FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

CREDIT & DEBIT MANAGEMENT CENTER, OMD

DOCKET FILE COPY ORIGINAL

86-285

OFFICE OF
MANAGING DIRECTOR

DEC 20 1999

Mr. Redge A. Mahaffey
738 Intrepid Way
Davidsonville, Maryland 21035

RE: Request for refund of applications fees-Cellular Unserved Areas
Fee Control Nos. 9303128862094022; 9303128862145003

Dear Mr. Mahaffey:

This responds to your letter of November 17, 1998 requesting a refund of the two application fees paid to enter and participate in the lotteries for cellular unserved areas. Your applications were accepted for filing, given individual exclusive code numbers, and included in the group that participated in a lottery conducted on June 11, 1996.

The fee, established by Congress in the Comprehensive Omnibus Budget Reconciliation Act of 1986, Pub.L. No. 99-272, §5002(e), 100 Stat 82, 118, *codified at* 47 U.S.C. § 158 (1988), permitted participation in the lottery. *See Longshore v. United States,* 77 F.3d 440 (Fed. Cir. 1996). Concerning these processing costs, the Commission has stated that "except for the limited instances enumerated in . . . section 1.1111 of the rules, fees will be retained by the government irrespective of the substantive disposition of the underlying application or filing. Therefore, once an application has cleared the fee process, its subsequent rejection by the relevant bureaus or offices for any reason will not result in a refund." *Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985*, 2 FCC Rcd 947, 949 (1987) (footnoted deleted) (emphasis added).

Under the circumstances, a refund is not warranted, and your request is denied. If you have any questions concerning this letter, please call the Credit & Debt Management Center at (202) 418-1995.

Sincerely,

Mark Reger
Chief Financial Officer

9303128862145003

Action R 12/28

RECEIVED
NOV 20 9 38 AM '98
FCC
FEES

November 17, 1998

Billings and Collections
Room 452
FCC
1919 M St NW
Washington, DC 20554

Re: Refund of Application fees for Cellular Unserved Areas in Los Angeles, and Minneapolis

Dear FCC:

I applied for the cellular unserved areas lottery in twenty cities. This included the Los Angeles, CA (2B) market and the Minneapolis, MN (15A) market. Due to a FCC legal decision that took place after the applications were filed, however, the FCC never placed these two markets into the lottery. Instead, the two licenses were awarded to other entities.

Therefore, please return to me the application fees ($230 each or $460 total) at your earliest convenience.

Thank you for your prompt assistance.

Sincerely,

Redge A. Mahaffey

Redge A. Mahaffey

At that time my address was: Suite 201
7018 Channel Village Court
Annapolis, MD 21401

However, my present address is: 738 Intrepid Way
Davidsonville, MD 21035
(301)261-4766

PERFORM: Query Next Previous Add Update Remove Table Screen ...
Shows the next row in the Current List. ** 1: appl table**

FEES II 06/28/93

GENERAL ARGUMENT QUERY

Fee Control Number: [9303128862094022]
Applicant's Name: [MAHAFFEY, REDGE]
Correspondence Address (Line 1): [7018 CHANNEL VILLAGE CT SUITE 201]
Correspondence Address (Line 2): [ ]
City: [ANNAPOLIS] State/Country : [MD] ZIP Code: [214030000]
Call Sign: [002B] Data Changed Flag: [N] Debar Flag: [N]

(1)	Fee Type Code: CMX	Fee Multiple:	0001	Fee Due:	$230.00
(2)	Fee Type Code:	Fee Multiple:	0000	Fee Due:	$0.00
(3)	Fee Type Code:	Fee Multiple:	0000	Fee Due:	$0.00
(4)	Fee Type Code:	Fee Multiple:	0000	Fee Due:	$0.00
(5)	Fee Type Code:	Fee Multiple:	0000	Fee Due:	$0.00

Total Amount Remitted: $ 230.00 Overage Amount: $ 0.00
Current Amount: $ 230.00 Check Flag:

Waiver: Status: Refund: Payment:
Press S for next screen

#274 Atta. B

PERFORM: Query Next Previous Add Update Remove Table Screen ...
Shows the next row in the Current List. ** 1: appl table**

