

Radio 840, Inc.
Teleport Communication's Group, Inc.
Bell Atlantic
Cellular Telecommunications Industry Association
Comsat General Corp.
NYNEX companies
Association for Local Telecommunications Services
Telecommunications Resellers Association
Broadcast Media Associates
National Exchange Carriers Association, Inc.
Cablevision Lightpath, Inc.
Beaverkettle Company
Comsat Video Enterprises
Stellar Communications
Bloomington Broadcasting
Washington Broadcasting Company
American Radio Relay League
U.S. West Communications
AT&T
WPKR Radio
GE American Communications
Avis Rent A Car
Airtouch Paging
Thomas Clements
KBZQ-FM
C&S Radio-South Fork L.P.
National Cable Television Association

Reply pleadings were filed by:

WNAL-TV
Southwestern Bell Corporation
Vanguard Cellular Systems, Inc.
Telecommunications Resellers Association
National Cable Television Association
Bell Atlantic
MCI Telecommunications Corporation
Personal Communications
*Columbia Communications
Sprint Corporation
*National Wireless Resellers
*Directv
LDDS Communications, Inc.
Time Warner Corporation
GE American Communications
Arch Communications Group
Airtouch Paging
Alltel Mobile Corporation
National Association of Broadcasters
Pacific Bell and Nevada Bell
Paging Network, Inc.
AT&T
Small Cable Business Association
Ameritech

NFS Communications Company
*Comsat
GTE
Metrocall, Inc.
KUSK, Inc.
Pabamasat Corporation
Columbia Communications
American Public Communications Council

RULE CHANGES

47 C.F.R. Part 1 is amended as follows:

1. The authority citation for Part 1 continues to read as follows:

Authority: Sec. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155, 225, unless otherwise noted.

2. Sec. 1.1152 is revised to read as follows:

§ 1.1152 Schedule of annual regulatory fees and filing locations for wireless radio services.

| Exclusive use services (per license) | Fee amount | Address |
|---|-------------------|---|
| 1. Land Mobile (Above 470 MHz, Base Station & SMRS) (47 CFR, Part 90) | | |
| a) 800 MHz New, Renewal, Reinstatement (FCC 574) | \$6.00 | FCC, 800 MHz P.O. Box 358235 Pittsburgh, PA 15251-5235 |
| b) 900 MHz New, Renewal, Reinstatement (FCC 574) | \$6.00 | FCC, 900 MHz P.O. Box 358240 Pittsburgh, PA 15251-5240 |
| c) 470-512, 800, 900, 220 MHz, 220 MHz Nationwide Renewal (FCC 574R, FCC 405A) | \$6.00 | FCC, 470-512 P.O. Box 358245 Pittsburgh, PA 15251-5245 |
| d) Correspondence Blanket Renewal (470-512, 800, 900, 220 MHz) (Remittance Advice, Correspondence) | \$6.00 | FCC, Corres. P.O. Box 358305 Pittsburgh, PA 15251-5305 |
| e) 220 MHz New, Renewal, Reinstatement (FCC 574) | \$6.00 | FCC, 220 MHz P.O. Box 358360 Pittsburgh, PA 15251-5360 |
| f) 470-512 MHz New, Renewal, Reinstatement (FCC 574) | \$6.00 | FCC, 470-512 P.O. Box 358810 Pittsburgh, PA 15251-5810 |

| | | |
|--|--------|---|
| g) 220 MHz Nationwide New, Renewal, Reinstatement (FCC 574) | \$6.00 | FCC, Nationwide P.O. Box 358820 Pittsburgh, PA 15251-5820 |
| 2. Microwave (47 CFR Pt. 94) | | |
| a) Microwave New, Renewal, Reinstatement (FCC 402) | \$6.00 | FCC, Microwave P.O. Box 358250 Pittsburgh, PA 15251-5250 |
| b) Microwave Renewal (FCC 402R) | \$6.00 | FCC, Microwave P.O. Box 358255 Pittsburgh, PA 15251-5255 |
| c) Correspondence Blanket Renewal (Microwave) (Remittance Advice, Correspondence) | \$6.00 | FCC, Corres. P.O. Box 358305 Pittsburgh, PA 15251-5305 |
| 3. Interactive Video Data Service | | |
| a) IVDS Renewal (FCC 574R, FCC 405A) | \$6.00 | FCC, IVDS P.O. Box 358245 Pittsburgh, PA 15251-5245 |
| b) Correspondence Blanket Renewal (IVDS) (Remittance Advice, Correspondence) | \$6.00 | FCC, Corres. P.O. Box 358305 Pittsburgh, PA 15251-5305 |
| c) IVDS New, Renewal, Reinstatement (FCC 574) | \$6.00 | FCC, IVDS P.O. Box 358365 Pittsburgh, PA 15251-5365 |
| 4. Shared Use Services | | |
| a) Land Transportation (LT) New, Renewal, Reinstatement (FCC 574) | \$3.00 | FCC, Land Trans. P.O. Box 358215 Pittsburgh, PA 15251-5215 |
| b) Business (Bus.) New, Renewal, Reinstatement (FCC 574) | \$3.00 | FCC, Business P.O. Box 358220 Pittsburgh, PA 15251-5220 |

