

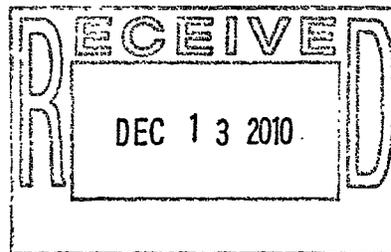
FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

DEC 1 0 2010

OFFICE OF
MANAGING DIRECTOR

Peter Tannenwald, Esq.
Fletcher, Heald & Hildreth, P.L.C.
1300 N. 17th Street, Eleventh Floor
Arlington, Virginia 22209



Re: North Pacific International Television, Inc.
Debtor-in-Possession
FY 2010 Regulatory Fees
Fee Control No. RROG-10-00013015

Dear Mr. Tannenwald:

This letter responds to your request dated August 23, 2010, on behalf of North Pacific International Television, Inc., Debtor-in-Possession (North Pacific, DIP), licensee of broadcast and associated auxiliary stations KPST-TV and WPOT863, for a waiver and deferral of the fiscal year (FY) 2010 regulatory fees on the grounds of bankruptcy (*Request*). Our records reflect that you have not paid the \$30,085 regulatory fee at issue. For the reasons stated herein, we grant your request.

You say that North Pacific, DIP filed for bankruptcy under Chapter 11 with the United States Bankruptcy Court for the Western District of Washington (Bankruptcy Court) in January of 2010 and that it was in bankruptcy on August 31, 2010, the due date for filing of FY 2010 regulatory fees.¹ You state that the Commission has granted an application to assign the stations to North Pacific, DIP.² You submit a copy of the Bankruptcy Court's "Order Combined with Notice of Chapter 11 Bankruptcy Case, Meeting of Creditors, & Deadlines," dated January 21, 2010 (*Bankruptcy Order*).³

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.⁴ Based on the evidence that you provide that North Pacific, DIP was in bankruptcy on August 31, 2010, the due date for filing FY 2010 regulatory fees,⁵ including the *bankruptcy order*, we grant North Pacific International Television, Inc., DIP a waiver of the FY 2010 regulatory fee.

¹ *Request* at 1.

² *Request* at 1.

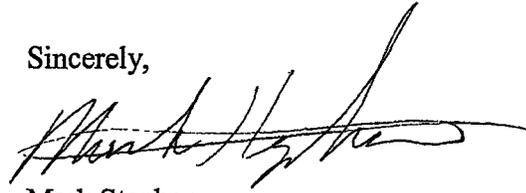
³ *Id.*, Attachment

⁴ *See Implementation of Section 9 of the Communications Act*, 10 FCC Rcd 12759, 12762 (1995).

⁵ *See Public Notice, FY 2010 Regulatory Fees Due No Later Than August 31, 2010, Eastern Time (ET)*, DA 10-1451, 2010 WL 3133517 (Aug. 9, 2010).

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

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

APR 06 2012

Adana

OFFICE OF
MANAGING DIRECTOR

Dan J. Alpert, Esq.
The Law Office of Dan J. Alpert
2120 N. 21st Road
Arlington, VA 22201

Re: Waiver Request (Unlicensed Station)
Licensee/Applicant: Pacific Radio Group, Inc.
Station: KPVS-FM1
Fee: FY 2011 Regulatory Fee
Date Request Filed: Sept. 13, 2011
Date Regulatory Fee Paid: Sept. 7, 2011
Fee Control No.: RROG-11-00013864
Regulatory Fee Amount: \$395.00

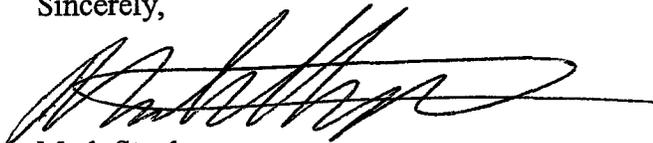
Dear Mr. Alpert:

This responds to Licensee's *Request*¹ for waiver and refund of \$395.00 previously paid for the required fiscal year (FY) 2011 regulatory fee. For the reasons stated herein, we grant the *Request*.

Our records show that Licensee received a valid construction permit that was valid from May 2, 2008, until May 2, 2011, and that the permit was cancelled during June of 2011. No fee was due for FY 2011. Thus, the amount of the regulatory fee paid will be refunded to the payor of record² in a check issued by the Department of the Treasury.

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

¹ Letter from Dan J. Alpert, 2120 N. 21st Rd., Arlington, VA 22201 to Managing Director, FCC, 445 12th St. S.W, Washington, DC 20554 (received Sep. 13, 2011) (*Request*).

² 47 C.F.R. § 1.1160(a)(1).

Incoming Communication Tracking - Entry Screen

Tracking Number	13864	Date Received	9/13/2011
File Number		Date Filed	9/13/2011
		Date Completed	

Letters Sent

2 day	<input type="checkbox"/>
30 day	<input type="checkbox"/>
60 day	<input type="checkbox"/>
60 day (2)	<input type="checkbox"/>

General Information

Source	Letter	Call Sign	KPVS
Program	Regulatory Fee	FCC Code 1	
Communication Type	Waiver of Rules	FCC Code 2	
Bureau	OMD	Licensing System	
Secondary Bureau		Wavier Amount	\$0.00

Applicant/Contact Information

FRN	0004330817		
Applicant Name	Pacific Radio Group KPVS		
Address 1	2120 N 21st Rd		
Address 2			
City, State Zip	Arlington	VA	22201
Contact Name	Dan Alpert	Additional FRN	
Contact Phone		Additional Name	

Assignment/Status Information

Assigned To	RROG	Disposition Status	Open
Assigned To POC	Ann Monahan	Outcome	
RE		Filer ID	
Date Assigned	9/19/2011	Bill Number	
Reassigned To		Fee Control Number	
Date Reassigned			
2nd Reassigned To			
2nd Date Reassigned			

Assignment/Status Information

Comments	
	<p style="font-family: cursive;">see also - Pacific Radio Group fac id: 51240</p>

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 13, 2011

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

RECEIVED - FCC

SEP 13 2011

Federal Communications Commission
Bureau / Office

**Re: Station KPVS-FM1
Facility No. 166738
FRN: 0004330817**

To Whom This May Concern:

Pacific Radio Group, by its attorney, hereby requests a waiver and refund of its 2011 Annual Regulatory Fee with respect to the above-referenced station. In support thereof, the following is stated.

