

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

OCT 22 1997

(aron)  
DOCKET FILE COPY ORIGINAL

OFFICE OF  
MANAGING DIRECTOR

Stephen G. Kraskin, Esquire  
Sylvia Lesse, Esquire  
Kraskin & Lesse  
2120 L Street, N.W.  
Suite 520  
Washington, D.C. 20037

86-285

Re: Fee Control # 9704308140135001

Dear Mr. Kraskin and Ms. Lesse:

This will respond to your request for refund of an application fee filed on behalf of Fremont Telecom Co. ("Fremont") in connection with its petition for waiver of sections 36.611 and 36.612 of the Commission's rules, 47 C.F.R. §§ 36.611 and 36.612.

You represent that Fremont is a "small," "new" company that "provides telephone service to a high-cost rural service area." You further represent, and our records reflect, that Fremont recently had acquired and received an associated study area waiver for "three rural Idaho exchanges from US WEST Communications, Inc." Given that recent acquisition and study area waiver grant, Fremont had sought waiver of sections 36.611 and 36.612 to enable it to receive retroactive high cost loop support based on current, as opposed to historical, costs in order "to expedite [its provision of] quality reasonably-priced local telephone service to residents of rural Idaho."

You assert that the imposition of a filing fee in this instance would further "increase the overall cost of service and impose an unnecessary financial burden which Fremont's subscribers would ultimately bear, contrary to the Commission's goals and policies." You therefore request a waiver of the filing fee requirement.

The Commission may waive filing fees only upon a showing of good cause and a finding that the public interest will be served thereby. See Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985, 2 FCC Rcd 947, 961 (1987); see also 47 C.F.R. §1.1117. You have represented in general terms that the imposition of the \$5,665.00 filing fee for waiver of Part 36 would represent a significant expense for Fremont and ultimately Fremont's subscribers, and thus a financial hardship. The Commission recognizes that in certain instances the payment of required fees may impose financial hardship and has waived fees where "a compelling case of financial hardship" is shown. Cf. Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), reconsideration granted, 10 FCC Rcd 12759 (1995).

**Stephen G. Kraskin, Esquire**  
**Sylvia Lesse, Esquire**  
**Page 2**

**In order to establish a compelling case of financial hardship, a more detailed showing is required. In this connection, you may submit information such as a balance sheet, a profit and loss statement (audited, if available), a cash flow projection (with an explanation of how it was calculated, and with and without the receipt of anticipated USF support), a list of officers and their individual compensation, together with a list of the highest paid employees and the amount of their compensation, or similar such information. At this juncture, however, you have not made a showing sufficient to warrant waiver of the fee payment.**

**Therefore, based on the present state of the record, we are denying Fremont's request for waiver without prejudice. Fremont's refund request will be reinstated upon a more persuasive, detailed showing of financial hardship. If you have questions concerning this matter, please contact the Chief, Fee Section, at (202) 418-1995.**

**Sincerely,**

  
**Mark Reger**  
**Chief Financial Officer**

5/29/97  
9705898/40141001  
**RECEIVED**

**MAY - 7 1997**

**K R A S K I N & L E S S E, L L P**  
**A T T O R N E Y S A T L A W**  
**T E L E C O M M U N I C A T I O N S M A N A G E M E N T C O N S U L T A N T S**

**Federal Communications Commission**  
**Office of Secretary**  
Telephone (202) 296-8890  
Telecopier (202) 296-8893

Holly  
2120 L Street, N.W., Suite 520  
Washington, D.C. 20037

May 7, 1997

Andrew S. Fishel, Managing Director  
Office of Managing Director  
Federal Communications Commission  
Room 852  
1919 M Street, N.W.  
Washington, D.C. 20554

Attention: Mr. Thomas Holleran

**Re: Santa Rosa Telephone Cooperative, Inc.**  
**Request for Refund of Filing Fee**

Dear Mr. Fishel:

