina Corporation, Double O Texas Corporation, Double O Missouri Corporation, and Double O Radio Corporation, for waiver of the fiscal years (FYs) 2008 and 2009 regulatory fees. Our records reflect that Double O paid the \$55,735.00 and \$59,885.00 regulatory fees for FYs 2008 and 2009, respectively.

You state that despite Double O's management experience and its radio stations' dedication to serving their local communities, the corporation suffered financial hardship in 2007 and 2008.¹ You say that the corporation has laid off employees (including its former Chief Executive Officer, Chief Operating Officer, and Chief Financial Officer), instituted a furlough program for its employees, and does not pay its president. You submit, among other financial documents, Double O's income statements for the 2007 and 2008 calendar years and documentation regarding the payments made to Double O's principals and highest-paid employees for calendar years 2007 and 2008.²

¹ See *Request* at 2.

² See *Request*, Attachment (Double O Corporation and Subsidiaries Consolidated Statements of Operations Years Ended December 31, 2008 and 2007) (*Financial Statement*); see also email from Mark B. Denbo to Joanne Wall, Attachment (*Financial Compensation Statement*) (Dec. 15, 2009).

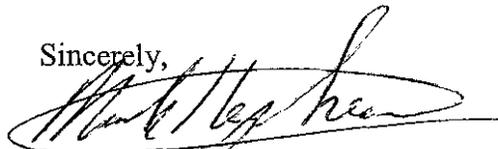
In establishing a regulatory fee program, the Commission recognized that in certain instances payment of a regulatory fee may impose an undue financial hardship upon a licensee. The Commission therefore decided to grant waivers or reductions of its regulatory fees in those instances where a "petitioner presents a compelling case of financial hardship."³ In reviewing a showing of financial hardship, the Commission relies upon a licensee's cash flow, as opposed to the entity's profits, and considers 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 and deductions for depreciation and amortization are considered funds available to pay the fees.

Our review of the record, including the *Financial Statement* and the *Financial Compensation Statement*, indicates that Double O suffered a financial loss in calendar year 2007 that was only partially offset by depreciation and funds payable to principals and the corporation's general managers. The record, including the *Financial Statement* and the *Financial Compensation Statement*, also shows that Double O suffered a financial loss in calendar year 2008 that was only partially offset by depreciation and funds payable to principals and the corporation's general managers. Given that Double O suffered a financial loss in calendar years 2007 and 2008, we grant your request for a waiver of the FYs 2008 and 2009 regulatory fees.

You have also requested confidential treatment of the materials that you submitted with your fee waiver request. Pursuant to section 0.459(d)(1) of the Commission's rules, 47 C.F.R. §0.459(d)(1), we do not routinely rule on requests for confidential treatment until we receive a request for access to the records. The records are treated confidentially in the meantime. If a request for access to the information submitted in conjunction with your regulatory fees is received, you will be notified and afforded the opportunity to respond at that time.

A check made payable to the maker of the original check, and drawn in the amount of \$115,620.00 (*i.e.*, \$55,735.00 and \$59,885.00), will be sent to you at the earliest practicable time. If you have any questions concerning this letter, please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,



Mark Stephens
Chief Financial Officer

³ See *Implementation of Section 9 of the Communications Act*, 9 FCC Rcd 5333, 5346 (1994), *recon. granted*, 10 FCC Rcd 12759 (1995).

STAMP & RETURN

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FILED/ACCEPTED

NOV - 2 2009

Federal Communications Commission
Office of the Secretary

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November 2, 2009

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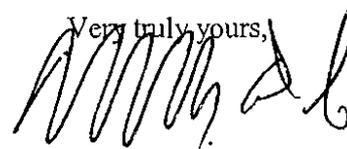
Ms. Marlene Dortch
Secretary
Federal Communications Commission
The Portals
445 Twelfth Street, SW
Washington, D.C. 20554

**Re: Double O Corporation
Request for Refund of Annual Regulatory Fees**

Dear Ms. Dortch:

On behalf of Double O Corporation, transmitted herewith is an original and four copies of a redacted Request for Refund and Request for Confidentiality ("Request"). An unredacted version of this Request is being transmitted simultaneously herewith under separate cover.

Please address any questions concerning this agreement to the undersigned.

Very truly yours,


Mark B. Denbo

Before the
Federal Communications Commission
Washington, DC 20554

In re Request of)	FRN 0011-7317-42 ✓
)	FRN 0011-5111-69 ✓
Double O Corporation)	FRN 0014-2987-07 ✓
For a Refund of Annual Regulatory Fees)	FRN 0015-0243-26 ✓
FY 2008 and 2009)	FRN 0009-7812-20

To: Office of the Secretary
Federal Communications Commission

Attention: Regina Dorsey
Office of the Managing Director

REQUEST FOR REFUND – REDACTED VERSION

Pursuant to Section 1.1166 of the Commission's rules, Double O Corporation ("Double O"), the sole shareholder of Double O Central New York Corporation (FRN: 0011-7317-42), Double O South Carolina Corporation (FRN: 0011-511-69), Double O Texas Corporation (FRN: 0014-2987-07), Double O Missouri Corporation (FRN: 0015-0243-26) and Double O Radio Corporation (FRN: 0009-7812-20) (collectively, the "Licensee Companies"), respectfully requests a refund of the annual regulatory fees covering fiscal years 2008 and 2009 paid by those entities. Additionally, Double O respectfully requests, pursuant to Section 0.459 of the Commission's rules, that the documents attached hereto as Exhibits A-E be kept confidential by the Commission.¹ In support of this request, the following is demonstrated:

1. Double O first acquired radio stations in 2004 with the purchase of four FM stations in the Panama City, Florida market. The company has since expanded its ownership to

¹ In keeping with this request for confidentiality, the exhibits referenced herein are not being provided and instead have been included with the complete version being filed contemporaneously herewith.