| | | |
|--|--------|--|
| c) Other Industrial (OI) New, Renewal, Reinstatement (FCC 574) | \$3.00 | FCC, Other Indus. P.O. Box 358225 Pittsburgh, PA 15251-5225 |
| d) General Mobile Radio Service (GMRS) New, Renewal, Reinstatement (FCC 574) | \$3.00 | FCC, GMRS P.O. Box 358230 Pittsburgh, PA 15251-5230 |
| e) Business, Other Industrial, Land Transportation, GMRS Renewal (FCC 574R, FCC 405A) | \$3.00 | FCC, Bus., OI, LT, GMRS P.O. Box 358245 Pittsburgh, PA 15251-5245 |
| f) Ground New, Renewal, Reinstatement (FCC 406) | \$3.00 | FCC, Ground P.O. Box 358260 Pittsburgh, PA 15251-5260 |
| g) Coast New, Renewal, Reinstatement (FCC 503) | \$3.00 | FCC, Coast P.O. Box 358265 Pittsburgh, PA 15251-5265 |
| h) Ground Renewal (FCC 452R) | \$3.00 | FCC, Ground P.O. Box 358270 Pittsburgh, PA 15251-5270 |
| i) Coast Renewal (FCC 452R) | \$3.00 | FCC, Coast P.O. Box 358270 Pittsburgh, PA 15251-5270 |
| j) Ship New, Renewal, Reinstatement (FCC 506) | \$3.00 | FCC, Ship P.O. Box 358275 Pittsburgh, PA 15251-5275 |
| k) Aircraft New, Renewal, Reinstatement (FCC 404) | \$3.00 | FCC, Aircraft P.O. Box 358280 Pittsburgh, PA 15251-5280 |
| l) Ship Renewal (FCC 405B) | \$3.00 | FCC, Ship P.O. Box 358290 Pittsburgh, PA 15251-5290 |
| m) Aircraft Renewal (FCC 405B) | \$3.00 | FCC, Aircraft P.O. Box 358290 Pittsburgh, PA 15251-5290 |

| | | |
|---|--------|--|
| n) Correspondence Blanket Renewal (Bus., OI, LT, GMRS) (Remittance Advice, Correspondence) | \$3.00 | FCC, Corres. P.O. Box 358305 Pittsburgh, PA 15251-5305 |
| o) Correspondence Blanket Renewal (Ground) (Remittance Advice, Correspondence) | \$3.00 | FCC, Corres. P.O. Box 358305 Pittsburgh, PA 15251-5305 |
| p) Correspondence Blanket Renewal (Coast) (Remittance Advice, Correspondence) | \$3.00 | FCC, Corres. P.O. Box 358305 Pittsburgh, PA 15251-5305 |
| q) Correspondence Blanket Renewal (Aircraft) (Remittance Advice, Correspondence) | \$3.00 | FCC, Corres. P.O. Box 358305 Pittsburgh, PA 15251-5305 |
| r) Correspondence Blanket Renewal (Ship) (Remittance Advice, Correspondence) | \$3.00 | FCC, Corres. P.O. Box 358305 Pittsburgh, PA 15251-5305 |
| Amateur Vanity Call Signs | \$3.00 | FCC, Amateur Vanity P.O. Box 358924 Pittsburgh, PA 15251-5924 |
| Cellular Radio/Public Mobile (per unit) | \$.15 | FCC, Cellular P.O. Box 358835 Pittsburgh, PA 15251-5835 |
| Public Mobile One-Way Paging (per unit) | \$.02 | FCC, Paging P.O. Box 358835 Pittsburgh, PA 15251-5835 |