This station is not yet licensed. Since Pacific Radio Group is not yet a licensee of the booster station, and no fees are assessed for booster station construction permits, no regulatory fee should be due.

Accordingly, a waiver and refund of the \$395.00 2010 Annual Regulatory Fee that has been paid is appropriate.

Please send the refund to the undersigned, who was the designated "Payor" of the Fee.

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

A Note From
Dana R Shaffer

Very truly yours,

Dan J. Alpert

Counsel for Pacific Radio Group, Inc.

booster station
not yet licensed
??

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 13, 2011

RECEIVED - FCC

SEP 13 2011

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

Federal Communications Commission
Bureau / Office

**Re: Station KPVS-FM1
Facility No. 166738
FRN: 0004330817**

To Whom This May Concern:

Pacific Radio Group, by its attorney, hereby requests a waiver and refund of its 2011 Annual Regulatory Fee with respect to the above-referenced station. In support thereof, the following is stated.

This station is not yet licensed. Since Pacific Radio Group is not yet a licensee of the booster station, and no fees are assessed for booster station construction permits, no regulatory fee should be due.

Accordingly, a waiver and refund of the \$395.00 2010 Annual Regulatory Fee that has been paid is appropriate.

Please send the refund to the undersigned, who was the designated "Payor" of the Fee.

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

Very truly yours,

Dan J. Alpert

Counsel for Pacific Radio Group, Inc.

Adana

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554
APR 10 2012

OFFICE OF
MANAGING DIRECTOR

Steven E. Alfieris, Esq.
Pappas Telecasting Companies
823 West Center Avenue
Visalia, CA 93291

Re: Waiver Request (Dark Station)
Licensee: WWAZ-TV Licensee, LLC
Station: WWAZ-TV
Fee: FY 2011 Regulatory Fee
Date Request Filed: 9-13-11
Date Regulatory Fee Paid: (Not paid)
Fee Control No. RROG-11-00013945
Regulatory Fee Amount: \$ 12,325.00
25% Penalty: \$ 3,081.25
Collection Fee: \$ 50.00
Interest: \$ 77.03
Penalties: \$ 462.19

Dear Mr. Alfieris:

This letter responds to Licensee's *Request*¹ for a waiver of the above-referenced fee. The *Request* does not include a petition to defer payment accompanied by appropriate supporting documentation, and our records reflect that Licensee did not pay the fee. Accordingly, as required by the law,² we dismiss the *Request* and assess a penalty equal to 25% of the amount of the regulatory fee unpaid.³ Furthermore, because the unpaid fee is a delinquent debt, we are required to assess the administrative costs of collection, accrued interest, and accrued penalties.⁴ Finally, under section 1.1910 of our rules,⁵ until the debt is paid or other satisfactory arrangements are made for payment, we are required to withhold action on any application filed by Licensee.

¹ Letter from Steven E. Alfieris, Esq., Pappas Telecasting Companies, 823 West Center Avenue, Visalia, CA 93291 to Marlene H. Dortch, Secretary, FCC, 445 12th St. S.W, Washington, DC 20554 (received Sept. 13, 2011) (*Request*).

² 47 C.F.R. § 1.1166(c) provides: "Waiver requests that do not include the required fees or forms will be dismissed unless accompanied by a petition to defer payment due to financial hardship, supported by documentation of the financial hardship." See Assessment and Collection of Regulatory Fee for Fiscal Year 2011, *Report and Order*, 26 FCC Rcd 10812, 10819, ¶ 17 (2011) ("if a request for deferral is not supported by documentation of financial hardship, it will be denied, and an associated petition for waiver or reduction will be dismissed").

³ 47 U.S.C. § 159(c)(1); 47 C.F.R. § 1.1164(c).

⁴ 31 U.S.C. § 3717(e); 31 C.F.R. § 901.9; 47 C.F.R. § 1.1940.

⁵ 47 C.F.R. § 1.1910.

We have dismissed the *Request*; however, had Licensee petitioned to defer payment (or paid the fee and requested a refund), we would nonetheless deny the *Request*. Licensee's mere assertion that the station is silent does not establish financial hardship.