32 stations, with an emphasis on operating in smaller markets. Two of Double O's top executives have been involved in the broadcast radio industry for over thirty years each.

2. Double O's stations are known throughout their communities for outstanding programming and exemplary public service. For instance, in the Quincy, IL-Hannibal, MO area, one of Double O's stations sponsored an event that raised thousands of dollars for the Big Brother/Big Sister program. Double O also spearheads a drive each fall with lengthy promotions designed to attract additional listeners to volunteer for the program. In central New York, the stations sponsor numerous events, including a July 4 fundraiser involving over 25 charitable ventures who report that it is the single largest fundraising event of their year. In Midland-Odessa, Texas, the stations promote the annual Diabetes Walk for a Cure, pet adoption days and health screening days and also raise funds and awareness for the Midland Rape Crisis Center.

3. Despite Double O's management experience, and despite the stations' demonstrated devotion to serving their local communities, Double O's bottom line has not been immune to the nationwide economic downturn. The recession has affected smaller markets in particular, resulting in dramatic decreases to station revenues which, in turn, have caused the company to lay off employees, including its former Chief Executive Officer, Chief Operating Officer and Chief Financial Officer. Double O also has eliminated all travel and entertainment expenses, instituted a furlough program requiring every employee to take off one day per month without pay, sought price decreases from every vendor, and moved its corporate headquarters from New York City to Charleston, SC, where rents and salaries are lower. In addition, Double O's President does not accept a salary from the company.

4. In light of these grim economic circumstances, Double O respectfully requests that, based on financial hardship, the Commission refund the [redacted] and [redacted] annual

regulatory fee payments that were made by the Licensee Companies in fiscal years 2008 and 2009, respectively. In keeping with Section 1.1166(c) of the Commission's rules, Double O paid the regulatory fees for each of its Licensee Companies in full, and hereby requests that such amounts be refunded in full. Attached at Exhibit A are printouts from the Commission's electronic Fee Filer system demonstrating the dates on which the Licensee Companies made these payments.

5. In *Implementation of Section 9 of the Communications Act Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year, Memorandum Opinion and Order*, 10 FCC Rcd 12759 (1995) ("*Implementation of Section 9 Order*") at ¶13, the Commission set forth the items that must accompany a request for waiver of payment of regulatory fees based on financial hardship. Specifically, the Commission suggested that the following items be provided: (a) an audited balance sheet and profit and loss statement; (b) a cash flow projection; and (c) a list of officers and their individual compensation. In *Assessment and Collection of Regulatory Fees for Fiscal Year 2009, Report and Order*, FCC 09-62 (rel. July 31, 2009), the Commission confirmed that a regulatee such as Double O may establish financial hardship based on the *Implementation of Section 9 Order* factors. Therefore, Double O is providing the requested documentation along with this request.

6. Specifically, attached hereto at Exhibit B is a report completed by Double O's independent auditors, covering Double O's finances during the years ended December 31, 2008 and 2007. Also being provided, at Exhibit C, is a consolidated income statement for Double O covering January 31, 2009 through August 31, 2009, reflecting the most recent available data. Exhibit D is a cash flow projection for the period ended December 31, 2009, calculated pursuant to United States generally accepted accounting principles ("GAAP"). Exhibit E is a list of

Double O's officers and their individual compensation. As indicated therein, only one Double O officer currently is drawing a salary. Taken together, Exhibits B through E demonstrate that a refund of the [redacted] and [redacted] regulatory fee payments made by Double O in fiscal years 2008 and 2009, respectively, is warranted due to the [redacted] dollar operating losses suffered by Double O in 2008 and on an ongoing basis in 2009 [redacted].)

7. Pursuant to Section 0.459 of the Commission's rules, Double O respectfully requests that the Exhibits attached to this document be kept confidential by the Commission. In support hereof are the following responses, which correspond to each subsection within Section 0.459(b) of the Commission's rules:

- (1) Confidential treatment is sought with respect to Exhibits A-E attached hereto.
- (2) The documents are being submitted in conjunction with a request for a refund of annual regulatory fees that were paid by Double O in fiscal years 2008 and 2009.
- (3) The information is financial in nature.
- (4) The information concerns radio broadcasting, which is subject to local and national competition for advertising revenue.
- (5) If the information were publicly disclosed and available, Double O could be placed at a competitive disadvantage, because advertisers and other vendors could be less willing to conduct business with Double O due to Double O's financial situation.
- (6) Double O has not made the information available to any other public or private entity and has instructed all persons who may come into contact with such information to maintain it as confidential.
- (7) The information is not available to the public. To Double O's knowledge, the information has not been disclosed to any other person.

(8) The material should be kept confidential indefinitely. As described in item (5) above, Double O could be placed at a competitive disadvantage if the information were available to the public.

8. Based on the foregoing, Double O respectfully requests that the Commission, without undue delay, issue a refund in the amount of [redacted], covering the regulatory fee payments made by the Licensee Companies in fiscal years 2008 and 2009.

Respectfully submitted,

DOUBLE O CORPORATION

By: 

Mark B. Denbo
DRINKER BIDDLE & REATH LLP
1500 K Street, NW
Suite 1100
Washington, DC 20005
(202) 842-8800

Its Attorneys

November 2, 2009