

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

NOV 1 2013

OFFICE OF  
MANAGING DIRECTOR

Benjamin Perez  
Abacus Television  
514 Chautauqua Street  
Pittsburgh, PA 15214

Re: Waiver Request, Financial Hardship, Late  
Filing (47 U.S.C. § 159(c); 47 C.F.R. §§ 1.1164(c)  
& (e); 1.1166(a)(2); 1.1166(c))

Licensee/Applicant: Abacus Television

Stations: WIIC-LP; WPTG-LP; WWBP-LP;

WWAT-CA; WQVC-CA; WBYD-CA; WBOA-LP;

WWVW-LP; WTOO-CA; WSSS-LP; WJKF-CA

Fee: Fiscal Year (FY) 2008 Regulatory Fees

Date filed: Jan. 12, 2009

Fee Control No: RROG-12-00014761

Total due: **See Fee Filer**

Dear Mr. Perez:

This responds to Licensee's *Request*<sup>1</sup> for a waiver of the required Fiscal Year (FY) 2008 regulatory fees, which were due September 25, 2008.<sup>2</sup> For the reasons discussed below, we dismiss.

Our records reveal that Licensee did not pay the FY 2008 regulatory fees for Stations WIIC-LP, WPTG-LP, WWBP-LP, WWAT-CA, WQVC-CA, WBYD-CA, WBOA-LP, WWVW-LP, WTOO-CA, WSSS-LP, and WJKF-CA, and Licensee did not timely petition to defer payment until after a ruling on the *Request*. Moreover, the date on the *Request* shows Licensee signed that submission on December 21, 2008, and filed it on January 12, 2009. The date of receipt of the submission at the location designated by the Commission<sup>3</sup> is the filing date. Thus, the *Request* was late, and as of the date of filing, Licensee was delinquent in paying the fees. Hence, under 47 U.S.C. § 159(c), 31 U.S.C. § 3717, and 47 C.F.R. §§ 1.1164(c) and 1.1940,<sup>4</sup> on each debt the Commission imposed the statutory penalty, and we began accruing

<sup>1</sup>In the matter of: Waiver of Regulatory Fee for FY 2007 (sic) of Abacus Television Licensee of WIIC-LP, *et al.* (Dec. 21, 2008)(rec'd Jan. 12, 2009) (*Request*).

<sup>2</sup>See Payment Methods and Procedures for Fiscal Year 2008 Regulatory Fees, *Public Notice*, DA 08-1973 (Aug. 26, 2008).

<sup>3</sup>47 C.F.R. § 1.7 ("pleadings and other documents are considered to be filed with the Commission upon their receipt at the location designated by the Commission.").

<sup>4</sup>47 C.F.R. § 1.1164(c) ("If a regulatory fee is not paid in a timely manner, the regulatee will be notified of its deficiency. This notice will automatically assess a 25 percent penalty, subject the delinquent payor's pending applications to dismissal, and may require a delinquent payor to show cause why its existing instruments of authorization should not be subject to rescission.").

interest, penalties and charges of collection.<sup>5</sup> In addition, under 47 C.F.R. §§ 1.1164(e)<sup>6</sup> and 1.1166(c)<sup>7</sup>, we dismiss the *Request*, and because of that disposition, we need not discuss the merits of the *Request*. The delinquent fees and all accrued charges are due immediately.

Regrettably, in addition to failing to pay the fees due for FY 2008, Licensee failed either to pay its required annual regulatory fees or to submit timely and properly supported requests for relief in other years.<sup>8</sup> The resulting debts remain delinquent, which provides grounds for withholding of action<sup>9</sup> and dismissal of this and other applications for relief.<sup>10</sup>

Turning again to the delinquent fees and accrued charges, all related amounts are past due. Interest and penalties continue to accrue from the date of delinquency, and under the law, we will apply debt collection procedures.<sup>11</sup> To obtain a payoff amount, Licensee should go to either the Commission's Fee Filer website or, if the debts have been transferred, the United States Treasury.

In addition to our dismissal, by this letter, we notify Licensee that under 31 U.S.C. § 3711(g), without further notice, and usually within 180 days or less of delinquency, we will transfer the delinquent debt to Treasury, which will initiate collection action through private collection activities and assess additional charges. In addition, we may refer the debt to the Department of Justice, which may result in litigation and additional costs.

Finally, Licensee will be red-lighted<sup>13</sup> until it pays the debts or makes other satisfactory arrangements.<sup>14</sup> This means the Commission will withhold action on any application filed or

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<sup>5</sup> See 31 U.S.C. § 3717; 47 U.S.C. § 159(c); Assessment and Collection of Regulatory Fees for Fiscal Year 2008, *Report and Order and Further Notice of Proposed Rulemaking*, 24 FCC Rcd 6388, 6415, ¶ 82 (2008) ("As in years past, a late payment penalty of 25 percent of the amount of the required regulatory fee will be assessed on the first day following the deadline date for filing of these fees. Regulatory fee payment must be received and stamped at the lockbox bank by the last day of the regulatory fee filing window, and not merely postmarked by the last day of the window."). See also Fee Filer Now Available for 2008 Regulatory Fees, *Public Notice*, DA 08-1974 (Aug. 26, 2008) ("Payments received after 11:59 p.m. ET on September 25, 2008 will be assessed a 25% late payment fee.").

<sup>6</sup> 47 C.F.R. § 1.1164(e) ("Any pending or subsequently filed application submitted by a party will be dismissed if that party is determined to be delinquent in paying a standard regulatory fee or an installment payment. The application may be resubmitted only if accompanied by the required regulatory fee and by any assessed penalty payment.").

<sup>7</sup> 47 C.F.R. § 1.1166(c) ("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.").

<sup>8</sup> Our records show that in addition to the FY 2008 regulatory fees, Licensee is delinquent in paying the regulatory fees due for FY 2009, FY 2010, FY 2011, and FY 2012. If Licensee has evidence that the fees were paid or not due, Licensee should provide such relevant verified information to the Commission.

<sup>9</sup> 47 C.F.R. § 1.1910(b)(2).

<sup>10</sup> 47 C.F.R. § 1.1164(e).

<sup>11</sup> See 47 C.F.R. § 1.1901, *et seq.*

<sup>12</sup> See 31 C.F.R. § 3717.

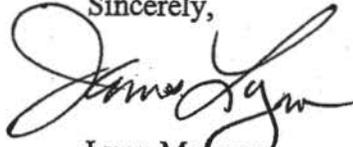
<sup>13</sup> See 47 C.F.R. § 1.1910(b)(2) ("Action will be withheld on applications, including on a petition for reconsideration or any application for review of a fee determination, or request for authorization by any entity found to be delinquent in its debt to the Commission ...."); 47 C.F.R. § 1.1164(e) ("Any pending or subsequently filed application submitted by a party will be dismissed if that party is determined to be delinquent in paying a standard regulatory fee or an installment payment.").

<sup>14</sup> See 47 C.F.R. § 1.1914 ("If a debtor is financially unable to pay a debt in one lump sum, the Commission, in its sole discretion, may accept payment in regular installments.").

pending, and if the debt is not paid, or other satisfactory arrangements are not made, the Commission may dismiss the application. *See* 47 C.F.R. § 1.1164. Additionally, any Commission action taken prior to the payment of delinquent non-tax debt owed to the Commission is contingent and subject to rescission.

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 "Lynn Moaney". The signature is written in a cursive style with a large, looping initial "L".

LSR:

Lynn Moaney  
Acting Chief Financial Officer