3. Sec. 1.1153 is revised to read as follows:

§ 1.1153 Schedule of annual regulatory fees and filing locations for mass media services.

| AM Radio (47 CFR, Part 73) | Fee Amount | Address |
|-----------------------------------|-------------------|-----------------|
| 1. Class D Daytime | \$ 310 | FCC, AM Branch |
| 2. Class A Fulltime | \$1,120 | P.O. Box 358835 |
| 3. Class B Fulltime | \$ 620 | Pittsburgh, PA |
| 4. Class C Fulltime | \$ 250 | 15251-5835 |
| 5. Construction Permits | \$ 125 | |

FM Radio (47 (CFR, Part 73)

| | | |
|-------------------------|---------|-----------------|
| 1. Classes C, C1, C2, B | \$1,120 | FCC, FM Branch |
| 2. Classes A, B1, C3 | \$ 745 | P.O. Box 358835 |
| 3. Construction Permits | \$ 620 | Pittsburgh, PA |
| | | 15251-5835 |

TV (47 CFR, Part 73)

VHF Commercial

| | | |
|-------------------------|----------|-----------------|
| 1. Markets 1 thru 10 | \$22,420 | FCC, TV Branch |
| 2. Markets 11 thru 25 | \$19,925 | P.O. Box 358835 |
| 3. Markets 26 thru 50 | \$14,950 | Pittsburgh, PA |
| 4. Markets 51 thru 100 | \$ 9,975 | 15251-5835 |
| 5. Remaining Markets | \$ 6,225 | |
| 6. Construction Permits | \$ 4,975 | |

UHF Commercial

| | | |
|-------------------------|----------|---------------------|
| 1. Markets 1 thru 10 | \$17,925 | FCC, UHF Commercial |
| 2. Markets 11 thru 25 | \$15,950 | P.O. Box 358835 |
| 3. Markets 26 thru 50 | \$11,950 | Pittsburgh, PA |
| 4. Markets 51 thru 100 | \$ 7,975 | 15251-5835 |
| 5. Remaining Markets | \$ 4,975 | |
| 6. Construction Permits | \$ 3,975 | |

Satellite UHF/VHF Commercial

| | | |
|-------------------------|-------|------------------|
| 1. All Markets | \$620 | FCC Satellite TV |
| 2. Construction Permits | \$225 | P.O. Box 358835 |
| | | Pittsburgh, PA |
| | | 15251-5835 |

| | | |
|---|-------|---|
| Low Power TV, TV/FM Translator, & TV/FM Booster (47 CFR, Part 74) | \$170 | FCC, Low Power P.O. Box 358835 Pittsburgh, PA 15251-5835 |
|---|-------|---|

| | | |
|---------------------|-------|---|
| Broadcast Auxiliary | \$ 30 | FCC, Auxiliary P.O. Box 358835 Pittsburgh, PA 15251-5835 |
|---------------------|-------|---|

| | | |
|-------------------------|-------|--|
| Multipoint Distribution | \$140 | FCC, Multipoint P.O. Box 358835 Pittsburgh, PA 15251-5835 |
|-------------------------|-------|--|

4. Sec. 1.1154 is revised to read as follows:

§ 1.1154 Schedule of annual regulatory charges and filing locations for common carrier services.

| Radio Facilities | Fee Amount | Address |
|--------------------------|-------------------|---|
| 1. Domestic Public Fixed | \$140 | FCC, Dom. Pub. Fixed P.O. Box 358835 Pittsburgh, PA 15251-5835 |

Carriers

| | | |
|---|-----------|--|
| 1. Inter-Exchange Carrier (per dollar contributed to TRS Fund) | \$.00088 | FCC, Carriers P.O. Box 358835 Pittsburgh, PA 15251-5835 |
| 2. Local Exchange Carrier (per dollar contributed to TRS Fund) | \$.00088 | |
| 3. Competitive Access Provider (per dollar contributed to TRS Fund) | \$.00088 | |
| 4. Other Interexchange Carriers and Service Providers (per dollar contributed to TRS Fund) | \$.00088 | |

5. Sec. 1.1155 is revised to read as follows:

§ 1.1155 Schedule of regulatory fees and filing locations for cable television services.

| | Fee Amount | Address |
|--|-------------------|---|
| 1. Cable Antenna Relay Service | \$290 | FCC, Cable |
| 2. Cable TV System (per subscriber) | \$.49 | P.O. Box 358835 Pittsburgh, PA 15251-5835 |

