

FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554

MAR 09 2015

OFFICE OF  
MANAGING DIRECTOR

Slava Avdyeyev  
Broadvox, LLC  
75 Erievue Plaza, Suite 400  
Cleveland, OH 44114

Licensee/Applicant: **Cypress Communications  
Operating Company, LLC**  
Waiver Request: Late Payment Penalty;  
Disposition: **Dismiss** (47 U.S.C. § 159(c)(2) and 47  
C.F.R. §§ 1.1164, 1.1166, and 1.1910(a)(2) & (3))  
Station: N/A  
Fee: Fiscal Year (FY) 2014 Regulatory Fee Late  
Fee  
Date Request Filed: Nov. 20, 2014  
Date Regulatory Fee Paid in Part: Nov. 24, 2014  
Date Delinquent Debt Paid: Not Paid; Debt  
Transferred  
Fee Control No.: RROG-14-00015872

Dear Mr. Avdyeyev:

This responds to Licensee's *Request*<sup>1</sup> for a waiver of the statutory penalty amount imposed when Licensee failed to pay the Fiscal Year (FY) 2014 regulatory fees by the deadline. As discussed below, we dismiss the *Request* because Licensee remains a delinquent debtor, and the associated collection action has been transferred to the Secretary of the Treasury, Bureau of Fiscal Services, which has legal authority to collect the debt and which should be contacted to pay the debt.

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<sup>1</sup> Letter from Slava Avdyeyev, Broadvox, LLC, 75 Erievue Plaza, Suite 400, Cleveland, OH 44114 to ARINQUIRIES (arinquiries@fcc.gov) (dated Nov. 20, 2014; rec'd Jan. 9, 2015)(*Request*); email from Holly Runyon [hrunyon@broadvox.com] to Stephen French (Jan. 9, 2015); email from Stephen French [FCC] to Holly Runyon (Jan. 9, 2015); email from Holly Runyon to Samantha Pierce [FCC] (Jan. 7, 2015); email from Samantha Pierce [FCC] to Holly Runyon (Dec. 18, 2014); email from Holly Runyon to Samantha Pierce [FCC] (Dec. 18, 2014); email from Samantha Pierce to Holly Runyon (Nov. 20, 2014). Licensee's submission by email does not comply with the Commission's rules (47 C.F.R. § 1.1166(a)(2)).

## Background

September 23, 2014, was the published deadline for payment of the FY 2014 annual regulatory fees.<sup>2</sup> On November 20, 2014, Licensee submitted a *Request* to the Commission's ARINQUIRIES Help Desk for a waiver of an amount equal to the imposed 25% statutory penalty. Licensee asserts a key person who had responsibility for making timely payment of the annual regulatory fees left the organization. On November 24, 2014, the Commission received Licensee's partial payment.

## Standards

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,<sup>3</sup> 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."<sup>4</sup> 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."<sup>5</sup>

Each year, the Commission establishes the final day on which payment must be received before it is considered late, *i.e.*, a deadline after which the Commission must assess charges that include the statutory late payment penalty required by 47 U.S.C. § 159(c)(1) and 47 C.F.R. §§ 1.1157(c)(1) and 1.1164, and additional charges of interest, penalties, and charges of collection required by 31 U.S.C. § 3717 and 47 C.F.R. § 1.1940. For FY 2014, the deadline for paying regulatory fees was September 23, 2014.<sup>6</sup>

Under 47 C.F.R. § 1.1940(f) a partial payment is applied first to the penalties and accrued charges, and then to the principal amount owed.<sup>7</sup> Any portion of the unpaid amount, *e.g.*, a regulatory fee, is delinquent, and under 31 U.S.C. § 3717 and 47 C.F.R. § 1.1940, interest, penalties, and charges of collection on the unpaid balance accrue from the original date of delinquency. The licensee remains a delinquent debtor subject to the Commission's red light rule,<sup>8</sup> and as required by 47 C.F.R. §§ 1.1164(e)<sup>9</sup> and 1.1910, any application or request for relief filed may be dismissed.

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<sup>2</sup>See FY 2014 Regulatory Fees Due No Later Than September 23, 2014, 11:59 pm Eastern Time (ET), *Public Notice*, DA 14-1261 (Aug. 29, 2014).

<sup>3</sup> 47 U.S.C. § 159(a)(1); 47 C.F.R. § 1.1151.

<sup>4</sup> 47 U.S.C. § 159(c)(1); 47 C.F.R. §§ 1.1157(c)(1), 1.1164.

<sup>5</sup> 47 C.F.R. § 1.1164.

<sup>6</sup>See FY 2014 Regulatory Fees Due No Later Than September 23, 2014, 11:59 pm Eastern Time (ET), *Public Notice*, DA 14-1261 (Aug. 29, 2014).

<sup>7</sup> 47 C.F.R. §§ 1.1940(f) ("When a debt is paid in partial ... payments, amounts received ... shall be applied first to outstanding penalties and administrative cost charges, second to accrued interest, and third to the outstanding principal."), 1.1157(c)(1), 1.1164(c).

<sup>8</sup> 47 C.F.R. § 1.1910.

<sup>9</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 .... The application may be resubmitted only if accompanied by the required regulatory fee and by any assessed penalty payment."), 1.1910.

Under 31 U.S.C. § 3711(g)(1), 31 C.F.R. § 285.12, and 47 C.F.R. § 1.1917, the Commission is required to transfer delinquent debt to the Secretary of the Treasury. On behalf of the Commission, the Secretary of the Treasury, Bureau of Fiscal Service will take appropriate action to collect or compromise the transferred debt, or to suspend or terminate collection action.<sup>10</sup> As such, when the debt is transferred, the Commission ceases collection action related to the debt.<sup>11</sup>

The Commission's rules at 47 C.F.R. §§ 0.401, 1.7, 1.1159 and 1.1166 establish the proper location for filing waiver and refund requests and the consequence of dismissal for failing to comply with those rules. The Commission has designated specific offices to receive and process certain matters, thus a request for relief is *filed* only upon receipt at the location designated by the Commission.<sup>12</sup> For example, under sections 1.1159 and 1.1166 of the Commission's rules, a request for a waiver of a regulatory fee must be *filed* with the Secretary, Federal Communications Commission, Attention: Managing Director, Washington, D.C. 20554 by mailing or otherwise delivering a hard copy of the documents to Office of the Secretary.

### *Discussion*

Licensee failed to pay the FY 2014 annual regulatory fee before our published deadline. Accordingly, under 47 U.S.C. § 159(c)(1) and 47 C.F.R. § 1.1164, the Commission assessed a 25% late payment penalty and charges of collection. On November 24, 2014, Licensee made a partial payment equal to the amount of the annual regulatory fee, but Licensee failed to include the accrued but unpaid late payment penalty and other charges of collection. Under 47 C.F.R. § 1.1940(f), the partial payment was "applied first to outstanding penalties and administrative cost charges, second to accrued interest, and third to the outstanding principal." The balance is a delinquent regulatory fee, and the Licensee is subject to delinquent debtor sanctions, *e.g.*, dismissal of filed applications, withholding of action, additional charges of collection, and, as in this case, the delinquent debt is transferred to the Treasury's Bureau of Fiscal Service. The consequence of delinquency is dismissal of the *Request*. While that ends the matter, as a courtesy, we note and will comment on Licensee's other problems.

Our rules require an applicant to file a request for waiver with "the Secretary, Federal Communications Commission, Attention: Managing Director, Washington, D.C. 20554."<sup>13</sup> The consequences of filing to follow that rule is that the submission is not filed<sup>14</sup> and "[a]pplications and other filings not submitted in accordance with the addresses or locations set forth [in our rules] will be returned to the applicant without processing."<sup>15</sup>

<sup>10</sup> 31 C.F.R. § 285.12(c).

<sup>11</sup> 47 C.F.R. § 1.1917(b).

<sup>12</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>13</sup> 47 C.F.R. §§ 1.1159(b), 1.1160.

<sup>14</sup> 47 C.F.R. § 1.7.

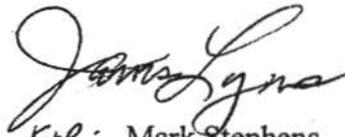
<sup>15</sup> 47 C.F.R. § 0.401 ("The Commission maintains several offices and receipt locations. Applications and other filings not submitted in accordance with the addresses or locations set forth [in the Commission's rules] will be returned to the applicant without processing.").

Our records show Licensee submitted the *Request* to ARINQUIRIES, which fails to conform to our designated filing requirements. Thus the *Request* was never filed, and now, it may be returned without processing.<sup>16</sup> Moreover, the debt and authority to collect the debt is now at Treasury.