FEES II 06/28/93

GENERAL ARGUMENT QUERY

Fee Control Number: [9303128862145003]
Applicant's Name: [MAHAFFEY, REDGE]
Correspondence Address (Line 1): [7018 CHANNEL VILLAGE CT SUITE 201]
Correspondence Address (Line 2): [ ]
City: [ANNAPOLIS] State/Country : [MD] ZIP Code: [214030000]
Call Sign: [015A] Data Changed Flag: [N] Debar Flag: [N]

(1)	Fee Type Code: CMX	Fee Multiple:	0001	Fee Due:	$230.00
(2)	Fee Type Code:	Fee Multiple:	0000	Fee Due:	$0.00
(3)	Fee Type Code:	Fee Multiple:	0000	Fee Due:	$0.00
(4)	Fee Type Code:	Fee Multiple:	0000	Fee Due:	$0.00
(5)	Fee Type Code:	Fee Multiple:	0000	Fee Due:	$0.00

Total Amount Remitted: $ 230.00 Overage Amount: $ 0.00
Current Amount: $ 230.00 Check Flag:

Waiver: Status: Refund: Payment:
Press S for next screen

#259 Attach A

DOCKET FILE COPY ORIGINAL

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

CREDIT & DEBIT MANAGEMENT CENTER, OMD

OFFICE OF
MANAGING DIRECTOR

DEC 20 1999

86-285

Mr. Randall A. Mahaffey
General Partner, RV Cellcomm
13008 Brandon Way Road
Gaithersburg, Maryland 20878

RE: Request for refund of applications fees-Cellular Unserved Areas
Fee Control Nos. 9303128862094006; 9303128862145012

Dear Mr. Mahaffey:

This responds to your letter of November 17, 1998 requesting a refund of the two application fees paid to enter and participate in the lotteries for cellular unserved areas. Your applications were accepted for filing, each received an exclusive code number, and each participated in a lottery conducted on June 11, 1996.

The fee, established by Congress in the Comprehensive Omnibus Budget Reconciliation Act of 1986, Pub.L. No. 99-272, §5002(e), 100 Stat 82, 118, *codified at* 47 U.S.C. § 158 (1988), permitted participation in the lottery. *See Longshore v. United States*, 77 F.3d 440 (Fed. Cir. 1996). Concerning these processing costs, the Commission has stated that "except for the limited instances enumerated in . . . section 1.1111 of the rules, fees will be retained by the government irrespective of the substantive disposition of the underlying application or filing. Therefore, once an application has cleared the fee process, its subsequent rejection by the relevant bureaus or offices for any reason will not result in a refund." *Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985*, 2 FCC Rcd 947, 949 (1987) (footnoted deleted) (emphasis added).

Under the circumstances, a refund is not warranted, and your request is denied. If you have any questions concerning this letter, please call the Credit & Debt Management Center at (202) 418-1995.

Sincerely,

Mark Reger
Chief Financial Officer

(tracking #) 9303128862094006
& 9303128862145012

Tom: Action
12/28

~~Holly~~

November 17, 1998

Billings and Collections
Room 452
FCC
1919 M St NW
Washington, DC 20554

Re: Refund of Application fees for Cellular Unserved Areas in Los Angeles, and Minneapolis

Dear FCC:

I applied for the cellular unserved areas lottery in twenty cities. This included the Los Angeles, CA (2B) market and the Minneapolis, MN (15A) market. Due to a FCC legal decision that took place after the applications were filed, however, the FCC never placed these two markets into the lottery. Instead, the two licenses were awarded to other entities.

Therefore, please return to me the application fees ($230 each or $460 total) at your earliest convenience.

Please make the check out to Randall A. Mahaffey as there is no longer a RV Cellcomm checkbook.

Thank you for your prompt assistance.