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. Such fees may be waived, reduced or deferred, but only upon a case-by-case showing of good cause and a finding that the public interest will be served thereby.⁶ The Commission has narrowly interpreted its waiver authority to require a showing of compelling and extraordinary circumstances that outweigh the public interest in recouping the Commission's regulatory costs.⁷ Fee relief may be granted based on asserted financial hardship, but only upon a documented showing that payment of the fee will adversely impact the licensee's ability to serve the public.⁸ "Mere allegations or documentation of financial loss, standing alone," do not suffice and "it [is] incumbent upon each regulatee to fully document its financial position and show that it lacks sufficient funds to pay the regulatory fee and to maintain its service to the public."⁹ In reviewing a showing of financial hardship, the Commission relies on a range of financial documents including a licensee's balance sheet and profit and loss statement (audited, if available), a cash flow projection for the next twelve months (with an explanation of how calculated), a list of their officers and their individual compensation, together with a list of their highest paid employees, other than officers, and the amount of their compensation, or similar information. It is on this information that the Commission considers on a case-by-case basis whether the station lacks sufficient funds to pay the regulatory fee and maintain service to the public.¹⁰ Thus, for example, 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. And pertinent to stations that file "[p]etitions to go dark," as is set forth at 47 C.F.R. § 73.1740(a)(4), the Commission opined that such petitions "are generally based on financial hardship. Under these circumstances, imposition of the regulatory fees could be an impediment to the restoration of broadcast service, and it is unnecessary to require a licensee to make a further showing of financial hardship."¹¹ Licensee did not establish that those circumstances are present and applicable.

Licensee refers to the Commission's above-referenced discussion concerning a dark station, and it asserts only that "the station is silent. . . . The station remains off the air and will not return to the air before the fees are due."¹² Licensee provided no documentation to support the *Request*, e.g., verified financial documentation.

⁶ 47 U.S.C. § 159(d); 47 C.F.R. § 1.1166. *See also* Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for Fiscal Year 1994, *Report and Order*, 9 FCC Rcd 5333, 5344 (1994), *recon. denied*, 10 FCC Rcd 12759 (1995).

⁷ 9 FCC Rcd at 5344 ¶ 29.

⁸ 10 FCC Rcd at 12761-62 ¶ 13.

⁹ *Id.*

¹⁰ *Id.*

¹¹ 10 FCC Rcd at 12762 ¶ 15.

¹² *Request* at 1.

A waiver of the Commission's rules is appropriate only if special circumstances warrant deviation from the general rule, and such deviation will serve the public interest.¹³ In demonstrating whether a waiver is warranted, the burden of proof rests with the petitioner.¹⁴ In this case, however, Licensee did not carry its burden as set forth at 47 C.F.R. § 1.1166 to demonstrate that on "a case-by-case" it has shown "good cause" and that the "waiver [of the required fee] would promote the public interest."¹⁵ Instead, Licensee asserts only that its station was silent, but it did not present any evidence to establish whether or not its application to go silent was supported by a fully documented financial position that shows at the time the FY 2011 regulatory fee was due, it lacked funds sufficient to pay the regulatory fee and to maintain its service to the public.¹⁶ It is not enough merely to assert dark status, especially because a licensee may request to go dark for reasons unrelated to financial hardship.¹⁷ Inherent in the Commission's statement that "it is unnecessary to require a licensee to make a *further showing of financial hardship* (emphasis added),"¹⁸ is the understanding that the applicant's petition to go dark was (a) filed because of financial hardship and (b) supported by full documentation of its financial position that met the Commission's relevant standards. Plainly, in order for it to be unnecessary to require a *further* showing, the applicant must have made a valid *prior* showing of the requisite financial information. Moreover, because each waiver is considered on a case-by-case basis, the financial information must be relevant to the current request for a waiver of the fee and it must be sufficient to demonstrate compelling and extraordinary circumstances that outweigh the public interest in recouping the Commission's regulatory costs.¹⁹

In asserting only that the "station is silent,"²⁰ Licensee failed to clarify its position before the Commission.²¹ Rather than the unsupported conclusion offered, Licensee should have provided evidence whether its application to go dark was based on financial hardship that was "fully document[ed]"²² and accepted by the Commission as such evidence, and if not (apparently as is the case here), licensee should have provided sufficient documentation to meet the standard set forth at 47 C.F.R. § 1.1166.²³ In this case, Licensee's reason for its request to go dark was for "financing," *i.e.*, "DUE TO SEVERE FINANCIAL CONSTRAINTS, THE STATION SUSPENDED BROADCAST OPERATIONS ON 11/24/2010 AT 4:00 PM LOCAL TIME. WWAZ LICENSE IS ACTIVELY WORKING TO DEVELOP A STRATEGIC PLAN FOR

¹³ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); 47 C.F.R. § 1.3.

¹⁴ *Tucson Radio, Inc. v. FCC*, 452 F.2d 1380, 1382 (D.C. Cir. 1971).

¹⁵ 47 C.F.R. § 1.1166.

¹⁶ 10 FCC Rcd at 12761-62 ¶ 13.

¹⁷ The FCC Form to request silent status includes in the section, "Reason for going silent" five categories, *i.e.*, Technical, Financing, Staffing, Program Source, and Other. The applicant also may provide the reason for the request.

¹⁸ 10 FCC Rcd at 12762 ¶ 15.

¹⁹ 9 FCC Rcd at 5344 ¶ 29.

²⁰ *Request* at 1.

²¹ *Bartholdi Cable Co. Inc. v. FCC*, 114 F.3d 274, 280 (D.C. Cir. 1997).

²² 10 FCC Rcd at 12762 ¶ 13 ("It will be incumbent upon each regulatee to fully document its financial position and show that it lacks sufficient funds to pay the regulatory fees and to maintain its service to the public.").

²³ 47 C.F.R. § 1.1166 ("The fee . . . may be waived . . . in specific instances, on a case-by-case basis, where good cause is shown and where waiver . . . of the fee would promote the public interest."). *See also* 10 FCC Rcd at 12761-62 ¶ 13.