Finally, as a courtesy, we looked to the merits of the *Request*. Licensee's assertions attributing its failure to pay the fee by the deadline describes circumstances that were within Licensee's control and a matter of its business decision or, at least, general inattention to the publicized fee payment information<sup>17</sup> and inadvertence to complete timely payment. Licensee failed to establish "extraordinary circumstances"<sup>18</sup> that, if proved, would be legal grounds or clear mitigating circumstances to waive collection of the penalty. Repeatedly, the Commission has 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."<sup>19</sup>

Because Licensee is a delinquent debtor, whose debt has been transferred to the Treasury for collection action, under 47 C.F.R. §§ 1.1164(e)<sup>20</sup> and 1.1910(a)(2) & (3), we dismiss this *Request*.

Sincerely,



FIR: Mark Stephens  
Chief Financial Officer

<sup>16</sup> *Id.*

<sup>17</sup> See FY 2014 Regulatory Fees Due No Later Than September 23, 2014, 11:59 pm Eastern Time (ET), *Public Notice*, DA 14-1261 (Aug. 29, 2014).

<sup>18</sup> *McLeodUSA Telecommunications Services, Inc., Memorandum Opinion and Order*, 19 FCC Rcd 6587, 6589 (2004) (denying the request for waiver of 25 percent penalty).

<sup>19</sup> 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).

<sup>20</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." *Waivers, Reductions and Deferrals of Regulatory Fees, Regulatory Fees Fact Sheet* (Sep. 5, 2013) 2013 WL 4773993 (F.C.C.) ("The Commission will dismiss any petition for waiver of a regulatory fee that does not include a payment or the required petition for deferral and supporting documentation, and under 47 U.S.C. § 159(c) and 31 U.S.C. § 3717, the Commission is required to impose the 25% penalty and other relevant charges. A request for waiver, reduction or deferral must be received before the fee due date. \* \* \* **The Commission will dismiss a waiver request filed by a delinquent debtor** or a petition that does not have the required financial documentation."). Emphasis added.

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554  
JAN 12 2015

OFFICE OF  
MANAGING DIRECTOR

Matt Dubiel  
DuPage Radio, LLC  
Post Office Box 5502  
Naperville, IL 60567

Licensee/Applicant: **DuPage Radio, LLC**  
Waiver and Refund Request: Late Payment Penalty  
Disposition: **Denied** (47 C.F.R. §§ 1.1157(c)(1), 1.1164)  
Fee: Fiscal Year (FY) 2014 Regulatory Fee Late Fee  
Station: N/A  
Date Request Filed: Nov. 12, 2014  
Date Regulatory Fee Paid: Nov. 7, 2014  
Date Late Penalty Fee Paid: Nov. 7, 2014  
Fee Control No.: RROG-14-00015821

Dear Mr. Dubiel:

This responds to Licensee's *Request*<sup>1</sup> for waiver and refund of the penalty for late payment of the Fiscal Year (FY) 2014 regulatory fee. As we discuss below, we deny because Licensee failed to demonstrate legal grounds or clear mitigating circumstances to waive collection of the penalty.

On November 7, 2014, Licensee paid the FY 2014 regulatory fee and accrued charges, and on November 12, 2014, it submitted its *Request* that we waive and refund the late payment charges on the grounds that Licensee is in its "first year of ownership" and it was "not aware of the need to log in and pay [the] fee by [September 23, 2014]. ... ignorance is no excuse, but [Licensee] respectfully requested the late fee be waived this one time [because Licensee is] a struggling 'mom and pop' operation."<sup>2</sup>

Under 47 U.S.C. § 159 and the Commission's rules, we are required to "assess and collect regulatory fees" to recover the costs of the Commission's regulatory activities,<sup>3</sup> 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."<sup>4</sup> 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."<sup>5</sup>

<sup>1</sup> Letter from Matt Dubiel, DuPage Radio, LLC, 1 Tower Lane, 17<sup>th</sup> Floor, Oak Brook Terrace, IL 60181 to Marlene Dortch, Secretary, FCC, Attn: Office of the Managing Director, Regulatory Fee Waiver/Reduction Request, 445 12<sup>th</sup> St., SW, Room TW-B204, Washington, DC 20554 (Nov. 4, 2014) (*Request*).

<sup>2</sup> *Request*.

<sup>3</sup> 47 U.S.C. § 159(a)(1); 47 C.F.R. § 1.1151.

<sup>4</sup> 47 U.S.C. § 159(c)(1); 47 C.F.R. §§ 1.1157(c)(1), 1.1164.

<sup>5</sup> 47 C.F.R. § 1.1164.

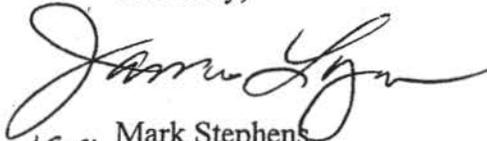
Each year, the Commission establishes the final day on which payment must be received before it is considered late, *i.e.*, a deadline after which the Commission must assess charges that include the statutory late payment penalty required by 47 U.S.C. § 159(c)(1) and 47 C.F.R. §§ 1.1157(c)(1) and 1.1164, and additional charges of interest, penalties, and charges of collection required by 31 U.S.C. § 3717 and 47 C.F.R. § 1.1940. For FY 2014, the published deadline for paying regulatory fees was September 23, 2014.<sup>6</sup> Licensee failed to complete payment by that date, thus the unpaid fee became delinquent and, as required by the law, we imposed charges. We received Licensee's FY 2014 regulatory fee payment on November 7, 2014, and thereafter the Request.

Licensee's assertions describe in general inadvertent error as the basis for failing to make a timely payment. The specific assertions do not describe "extraordinary circumstances"<sup>7</sup> that, if proved, would be legal grounds or clear mitigating circumstance to waive collection of the penalty. Repeatedly, the Commission has 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."<sup>8</sup> The absence of a reminder notice is not an excuse. Indeed, beginning in 2009, the Commission provided ample notice that it would not be sending paper pre-bills to regulatees.

The penalty required by 47 U.S.C. § 159(c)(1) and charges required by 31 U.S.C. § 3717 are not limited to situations where the failure to pay was knowing or willful. Indeed, neither the statute nor the Commission's regulations contemplates a waiver of or reduction in the late payment penalty based on matters such as the amount of time after the deadline within which the regulatee satisfies its payment obligations.

If you have any questions concerning this matter, please call the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,

  
1502: Mark Stephens  
Chief Financial Officer

<sup>6</sup> See FY 2014 Regulatory Fees due No Later Than September 23, 2014, 11:59 pm Eastern Time (ET), *Public Notice*, DA 14-1261 (Aug. 29, 2014).

<sup>7</sup> *McLeodUSA Telecommunications Services, Inc., Memorandum Opinion and Order*, 19 FCC Rcd 6587, 6589 (2004) (denying the request for waiver of 25 percent penalty).

<sup>8</sup> 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).

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

JAN 1 2 2015

OFFICE OF  
MANAGING DIRECTOR

Marty Essen  
Essen Communications Corporation  
1572 Blue Lupine Lane  
Victor, MT 59875

Licensee/Applicant: **Essen Communications Corporation**  
Waiver and Refund Request: Late Payment Penalties  
Disposition: **Denied** (47 C.F.R. §§ 1.1157(c)(1), 1.1164)  
Fee: Fiscal Year (FY) FY 2013 and FY 2014 Regulatory Fee Late Fees  
Station: N/A  
Date Request Filed: Oct. 28, 2014  
Fee Control No.: RROG-14-00015783

Dear Mr. Essen:

This responds to Licensee's *Request*<sup>1</sup> for waiver and refund of the penalties for late payment of the Fiscal Year (FY) 2013 and FY 2014 regulatory fees. As we discuss below, we deny because Licensee failed to demonstrate legal grounds or clear mitigating circumstances to waive collection of the penalties.

On February 1, 2014, and September 25, 2014, respectively, Licensee paid the FY 2013 and FY 2014 regulatory fees and accrued charges, and on October 24, 2014, Licensee submitted its Request that we waive the penalties for both years because it does not "have a staff attorney watching out for [Licensee]. Instead [Licensee] keep[s] up with FCC requirements through [Licensee's] own efforts ... since the FCC has stopped sending out regulatory fee bills, it has become more difficult ... [Licensee's] intent to pay on-time has always been there. If the FCC had simply sent [Licensee] an email notice or a paper bill, [Licensee] would have paid well before the deadline."<sup>2</sup>

<sup>1</sup> Letter from Marty Essen, Essen Communications Corp., 1572 Blue Lupine Lane, Victor, MT 59875 to Secretary's Office, Attn: Office of Managing Director, FCC, 445 12<sup>th</sup> St., SW, Washington, DC 20554 (Oct. 17, 2014) (*Request*).

