

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Columbia Union College Broadcasting, Inc.)	File No. BLED-20040206ADQ
)	Facility ID No. 12460
Application for License to Cover)	
WGTS(FM), Takoma Park, Maryland)	
)	
Stu-Comm, Inc.)	File No. BPED-20050818AAX
)	Facility ID No. 8710
Application for Construction Permit for)	
Minor Modification to WNRN(FM),)	
Charlottesville, Virginia)	

MEMORANDUM OPINION AND ORDER

Adopted: July 30, 2013

Released: July 31, 2013

By the Commission:

1. The Commission has before it an Application for Review filed by Stu-Comm, Inc. (“Stu-Comm”), licensee of station WNRN(FM), Charlottesville, Virginia. Stu-Comm seeks review of the November 2, 2005, action by the Media Bureau (“Bureau”) denying Stu-Comm’s Petition to Deny and granting the above-captioned application filed by Columbia Union College Broadcasting, Inc. (“CUCB”) for a license to cover a construction permit for station WGTS(FM), Takoma Park, Maryland (“CUCB Application”).¹ CUCB neglected to claim an exemption from the application filing fee in the CUCB Application; however, our remittance records show that CUCB instead timely paid the fee within fourteen days after filing.² Accordingly, in the *Letter Decision*, the Bureau found that the CUCB Application was timely filed on February 6, 2004, three days before the underlying construction permit’s expiration date of February 9, 2004. The *Staff Decision* therefore dismissed a duplicate license application³ filed by CUCB on February 10, 2004, as unnecessary, and dismissed Stu-Comm’s above-captioned minor modification

¹ *Columbia Union College Broadcasting, Inc.*, Letter, Ref. No. 1800B3-TB (MB Nov. 2, 2005) (“*Staff Decision*”).

² CDBS assigns a reference number to each application, which reflects the date the application is officially received. CUCB’s Application for FM Broadcast Station License was assigned a reference number of BLED-20040206ADQ, indicating that it was officially received on February 6, 2004. Under the CDBS processing procedures, failure to claim a filing fee exemption in Section I, Question 3, even if the applicant is otherwise eligible, is not a substantive defect as would lead to dismissal. See Form 302-FM, Section I, Question 3. Rather, if no exemption is specified, the CDBS system will by default treat the application as feeable and initiate the electronic fee payment system. Applicants with feeable applications who have failed to pay the associated fee upon filing have fourteen days after filing to pay the associated filing fee, which CUCB did here. See “CDBS User’s Guide,” http://licensing.fcc.gov/prod/cdbs/forms/prod/cdbs_ug.htm. The date of payment does not affect the official filing date of the application.

³ File No. BLED 20040210AAU.

application as unacceptable for filing for creating prohibited contour overlap with station WGTS(FM)'s modified facilities. Stu-Comm has also argued that the license application should have been dismissed because it specified the use of equipment that was different from that authorized in the underlying construction permit.⁴ The staff's engineering analysis determined that CUCB's use of an antenna at variance with the one specified in the construction permit was permissible under Section 73.1690(c)(1) of the Commission's rules.⁵

2. Upon review of the Application for Review and the entire record, we conclude that Stu-Comm has not demonstrated that the Bureau erred. For the reasons stated in the *Staff Decision* and herein, we uphold the action taken in the *Staff Decision*.

3. ACCORDINGLY, IT IS ORDERED that, pursuant to Section 5(c)(5) of the Communications Act of 1934, as amended,⁶ and Section 1.115(g) of the Commission's rules,⁷ the Application for Review IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

⁴ Application for Review at 8.

⁵ 47 C.F.R. § 73.1690(c)(1).

⁶ 47 U.S.C. § 155(c)(5).

⁷ 47 C.F.R. § 1.115(g).