THE OPTIMAL USE OF THE STATIONS RESOURCES IN ORDER TO RESOLVE THIS SITUATION, AND SO THAT THE STATION MAY RESUME ITS BROADCAST SERVICE AT THE EARLIEST PRACTICABLE DATE. THE PUBLIC INTEREST WILL BE SERVED BY A GRANT OF THE STA, BECAUSE THIS STA WILL ALLOW STATION WWAZ-DT TO CONTINUE SERVING ITS VIEWERS, ONCE ITS CHALLENGING FINANCIAL SITUATION IS RESOLVED.”²⁴ That is not evidence of financial hardship. We will not assume the existence or sufficiency of information not part of the *Request*.²⁵ Accordingly, in addition to the grounds stated above for dismissal, we deny Licensee’s *Request* for a waiver of the required regulatory fee.

Payment of Licensee’s FY 2011 regulatory fee plus the penalty and all accrued charges is now due, which, as of the date of this letter, is \$15,995.47. That amount must be received, together with a Form 159 (copy enclosed), within 30 days of the date of this letter. Thereafter, additional charges will accrue. 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

Enclosure

²⁴ Notification of Suspension of Operations/Request for Silent STA, FCC File No. BLSTA20101130AHE Exhibit 1, Description.

²⁵ Licensee failed to provide any evidence of a bankruptcy proceeding involving the limited partnership. We understand that Licensee is registered under the laws of the State of Delaware as a limited partnership. Under Del. Code § 17-402, a person ceases to be a general partner upon the filing of a voluntary petition in bankruptcy. Under the circumstances, License should have clarified both its status and that of the person who is referred to as the general partner.

ORIGINAL



Steven E. Alfieris
SPECIAL COUNSEL

HAND DELIVERY

September 12, 2011

FILED/ACCEPTED

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, NW
Washington, DC 20554

SEP 13 2011
Federal Communications Commission
Office of the Secretary

Attn: Office of the Managing Director

Dear Ms. Dortch,

By its counsel, WWAZ License, LLC, licensee of television broadcast station WWAZ, Fond du Lac, Wisconsin (Facility ID 60571), hereby respectfully requests a waiver of its obligation to pay regulatory fees due September 14, 2011 for WWAZ because the station is silent.

In *Implementation of Section 9 of the Communications Act*, 10 FCC Rcd 12759, 12762 (1995), the Commission determined that regulatory fees may be waived for stations which are not on the air. WWAZ License, LLC filed a notification of Suspension of Operations and a Request for Silent Special Temporary Authority for WMMF, citing financial reasons for the station's silence. The station remains off the air and will not return to the air before the fees are due.

September 12, 2011
Page 2

In light of the foregoing, the licensee respectfully requests relief from payment of the FY2011 regulatory fees due for the above referenced station(s).

Should you have any questions, please do not hesitate to contact the undersigned.

Very truly yours,

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

Steven E. Alfieri

FEDERAL COMMUNICATIONS COMMISSION
REMITTANCE VOUCHER
FORM 159 - E

LOCKBOX # 979084	FCC VOUCHER NUMBER E001991645	PAYER FRN 0010662575	TOTAL AMOUNT DUE \$12,325.00 (US Dollars & Cents)
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PAYER INFORMATION

WWAZ License, LLC
500 South Chinowth Road
Visalia CA 93277
559-7337800

APPLICANT INFORMATION

WWAZ LICENSE, LLC
500 South Chinowth Road
Visalia CA 93277
559-7337800
APPLICANT FRN: 0010662575

CREDIT CARD PAYMENT INFORMATION

MASTERCARD _____ VISA _____ AMEX _____ DISCOVER _____

ACCOUNT NUMBER _____ EXPIRATION DATE _____

I hereby authorize the FCC to charge my credit card for the service(s)/authorization herein described.

SIGNATURE _____ DATE _____

PAYMENT INSTRUCTIONS:

Check or Money Order: Payable to the Federal Communications Commission.

Credit Card: Complete the "Credit Card Payment Information" section above with all the requested credit card information along with your signature. The U.S. Treasury may reject Credit Card transactions greater than \$99,999.99. This limit includes multiple transactions on the same Credit Card totaling more than this limit in a single day. Reference: Treasury Bulletin No. 2005-03.

Wire Transfer: Fax a copy of this form to (314) 418-4232 one hour before initiating the wire transfer. Detailed instructions for executing a wire transfer may be found at www.fcc.gov/fees/wiretran.html.

Please submit payment along with your FCC Form 159-E Remittance Voucher to the address below:

Mailing address for this payment:
Federal Communications Commission
Regulatory Fees
P. O. Box 979084
St. Louis, MO 63197-9000

Courier delivery address for this payment:
Federal Communications Commission
U.S. Bank Government Lockbox
SL-MO-C2-GL
1005 Convention Plaza
St. Louis, MO 63101

Ensure that the amount of the payment agrees with the amount at the top of this form. Do not send your Form 159-E or payment to the Commission's Washington, DC mailing address. Filings that are erroneously mailed to our Washington, DC address will be forwarded to our St. Louis, MO address for processing and will not be considered received until they are received into our process at the St. Louis address.