6. Sections 1.1156 through 1.1166 of Subpart G are redesignated as sections 1.1157 through 1.1167 respectively and are revised, and a new section 1.1156 is added to read as follows:

§ 1.1156 Schedule of regulatory fees and filing locations for international services.

| Radio Facilities | Fee Amount | Address |
|---------------------------------|-------------------|---|
| 1. International (HF) Broadcast | \$250 | FCC, International P.O. Box 358835 Pittsburgh, PA 15251-5835 |

2. International Public Fixed \$200 FCC, International P.O. Box 358835 Pittsburgh, PA 15251-5835

Space Stations (Geosynchronous Orbit) \$75,000 FCC, Space Stations P.O. Box 358835 Pittsburgh, PA 15251-5835

Earth Stations

1. VSAT & Equivalent C-Band antennas, Mobile Satellite Earth Stations, Fixed Earth Stations-Transmit/Receive & Transmit Only (per authorization or registration) \$330 FCC, Earth Station P.O. Box 358835 Pittsburgh, PA 15251-5835

Carriers

1. International Circuits (per active 64KB circuit or equivalent) \$ 4.00 FCC, International P.O. Box 358835 Pittsburgh, PA 15251-5835

§ 1.1157 Payment of charges for regulatory fees.

Payment of a regulatory fee, required under sections 1.1152 through 1.1156, shall be filed in the following manner:

(a) Payments of regulatory fees shall be submitted with the filing of any application for a new, renewal or reinstatement of a license or other authorization in the wireless radio services.

(1) Any regulatory fee submitted with an application in the wireless radio services shall include an advance payment of the total annual regulatory fee payment due for the entire term of the license or other authorization. The amount of the regulatory fee payment due with any application in the wireless radio service shall be the multiple of the number of years in the entire term of the requested license or other authorization multiplied by the annual fee payment required in the Schedule of Regulatory Fees, effective at the time the application is filed. Except as set forth in §1.1160, advance payments shall be final and shall not be readjusted during the term of the license or authorization, notwithstanding any subsequent increase or decrease in the annual amount of a fee required under the Schedule of Regulatory Fees.

(2) Failure to file the appropriate regulatory fee with an application in the wireless radio service will result in the return of the accompanying application, including an application for which the Commission has assigned a specific filing deadline.

(b) (1) Payments of standard regulatory fees, applicable to mass media, common carrier, cable and international services, shall be filed in full on an annual basis at a time announced by the

Commission or the Managing Director, pursuant to delegated authority, and published in the FEDERAL REGISTER.

(2) Large regulatory fees, as annually defined by the Commission, may be submitted in installment payments or in a single payment on a date certain as announced by the Commission or the Managing Director, pursuant to delegated authority, and published in the FEDERAL REGISTER.

(c) Standard regulatory fee payments, as well as any installment payment, must be filed with a FCC Form 159, FCC Remittance Advice, and a FCC Form 159C, Remittance Advice Continuation Sheet, if additional space is needed. Failure to submit a copy of FCC Form 159 with a standard regulatory fee payment, or an installment payment, will result in the return of the submission and a 25 percent penalty if the payment is resubmitted after the date the Commission establishes for the payment of standard regulatory fees and for any installment payment.

(1) Any late filed regulatory fee payment will be subject to the penalties set forth in section 1.1164.

(2) If one or more installment payments are untimely submitted or not submitted at all, the eligibility of the subject regulatee to submit installment payments may be cancelled.

§ 1.1158 Form of payment for regulatory.

Any regulatory fee payment must be submitted in the form of a check, bank draft or money order denominated in U.S. dollars and drawn on a United States financial institution and made payable to the Federal Communications Commission or by Visa or Mastercard credit cards only. The Commission discourages applicants from submitting cash payments and will not be responsible for cash sent through the mail. Personal or corporate checks dated more than six months prior to their submission to the Commission's lockbox bank and postdated checks will not be accepted and will be returned as deficient.

(a) Upon authorization from the Commission following a written request, electronic fund transfer (EFT) payment of a regulatory fee may be made as follows:

(1) (i) The payor may instruct its bank to make payment of the regulatory fee directly to the Commission's lockbox bank, or

(ii) The payor may authorize the Commission to direct its lockbox bank to withdraw funds directly from the payor's bank account.