Sincerely,

Randall A. Mahaffey

Randall A. Mahaffey
General Partner
RV Cellcomm
13008 Brandon Way Rd
Gaithersburg, MD 20878
(301)840-1244

RECEIVED
NOV 19 2 PM '98
NOV 18 5 PM '98

PERFORM: Query Next Previous Add Update Remove Table Screen ...
Shows the next row in the Current List. ** 1: appl table**

FEES II 05/21/90
APPLICANT QUERY SCREEN

Fee Control Number: [9303128862094006]
Applicant Name: [RV CELLCOMM]
Correspondence Address (Line 1): [13008 BRANDON WAY RD]
Correspondence Address (Line 2): [ ]
City: [GAITHERSBURG] State/Country: [MD] ZIP code: [208780000]
Call Sign: [002B] (Data Changed Flag: [N]) Debar Flag: [N]

(1)	Fee Type Code:	CMX	Fee Multiple:	1	Fee Due:	$230.00
(2)	Fee Type Code:		Fee Multiple:	0	Fee Due:	$0.00
(3)	Fee Type Code:		Fee Multiple:	0	Fee Due:	$0.00
(4)	Fee Type Code:		Fee Multiple:	0	Fee Due:	$0.00
(5)	Fee Type Code:		Fee Multiple:	0	Fee Due:	$0.00

Overage Amount: $0.00 Total Amount Remitted: $230.00
Check Flag: Current Amount: $230.00
Waiver: Status: Refund: Payment:

PERFORM: Query Next Previous Add Update Remove Table Screen ...
Shows the next row in the Current List. ** 1: appl table**

FEES II 05/21/90
APPLICANT QUERY SCREEN

Fee Control Number: [93031288621450 12]
Applicant Name: [RV CELLCOMM]
Correspondence Address (Line 1): [13008 BRANDON WAY RD]
Correspondence Address (Line 2): [ ]
City: [GAITHERSBURG] State/Country: [MD] ZIP code: [208780000]
Call Sign: [015A] (Data Changed Flag: [N]) Debar Flag: [N]

(1)	Fee Type Code:	CMX	Fee Multiple:	1	Fee Due:	$230.00
(2)	Fee Type Code:		Fee Multiple:	0	Fee Due:	$0.00
(3)	Fee Type Code:		Fee Multiple:	0	Fee Due:	$0.00
(4)	Fee Type Code:		Fee Multiple:	0	Fee Due:	$0.00
(5)	Fee Type Code:		Fee Multiple:	0	Fee Due:	$0.00

Overage Amount: $0.00 Total Amount Remitted: $230.00
Check Flag: Current Amount: $230.00
Waiver: Status: Refund: Payment:

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

CREDIT & DEBIT MANAGEMENT CENTER, OMD

86-285

OFFICE OF
MANAGING DIRECTOR

DEC 20 1999

DOCKET FILE COPY ORIGINAL

Mr. Mirza Ahmad
Managing Partner, Gamma Comm Cellular Partners
6705 Caneel Court
Springfield, Virginia 22152

RE: Request for refund of applications fees-Cellular Unserved Areas
Fee Control Nos. 9303128862139024; 9303128862134020

Dear Mr. Ahmed:

This responds to your letter of November 20, 1998 requesting a refund of the two application fees paid to enter and participate in the lotteries for cellular unserved areas. Your applications were accepted for filing, given individual exclusive code numbers, and included in the group that participated in a lottery conducted on June 11, 1996.

The fee, established by Congress in the Comprehensive Omnibus Budget Reconciliation Act of 1986, Pub.L. No. 99-272, §5002(e), 100 Stat 82, 118, *codified at* 47 U.S.C. § 158 (1988), permitted participation in the lottery. *See Longshore v. United States,* 77 F.3d 440 (Fed. Cir. 1996). Concerning these processing costs, the Commission has stated that "except for the limited instances enumerated in . . . section 1.1111 of the rules, fees will be retained by the government irrespective of the substantive disposition of the underlying application or filing. Therefore, once an application has cleared the fee process, its subsequent rejection by the relevant bureaus or offices for any reason will not result in a refund." *Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985*, 2 FCC Rcd 947, 949 (1987) (footnoted deleted) (emphasis added).

Under the circumstances, a refund is not warranted, and your request is denied. If you have any questions concerning this letter, please call the Credit & Debt Management Center at (202) 418-1995.