<sup>2</sup> *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,<sup>3</sup> 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."<sup>4</sup> 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."<sup>5</sup>

Each year, the Commission establishes the final day on which payment must be received before it is considered late, *i.e.*, a deadline after which the Commission must assess charges that include the statutory late payment penalty required by 47 U.S.C. § 159(c)(1) and 47 C.F.R. §§ 1.1157(c)(1) and 1.1164, and additional charges of interest, penalties, and charges of collection required by 31 U.S.C. § 3717 and 47 C.F.R. § 1.1940. For FY 2013, the published deadline for paying regulatory fees was September 20, 2013,<sup>6</sup> and for FY 2014, the published deadline for paying regulatory fees was September 23, 2014.<sup>7</sup> Licensee failed to complete payment by those dates, thus the unpaid fee became a delinquent debt and, as required by the law, we imposed charges. We received Licensee's FY 2013 regulatory fee payment on February 1, 2014, and Licensee's FY 2014 regulatory fee payment on September 25, 2014. Afterwards, Licensee asked for a waiver and refund of the statutory penalties and charges.

Licensee's assertions describe in general inadvertent error as the basis for failing to make a timely payment. The specific assertions do not describe "extraordinary circumstances"<sup>8</sup> that, if proved, would be legal grounds or clear mitigating circumstance to waive collection of the penalty. Repeatedly, the Commission has held that "[I]licensees 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."<sup>9</sup> The absence of a reminder notice is not an excuse. Indeed, beginning in 2009, the Commission provided ample notice that it would not be sending paper pre-bills to regulatees.

The penalty required by 47 U.S.C. § 159(c)(1) and charges required by 31 U.S.C. § 3717 are not limited to situations where the failure to pay was knowing or willful. Indeed, neither the statute nor the Commission's regulations contemplates a waiver of or reduction in the late payment penalty based on matters such as the amount of time after the deadline within which the regulatee satisfies its payment obligations.

<sup>3</sup> 47 U.S.C. § 159(a)(1); 47 C.F.R. § 1.1151.

<sup>4</sup> 47 U.S.C. § 159(c)(1); 47 C.F.R. §§ 1.1157(c)(1), 1.1164.

<sup>5</sup> 47 C.F.R. § 1.1164.

<sup>6</sup> See FY 2013 Regulatory Fees Due No Later Than September 20, 2013, 11:59 pm Eastern Time (ET), *Public Notice*, DA 13-1796. (Sep. 4, 2013).

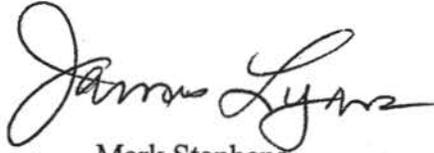
<sup>7</sup> See FY 2014 Regulatory Fees Due No Later Than September 23, 2014, 11:59 pm Eastern Time (ET), *Public Notice*, DA 14-1261 (Aug. 29, 2014).

<sup>8</sup> *McLeodUSA Telecommunications Services, Inc., Memorandum Opinion and Order*, 19 FCC Rcd 6587, 6589 (2004) (denying the request for waiver of 25 percent penalty).

<sup>9</sup> 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).

If you have any questions concerning this matter, please call the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,

A handwritten signature in cursive script that reads "James Lyons". The signature is written in black ink and is positioned above the typed name and title.

*MLR*: Mark Stephens  
Chief Financial Officer

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C, 20554

APR 15 2015

OFFICE OF  
MANAGING DIRECTOR

Ms. Lorene Godfrey  
Geronimo Broadcasting, Inc.  
1734 S. King Street  
Honolulu, HI 96826

Licensee/Applicant: **Geronimo Broadcasting, Inc.**  
Waiver Request: Late Payment Penalty;  
Disposition: **Deny** (47 U.S.C. § 159(c)(2) and 47  
C.F.R. §§ 1.1157, 1.1164, and 1.1166)  
Station: KNDI  
Fee: Fiscal Year (FY) 2014 Regulatory Fee Late  
Fee  
Date Request Filed: Feb. 27, 2015  
Date Regulatory Fee Paid: Nov. 18, 2014  
Date Late Penalty Fee Paid: Nov. 18, 2014  
Fee Control No.: RROG-14-00015915

Dear Ms. Godfrey:

This responds to Licensee's *Request*<sup>1</sup> for a waiver of the statutory penalty amount imposed when Licensee failed to pay the Fiscal Year (FY) 2014 regulatory fees by the deadline. As we discuss below, we deny because Licensee failed to demonstrate legal grounds or clear mitigating circumstances to waive collection of the penalty.

*Background*

On August 29, 2014, the Commission announced September 23, 2014, as the deadline for paying the FY 2014 annual regulatory fees.<sup>2</sup> Licensee failed to make its payment by that date. Instead, it was on November 18, 2014, that the Commission received Licensee's payment for FY 2014 required statutory regulatory fees and the late penalties.

<sup>1</sup> Letter from Lorene Godfrey, Station Manager, Geronimo Broadcasting, Inc., 1734 S. King Street, Honolulu, HI, 96826 to Marlene H. Dortch, Secretary, FCC, Attn: Office of the Managing Director, Regulatory Fee Waiver/Reduction Request, 445 12<sup>th</sup> St., S.W., Rm TW-B204, Washington, DC 20554 (dated Feb. 18, 2015; rec'd Feb. 27, 2015) (*Request*).

<sup>2</sup> See FY 2014 Regulatory Fees Due No Later Than September 23, 2014, 11:59 pm Eastern Time (ET), *Public Notice*, DA 14-1261 (Aug. 29, 2014).

Licensee asserts it assumed ownership of the station on August 1, 2013, and on September 16, 2013, it made timely payment of the FY 2013 regulatory fees.<sup>3</sup> The following year, however, the station staff failed to meet the September 23, 2014, deadline for paying the FY 2014 regulatory fee.<sup>4</sup> Licensee asserts that on November 18, 2014, it paid the delinquent fee after it received the Commission's November 4, 2014, Demand Letter.<sup>5</sup>

Licensee asserts the Demand Letter had the prior owner's FCC Registration Number (FRN); however, Licensee acknowledges it failed to correct the FRN database until November 13, 2014.<sup>6</sup>

### *Standards*

Under 47 U.S.C. § 159 and the Commission's implementing rules, we are required to "assess and collect regulatory fees"<sup>7</sup> to recover the costs of the Commission's regulatory activities,<sup>8</sup> and when the required payment is received late or it is incomplete, and "not excused by bank error, [to assess] a 25 percent penalty of the amount of the fee ... which was not paid in a timely manner."<sup>9</sup> A timely fee payment is one received at the Commission's lockbox bank by the due date.<sup>10</sup>

Each year, the Commission establishes the final day on which payment must be received before it is considered late, *i.e.*, a deadline after which the Commission must assess charges that include the statutory late payment penalty required by 47 U.S.C. § 159(c)(1) and 47 C.F.R. §§ 1.1157(c)(1) and 1.1164, as well as interest, penalties, and charges of collection required by 31 U.S.C. § 3717 and 47 C.F.R. § 1.1940. For FY 2014, the deadline for paying regulatory fees was September 23, 2014.<sup>11</sup>

Licensee failed to complete payment by that date, thus the unpaid fee became a delinquent debt and, as required by the law, we imposed charges.

### *Discussion*

Licensee failed to pay the FY 2014 annual regulatory fee before our published deadline. Accordingly, under 47 U.S.C. § 159(c)(1) and 47 C.F.R. §§ 1.1157 and 1.1164, the Commission assessed a 25% late payment penalty and charges of collection. Licensee failed to pay the FY 2014 regulatory fee and accrued charges until November 18, 2014.

<sup>3</sup> *Request.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Assessment and Collection of Regulatory Fees for Fiscal Year 2011, *Report and Order*, 26 FCC Rcd 10812 (2011) (2011 Regulatory Fee Order).

<sup>8</sup> 47 U.S.C. § 159(a)(1); 47 C.F.R. § 1.1151.

<sup>9</sup> 47 U.S.C. § 159(c)(1); 47 C.F.R. §§ 1.1157(c)(1), 1.1164.

<sup>10</sup> 47 C.F.R. § 1.1164.

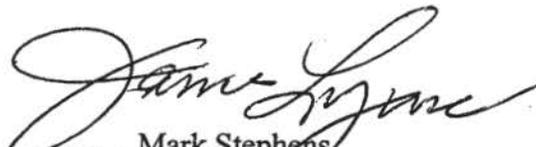
<sup>11</sup> See FY 2014 Regulatory Fees Due No Later Than September 23, 2014, 11:59 pm Eastern Time (ET), *Public Notice*, DA 14-1261 (Aug. 29, 2014).