Pursuant to Sections 1.3 and 1.1113(a)(5) of the Rules of the Federal Communications Commission, Santa Rosa Telephone Cooperative, Inc. ("Santa Rosa"), respectfully requests a refund of the \$ 5,665 filing fee associated with its filing of a Petition for Expedited Waiver of Section 36.611 of the Commission's Rules ("Petition").<sup>1</sup>

Santa Rosa submitted the required \$ 5,665 filing fee along with its Petition for Expedited Waiver in order to expedite action on its request.<sup>2</sup>

Santa Rosa is a small, rural local exchange carrier which acquired one exchange from GTE Southwest Incorporated in 1995. In its Petition, Santa Rosa seeks waiver of the referenced rules so that it may receive Universal Service Fund ("USF") payments consistent with both its actual ongoing loop cost levels and the public interest policies which the Accounting and Audits Division ("AAD") previously identified in granting a study area waiver. Grant of its Petition will enable Santa Rosa to expedite quality, reasonably-priced local telephone service to residents of rural Texas.

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<sup>1</sup> See *In the Matter of Santa Rosa Telephone Cooperative, Inc., Petition for Expedited Waiver of Section 36.611 of the Commission's Rules*, filed with the Chief, Common Carrier Bureau on May 7, 1997.

<sup>2</sup> See Attachment 1.

Andrew S. Fishel  
May 7, 1997  
Page 2

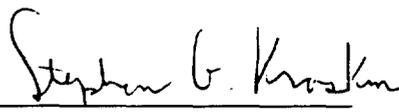
As demonstrated in its Petition, Santa Rosa provides telephone service to high-cost rural service areas and is, therefore, eligible to receive USF. The Commission's Rules provide for the calculation of USF payments based on historical annual cost information; however, in this case, the use of historical data would produce an anomalous result because the data contains only a partial year of loop related expenses. The modification requested in the Petition will result in a more reasonable level of interstate cost allocation. This will allow Santa Rosa to continue with planned upgrades to the acquired exchange and will avoid inequitable cost allocation and recovery and potential penalization of the subscribers of Santa Rosa.

Santa Rosa's Petition seeks to avoid burdening ratepayers located in high cost areas with unreasonable and inequitable levels of allocated costs. The imposition of a filing fee in this instance would increase the overall cost of service provision and impose a counter-productive financial burden which the subscribers of Santa Rosa ultimately bear, contrary to the Commission's goals and policies. Accordingly, Santa Rosa respectfully requests that the filing fee for its May 7, 1997 Petition be refunded expeditiously.

Should you have any questions concerning this matter, please feel free to contact the undersigned.

Respectfully submitted,

SANTA ROSA TELEPHONE COOPERATIVE, INC.

By:   
Stephen G. Kraskin

Its Counsel

Attachments



Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )  
Santa Rosa Telephone Cooperative, Inc. )  
 )  
Petition for Waiver of Section 36.611 )  
of the Commission's Rules )

To: Chief, Common Carrier Bureau

PETITION FOR EXPEDITED WAIVER

Santa Rosa Telephone Cooperative, Inc. ("Santa Rosa" or "Petitioner"), pursuant to Sections 0.91 and 1.3 of the Commission's Rules,<sup>1</sup> respectfully requests waiver of Section 36.611 of the Commission's Rules<sup>2</sup> related to the decision in DA 95-1730 and AAD 94-111 released by the Chief of the Accounting and Audits Division ("AAD") on August 7, 1995.<sup>3</sup> Petitioner seeks changes in the terms of the initial waiver to allow Universal Service Fund ("USF") reporting and USF expense adjustment cost recovery that are consistent with both the facts and public interest policies upon which the AAD relied in the *Waiver Order*.<sup>4</sup> Without modification of the terms of the initial waiver to accommodate the requests herein, the application of the Commission's rules regarding USF distribution will lead to anomalous and counterproductive results that are contrary

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<sup>1</sup> 47 C.F.R. §§ 0.91, 1.3.

<sup>2</sup> 47 C.F.R. § 36.611.