Adama

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

APR 12 2012

OFFICE OF
MANAGING DIRECTOR

Steven E. Alfieris, Esq.
Pappas Telecasting Companies
823 West Center Avenue
Visalia, CA 93291

Re: Waiver Request (Dark Station)
Licensee: Pappas Telecasting of the Treasure Coast,
LLC
Station: WMMF-LP
Fee: FY 2011 Regulatory Fee
Date Request Filed: 9-13-11
Date Regulatory Fee Paid: (Not paid)
Fee Control No. RROG-11-0013943
Regulatory Fee Amount: \$ 395.00
25% Penalty: \$ 98.75
Collection Fee: \$ 50.00
Interest: \$ 2.47
Penalties: \$ 14.81

Dear Mr. Alfieris:

This letter responds to Licensee's *Request*¹ for a waiver of the above-referenced fee. The *Request* does not include a petition to defer payment accompanied by appropriate supporting documentation, and our records reflect that Licensee did not pay the fee. Accordingly, as required by the law,² we dismiss the *Request* and assess a penalty equal to 25% of the amount of the regulatory fee unpaid.³ Furthermore, because the unpaid fee is a delinquent debt, we are required to assess the administrative costs of collection, accrued interest, and accrued penalties.⁴

¹ Letter from Steven E. Alfieris, Esq., Pappas Telecasting Companies, 823 West Center Avenue, Visalia, CA 93291 to Marlene H. Dortch, Secretary, FCC, 445 12th St. S.W, Washington, DC 20554 (received Sept. 13, 2011) (*Request*).

² 47 C.F.R. § 1.1166(c) provides: "Waiver requests that do not include the required fees or forms will be dismissed unless accompanied by a petition to defer payment due to financial hardship, supported by documentation of the financial hardship." See Assessment and Collection of Regulatory Fee for Fiscal Year 2011, *Report and Order*, 26 FCC Rcd 10812, 10819, ¶ 17 (2011) ("A regulatee's mere allegation of financial hardship thus does not automatically entitle it to a deferral of its obligation to pay regulatory fees; only a properly supported claim of financial hardship will entitle the regulatee to a deferral. Accordingly, if a request for deferral is not supported by documentation of financial hardship, it will be denied, and an associated petition for waiver or reduction will be dismissed.").

³ 47 U.S.C. § 159(c)(1); 47 C.F.R. § 1.1164(c).

⁴ 31 U.S.C. § 3717(e); 31 C.F.R. § 901.9; 47 C.F.R. § 1.1940.

Finally, under section 1.1910 of our rules,⁵ until the debt is paid or other satisfactory arrangements are made for payment, we are required to withhold action on any application filed by Licensee.

We have dismissed the *Request*; however, had Licensee petitioned to defer payment (or paid the fee and requested a refund), we would nonetheless deny the *Request*. Licensee's mere assertion that the station is silent does not establish financial hardship.

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. Such fees may be waived, reduced or deferred, but only upon a case-by-case showing of good cause and a finding that the public interest will be served thereby.⁶ The Commission has narrowly interpreted its waiver authority to require a showing of compelling and extraordinary circumstances that outweigh the public interest in recouping the Commission's regulatory costs.⁷ Fee relief may be granted based on asserted financial hardship, but only upon a documented showing that payment of the fee will adversely impact the licensee's ability to serve the public.⁸ "Mere allegations or documentation of financial loss, standing alone," do not suffice and "it [is] incumbent upon each regulatee to fully document its financial position and show that it lacks sufficient funds to pay the regulatory fee and to maintain its service to the public."⁹ In reviewing a showing of financial hardship, the Commission relies on a range of financial documents including a licensee's balance sheet and profit and loss statement (audited, if available), a cash flow projection for the next twelve months (with an explanation of how calculated), a list of their officers and their individual compensation, together with a list of their highest paid employees, other than officers, and the amount of their compensation, or similar information. It is on this information that the Commission considers on a case-by-case basis whether the station lacks sufficient funds to pay the regulatory fee and maintain service to the public.¹⁰ Thus, for example, 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. And pertinent to stations that file "[p]etitions to go dark," as is set forth at 47 C.F.R. § 73.1740(a)(4), the Commission opined that such petitions "are generally based on financial hardship. Under these circumstances, imposition of the regulatory fees could be an impediment to the restoration of broadcast service, and it is unnecessary to require a licensee to make a further showing of financial hardship."¹¹ Licensee did not establish that those circumstances are present and applicable.

Licensee refers to the Commission's above-referenced discussion concerning a dark station, and it asserts only that "the station is silent. ... The station remains off the air and will

⁵ 47 C.F.R. § 1.1910.

⁶ 47 U.S.C. §159(d); 47 C.F.R. § 1.1166. *See also* Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for Fiscal Year 1994, *Report and Order*, 9 FCC Rcd 5333, 5344 (1994), *recon. denied*, 10 FCC Rcd 12759 (1995).

⁷ 9 FCC Rcd at 5344 ¶ 29.

⁸ 10 FCC Rcd at 12761-62 ¶ 13.

⁹ *Id.*

¹⁰ *Id.*

¹¹ 10 FCC Rcd at 12762 ¶ 15.

not return to the air before the fees are due.”¹² Licensee provided no documentation to support the *Request*, e.g., verified financial documentation.

A waiver of the Commission’s rules is appropriate only if special circumstances warrant deviation from the general rule, and such deviation will serve the public interest.¹³ In demonstrating whether a waiver is warranted, the burden of proof rests with the petitioner.¹⁴ In this case, however, Licensee did not carry its burden as set forth at 47 C.F.R. § 1.1166 to demonstrate that on “a case-by-case” it has shown “good cause” and that the “waiver [of the required fee] would promote the public interest.”¹⁵ Instead, Licensee asserts only that its station was silent, but it did not present any evidence to establish whether or not its application to go silent was supported by a fully documented financial position that shows at the time the FY 2011 regulatory fee was due, it lacked funds sufficient to pay the regulatory fee and to maintain its service to the public.¹⁶ It is not enough merely to assert dark status, especially because a licensee may request to go dark for reasons unrelated to financial hardship.¹⁷ Inherent in the Commission’s statement that “it is unnecessary to require a licensee to make a *further showing of financial hardship* (emphasis added),”¹⁸ is the understanding that the applicant’s petition to go dark was (a) filed because of financial hardship and (b) supported by full documentation of its financial position that met the Commission’s relevant standards. Plainly, in order for it to be unnecessary to require a *further* showing, the applicant must have made a valid *prior* showing of the requisite financial information. Moreover, because each waiver is considered on a case-by-case basis, the financial information must be relevant to the current request for a waiver of the fee and it must be sufficient to demonstrate compelling and extraordinary circumstances that outweigh the public interest in recouping the Commission’s regulatory costs.¹⁹