Sincerely,

Mark Reger
Chief Financial Officer

9303128862134020

November 20, 1998

Billings and Collections
Room 452
FCC
1919 M St NW
Washington, DC 20554

Re: Refund of Application fees for Cellular Unserved Areas in Los Angeles, and Minneapolis

Dear FCC:

Gamma Comm Cellular Partners applied for the cellular unserved areas lottery in twenty cities. This included the Los Angeles, CA (2B) market and the Minneapolis, MN (15A) market. Due to a FCC legal decision that took place after the applications were filed, however, the FCC never placed these two markets into the lottery. Instead, the two licenses were awarded to other entities.

Therefore, please return to us the application fees ($230 each or $460 total) at your earliest convenience. Please make the check out to William Hunter, as the Gamma Comm Cellular Partners checkbook has been closed.

Thank you for your prompt assistance.

Sincerely,

Mirza Ahmad
Managing Partner, Gamma Comm Cellular Partners

At the time my address was: 5950 Wescott Hill
Alexandra, VA 22310

Our current address is: 6705 Caneel Ct
Springfield, VA 22152
(703)451-4349

PERFORM: Query Next Previous Add Update Remove Table Screen ...
Shows the next row in the Current List. ** 1: appl table**

FEES II 06/28/93

GENERAL ARGUMENT QUERY

Fee Control Number: [9303128862139024]
Applicant's Name: [GAMMA COMM CELLULAR PARTNERS]
Correspondence Address (Line 1): [PO BOX 30025]
Correspondence Address (Line 2): [ ]
City: [ALEXANDRIA] State/Country : [VA] ZIP Code: [223100000]
Call Sign: [002B] Data Changed Flag: [N] Debar Flag: [N]

(1)	Fee Type Code:	CMX	Fee Multiple:	0001	Fee Due:	$230.00
(2)	Fee Type Code:		Fee Multiple:	0000	Fee Due:	$0.00
(3)	Fee Type Code:		Fee Multiple:	0000	Fee Due:	$0.00
(4)	Fee Type Code:		Fee Multiple:	0000	Fee Due:	$0.00
(5)	Fee Type Code:		Fee Multiple:	0000	Fee Due:	$0.00

Total Amount Remitted: $ 230.00 Overage Amount: $ 0.00
Current Amount: $ 230.00 Check Flag:

Waiver: Status: Refund: Payment:

Press S for next screen

PERFORM: Query Next Previous Add Update Remove Table Screen ...
Shows the next row in the Current List. ** 1: appl table**

FEES II 06/28/93

GENERAL ARGUMENT QUERY

Fee Control Number: [9303128862134020]
Applicant's Name: [GAMMA COMM CELLULAR PARTNERS]
Correspondence Address (Line 1): [PO BOX 30025]
Correspondence Address (Line 2): [ ]
City: [ALEXANDRIA] State/Country : [VA] ZIP Code: [223100000]
Call Sign: [015A] Data Changed Flag: [N] Debar Flag: [N]

(1)	Fee Type Code: CMX	Fee Multiple:	0001	Fee Due:	$230.00
(2)	Fee Type Code:	Fee Multiple:	0000	Fee Due:	$0.00
(3)	Fee Type Code:	Fee Multiple:	0000	Fee Due:	$0.00
(4)	Fee Type Code:	Fee Multiple:	0000	Fee Due:	$0.00
(5)	Fee Type Code:	Fee Multiple:	0000	Fee Due:	$0.00

Total Amount Remitted: $ 230.00 Overage Amount: $ 0.00
Current Amount: $ 230.00 Check Flag:

Waiver: Status: Refund: Payment:
Press S for next screen

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

DOCKET FILE COPY ORIGINAL

OFFICE OF
MANAGING DIRECTOR

DEC 20 1999

CREDIT & DEBIT MANAGEMENT
CENTER, OMD

460285

Mr. Ernest R. Freeman
5357 Strathmore Avenue
Kensington, Maryland 20895

RE: Request for refund of applications fees-Cellular Unserved Areas
Fee Control Nos. 9303128862094017; 9303128862145001

Dear Mr. Freeman:

This responds to your letter of November 20, 1998 requesting a refund of the two application fees paid to enter and participate in the lotteries for cellular unserved areas. Your applications were accepted for filing, given individual exclusive code numbers, and included in the group that participated in a lottery conducted on June 11, 1996.