<sup>3</sup> *Memorandum Opinion and Order*, In the Matter of GTE Southwest Incorporated and Santa Rosa Telephone Cooperative, Inc., Joint Petition for Waiver of Section 61.41(c)(2) and the Definition of "Study Area" Contained in the Part 36 Appendix-Glossary of the Commission's Rules, released July 10, 1995 in DA 95-1730 and AAD 94-111 ("*Waiver Order*").

<sup>4</sup> Petitioner characterizes this request as a modification of the original *Waiver Order*. However, Petitioner is aware that staff members of the AAD have asked that a request of this type be filed as a waiver request. Accordingly, this Petition is being filed together with the regulatory fee of \$5,665. Petitioner is concurrently requesting that the Managing Director's office refund this fee on an expedited basis.

FEDERAL COMMUNICATIONS COMMISSION  
**FCC REMITTANCE ADVICE**

Approved by  
 3060-0  
 Expires 2

PAGE NO. 1 OF 1

(RESERVED)

SPECIAL USE

FCC USE ONLY

(Read instructions carefully BEFORE proceeding.)

**PAYOR INFORMATION**

(1) FCC ACCOUNT NUMBER 0750849566 Did you have a number prior to this? Enter it. (2) TOTAL AMOUNT PAID (dollars and cents) \$ 5,665.00

(3) PAYOR NAME (If paying by credit card, enter name exactly as it appears on your card)  
Santa Rosa Telephone Cooperative, Inc.

(4) STREET ADDRESS LINE NO. 1  
1401 Main Street

(5) STREET ADDRESS LINE NO. 2

(6) CITY  
Vernon

(7) STATE TX (8) ZIP CODE 76384

(9) DAYTIME TELEPHONE NUMBER (Include area code)  
817/886-2217

(10) COUNTRY CODE (if not U.S.A.)

**ITEM #1 INFORMATION**

(11A) NAME OF APPLICANT, LICENSEE, REGULATEE, OR DEBTOR  
Same As Above FCC USE ONLY

(12A) FCC CALL SIGN/OTHER ID (13A) ZIP CODE (14A) PAYMENT TYPE CODE (15A) QUANTITY (16A) FEE DUE  
 B E A 1 \$ 5,665.00

(17A) FCC CODE 1 (18A) FCC CODE 2

(19A) ADDRESS LINE NO. 1 (20A) ADDRESS LINE NO. 2 (21A) CITY/STATE OR COUNTRY CODE

**ITEM #2 INFORMATION**

(11B) NAME OF APPLICANT, LICENSEE, REGULATEE, OR DEBTOR FCC USE ONLY

(12B) FCC CALL SIGN/OTHER ID (13B) ZIP CODE (14B) PAYMENT TYPE CODE (15B) QUANTITY (16B) FEE DUE  
 \$

(17B) FCC CODE 1 (18B) FCC CODE 2

(19B) ADDRESS LINE NO. 1 (20B) ADDRESS LINE NO. 2 (21B) CITY/STATE OR COUNTRY CODE

**CREDIT CARD PAYMENT INFORMATION**

(22) MASTERCARD/VISA ACCOUNT NUMBER:

Mastercard  Visa EXPIRATION DATE:     Month Year

(23) I hereby authorize the FCC to charge my VISA or Mastercard for the service(s)/authorization(s) herein describe.

AUTHORIZED SIGNATURE DATE

BY: APPLICANT NAME

Fee Control Number	Payor Name	Account Number	Received Date
9705098140141001	SANTA ROSA TELEPHONE COOPERATI 1401 MAIN STREET	0750849566	05/07/97

VERNON TX 76384

Payment Amount	Current Balance	Seq Num	Payment Type Code	Quantity	Callsign Other Id	Applicant Name	Applicant Zip	Bad Check	Detail Amount	Trans Code	Payment Type
\$5,665.00	\$5,665.00	1	BEA	1		SANTA ROSA TELEPHONE COOPERATI			\$5,665.00	1	PMT
<b>Total</b>									<b>\$5,665.00</b>		