

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554
OCT 22 1998

EXHIBIT FILE COPY ORIGINAL
(Chen)

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 # 9705098140141001

Dear Mr. Kraskin and Ms. Lesse:

This will respond to your request for refund of an application fee filed on behalf of Santa Rosa Telephone Cooperative, Inc. ("Santa Rosa") 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 Santa Rosa is a "small, rural local exchange carrier" that "provides telephone service to high-cost rural service areas." You further represent, and our records reflect, that Santa Rosa recently had acquired and received an associated study area waiver for "one exchange from GTE Southwest Incorporated." Given that recent acquisition and study area waiver grant, Santa Rosa 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 Texas."

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 Santa Rosa'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 Santa Rosa and ultimately Santa Rosa'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).

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Sylvia Lesse, Esquire
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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 Santa Rosa's request for waiver without prejudice. Santa Rosa'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

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APR 28 1997

KRASKIN & LESSE, LLP
ATTORNEYS AT LAW
2120 L Street, N.W., Suite 520
Washington, DC 20037

Federal Communications Commis
Office of Secretary

TELEPHONE (202) 296-8890

TELECOPIER (202) 296-8893

April 28, 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: **Fremont Telcom Co.**
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 ("Commission"), Fremont Telcom Co. ("Fremont"), respectfully requests a refund of the \$ 5,665 filing fee associated with its filing of a Petition for Waiver of Sections 36.611 and 36.612 of the Commission's Rules ("Petition").¹

Fremont submitted the required \$ 5,665 filing fee along with its Petition in order to expedite action on its request.²

Fremont is a small company which last year acquired three rural Idaho exchanges from US WEST Communications, Inc. In its Petition, Fremont seeks waiver of the referenced rules so that it may receive retroactively from January 1, 1997, forward the annual level of Universal Service Fund ("USF") payments which the Accounting and Audits Division ("AAD") has previously identified as appropriate for Fremont. Grant of its waiver will enable Fremont to expedite quality reasonably-priced local telephone service to residents of rural Idaho.

^{1/} See In the Matter of Fremont Telcom Co., Petition for Waiver of Sections 36.611 and 36.612 of the Commission's Rules, AAD 97-56, filed April 28, 1997. This Petition was initially filed on April 3, 1997 under the caption "Expedited Petition for Modification of Waiver." Pursuant to discussions with staff members of the Accounting and Audits Division, the Petition is being refiled together with a fee of \$5,665.

^{2/} See Attachment 1.

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As demonstrated in its Petition, Fremont provides telephone service to a high-cost rural service area and is, therefore, eligible to receive USF. The Commission's Rules provide for the calculation of USF payments based on historical cost information and, as a new company, Fremont has no historical cost information. Consequently, application of the Commission's Rules would preclude Fremont from receiving USF payments until 1998. Fremont filed its Petition to avoid having to recover costs from its rural customers during this interim period.

The Petition underlying the instant request which seeks to avoid burdening ratepayers ironically will result in a filing fee of \$ 1,889 per exchange. The imposition of a filing fee in this instance would increase the overall cost of service provision and impose an unnecessary financial burden which Fremont's subscribers would ultimately bear, contrary to the Commission's goals and policies. Accordingly, Fremont respectfully requests that the filing fee for its April 24, 1997 Petition be refunded expeditiously.

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

Respectfully submitted,

FREMONT TELCOM CO.

By:

Sylvia Lesse
Stephen G. Kraskin
Sylvia Lesse

Its Counsel

Attachments

ATTACHMENT 1

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

In The Matter of)
Fremont Telcom Co.)
)
Petition for Waiver¹)
of Sections 36.611 and 36.612)
of the Commission's Rules)

To: Chief, Common Carrier Bureau

**Fremont Telcom Co. Petition for Waiver
of Sections 36.611 and 36.612 of the Commission's Rules**

Fremont Telcom Co. ("Fremont"), by its attorneys, and pursuant to Sections 0.91 and 1.3 of the Commission's Rules,² hereby requests waiver of Sections 36.611 and 36.612 of the Commission's Rules³ so that the Commission may modify the conditions associated with the grant of Fremont's waiver request in Decision 96-1462 (hereafter referred to as the "initial waiver grant"). Fremont seeks this waiver in order to receive retroactively from January 1, 1997, forward the annual level of USF which the Accounting and Audits Division ("AAD") has previously identified as appropriate for Fremont. In the absence of the requested relief, Fremont's infrastructure deployment plans to provide additional and

^{1/} This Petition was initially filed on April 3, 1997 under the caption "Expedited Petition for Modification of Waiver." Pursuant to discussions with staff members of the Accounting and Audits Division, the Petition is being refiled together with a fee of \$5,665. Fremont is concurrently requesting that the Managing Director's office refund this fee on an expedited basis.

^{2/} 47 C.F.R. §§ 0.91, 1.3.

^{3/} 47 C.F.R. §§ 36.611-612.

BY: FEE CONTROL NUMBER

Fee Control Number	Payor Name	Account Number	Received Date
9704308140135001	FREMONT TELCOM 110 EAST MAIN	0880326099	04/28/97

SAINT ANTHONY ID 83445

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		FREMONT TELCOM			\$5,665.00	1	PMT
Total									\$5,665.00		