In asserting only that the “station is silent,”²⁰ Licensee failed to clarify its position before the Commission.²¹ Rather than the unsupported conclusion offered, Licensee should have provided evidence whether its application to go dark was based on financial hardship that was “fully document[ed]”²² and accepted by the Commission as such evidence, and if not (apparently as is the case here), licensee should have provided sufficient documentation to meet the standard set forth at 47 C.F.R. § 1.1166.²³ In this case, Licensee’s reason for its request to go dark was for “financing,” i.e., “THE STATION HAS BEEN TAKEN DARK DUE TO THE BANKRUPTCY

¹² *Request* at 1.

¹³ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); 47 C.F.R. § 1.3.

¹⁴ *Tucson Radio, Inc. v. FCC*, 452 F.2d 1380, 1382 (D.C. Cir. 1971).

¹⁵ 47 C.F.R. § 1.1166.

¹⁶ 10 FCC Rcd at 12761-62 ¶ 13.

¹⁷ The FCC Form to request silent status includes in the section, “Reason for going silent” five categories, i.e., Technical, Financing, Staffing, Program Source, and Other. The applicant also may provide the reason for the request.

¹⁸ 10 FCC Rcd at 12762 ¶ 15.

¹⁹ 9 FCC Rcd at 5344 ¶ 29.

²⁰ *Request* at 1.

²¹ *Bartholdi Cable Co. Inc. v. FCC*, 114 F.3d 274, 280 (D.C. Cir. 1997).

²² 10 FCC Rcd at 12762 ¶ 13 (“It will be incumbent upon each regulatee to fully document its financial position and show that it lacks sufficient funds to pay the regulatory fees and to maintain its service to the public.”).

²³ 47 C.F.R. § 1.1166 (“The fee . . . may be waived . . . in specific instances, on a case-by-case basis, where good cause is shown and where waiver . . . of the fee would promote the public interest.”). See also 10 FCC Rcd at 12761-62 ¶ 13.

OF THE SOLE MEMBER. EFFORTS TO OBTAIN FUNDS TO PUT THE STATION BACK ON THE AIR OR TO SELL THE STATION ARE ONGOING.”²⁴ That is not evidence of financial hardship. We will not assume the existence or sufficiency of information not part of the *Request*.²⁵ Accordingly, in addition to the grounds stated above for dismissal, we deny Licensee’s *Request* for a waiver of the required regulatory fee.

Payment of Licensee’s FY 2011 regulatory fee plus the penalty and all accrued charges is now due, which, as of the date of this letter, is \$561.03. That amount must be received, together with a Form 159 (copy enclosed), within 30 days of the date of this letter. Thereafter, additional charges will accrue. If you have any questions concerning this letter, please contact the Revenue and 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

²⁴ Notification of Suspension of Operations/Request for Silent STA, FCC File No. BLSTA20110624ACM, Exhibit 1, Description.

²⁵ Licensee failed to provide either any evidence of a bankruptcy proceeding involving the sole member of the limited liability company or any legal analysis whether (or to what extent) that proceeding affects the licensee.

ORIGINAL



Steven E. Alfieris
SPECIAL COUNSEL

HAND DELIVERY

September 12, 2011

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, NW
Washington, DC 20554

FILED/ACCEPTED

SEP 13 2011
Federal Communications Commission
Office of the Secretary

Attn: Office of the Managing Director

Dear Ms. Dortch,

By its counsel, Pappas Telecasting of the Treasure Coast, LLC, licensee of television broadcast station WMMF-LP, Vero Beach, Florida (Facility ID 36239), hereby respectfully requests a waiver of its obligation to pay regulatory fees due September 14, 2011 for WMMF-LP because the station is silent.

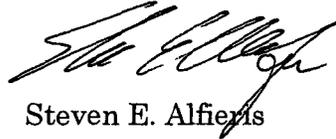
In *Implementation of Section 9 of the Communications Act*, 10 FCC Rcd 12759, 12762 (1995), the Commission determined that regulatory fees may be waived for stations which are not on the air. Pappas Telecasting of the Treasure Coast, LLC filed a notification of Suspension of Operations and a Request for Silent Special Temporary Authority for WMMF, citing financial reasons for the station's silence. The station remains off the air and will not return to the air before the fees are due.

September 12, 2011
Page 2

In light of the foregoing, the licensee respectfully requests relief from payment of the FY2011 regulatory fees due for the above referenced station(s).

Should you have any questions, please do not hesitate to contact the undersigned.

