

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

JUN 18 2010

OFFICE OF
MANAGING DIRECTOR

Jeffrey L. Timmons, P.C.
1110 Whitehawk Trail
Lawrenceville, Georgia 30043-7158

Re: Station KEJB(TV), El Dorado, AK
KM Television of El Dorado, L.L.C.
Request for Waiver of FY 2009 Regulatory Fees
Fee Control No. RROG-09-00012318

Dear Mr. Timmons:

This is in response to your request filed November 6, 2009 (*Request*), on behalf of KM Television of El Dorado, L.L.C. (KM Television), for a waiver of the fiscal year (FY) 2009 regulatory fee for Stations KEJB(TV) and W44CE, El Dorado, Arkansas, based upon financial hardship. Our records reflect that KM Television has not paid the paid the \$1,950.00 and \$400.00 regulatory fees for Stations KWEJB(TV) and W44CE. For the reasons stated herein, we will waive the fees.

In support of your request, you submit a copy of KEJB(TV)'s "Profit & Loss" for the 2008 calendar year (*Financial Statement*).¹ You recite that this statement "is the most recent full year for which financial statements are available for KM [Television]."² You assert that KM Television was able to continue to operate KEJB in 2008 only by considerable loans to KM Television from a bank and from the corporation's principal and 100 percent owner, Mrs. Myoung Hwa Bae, or from other entities wholly-owned by Mrs. Bae.³ You state that "[n]o net payments (including no payroll payments) have been made by KM [Television] or KEJB to Mrs. Bae, or to any entity in which Mrs. Bae has any interest, or to any other principal or owner of KM [Television] or KEJB, in 2008 or since the station was constructed and been operating"⁴ You further aver that "no officer, director, owner or principal of KM Television . . . has received any net payments (including no salary or payroll payments) from KM Television or KEJB in 2008, or since the station[.]"⁵ You say that the highest-paid employee at KEJB was paid \$38,655 in 2008.⁶

¹ See *Request*, Exhibit 1.

² *Request* at 1.

³ *Id.*

⁴ *Id.* at 2.

⁵ *Id.*, Exhibit 2 (Declaration of Kevin Joel Bae).

⁶ See email from Jeff Timmons to Joanne Wall (Dec. 16, 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."⁷ 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 or amortization are considered funds available to pay the fees.

The *Financial Statement* indicates that KEJB(TV) suffered a financial loss in the 2008 calendar year of \$385,891.70, which was only partially offset by depreciation. Accordingly, we grant your request for a waiver of the \$2,350.00 (\$1,950.00 and \$400.00) regulatory fees for FY 2009.

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

⁷ See *Implementation of Section 9 of the Communications Act*, 9 FCC Rcd 5333, 5346 (1994), recon. granted, 10 FCC Rcd 12759 (1995).