Licensee's assertions to explain the tardiness describe, in general, poor internal office management and inadvertence. Those specific assertions, however, do not describe "extraordinary circumstances"<sup>12</sup> that, if proved, would be legal grounds or clear mitigating circumstance to waive collection of the penalty. This explanation fails to establish that the circumstances causing the untimely payment were "entirely outside [Licensee's] ability to control."<sup>13</sup> Indeed, as Licensee describes the situation, its untimely payment of the regulatory fee was the result of Licensee failing to ensure its staff was aware of the procedures for paying the fee and the due date. These are matters entirely within Licensee's control, and the consequence of its own business decision.<sup>14</sup> Repeatedly, the Commission has 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."<sup>15</sup>

The penalty required by 47 U.S.C. § 159(c)(1) and charges required by 31 U.S.C. § 3717 are not limited to situations where the failure to pay was knowing or willful. Indeed, neither the statute nor the Commission's regulations contemplates a waiver of or reduction in the late payment penalty based on matters such as the amount of time after the deadline within which the regulatee satisfies its payment obligations. In that regard, the Commission does not send bill notices by mail or email. Indeed, beginning in 2009, the Commission provided ample notice that it would not be sending paper pre-bills to regulatees.<sup>16</sup>

If Licensee has any questions concerning this matter, please call the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,

  
Mark Stephens  
SUC Chief Financial Officer

<sup>12</sup> McLeodUSA Telecommunications Services, Inc., *Memorandum Opinion and Order*, 19 FCC Rcd 6587, 6589 (2004) (denying the request for waiver of 25 percent penalty).

<sup>13</sup> NTT America, Inc., *Memorandum Opinion and Order*, 21 FCC Rcd 8088, 8090, ¶ 6 (2006).

<sup>14</sup> *Id.* at 8090, ¶ 5.

<sup>15</sup> 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).

<sup>16</sup> *Assessment and Collection of Regulatory Fees for Fiscal Year 2009, Notice of Proposed Rulemaking and Order*, 24 FCC Rcd 5966, 5972, ¶ 16 (2009); *Assessment and Collection of Regulatory Fees for Fiscal Year 2009, Report and Order*, 24 FCC Rcd 10301, 10307-09, ¶¶ 18-27 (2009); *Fee Filer Mandatory for FY 2009 Regulatory Fees, Public Notice*, 24 FCC Rcd 10893 (Aug. 21, 2009); *Assessment and Collection of Regulatory Fees for Fiscal Year 2010, Report and Order*, 25 FCC Rcd 9278, 9291, ¶ 37 (2010).

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

MAR 27 2015

OFFICE OF  
MANAGING DIRECTOR

L. Barbee Ponder IV, Esq.  
General Counsel & VP Regulatory Affairs  
Globalstar, Inc.  
300 Holiday Square  
Covington, LA 70433

Licensee/Applicant: **Globalstar, Inc.**  
Waiver and Refund: Late Payment Penalty Fiscal  
Year (FY) FY 2013 Regulatory Fees  
Disposition: **Dismissed and Denied** (47 U.S.C. §  
159(c)(1); 47 C.F.R. § 1.1164)  
Station: N/A  
Fees: Fiscal Year (FY) FY 2013 Late Payment  
Penalty  
Date Request Filed: Sep. 26, 2013  
Date Regulatory Fees Paid: Sep. 26, 2013  
Date Late Regulatory Fees Paid: Sep. 26, 2013  
Fee Control No.: RROG-13-00015427

Dear Counsel:

This responds to Licensee's *Request*<sup>1</sup> for waiver and refund of the penalty for late payment of the Fiscal Year (FY) 2013 regulatory fee. As we discuss below, we dismiss and deny because Licensee failed to comply with our rules for filing a request for waiver and to demonstrate legal grounds or clear mitigating circumstance to waiver collection of the penalty.

*Background*

On September 26, 2013, Licensee paid the FY 2013 regulatory fee and accrued charges, and it submitted its *Request* that we waive and refund the late payment charges on the unsupported grounds that Licensee was unable to pay the regulatory fee on time because "[a] bill was inadvertently not created for Globalstar in the FCC's Fee Filer program for the company to pay on time."<sup>2</sup>

<sup>1</sup> Email from L. Barbee Ponder, Globalstar, Inc. ([barbee.ponder@globalstar.com](mailto:barbee.ponder@globalstar.com)) to ARINQUIRIES ([arinquiries@fcc.gov](mailto:arinquiries@fcc.gov)) (Sep. 26, 2013).

<sup>2</sup> *Request*. Licensee did not include any evidence that its regulatory fee information was not in fee filer.

### Standards

The Commission's rules at 47 C.F.R. §§ 0.401, 1.7, 1.1159 and 1.1166 establish the proper location for filing waiver and refund requests and the consequence of dismissal for failing to comply with those rules. The Commission has designated specific offices to receive and certain matters, thus a request for relief is *filed* only upon receipt at the location designated by the Commission.<sup>3</sup> For example, under sections 1.1159 and 1.1166 of the Commission's rules, a request for a waiver of a regulatory fee with a petition to defer payment, properly supported by the required documentation, must be *filed* with the Secretary, Federal Communications Commission, Attention: Managing Director, Washington, D.C. 20554 by mailing or otherwise delivering a hard copy of the documents to Office of the Secretary.

Next, 47 U.S.C. § 159 and the Commission's rules, we are required to "assess and collect regulatory fees" to recover the costs of the Commission's regulatory activities,<sup>4</sup> 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."<sup>5</sup> 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."<sup>6</sup>

### Discussion

Our rules require an applicant to file a request for waiver and a refund with "the Secretary, Federal Communications Commission, Attention: Managing Director, Washington, D.C. 20554."<sup>7</sup> The consequences of filing to follow that rule is that the submission is not filed<sup>8</sup> and "[a]pplications and other filings not submitted in accordance with the addresses or locations set forth [in our rules] will be returned to the applicant without processing."<sup>9</sup>

Our records show Licensee submitted the *Request* by email to ARINQUIRIES, which fails to conform to our designated filing requirements. Thus the *Request* was never filed, and now, it may be returned without processing.<sup>10</sup> Hence, we dismiss the *Request*, but as a matter of administrative economy, we look to the merits.

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

<sup>5</sup> 47 U.S.C. § 159(c)(1); 47 C.F.R. §§ 1.1157(c)(1), 1.1164.

<sup>6</sup> 47 C.F.R. § 1.1164.

<sup>7</sup> 47 C.F.R. §§ 1.1159(b), 1.1160.

<sup>8</sup> 47 C.F.R. § 1.7.

<sup>9</sup> 47 C.F.R. § 0.401 ("The Commission maintains several offices and receipt locations. Applications and other filings not submitted in accordance with the addresses or locations set forth [in the Commission's rules] will be returned to the applicant without processing.").

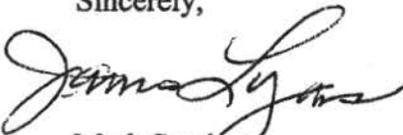
<sup>10</sup> *Id.*

Each year, the Commission establishes the final day on which payment must be received before it is considered late, *i.e.*, a deadline after which the Commission must assess charges that include the statutory late payment penalty required by 47 U.S.C. § 159(c)(1) and 47 C.F.R. §§ 1.1157(c)(1) and 1.1164, as well as interest, penalties, and charges of collection required by 31 U.S.C. § 3717 and 47 C.F.R. § 1.1940. For FY 2013, the publicized deadline for paying regulatory fees was September 20, 2013.<sup>11</sup> Licensee failed to complete payment by that date, thus the unpaid fee became a delinquent debt and, as required by the law, we imposed charges. We received Licensee's FY 2013 regulatory fee payment on September 26, 2013, the same date as the *Request*.

Licensee's assertions do not present valid grounds for relief. Moreover, Licensee failed to establish "extraordinary circumstances"<sup>12</sup> that, if proved, would be legal grounds or clear mitigating circumstances to waive collection of the penalty. The penalty required by 47 U.S.C. § 159(c)(1) and charges required by 31 U.S.C. § 3717 are not limited to situations where the failure to pay was knowing or willful. Indeed, neither the statute nor the Commission's regulations contemplates a waiver of or reduction in the late payment penalty based on matters such as an employee's inability to perform duties, the amount of time after the deadline within which the regulatee satisfies its payment obligations, or the absence of a reminder notice. In that regard, the Commission does not send bill notices by mail or email. Indeed, beginning in 2009, the Commission provided ample notice that it would not be sending paper pre-bills to regulatees.<sup>13</sup>

If Licensee has any questions concerning this matter, please call the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,

  
FOP Mark Stephens  
Chief Financial Officer

<sup>11</sup> See FY 2013 Regulatory Fees Due No Later Than September 20, 2013, 11:59 pm Eastern Time (ET), *Public Notice*, DA 13-1796. (Sep. 4, 2013).