The fee, established by Congress in the Comprehensive Omnibus Budget Reconciliation Act of 1986, Pub.L. No. 99-272, §5002(e), 100 Stat 82, 118, *codified at* 47 U.S.C. § 158 (1988), permitted participation in the lottery. *See Longshore v. United States,* 77 F.3d 440 (Fed. Cir. 1996). Concerning these processing costs, the Commission has stated that "except for the limited instances enumerated in . . . section 1.1111 of the rules, fees will be retained by the government irrespective of the substantive disposition of the underlying application or filing. Therefore, once an application has cleared the fee process, its subsequent rejection by the relevant bureaus or offices for any reason will not result in a refund." *Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985*, 2 FCC Rcd 947, 949 (1987) (footnoted deleted) (emphasis added).

Under the circumstances, a refund is not warranted, and your request is denied. If you have any questions concerning this letter, please call the Credit & Debt Management Center at (202) 418-1995.

Sincerely,

Mark Reger
Chief Financial Officer

See copy
Fn. 8A463

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF GENERAL COUNSEL

memorandum

TO: Donna Viert, OGC
Tom Putnam, OMD

FROM: Paul K. Cascio, OGC

SUBJECT: Request for Refund of Lottery Fee- Mr. Ernest R. Freeman,
Fee cases 9303 1288 6209 4017; 9303 1288 6214 5001

DATE: November 4, 1999

Petitioner, Mr. Ernest R. Freeman, seeks a refund of two application fees ($230 each for a total of $460) paid for the cellular unserved areas lottery that included markets in Los Angeles, CA (2B) and Minneapolis, MN (15A). Petitioner states that he applied for the cellular unserved areas lottery in twenty cities, including Los Angeles, CA (2B) and Minneapolis, MN (15A), but the two market areas were removed from the lottery by FCC action. Petitioner refers to a "legal decision" as a ground for claiming refund. Reasonably, one may conclude petitioner is referring to *McElroy Electronic Corporation, et al., v. Federal Communications Commission,* 990 F.2d 1351 (D.C. Cir. 1993) (*McElroy I*), and *McElroy Electronic Corporation, et al., v. Federal Communications Commission*, 86 F.3d 248 (D.C. Cir. 1996) (*McElroy II*).

McElroy Electronic Corporation petitioned the Commission and the courts several times.[1] In *McElroy I*, the court directed the Commission to reinstate *nunc pro tunc* McElroy's applications. Pertinent to this refund request, the Commission's efforts to implement the court's mandate resulted in a decision to consider applications filed by both the parties to the suit and the group of lottery applicant's referred to as the March 10 applicants.

On April 15, 1996, before the court's decision in *McElroy II,* the Commission issued a Lottery Notice publishing the details of the "Domestic Public Cellular Telecommunications Service Lottery for Unserved Areas" to be conducted on Tuesday, June 11, 1996. The notice referred to the Commission's order (*see fn 1, supra)* and the appeal thereof at *McElroy II.* The notice

---

[1] *See Memorandum Opinion and Order, In re Applications of McElroy Electronics Corporation, et al.,* 10 FCC Rcd 6762, March 23, 1995, paragraphs 4 – 6 for a discussion of the background. Petitioner is part of the grouping identified as the March 10 applicants.

included the stipulation that any license granted would be "conditioned on the outcome of the appeals of the Commission's order."

Petitioner was identified in attachments to the notice as having been "initially accepted for filing." The results of the lottery were announced in Public Notice, Wireless Telecommunications Bureau Commercial Wireless Division, Results of Unserved Area Cellular Lottery," Report No. CL-96-52, June 12, 1996.

After the lottery, the court published its decision in *McElroy II*. The appellants in *McElroy* contended that the Commission improperly permitted the March 10 applicants to participate. Without going into the other issues, and pertinent to the petition for refund, the court remanded the case to the Commission "with instructions to dismiss the applications of the March 10 filers." 86 F.3d at 259.

In response, the Commission issued a Public Notice, Wireless Telecommunications Bureau Commercial Wireless Division, Information Application Procedures Implementing Remand in McElroy Electronics v. FCC, DA 96-1827, released Nov 5, 1996. It stated, in part: "In accordance with the Court's mandate, the applications of the March 10 Filers are hereby DISMISSED. This dismissal does not include the application of Price [Communications Cellular, Inc], whose rights will be determined by future Commission order."