(2) No EFT payment of a regulatory fee will be accepted unless the payor has obtained the written authorization of the Commission to submit regulatory fees electronically. Procedures for electronic payment of regulatory fees will be announced by Public Notice. It is the responsibility of the payor to insure that any electronic payment is made in the manner required by the Commission. Failure to comply with the Commission's procedures for electronic fee payment will result in the return of the fee payment, and a penalty fee of 25 percent if the subsequent

refiling of the fee payment is late. Failure to comply will also subject the payor to the penalties set forth in section 1.1164.

(b) Multiple payment instruments for a single regulatory fee are not permitted, except that the Commission will accept multiple money orders in payment of any fee where the fee exceeds the maximum amount for a money order established by the issuing entity and the use of multiple money orders is the only practicable means available for payment.

(c) Payment of multiple standard regulatory fees (including an installment payment) due on the same date, may be made with a single payment instrument and cover mass media, common carrier, international, and cable service fee payments. Each regulatee is solely responsible for accurately accounting for and listing each license or authorization and the number of subscribers, access lines, or other relevant units on the accompanying FCC Form 159 and, if needed, FCC Form 159C and for making full payment for every regulatory fee listed on the accompanying form. Any omission or payment deficiency of a regulatory fee will result in a 25 percent penalty of the amount due and unpaid.

(d) Any regulatory fee payment (including a regulatory fee payment submitted with an application in the wireless radio service) made by credit card or money order must be submitted with a completed FCC Form 159. Failure to accurately enter the credit card number and date of expiration and the payor's signature in the appropriate blocks on FCC Form 159 will result in rejection of the credit card payment.

§ 1.1159 Filing locations and receipts for regulatory fees.

(a) Regulatory fee payments must be directed to the location and address set forth in sections 1.1152 through 1.1156 for the specific category of fee involved. Any regulatory fee required to be submitted with an application must be filed as a part of the application package accompanying the application. The Commission will not take responsibility for matching fees, forms and applications submitted at different times or locations.

(b) Petitions for reconsideration or applications for review of fee decisions submitted with a standard regulatory fee payment pursuant to sections 1.1152 through 1.1156 of the rules are to be filed with the Commission's lockbox bank in the manner set forth in sections 1.1152 through 1.1156 for payment of the fee subject to the petition for reconsideration or the application for review. Petitions for reconsideration and applications for review that are submitted with no accompanying payment should be filed with the Secretary, Federal Communications Commission, Attention: Managing Director, Washington, D.C. 20554.

(c) Any request for exemption from a regulatory fee shall be filed with the Secretary, Federal Communications Commission, Attention: Managing Director, Washington, D.C. 20554, except that requests for exemption accompanied by a tentative fee payment shall be filed at the lockbox set forth for the appropriate service in sections 1.1152 through 1.1156.

(d) The Commission will furnish a receipt for a regulatory fee payment only upon request. In order to obtain a receipt for a regulatory fee payment, the package must include an extra copy of the Form FCC 159 or, if a Form 159 is not required with the payment, a copy of the first page of the application or other filing submitted with the regulatory fee payment, submitted expressly for the purpose of serving as a receipt for the regulatory fee payment and application fee payment, if required. The document should be clearly marked "copy" and should be the top document in the package. The copy will be date stamped immediately and provided to the bearer of the submission, if hand delivered. For submissions by mail, the receipt copy will be provided through return mail if the filer has attached to the receipt copy a stamped self-addressed envelope of sufficient size to contain the receipt document.

§ 1.1160 Refunds of regulatory fees.

(a) Regulatory fees will be refunded, upon request, only in the following instances:

(1) When no regulatory fee is required or an excessive fee has been paid. In the case of an overpayment, the refund amount will be based on the applicants', permittees', or licensees' entire submission. All refunds will be issued to the payor named in the appropriate block of the FCC Form 159.

(2) In the case of advance payment of regulatory fees, subject to section 1.1152, a refund will be issued based on unexpired full years:

(i) When the Commission adopts new rules that nullify a license or other authorization, or a new law or treaty renders a license or other authorization useless;

(ii) When a licensee in the wireless radio service surrenders the license or other authorization subject to a fee payment to the Commission; or

(iii) When the Commission declines to grant an application submitted with a regulatory fee payment.

(3) When a waiver is granted in accordance with section 1.1166 of this subpart.

(b) No pro-rata refund of an annual fee will be issued.