<sup>12</sup> *McLeodUSA Telecommunications Services, Inc., Memorandum Opinion and Order*, 19 FCC Rcd 6587, 6589 (2004) (denying the request for waiver of 25 percent penalty).

<sup>13</sup> *Assessment and Collection of Regulatory Fees for Fiscal Year 2009, Notice of Proposed Rulemaking and Order*, 24 FCC Rcd 5966, 5972, ¶ 16 (2009); *Assessment and Collection of Regulatory Fees for Fiscal Year 2009, Report and Order*, 24 FCC Rcd 10301, 10307-09, ¶¶ 18-27 (2009); *Fee Filer Mandatory for FY 2009 Regulatory Fees, Public Notice*, 24 FCC Rcd 10893 (Aug. 21, 2009); *Assessment and Collection of Regulatory Fees for Fiscal Year 2010, Report and Order*, 25 FCC Rcd 9278, 9291, ¶ 37 (2010).

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

FEB 23 2015

OFFICE OF  
MANAGING DIRECTOR

Irina Rojkova  
International Telcom, Ltd  
417 2<sup>nd</sup> Avenue, W.  
Seattle, WA 98119

Licensee/Applicant/Permittee: **International  
Telcom**

Waiver and Refund Request: Late Payment Penalty

Disposition: **Dismissed and Denied** (47 C.F.R. §§  
0.401, 1.7, 1.1157(c)(1), 1.1159, 1.1164, 1.1166)

Fee: Fiscal Year (FY) 2012 Regulatory Fee Late  
Fee

Station: N/A

Date Request Submitted: Oct. 24, 2012

Date Regulatory Fee Paid: Oct. 24, 2012

Date Late Penalty Fee Paid: Oct. 24, 2012

Fee Control No.: RROG-12-00014836

Dear Ms. Rojkova:

This responds to Licensee's *Request*<sup>1</sup> for waiver and refund of the penalty for late payment of the Fiscal Year (FY) 2012 regulatory fee. As we discuss below, we dismiss and deny because Licensee failed to comply with our rules for filing a request for waiver and to demonstrate legal grounds or clear mitigating circumstances to waive collection of the penalty.

On October 24, 2012, Licensee paid the FY 2012 regulatory fee and accrued charges, and it submitted its *Request* that we waive and refund the late payment charges on the grounds that Licensee was unable to get the Commission to respond directly to Licensee in the past, and in 2012, Licensee did not receive billing information and the Commission's website is confusing.<sup>2</sup>

<sup>1</sup> Email from Irina Rojkova [IrinaR@itltd.net] to ARINQUIRIES (Oct. 24, 2012) (*Request*).

<sup>2</sup> *Request*.

## Standards

The Commission's rules at 47 C.F.R. §§ 0.401, 1.7, 1.1159 and 1.1166 establish the proper location for filing waiver and refund requests and the consequence of dismissal for failing to comply with those rules. The Commission has designated specific offices to receive and certain matters, thus a request for relief is *filed* only upon receipt at the location designated by the Commission.<sup>3</sup> For example, under sections 1.1159 and 1.1166 of the Commission's rules, a request for a waiver of a regulatory fee with a petition to defer payment, properly supported by the required documentation, must be *filed* with the Secretary, Federal Communications Commission, Attention: Managing Director, Washington, D.C. 20554 by mailing or otherwise delivering a hard copy of the documents to Office of the Secretary.

Next, 47 U.S.C. § 159 and the Commission's rules require that we "assess and collect regulatory fees" to recover the costs of the Commission's regulatory activities,<sup>4</sup> 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."<sup>5</sup> 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."<sup>6</sup>

## Discussion

Our rules require an applicant to file a request for waiver and a refund with "the Secretary, Federal Communications Commission, Attention: Managing Director, Washington, D.C. 20554."<sup>7</sup> The consequences of filing to follow that rule is that the submission is not filed<sup>8</sup> and "[a]pplications and other filings not submitted in accordance with the addresses or locations set forth [in our rules] will be returned to the applicant without processing."<sup>9</sup>

Our records show Licensee submitted the *Request* by email to ARINQUIRIES, which fails to conform to our designated filing requirements. Thus the *Request* was never filed, and now, it may be returned without processing.<sup>10</sup> Hence, we dismiss the *Request*, but as a matter of administrative economy, we look to the merits.

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

<sup>5</sup> 47 U.S.C. § 159(c)(1); 47 C.F.R. §§ 1.1157(c)(1), 1.1164.

<sup>6</sup> 47 C.F.R. § 1.1164.

<sup>7</sup> 47 C.F.R. §§ 1.1159(b), 1.1160.

<sup>8</sup> 47 C.F.R. § 1.7.

<sup>9</sup> 47 C.F.R. § 0.401 ("The Commission maintains several offices and receipt locations. Applications and other filings not submitted in accordance with the addresses or locations set forth [in the Commission's rules] will be returned to the applicant without processing.")

<sup>10</sup> *Id.*

Each year, the Commission establishes the final day on which payment must be received before it is considered late, *i.e.*, a deadline after which the Commission must assess charges that include the statutory late payment penalty required by 47 U.S.C. § 159(c)(1) and 47 C.F.R. §§ 1.1157(c)(1) and 1.1164, as well as interest, penalties, and charges of collection required by 31 U.S.C. § 3717 and 47 C.F.R. § 1.1940. For FY 2012, the well-publicized deadline for paying regulatory fees was September 13, 2012.<sup>11</sup> Licensee failed to complete payment by that date, thus the unpaid fee became a delinquent debt and, as required by the law, we imposed charges. We received Licensee's FY 2012 regulatory fee payment on October 24, 2012, the same date as the *Request*.

Licensee's assertions describe general inattention to the publicized fee payment information<sup>12</sup> and inadvertence to complete timely payment. Licensee failed to establish "extraordinary circumstances"<sup>13</sup> that, if proved, would be legal grounds or clear mitigating circumstances to waive collection of the penalty. Repeatedly, the Commission has 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."<sup>14</sup> The absence of a personalized reminder is not an excuse. Indeed, since 2009, the Commission provided ample notice that it would not be sending paper pre-bills to regulatees.

The penalty required by 47 U.S.C. § 159(c)(1) and charges required by 31 U.S.C. § 3717 are not limited to situations where the failure to pay was knowing or willful. Indeed, neither the statute nor the Commission's regulations contemplates a waiver of or reduction in the late payment penalty based on matters such as the amount of time after the deadline within which the regulatee satisfies its payment obligations.

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<sup>11</sup> Reminder That FY 2012 Regulatory Fees Are Due No Later Than September 13, 2012, Eastern Time (ET), *Public Notice*, DA 12-1423 (Aug. 31, 2012), Payment Methods and Procedures For Fiscal Year 2012 Regulatory Fees, *Public Notice*, DA 12-1294 (Aug. 13, 2012) ("The Commission's automated filing and payment system ('Fee Filer') is now available for filing and payment of FY 2012 regulatory fees. Regulatory fee payments must be RECEIVED by the Commission no later than 11:59 PM, ET, on September 13, 2012."), FY 2012 Regulatory Fees Due No Later Than September 13, 2012, Eastern Time (ET), *Public Notice*, DA 12-1295 (Aug. 13, 2012), Fee Filer Mandatory For FY 2012 Regulatory Fees, *Public Notice*, DA 12-1296 (Aug. 13, 2012) ("It is the responsibility of the licensee to determine the fullest extent of their regulatory fee obligation. Although regulatory fee bills will no longer be mailed to the regulatee, the bills can be viewed by logging onto Fee Filer at ([www.fcc.gov/feefiler](http://www.fcc.gov/feefiler)), or from the FCC Fees page, by clicking on the link (<http://www.fcc.gov/fees>). ... Payments received after 11:59 p.m. ET on September 13, 2012 will be assessed a 25% late payment penalty, along with interest and other fees.").

<sup>12</sup> *Id.*

<sup>13</sup> *McLeodUSA Telecommunications Services, Inc., Memorandum Opinion and Order*, 19 FCC Rcd 6587, 6589 (2004) (denying the request for waiver of 25 percent penalty).

<sup>14</sup> 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).