That PN noted that the "remaining applicants" to market 2B were McElroy, the Los Angeles SMSA Limited Partnership, JAJ Cellular, and Price. Market 15A was limited to only McElroy.

The standard for refunding an application fee was stated by the *Commission In re Certain Cellular Rural Service Area Applications, Order*, Fee No. 9179072, released April 2, 1999. If the application was "accepted for filing under [the] lottery rules, [and] the applicants actually participated in the initial lotteries . . . , giving them a full opportunity to be selected," then an unsuccessful applicant is not entitled to a refund on the happenstance that the initial winner was disqualified and no second lottery was conducted. The Commission's *Order on Reconsideration In re Cellular Rural Service Area Applications in Market Nos 599A*, DA 99-1426, released July 21, 1999, returned two applications to pending status. It also clearly affirmed its position that a "dismissal without prejudice" did not extend the claim of refund to the applicants whom "participated in an initial lottery."

In the instant matter, the Commission conducted lotteries for areas 2B and 15A, and identified the winners. Nonetheless, the Court required dismissal of all applicants (486 for 15A and 513 for 2B) identified as the March 10 filers. The winners were not within the group identified by the FCC in the November 5, 1996 PN.

Nothing in any of the orders or PN's suggests that the court or the FCC mandated refund of the application fee. The gate for participation in the publicly held lottery was a fee set by Congress. Petitioner, although not a winner, obtained the benefit of the fee. *See Longshore v. United States,* 77 F.3d 440 (Fed. Cir. 1996). No refund is due.

This action was coordinated with Mr. Steve Markendorf, CWD.

9303128862145001

RECEIVED

Tom Action

R 12/25

DEC 1 5 05 PM '98

FCC FEES

November 20, 1998

Holly

Billings and Collections
Room 452
FCC
1919 M St NW
Washington, DC 20554

Re: Refund of Application fees for Cellular Unserved Areas in Los Angeles, and Minneapolis

Dear FCC:

I applied for the cellular unserved areas lottery in twenty cities. This included the Los Angeles, CA (2B) market and the Minneapolis, MN (15A) market. Due to a FCC legal decision that took place after the applications were filed, however, the FCC never placed these two markets into the lottery. Instead, the two licenses were awarded to other entities.

Therefore, please return to me the application fees ($230 each or $460 total) at your earliest convenience.

Thank you for your prompt assistance.

Sincerely,

Ernest R. Freeman

Ernest R. Freeman

5357 Strathmore Ave
Kensington, MD 20895
(301)949-1474

ss#263-42-7525

(r)

PERFORM: Query Next Previous Add Update Remove Table Screen ...
Shows the next row in the Current List. ** 1: appl table**

FEES II 06/28/93

GENERAL ARGUMENT QUERY

Fee Control Number: [93031288620940 17]
Applicant's Name: [FREEMAN, ERNEST]
Correspondence Address (Line 1): [5357 STRATHMORE AVE]
Correspondence Address (Line 2): [ ]
City: [KENSINGTON] State/Country : [MD] ZIP Code: [208950000]
Call Sign: [002B] Data Changed Flag: [N] Debar Flag: [N]

(1)	Fee Type Code: CMX	Fee Multiple:	0001	Fee Due:	$230.00
(2)	Fee Type Code:	Fee Multiple:	0000	Fee Due:	$0.00
(3)	Fee Type Code:	Fee Multiple:	0000	Fee Due:	$0.00
(4)	Fee Type Code:	Fee Multiple:	0000	Fee Due:	$0.00
(5)	Fee Type Code:	Fee Multiple:	0000	Fee Due:	$0.00

Total Amount Remitted: $ 230.00 Overage Amount: $ 0.00
Current Amount: $ 230.00 Check Flag:

Waiver: Status: Refund: Payment:
Press S for next screen

163 Attach 13

PERFORM: Query Next Previous Add Update Remove Table Screen ...
Shows the next row in the Current List. ** 1: appl table**