(c) No refunds will be issued based on unexpired partial years.

(d) No refunds will be processed without a written request from the applicant, permittee, licensee or agent.

§ 1.1161 Conditional license grants and delegated authorizations.

(a) Grant of any application or an instrument of authorization or other filing, for which a regulatory fee is required to accompany the application or filing, will be conditioned upon final payment of the regulatory fee. Final payment shall mean receipt by the U.S. Treasury of funds cleared by the financial

institution on which the check, bank draft, money order, credit card, wire or electronic payment is drawn.

(1) If, prior to a grant of an instrument of authorization, the Commission is notified that final payment of the regulatory fee has not been made, the application or filing:

- (i) Will be dismissed and returned;
- (ii) Shall lose its place in the processing line; and
- (iii) Will not be treated as timely filed if resubmitted after the relevant filing deadline.

(2) If, subsequent to a grant of an instrument of authorization or other filing, the Commission is notified that final payment has not been made, the Commission will:

- (i) Automatically rescind that instrument of authorization for failure to meet the condition imposed by this subsection;
- (ii) Notify the grantee of this action; and
- (iii) Treat as late filed any application resubmitted after the original deadline for filing the application.

(3) Upon receipt of a notification of rescission of the authorization, the grantee will immediately cease operations initiated pursuant to the authorization.

(b) In those instances where the Commission has granted a request for deferred payment of a regulatory fee, further processing of the application or filing or the grant of authority shall be conditioned upon final payment of the regulatory fee and any required penalties for late payment prescribed by the deferral decision. Failure to comply with the terms of the deferral decision shall result in the automatic dismissal of the submission or rescission of the Commission authorization. Further, the Commission shall:

(1) Notify the grantee that the authorization has been rescinded. Upon such notification, the grantee will immediately cease operations initiated pursuant to the authorization; and

(2) Treat as late filed any application resubmitted after the original deadline for filing the application.

(c) Where the procedures described in paragraphs (a) and (b) of this section would not provide a meaningful incentive to pay a regulatory fee that is due or would not be a meaningful sanction for failure to pay such a fee, the Commission may, in its discretion, whether the regulatory fee is required to be paid with an application for an instrument of authorization or otherwise, withhold processing and/or grant of any application or filing made by a person or organization who has failed to make full payment of any regulatory fee due.

(1) Before taking such action, the staff will make a written request for the fee, together with any penalties that may be rendered under this subpart. Such request shall inform the regulatee that failure to pay may result in the Commission withholding action on any application or request filed by the applicant. The staff shall also inform the regulatee of the procedures for seeking Commission review of the staff's fee determination.

(2) If, after final determination that the fee is due, payment is not made in a timely manner, the staff may terminate processing and/or withhold any grant or petition requested by the person or

organization subject to the fee payment requirement, until the matter is resolved.

§ 1.1162 General exemptions from regulatory fees.

No regulatory fee established in sections 1.1152 through 1.1156, unless otherwise qualified herein, shall be required for:

(a) Applicants, permittees or licensees in the Amateur Radio Service, except that any person requesting a vanity call-sign shall be subject to the payment of a regulatory fee, as prescribed in § 1.1152.

(b) Applicants, permittees, or licensees who qualify as government entities. For purposes of this exemption, a government entity is defined as any state, possession, city, county, town, village, municipal corporation, or similar political organization or subpart thereof controlled by publicly elected or duly appointed public officials exercising sovereign direction and control over their respective communities or programs.

(c) Applicants, permittees or licensees who qualify as nonprofit entities. For purposes of this exemption, a nonprofit entity is defined as an organization possessing nonprofit, tax exempt status under section 501 of the Internal Revenue Code, 26 U.S.C. § 501.

(d) Applicants, permittees or licensees in the Special Emergency Radio and Public Safety Radio services.

(e) Applicants, permittees or licensees of noncommercial educational broadcast stations in the FM or TV services, as well as AM applicants, permittees or licensees operating in accordance with Sec. 73.503 of the rules.

(f) Applicants, permittees, or licensees qualifying under Sec. 1.1162(e) requesting Commission authorization in any other mass media radio service (except the international broadcast (HF) service), wireless radio service, common carrier radio service, or international radio service requiring payment of a regulatory fee, if the service is used in conjunction with their noncommercial educational broadcast station on a noncommercial educational basis.