If you have any questions concerning this matter, please call the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,

  
For: Mark Stephens  
Chief Financial Officer

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

APR 3 2015

OFFICE OF  
MANAGING DIRECTOR

Jeffrey J. Carlisle  
Executive Vice President, Regulatory Affairs  
and Public Policy  
LightSquared Subsidiary, LLC and  
One Dot Six Corp.  
10802 Parkridge Boulevard  
Reston, VA 20191

Licensees/Applicants: **LightSquared Subsidiary,  
LLC and One Dot Six Corp**  
Waiver and Deferral of Application Fees: Financial  
Hardship  
Disposition: **Denied** (47 C.F.R. §§ 1.1115,  
1.1119(a), 1.1166(c) & (e))  
Station(s): Multiple  
Fee(s): Application Fees  
Date Request Filed: May 24, 2012  
Date Application Fees Paid:  
Fee Control No.: RROG-12-00014339

Dear Mr. Carlisle:

This responds to Licensees' *Petition*<sup>1</sup> for waiver and deferral of payment of application processing fees, which according to our records, Licensees paid. As we discuss below, we deny

<sup>1</sup> In the Matter of LightSquared Subsidiary, LLC, One Dot Six Corp, Request for Deferral and Waiver of Application Fees to The Commission, Office of the Secretary, FCC, Attn: Office of the Managing Director (May 24, 2012) (*Petition*) with exhibits: Exhibit 1, Schedule of Applications; Exhibit 2, Bankruptcy Petitions, including: LightSquared Subsidiary LLC, a/k/a Sky Terra Subsidiary LLC; Mobile Satellite Ventures Subsidiary LLC, U.S. Bankruptcy Court, S.D.N.Y., Voluntary Petition, with Schedule 1 (filed 5/14/12); Exhibit C to Voluntary Petition (filed 5/14/12); Written Consent of the Board of Directors of Lightsquared LP as Sole Member of Lightsquared Subsidiary LLC (May 14, 2012); Consolidated List of Creditors Holding 20 Largest Unsecured Claims (as of May 12, 2012); Declaration For Consolidated List of Creditors Holding 20 Largest Unsecured Claims (May 14, 2012); Corporate Ownership Statement Pursuant to Federal Rule of Bankruptcy Procedure 1007(A)(1) and Rule 1007-3 of Local Bankruptcy Rules for United States Bankruptcy Court for Southern District of New York (filed 5/14/12); Declaration Concerning Corporate Ownership Statement (filed 5/14/12); One Dot Six Corp., U.S. Bankruptcy Court, S.D.N.Y, Voluntary Petition, with Schedule 1 (filed 5/14/12); Written Consent of the Board of Directors of One Dot Six Corp. (May 14, 2012); Exhibit C to Voluntary Petition (filed 5/14/12); Consolidated List of Creditors Holding 20 Largest Unsecured Claims (as of May 12, 2012); Declaration For Consolidated List of Creditors Holding 20 Largest Unsecured Claims (May 14, 2012); Corporate Ownership Statement Pursuant to Federal Rule of Bankruptcy Procedure 1007(A)(1) and Rule 1007-3 of Local Bankruptcy Rules for United States Bankruptcy Court for Southern District of New York (filed 5/14/12); Declaration Concerning Corporate Ownership Statement (filed 5/14/12); Exhibit 3, Joint Administration Order, United States Bankruptcy Court, Lightsquared Inc., *et al*, Chapter 11, Case No. 12-12080 (SCC), *et al.*, Order Directing Joint Administration of Related Chapter 11 Cases (May 15, 2012).

Licensees' *Petition* because they fail to establish extraordinary and compelling circumstances warranting waiver of the application fees.

### *Background*

On May 24, 2012, Licensees filed their *Petition* asserting that they and certain affiliates filed for Chapter 11 relief, and Licensees "continue[] to operate [their] business and manage [their] properties as ... debtor[s] in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code."<sup>2</sup> As such, Licensees seek "Commission consent to ... the pro forma assignment of each Petitioner's licenses and authorizations to that Petitioner as a 'Debtor-in-Possession.'"<sup>3</sup> Licensees assert, "[t]he Commission has held that a licensee's bankruptcy establishes good cause for the deferral and waiver of application filing fees, which serve the public interest by enabling the licensee to preserve its assets for the benefit of creditors."<sup>4</sup> Licensees assert the "Commission has referred an entity's status as a debtor-in-possession as providing a 'bright line test[]' of whether deferral and waiver is appropriate 'that can be administered predictably.'"<sup>5</sup> Finally, Licensees assert "[u]nder the circumstances ... here, deferral and waiver are appropriate and would serve the public interest, convenience, and necessity. ... [U]nder established Commission precedent and the 'bright line test' established thereby, good cause exists for grant of the requested deferral and waiver. [Footnote deleted.] Notably, the aggregate amount otherwise owed ... would not exceed \$500,000, such that the requested relief is consistent with the Commission's rules governing deferral and waiver of fees in the case of bankruptcy. [Footnote deleted.]"<sup>6</sup> The Commission's records show Licensees paid the relevant fees. Licensees did not file a motion to supplement their *Petition* and to request a refund<sup>7</sup> of the amounts paid.

### *Standards*

In establishing an application<sup>8</sup> fee program, the Commission recognized that in certain instances, payment of an application fee may impose an undue financial hardship upon a

<sup>2</sup> *Request* at 2.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.* Licensees cite "See *Mobilemedia Corporation*, 14 FCC Rcd 8017, at ¶ 40 (1999), citing *Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year*, 10 FCC Rcd 12759 (1995)."

<sup>5</sup> *Request* at 2-3. Licensees cite "See *Assessment and Collection of Regulatory Fees for Fiscal Year 2009*, 24 FCC Rcd 10301, at ¶ 30 (2009); see also Letter to Freedom Broadcasting from FCC, Fee Control No. RROG-09-00012362, at 2 (Mar. 29, 2010)."

<sup>6</sup> *Request* at 3.

<sup>7</sup> See 47 C.F.R. § 1.1115.

<sup>8</sup> Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985, *Report and Order*, 2 FCC Rcd 947, ¶¶ 87-88 (1987) (*Application Fee R&O*) ("The fees to be collected by the Commission were established by the Congress. The legislative history unequivocally states that our discretion to waive or defer fees shall be narrowly defined. \* \* \* We read the legislative history so as to allow the Commission, in its discretion, to grant waivers or deferrals only for good cause shown when such action will promote the public interest. Consistent with this congressional intent to narrowly limit our authority, those requesting a waiver or deferral will have the burden of demonstrating that, for each request, a waiver or deferral would override the public interest, as determined by Congress, that the government should be reimbursed for that specific regulatory action of the FCC. As we stated in the NPRM [Notice of Proposed Rulemaking], we believe that,

licensee. Under 47 C.F.R. §§ 1.1119 and 1.1166, such fees may be waived, reduced or deferred, but only upon a showing of good cause and a finding that the public interest will be served thereby.<sup>9</sup> 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.<sup>10</sup> 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.<sup>11</sup> "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 application fee and to maintain its service to the public."<sup>12</sup> 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. On this information, 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.<sup>13</sup> 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.

Verified evidence of a proceeding in bankruptcy is relevant;<sup>14</sup> however, "in some circumstances a significant question may exist as to whether bankruptcy represents extraordinary and compelling circumstances justifying a waiver when balanced against the public interest in reimbursing the Commission for its costs as reflected in the statutory fee provisions."<sup>15</sup> A bankruptcy proceeding in reorganization under Chapter 11 of the Bankruptcy Code may be established with verified court records, such as copies of the relevant court filings and forms, and evidence the trustee or debtor-in-possession has complied with its required duties,<sup>16</sup> including submitting copies of court-filed financial reports.<sup>17</sup>

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in most instances, the general public interest in reimbursing the government for services provided would far outweigh the private interest in waiving or deferring the small, incremental cost represented by these fees.").

<sup>9</sup> 47 U.S.C. § 158 (d); 47 C.F.R. §§ 1.1119(a), (e), & (f), 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).

<sup>10</sup> 9 FCC Rcd at 5344 ¶ 29.

<sup>11</sup> 10 FCC Rcd at 12761-62 ¶ 13.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *See Id.* at 12762, ¶ 14 ("[W]here a bankruptcy trustee, receiver, or debtor in possession is negotiating a possible transfer of a license, the regulatory fee could act as an impediment to the negotiations and the transfer of the station to a new licensee.").