Very truly yours,



Steven E. Alfieri



Adama

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

APR 30 2012

OFFICE OF
MANAGING DIRECTOR

Mr. Bruce Kneib
News-Press & Gazette Company
825 Edmond Street
St. Joseph, MO 64502

Re: Waiver Request (Late Payment Fees; 47 C.F.R. §§ 1.1164, 1.1167, 1.1910)
 Licensee/Applicant: Pikes Peak Television
 Fee: FY 2010 Regulatory Fees
 Date Request Filed: Aug. 30, 2011
 Fee Control No.: RROG-11-00013698
 Regulatory Fees Amount: \$28,320.00
 Date Regulatory Fees Paid: Dec. 16, 2010
Late Payment Penalties and Charges Due:

\$25,810 x 25% (due 9-1-2010)	\$6,452.50
Interest (1%) from 9-1-2010	\$ 108.12
Penalty (6%) from 9-1-210	\$ 659.45
Charge for collection	\$ 50.00
\$2,510 x 25% (due 9-1-2010)	\$ 627.50
Interest (1%) from 9-1-2010	\$ 10.51
Penalty (6%) from 9-1-2010	\$ 64.13
Charge for collection	\$ 50.00
Total due as of May 1, 2012	\$ 8,022.21

Dear Mr. Kneib:

This responds to Licensee's *Request*¹ for waiver of the penalties for late payment of FY 2010 regulatory fees (*penalties*). For the reasons stated herein, we dismiss and, in the alternative, deny Licensee's *Request*, and require full payment of \$8,022.21.

Under our rules,² because Licensee is delinquent in paying the *penalties*, we must dismiss the *Request*. In the alternative, if full payment of the penalties and charges (including accrued

¹ Letter from Bruce Kneib, New-Press & Gazette Company (on behalf of Pikes Peak Television), 825 Edmond St., St. Joseph, MO 64502 to FCC, Help Desk via fax, (dated Aug 30, 2011)(*Request*).

² 47 C.F.R. §§ 1.1167(b) ("The filing of a petition for reconsideration or an application for review of a fee determination will not relieve licensees from the requirement that full and proper payment of the underlying fee payment be submitted"); 1.1164(e)(" Any pending or subsequently filed application submitted by a party will be

interest, penalties, and charges of collection)³ had been received, we nonetheless are required to deny the *Request*.

Under 47 U.S.C. § 159 and the Commission's implementing rules, we are required to "assess and collect regulatory fees" to recover the costs of the Commission's regulatory activities,⁴ and when the required payment is received late or it is incomplete, to assess a penalty equal to "25 percent of the amount of the fee which was not paid in a timely manner."⁵ Specifically, "[a]ny late payment or insufficient payment of a regulatory fee, not excused by bank error, shall subject the regulatee to a 25 percent penalty of the amount of the fee . . . which was not paid in a timely manner."⁶ Thereafter, from the date of delinquency, as required by the law,⁷ interest, penalties, and administrative charges for collection accrue.

For FY 2010, the deadline for paying regulatory fees was August 31, 2010.⁸ Licensee's payment was not received and credited to its account until December 16, 2010, thus Licensee failed to meet its obligation. Licensee asserts "that a check was mailed to the Federal Communications Commission Regulatory Fees in Pittsburg[h], PA. [Licensee] later discovered that the Pittsburg[h] Office no longer processes payment but thought that [Licensee's] payment had been forwarded on to the St. Louis office for processing."⁹ Licensee attached a copy of the

dismissed if that party is determined to be delinquent in paying a standard regulatory fee The application may be resubmitted only if accompanied by the required regulatory fee and by any assessed penalty payment."); 1.1166(c) ("Petitions for waiver of a regulatory fee must be accompanied by the required fee and FCC Form 159. Submitted fees will be returned if a waiver is granted. Waiver requests that do not include the required fees or forms will be dismissed unless accompanied by a petition to defer payment due to financial hardship, supported by documentation of the financial hardship."); 1.1910(b)(2) ("Action will be withheld on applications, including on a petition for reconsideration or any application for review of a fee determination, or requests for authorization by any entity found to be delinquent in its debt to the Commission . . .").

³ 31 U.S.C. § 3717; 47 C.F.R. §§ 1.1164, 1.1940.

⁴ 47 U.S.C. § 159(a)(1); 47 C.F.R. § 1.1151.

⁵ 47 U.S.C. § 159(c)(1); 47 C.F.R. § 1.1164.

⁶ 47 C.F.R. § 1.1164.

⁷ 31 U.S.C. § 3717; 47 C.F.R. §§ 1.1164(f)(4), 1.1940; In *The Matter Of Implementation Of Section 9 Of The Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year, Report and Order*, 9 FCC Rcd. 5333, 5354 ¶ 65 (1994) ("Included in the recovery of any delinquent fee will be an assessment of interest on the debt due, a penalty for nonpayment, and the allowable cost incurred due to the federal government in the collection process."); In *The Matter Of Assessment And Collection Of Regulatory Fees For Fiscal Year 2010, Report and Order*, 25 FCC Rcd. 9278, 9297-98 ¶ 54 (2010) ("A late payment penalty of 25 percent of the unpaid amount of the required regulatory fee will be assessed on the first day following the deadline date for filing of these fees. Failure to pay regulatory fees and/or any late penalty will subject regulatees to sanctions, including those set forth in section 1.1910 of the Commission's Rules and in the Debt Collection Improvement Act of 1996 ("DCIA"). We also assess administrative processing charges on delinquent debts to recover additional costs incurred in processing and handling the related debt pursuant to the DCIA and section 1.1940(d) of the Commission's rules. These administrative processing charges will be assessed on any delinquent regulatory fee, in addition to the 25 percent late charge penalty. In case of partial payments (underpayments) of regulatory fees, the licensee will be given credit for the amount paid, but if it is later determined that the fee paid is incorrect or not timely paid, then the 25 percent late charge penalty (and other charges and/or sanctions, as appropriate) will be assessed on the portion that is not paid in a timely manner.").

⁸ "FY 2010 Regulatory Fees Due No Later Than August 31, 2010, Eastern Time (ET)," *Public Notice*, DA 10-1451, 2010 WL 3133517 (Aug. 9, 2010).