(g) Other applicants, permittees or licensees providing, or proposing to provide, a noncommercial educational or instructional service, but not qualifying under Sec. 1.1162(e), may be exempt from regulatory fees, or be entitled to a refund, in the following circumstances:

(1) The applicant, permittee or licensee is an organization that, like the Public Broadcasting Service or National Public Radio, receives funding directly or indirectly through the Public Broadcasting Fund, 47 U.S.C. 396(k), distributed by the Corporation for Public Broadcasting, where the authorization requested will be used in conjunction with the organization on a noncommercial educational basis;

(2) An applicant, permittee or licensee of a translator or low power television station operating or proposing to operate a noncommercial educational service who, after grant, provides proof that it has received funding for the construction of the station

through the National Telecommunications and Information Administration (NTIA) or other showings as required by the Commission; or

(3) An applicant, permittee, or licensee provided a fee refund under Sec. 1.1160 and operating as a noncommercial education station, is exempt from fees for broadcast auxiliary stations (Subparts D, E, and F of Part 74) or stations in the wireless radio, common carrier, or international services where such authorization is to be used in conjunction with the noncommercial educational translator or low power station.

(h) An applicant, permittee or licensee that is the licensee of an instructional television fixed station (Sec. 74.901 et seq.) is exempt from regulatory fees where the authorization requested will be used by the applicant in conjunction with the provision of the instructional service.

(i) Applications filed in the wireless radio service for the sole purpose of modifying an existing authorization (or a pending application for authorization). However, if the applicant also requests a renewal or reinstatement of its license or other authorization for which the submission of a regulatory fee is required, the appropriate regulatory fee for such additional request must accompany the application.

§ 1.1163 Adjustments to regulatory fees.

(a) For Fiscal Year 1995, the amounts assessed for regulatory fees are set forth in sections 1.1152 through 1.1156.

(b) For Fiscal Year 1996 and thereafter, the Schedule of Regulatory Fees, contained in sections 1.1152 through 1.1156, may be adjusted annually by the Commission pursuant to section 9 of the Communications Act. 47 U.S.C. § 159. Adjustments to the fees established for any category of regulatory fee payment shall include projected cost increases or decreases and an estimate of the volume of licensees or units upon which the regulatory fee is calculated.

(c) The fees assessed shall:

(1) Be derived by determining the full-time equivalent number of employees performing enforcement activities, policy and rulemaking activities, user information services, and international activities within the Wireless Telecommunications Bureau, Mass Media Bureau, Common Carrier Bureau, Cable Services Bureau, International Bureau and other offices of the Commission, adjusted to take into account factors that are reasonably related to the benefits provided to the payor of the fee by the Commission's activities, including such factors as service coverage area, shared use versus exclusive use, and other factors that the Commission determines are necessary in the public interest;

(2) Be established at amounts that will result in collection, during each fiscal year, of an amount that can reasonably be expected to equal the amount appropriated for such fiscal year for the performance of the activities described in paragraph (c)(1) of this section.

(d) The Commission shall by rule amend the Schedule of Regulatory Fees by proportionate increases or decreases that reflect, in accordance with paragraph(c)(2) of this section, changes in the amount appropriated for the performance of the activities described in section (c)(1) of this section, for such fiscal year. Such proportionate increases or decreases shall be adjusted to reflect unexpected increases or decreases in the number of licensees or units subject to payment of such fees and result in collection of an aggregate amount of fees that will approximately equal the amount appropriated for the subject regulatory activities.

(e) The Commission shall, by rule, amend the Schedule of Regulatory Fees if the Commission determines that the Schedule requires amendment to comply with the requirements of (c)(1) of this section. In making such amendments, the Commission shall add, delete or reclassify services in the Schedule to reflect additional deletions or changes in the nature of its services as a consequence of Commission rulemaking proceedings or changes in law.

(f) In making adjustments to regulatory fees, the Commission will round such fees to the nearest \$5.00 in the case of fees under \$1,000.00, or to the nearest \$25.00 in the case of fees of \$1,000.00 or more.

§ 1.1164 Penalties for late or insufficient regulatory fee payments.

Any 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 or installment payment which was not paid in a timely manner. A timely fee payment or installment payment is one received at the Commission's lockbox bank by the due date specified by the Commission or by the Managing Director. A payment will also be considered late filed if the payment instrument (check, money order, bank draft or credit card) is uncollectible.

(a) The Commission may, in its discretion, following one or more late filed installment payments, require a regulatee to pay the entire balance of its regulatory fee by a date certain, in addition to assessing a 25 percent penalty.