<sup>15</sup> Assessment and Collection of Regulatory Fees for Fiscal Year 2003, *Notice of Proposed Rulemaking*, 18 FCC Rcd 6085, 6090, ¶ 11 (2003) ("Although fee waivers will generally be given in cases of financial hardship, we nevertheless note that even under our current policies, in some circumstances a significant question may exist as to whether bankruptcy represents extraordinary and compelling circumstances justifying a waiver when balanced against the public interest in reimbursing the Commission for its costs as reflected in the statutory fee provisions. ... We therefore emphasize that under the statutory waiver provisions, case-by-case review of fee waiver requests is necessary to determine the public interest, even in bankruptcy cases.").

<sup>16</sup> *See* 11 U.S.C. § 521.

<sup>17</sup> 11 U.S.C. §§ 1106, 1107, 1166; Fed. R. Bnkr. P., Rule 1007.

We will look to that documentation to determine whether the applicant presents “extraordinary and compelling circumstances showing that a waiver ... would override the public interest” in collecting the fee,<sup>18</sup> and we will analyze the facts of each case to determine whether the applicant has satisfied both prongs of the Commission’s standard, financial hardship and extraordinary<sup>19</sup> and compelling circumstances<sup>20</sup> showing waiver is justified.<sup>21</sup>

Under 47 C.F.R. § 0.445(a) & (e), adjudicatory opinions and orders of the Commission, or its staff acting on delegated authority are mailed or delivered by electronic means, and because they are not published in the Federal Register, the FCC Record, FCC Reports, or Pike and Fischer Communications Regulation, they may not be relied upon, used or cited as precedent, except against persons who have actual notice of the document in question or by such persons against the Commission.

### *Discussion*

Licensees are debtors before the United States Bankruptcy Court, Southern District of New York,<sup>22</sup> in voluntary petitions for relief under Chapter 11 of the U.S. Bankruptcy Code.<sup>23</sup> In support of their *Petition*, Licensees assert, “the waiver of these application fees would serve the public interest, convenience and necessity.”<sup>24</sup> Pointing to the Commission’s *FY 1994 MO&O*, Licensees also assert that their proceeding in “bankruptcy establishes good cause for the deferral and waiver of application filing fees, which serve the public interest by enabling the licensee to preserve its assets for the benefit of creditors.”<sup>25</sup> As we explain, Licensees fail to establish a “compelling case of financial hardship”<sup>26</sup> that would “override the public interest in reimbursing the Commission for its regulatory costs”<sup>27</sup> and show how the “impact of the application fee will affect [Licensee’s] ability to serve the public.”<sup>28</sup>

<sup>18</sup> 47 U.S.C. § 158(d)(2) (“The Commission may waive or defer payment of a charge in any specific instance for good cause shown, where such action would promote the public interest.”); 47 C.F.R. §§ 1.1119(a), (c) & (f), 1.1166 (“fee ... 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.”). *FY 1994 MO&O*, 10 FCC Rcd at 12761, ¶ 12.

<sup>19</sup> Black’s Law Dictionary (9th ed. 2009)(extraordinary-“a highly unusual set of facts that are not commonly associated with a particular thing or event”).

<sup>20</sup> *Id.* (compelling-“something so great that irreparable harm or injustice would result if not met”).

<sup>21</sup> Assessment and Collection of Regulatory Fees for Fiscal Year 2003, *Report and Order*, 18 FCC Rcd 15985, 15989-90, ¶¶ 11, 13, 14 (2003).

<sup>22</sup> *Petition* at 1.

<sup>23</sup> *Id.* at 1.

<sup>24</sup> *Id.* at 1, 3.

<sup>25</sup> *Id.* at 2.

<sup>26</sup> *Application Fee R&O*, ¶ 70; 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, ¶ 29, 5346, ¶ 35 (1994), *recon. denied*, 10 FCC Rcd 12759 (1995).

<sup>27</sup> *Id.*

<sup>28</sup> Implementation of section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year, *Memorandum Opinion and Order*, 10 FCC Rcd 12759, 12761, ¶ 12 (1995).

First, Licensees fail to include other relevant records from the bankruptcy proceeding First Day Pleadings. Upon our own research, we located a number of those pleadings. Notably, Licensees omitted documents that describes debtors' several cash management motions,<sup>29</sup> the opinion of the chief financial officer (CFO) and interim co-chief operating officer (COO) that "obtaining the authority to pay the [taxes and fees, including those owed to the FCC] in accordance with the Debtors prepetition business practices is in the best interests of the Debtors and their estates ...."<sup>30</sup> The CFO-COO's declaration refers to other First Day Pleadings omitted from the Petition, but relevant to meeting our standards for waiver.<sup>31</sup> For example, Licensees describe their recent past business activities, including the number of employees, the ratio of assets to liabilities, employee expenses and benefits, and reasons for continuing to pay employee and senior management bonuses and incentive payments, reimbursable expenses, and employee benefits.<sup>32</sup> Licensees also moved the court to permit them to pay certain insurance programs and policies,<sup>33</sup> and to pay certain taxes and fees, including prepetition claims and fees to the

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<sup>29</sup> Lightsquared Inc., et al., U.S. Bankruptcy Court, S.D.N.Y., Declaration Of Marc R. Montagner, Chief Financial Officer And Interim Co-Chief Operating Officer Of Lightsquared Inc., (A) In Support Of First Day Pleadings And (B) Pursuant To Rule 1007-2 Of Local Bankruptcy Rules For United States Bankruptcy Court For Southern District Of New York, ¶¶ 65 ("Debtors filed various First Day Pleadings, which they believe are necessary to (a) continue ... operations ... with as little disruption and loss of productivity as possible .... I believe that the relief sought ... is tailored to meet the goals described above and ... to achieve a successful reorganization"), 76 ("Debtors seek ... order ... authorizing ... use [of] existing cash management systems"), 108 ("Debtors seek entry of an order (a) authorizing, but not directing, the Debtors to pay certain business, franchise, personal property, sales and use, goods and services ... other taxes ... FCC Fees and Canadian Regulatory Fees"), 110 ("I believe ... the authority to pay the Authorities in accordance with the Debtors' prepetition business practices is in the best interests of the Debtors and their estates").

<sup>30</sup> *Id.*

<sup>31</sup> Lightsquared Inc., et al., U.S. Bankruptcy Court, S.D.N.Y., Debtors' Motion For Entry Of Order Granting Extension Of Time To File Schedules And Statements, Lightsquared Inc., et al., U.S. Bankruptcy Court, S.D.N.Y., Debtors' Motion For Entry Of Interim And Final Orders (A) Authorizing Debtors To (I) Continue Using Existing Cash Management Systems, Bank Accounts And Business Forms, And (II) Continue Intercompany Transactions, (B) Providing Postpetition Intercompany Claims Administrative Expense Priority, (C) Authorizing Debtors' Banks To Honor All Related Payment Requests And (D) Waiving Investment Guidelines Of Section 345(B) Of Bankruptcy Code, Lightsquared Inc., et al., U.S. Bankruptcy Court, S.D.N.Y., Debtors' Motion For Entry Of Interim And Final Orders (A) Authorizing, But Not Directing, Debtors To (I) Pay Certain Prepetition Wages And Reimbursable Employee Expenses, (II) Pay And Honor Employee Benefits And (B) Authorizing And Directing Financial Institutions To Honor All Related Checks And Electronic Payment Requests, Lightsquared Inc., et al., U.S. Bankruptcy Court, S.D.N.Y., Debtors' Motion For Entry Of Interim And Final Orders (A) Authorizing, But Not Directing, (I) Continuation Of Debtors' Insurance Policies And (II) Payment Of Certain Obligations In Respect Thereof And (B) Authorizing And Directing Financial Institutions To Honor All Related Checks And Electronic Payment Requests, Lightsquared Inc., et al., U.S. Bankruptcy Court, S.D.N.Y., Debtors' Motion For Entry Of Interim And Final Orders (A) Authorizing, but Not Directing, Debtors To Pay Taxes And Fees And (B) Authorizing And Directing Financial Institutions To Honor All Related Checks And Electronic Payment Requests.

<sup>32</sup> Debtors' Motion For Entry Of Interim And Final Orders (A) Authorizing, But Not Directing, Debtors To (I) Pay Certain Prepetition Wages And Reimbursable Employee Expenses, (II) Pay And Honor Employee Benefits And (B) Authorizing And Directing Financial Institutions To Honor All Related Checks And Electronic Payment Requests, ¶¶ 19, 30-33, 36-40.

<sup>33</sup> Debtors' Motion For Entry Of Interim And Final Orders (A) Authorizing, But Not Directing, (I) Continuation Of Debtors' Insurance Policies And (II) Payment Of Certain Obligations In Respect Thereof And (B) Authorizing And Directing Financial Institutions To Honor All Related Checks And Electronic Payment Requests.