⁹ *Request*.

relevant checks.¹⁰ Licensee's assertions, however, do not present legal grounds or clear mitigating circumstances to waive collection of the penalties. 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."¹¹

In this instance, Licensee knew or should have known that on January 25, 2008, the Commission announced the change of the name and address that licensees, regulatees, and applicants use to submit payments and other filings, and it provided a 45-day transition period.¹² Indeed, the Commission repeatedly published the change with the location to submit payment.¹³ We note that even though Licensee erred in the mailing address, it included the correct lockbox number, 979084.

Moreover, Licensee's belated second check, the amount of which was credited to your account on December 16, 2010, does not provide a basis for relief. Every licensee is obliged to make the fee payment by the deadline. In such cases, neither the statute nor the Commission's regulations contemplates a waiver of or reduction in the late payment penalty based on the amount of time after the deadline within which the regulatee satisfies its payment obligations; indeed, the penalty for late payment applies even to situations where the deadline is missed by a short period of time.¹⁴ Further, although the Commission has waived late fees on a showing of good cause, neither the statute nor the Commission's regulations contemplates a waiver of or reduction in the late payment penalty based on the amount of time after the deadline within

¹⁰ *Id.*, attached Copy of Check No. 000014371, payable to Federal Communications Commission, Regulatory Fees, Pittsburgh, PA 15251-5365, USA (with notation, DESCRIPTION LOCKBOX 979084) (Check 000014371).

¹¹ 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); see also *NextGen Telephone* (OMD, Apr. 22, 2010); *Istel, Inc.* (OMD, Apr. 22, 2010).

¹² 47 C.F.R. § 1.1153; In The Matter of Amendment of Parts 0, 1, 2, 61, 64, 73, and 80 of the Commission's Rules, Concerning Commission Organization, Practice And Procedure, Frequency Allocations and Radio Treaty Matters; General Rules And Regulations, Tariffs, Miscellaneous Rules Relating to Common Carriers, Radio Broadcast Services, and Stations in the Maritime Services, *Order*, 23 FCC Rcd. 680 ¶¶ 2, 4 (2008) ("In order to provide a fair and sufficient transition period to allow filers to become familiar with the address changes in the rules, we provide that for forty-five days after Federal Register Publication, fees, applications, and other filings erroneously submitted by parties to the former lockbox bank shall be forwarded automatically to the new bank at the address listed in the rules. [D]uring this transition period, the date that such fees ... are date-stamped as received by the former lockbox bank shall be deemed to be the official filing date of such submissions. * * * Finally, because the Commission has provided a 45-day transition period before a filer will be penalized for not using the correct address, good cause has been shown for these rule changes to become effective on the date of publication in the Federal Register. * * * This will allow parties who are aware of the new address to begin using it without delay, while avoiding any prejudice to those who learn of the change when it is published in the Federal Register.")

¹³ "Federal Communications Commission Names U.S. Bank as New Lockbox Bank Used for Filing Applications and Non-Auction Payments," *Press Release*, Feb. 12, 2008 (The FCC "today announced that as of February 14 [2008] it is changing the bank that provides lockbox services to U.S. Bank in St. Louis"); In The Matter Of Assessment And Collection Of Regulatory Fees For Fiscal Year 2009, Assessment And Collection Of Regulatory Fees For Fiscal Year 2008, *Report and Order*, 24 FCC Rcd. 10301, 10321, ¶ 40 (2009) ("All lock box payments to the Commission for FY 2009 will be processed by U.S. Bank, St. Louis, Missouri, and payable to the FCC. For all regulatory fees, the address is: Federal Communications Commission, Regulatory Fees, P.O. Box 979084, St. Louis, MO 63197-9000."); "Payment Methods and Procedures for Fiscal Year 2010 Regulatory Fees," *Public Notice*, DA 10-1450 (rel. Aug. 9, 2010).

¹⁴ See *XO Communications, LLC* (OMD, Nov. 10, 2010).

which the regulatee made payment. As we explained, the penalty required by 47 U.S.C. § 159(c)(1) is not limited to situations where the failure to pay was knowing or willful. If it is to be waived, it is “only in the most extraordinary circumstances,”¹⁵ which Licensee has not presented. Thus, under the law, we must deny the Request.

Licensee owes a total of \$8,022.21 (as described above) for the FY 2010 late fee payment penalties, and as required by the law,¹⁶ interest, additional penalties, and the charges for collection. Payment should be submitted, together with a Form 159 (copy enclosed), within 30 days of the date of this letter. Thereafter, the interest, penalties, and administrative charges of collection will continue to accrue. Under 47 C.F.R. § 1.1910, until the delinquent debt is paid in full or other satisfactory arrangements are made, the Commission will withhold action on any application pending or filed on behalf of Licensee. 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

Enclosure

¹⁵ *McLeodUSA Telecommunications Services, Inc., Memorandum Opinion and Order*, 19 FCC Rcd 6587, 6589 (2004) (denying the request for waiver of 25 percent penalty).

¹⁶ 31 U.S.C. § 3717; 47 C.F.R. §§ 1.1164, 1.1940.

Mr. Bruce Kneib
News-Press & Gazette Company
825 Edmond Street
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Total due as of May 1, 2012	\$ 8,022.21

Dear Mr. Kneib:

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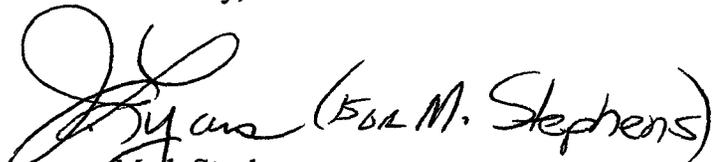
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Sincerely,


Mark Stephens
Chief Financial Officer

Enclosure

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