(b) In cases where 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.

(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.

(d)(1) Where a regulatee's new, renewal or reinstatement application is required to be filed with a regulatory fee (as is the case with wireless radio services), the application will be

dismissed if the regulatory fee is not included with the application package. In the case of a renewal or reinstatement application, the application may not be refiled unless the appropriate regulatory fee plus the 25 percent penalty charge accompanies the refiled application.

(2) If the application that must be accompanied by a regulatory fee is a mutually exclusive application with a filing deadline, or any other application that must be filed by a date certain, the application will be dismissed if not accompanied by the proper regulatory fee and will be treated as late filed if resubmitted after the original date for filing the application.

(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.

(f) In instances where the Commission may revoke an existing instrument of authorization for failure to file a regulatory fee, the Commission will provide prior notice to the regulatee of such action and shall allow the licensee no less than 60 days to either pay the fee or show cause why the payment assessed is inapplicable or should otherwise be waived or deferred.

(1) An adjudicatory hearing will not be designated unless the response by the regulatee to the Order to Show Cause presents a substantial and material question of fact.

(2) Disposition of the proceeding shall be based upon written evidence only and the burden of proceeding with the introduction of evidence and the burden of proof shall be on the respondent regulatee.

(3) Unless the regulatee substantially prevails in the hearing, the Commission may assess costs for the conduct of the proceeding against the respondent regulatee. See 47 U.S.C. § 402(b)(5).

(4) Any regulatee failing to submit a regulatory fee, following notice to the regulatee of failure to submit the required fee, is subject to collection of the fee, including interest thereon, any associated penalties, and the full cost of collection to the Federal government pursuant to section 3720A of the Internal Revenue Code, 31 U.S.C. § 3717, and to the provisions of the Debt Collection Act, 31 U.S.C. § 3717. See 47 C.F.R. § 1.1901-1.1952. The debt collection processes described above may proceed concurrently with any other sanction in this subsection.

§ 1.1165 Payment by cashier's check for regulatory fees.

Payment by cashier's check may be required when a person or organization makes payment, on one or more occasions, with a payment instrument on which the Commission does not receive final payment and such error is not excused by bank error.

§ 1.1166 Waivers, reductions and deferrals of regulatory fees.

The fees established by sections 1.1152 through 1.1156 may be waived, reduced or deferred in specific instances, on a case-by-case basis, where good cause is shown and where waiver, reduction or deferral of the fee would promote the public interest. Requests for waivers, reductions or deferrals of regulatory fees for entire categories of payors will not be considered.

(a) Requests for waivers, reductions or deferrals will be acted upon by the Managing Director with the concurrence of the General Counsel. If the request for waiver, reduction or deferral is accompanied by a fee payment, the request must be submitted to the Commission's lockbox bank at the address for the appropriate service set forth in sections 1.1152 through 1.1156 of this subpart. If no fee payment is submitted and the matter is within the scope of the fee rules, the request should be filed with the Commission's Secretary and clearly marked to the attention of the Managing Director.

(b) Deferrals of fees will be granted for a period of six months following the date that the fee is initially due.

(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.

(d) Petitions for reduction of a fee must be accompanied by the full fee payment less the amount of the requested reduction and FCC Form 159. Petitions for reduction accompanied by a fee payment must be addressed to the Federal Communications Commission, Attention: Petitions, Post Office Box 358835, Pittsburgh, Pennsylvania, 15251-5835.

§ 1.1167 Error claims related to regulatory fees.

(a) Challenges to determinations of an insufficient regulatory fee payment should be made in writing. Challenges submitted with a fee payment must be submitted to the same location as the original fee payment, marked "Attention: Fee Supervisor". Challenges not accompanied by a fee payment should be filed with the Commission's Secretary and clearly marked to the attention of the Managing Director.

(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, as required by the Commission's action, or delegated action, on a request for waiver, reduction or deferment. Petitions for reconsideration and applications for review submitted with a fee payment must be submitted to the same location as the original fee payment. Petitions for reconsideration and applications for review not accompanied by a fee payment should be filed with the Commission's Secretary and clearly marked to the attention of the Managing Director.

(1) Failure to submit the fee by the date required will result in the assessment of a 25 percent penalty.

(2) If the fee payment should fail while the Commission is considering the matter, the petition for reconsideration or application for review will be dismissed.

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