Commission and the nation of Canada.<sup>34</sup> In particular, Licensees explain to the bankruptcy court, "it is essential for the Debtors to pay Taxes and Fees on an uninterrupted basis. ... granting relief requested in this Motion will enhance the likelihood of the Debtors' successful rehabilitation, maximize the value of the Debtors' assets and benefit the Debtors' estates and their creditors."<sup>35</sup>

These First Day Pleadings are relevant to Licensees' obligation to demonstrate compelling and extraordinary circumstances warranting waiver and, if not mooted by Licensees' payment of the application fees, the petition to defer. Moreover, the content of the motions that we discovered, pointedly shows Licensees have the present ability to pay certain prepetition obligations as well as post-petition matters including employee and senior management bonus and incentives, insurance, taxes and fees. Thus, we deny because Licensees omitted First Day Pleadings establish they have funds to pay the fees.

Next, Licensees fail to meet our standards. Instead of completing the picture with copies of the other First Day Pleadings and relevant financial information,<sup>36</sup> Licensees rely on the broad statement that "bankruptcy establishes good cause for the deferral and waiver of application fees, which serve the public interest by enabling the licensees to preserve its assets for the benefit of creditors."<sup>37</sup> The problems with this approach are that Licensees' (a) misperceive that the waiver is unconditional, (b) omit documentation to complete the picture of their financial ability, and (c) take a stance with the bankruptcy court that differs dramatically with their posture before the Commission.

When the Commission announced that evidence of a proceeding in bankruptcy or receivership is sufficient to establish financial hardship,<sup>38</sup> it was referring to the situation where the party was proceeding in a straight bankruptcy liquidation case. Licensees are not bankrupt;<sup>39</sup>

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<sup>34</sup> Debtors' Motion For Entry Of Interim And Final Orders (A) Authorizing, but Not Directing, Debtors To Pay Taxes And Fees And (B) Authorizing And Directing Financial Institutions To Honor All Related Checks And Electronic Payment Requests, ¶¶ 21, 28, 48-52.

<sup>35</sup> *Id.* at ¶ 49.

<sup>36</sup> We note that Debtors' Motion For Entry Of Order Granting Extension Of Time To File Schedules And Statements sought an extension of time to file their statements of financial affairs. As set forth in our rule at 47 C.F.R. § 1.16, Licensees are obliged to present that information to the Commission when it became available. We have no record that Licensees complied.

<sup>37</sup> *Petition* at 2.

<sup>38</sup> *FY 1994 MO&O*, 10 FCC Rcd at 12761, ¶ 14.

<sup>39</sup> *Matter of Phillips*, 966 F.2d 926, 930 (5th Cir. 1992), *rehearing denied* (1992)

Congress consolidated federal bankruptcy law in the Bankruptcy Act of 1898. *See* Act of July 1, 1898, c. 541, 30 Stat. 544. At that time, bankruptcy law only facilitated liquidation. Not until 1933 did Congress amend the Bankruptcy Act to permit reorganization of certain entities. *See* Pub.L. No. 72-420, 47 Stat. 1474 (1933). In 1938, Congress amended the Bankruptcy Act with the precursor to Chapter 11 to facilitate general corporate reorganization. *See* Act of June 22, 1938, Pub.L. No. 74-575, 52 Stat. 840 (1938). Until Congress substantially revised the Bankruptcy Act with the Bankruptcy Reform Act of 1978, the Bankruptcy Act apparently referred to entities undergoing Chapter 7 liquidation as "bankrupts," and those undergoing Chapter 11 reorganization as "debtors." *See* S. REP. No. 989, 95th Cong., 2d Sess. 23 (1978), *reprinted in* Historical and Revision Notes following 11 U.S.C.A. § 101(12) at 36 (1979), *and reprinted in* 1978 U.S.C.C.A.N. 5787, 5809. But the Bankruptcy Reform Act of 1978 removed all references to "bankrupt" in federal bankruptcy law, created the Bankruptcy Code, 11 U.S.C. § 101 et seq., and adopted "debtor" to refer to all who seek protection under the Code, whether they do so through

rather they are debtors seeking the protection of the bankruptcy court to undergo reorganization. Thus, Licensees, who are undergoing reorganization, are not entities included in the Commission's discussion in 1995. Moreover, in 2003, the Commission explained, the applicant must show that the bankruptcy represents extraordinary and compelling circumstances justifying a waiver when balanced against the public interest in reimbursing the Commission for its costs as reflected in the statutory fee provisions.<sup>40</sup> A waiver is not automatically granted on the mere assertion that a licensee filed for bankruptcy protection. In all cases, the burden rest with the applicant to establish good cause and that the waiver in in the public interest.

Here, Licensees' made only a partial showing of their Chapter 11 proceeding, and what they furnished fails to provide the full picture<sup>41</sup> of the First Day Pleadings. Had they included other motions filed with the court, Licensees would have portrayed the truer picture of themselves as having adequate resources to pay certain prepetition obligations and to fund post-petition discretionary expenditures. For example, Licensees seek authority to pay other amounts, e.g., paying "approximately \$5.23 million, which amount may become payable in or prior to February 2013" for "discretionary bonus[es] to all Non-Insider Employees" (Licensees identified 168 employees<sup>42</sup>) and undisclosed amounts for "a discretionary bonus program ... to their senior management Employees,"<sup>43</sup> and other benefits that include Licensees matching of employees' savings plans,<sup>44</sup> matching pension plan payments,<sup>45</sup> severance pay,<sup>46</sup> tuition assistance,<sup>47</sup> and flexible spending.<sup>48</sup> In contrast to these expenditures, the application fees represent less than 0.005% of the bonus amount.

Finally, Licensees positons are inconsistent. On one hand, Licensees assert, but without explanatory comment, "[t]he Commission has held that a licensee's bankruptcy establishes good cause for the deferral and waiver of application filing fees, which serve the public interest by enabling the licensee to preserve its assets for the benefit if creditors."<sup>49</sup> On the other hand, Licensees assert before the bankruptcy court, "it is essential for the Debtors to pay Taxes and Fees on an uninterrupted basis. ... granting relief requested in this Motion will enhance the likelihood of the Debtors' successful

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liquidation under Chapter 7 or reorganization under Chapter 11. See 11 U.S.C. § 101 (12); see generally H.R. REP. No. 595, 95th Cong., 2d Sess. 3-5 (1978), reprinted in 1978 U.S.C.A.N. 5963, 5965-66 (recounting Reform Act's history and purpose).

<sup>40</sup> 18 FCC Rcd at 6090, ¶ 11.

<sup>41</sup> See *Bartholdi Cable Co., Inc. v. FCC*, 114 F.3d 274, 280 (D.C. Cir. 1997) ("petitioner . . . has the 'burden of clarifying its position' before the agency."). See also 47 C.F.R. § 1.16 (An applicant is responsible for the continuing accuracy and completeness of information furnished.).

<sup>42</sup> The average per employee bonus is \$31,130.95.

<sup>43</sup> Debtors' Motion For Entry Of Interim And Final Orders (A) Authorizing, But Not Directing, Debtors To (I) Pay Certain Prepetition Wages And Reimbursable Employee Expenses, (II) Pay And Honor Employee Benefits And (B) Authorizing And Directing Financial Institutions To Honor All Related Checks And Electronic Payment Requests, ¶¶ 32-33.

<sup>44</sup> *Id.* at ¶ 48.

<sup>45</sup> *Id.* at ¶ 50.

<sup>46</sup> *Id.* at ¶¶ 52-53.

<sup>47</sup> *Id.* at ¶ 55.

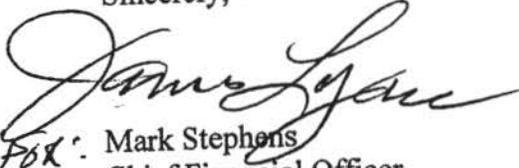
<sup>48</sup> *Id.* at ¶ 56.

<sup>49</sup> *Id.* Licensees cite "See *Mobilemedia Corporation*, 14 FCC Rcd 8017, at ¶ 40 (1999), citing *Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year*, 10 FCC Rcd 12759 (1995)."

rehabilitation, maximize the value of the Debtors' assets and benefit the Debtors' estates and their creditors."<sup>50</sup> Overall, Licensees fail in their burden<sup>51</sup> of meeting our standard.

If you have any questions concerning this matter, please contact the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,

  
For: Mark Stephens  
Chief Financial Officer

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<sup>50</sup> *Id.* at ¶ 49.

<sup>51</sup> *Tucson Radio, Inc. v. FCC*, 452 F.2d 1380, 1382 (D.C. Cir. 1971).