FEES II 06/28/93

GENERAL ARGUMENT QUERY

Fee Control Number: [9303128862145001]
Applicant's Name: [FREEMAN, ERNEST]
Correspondence Address (Line 1): [5357 STRATHMORE AVE]
Correspondence Address (Line 2): [ ]
City: [KENSINGTON] State/Country : [MD] ZIP Code: [208950000]
Call Sign: [015A] Data Changed Flag: [N] Debar Flag: [N]

(1)	Fee Type Code: CMX	Fee Multiple:	0001	Fee Due:	$230.00
(2)	Fee Type Code:	Fee Multiple:	0000	Fee Due:	$0.00
(3)	Fee Type Code:	Fee Multiple:	0000	Fee Due:	$0.00
(4)	Fee Type Code:	Fee Multiple:	0000	Fee Due:	$0.00
(5)	Fee Type Code:	Fee Multiple:	0000	Fee Due:	$0.00

Total Amount Remitted: $ 230.00 Overage Amount: $ 0.00
Current Amount: $ 230.00 Check Flag:

Waiver: Status: Refund: Payment:
Press S for next screen

#154 Attach 1

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

DOCKET FILE COPY ORIGINAL

DEC 20 1999

CREDIT & DEBIT MANAGEMENT CENTER, OMD

OFFICE OF
MANAGING DIRECTOR

66 285

Ms. Lori Frank
Managing Partner, Alpha Comm Cellular Partners
1506 Circle Drive
Annapolis, Maryland 21401

RE: Request for refund of applications fees-Cellular Unserved Areas
Fee Control Nos. 9303128862104008; 9303128862145015

Dear Ms. Frank:

This responds to your letter of November 20, 1998 requesting a refund of the two application fees paid to enter and participate in the lotteries for cellular unserved areas. Your applications were accepted for filing, each received an exclusive code number, and each participated in a lottery conducted on June 11, 1996.

The fee, established by Congress in the Comprehensive Omnibus Budget Reconciliation Act of 1986, Pub.L. No. 99-272, §5002(e), 100 Stat 82, 118, *codified at* 47 U.S.C. § 158 (1988), permitted participation in the lottery. *See Longshore v. United States,* 77 F.3d 440 (Fed. Cir. 1996). Concerning these processing costs, the Commission has stated that "except for the limited instances enumerated in . . . section 1.1111 of the rules, fees will be retained by the government irrespective of the substantive disposition of the underlying application or filing. Therefore, once an application has cleared the fee process, its subsequent rejection by the relevant bureaus or offices for any reason will not result in a refund." *Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985*, 2 FCC Rcd 947, 949 (1987) (footnoted deleted) (emphasis added).

Under the circumstances, a refund is not warranted, and your request is denied. If you have any questions concerning this letter, please call the Credit & Debt Management Center at (202) 418-1995.

Sincerely,

Mark Reger
Chief Financial Officer

9303128862104008 (tracking #)
9303128862145015

November 20, 1998

Billings and Collections
Room 452
FCC
1919 M St NW
Washington, DC 20554

RECEIVED
Dec 14 10 13 AM '98
ACCOUNTS PROCESSING BRANCH

Re: Refund of Application fees for Cellular Unserved Areas in Los Angeles, and Minneapolis

Dear FCC:

Alpha Comm Cellular Partners applied for the cellular unserved areas lottery in twenty cities. This included the Los Angeles, CA (2B) market and the Minneapolis, MN (15A) market. Due to a FCC legal decision that took place after the applications were filed, however, the FCC never placed these two markets into the lottery. Instead, the two licenses were awarded to other entities.

Therefore, please return to us the application fees ($230 each or $460 total) at your earliest convenience. Please make the check out to Lori Frank, as the Alpha Comm Cellular Partners checkbook has been closed.

Thank you for your prompt assistance.

Sincerely,

Lori Frank Sayler

Lori Frank
Managing Partner, Alpha Comm Cellular Partners

At the time my address was: 1807 Shore Drive
Edgewater, MD 21037

My current address is: 1506 Circle Drive
Annapolis, MD 21401
(410)349-0673

```
1:Feesw1 - K-95
Auto
PERFORM:  Query  Previous  Add  Update  Remove  Table  Screen  ...
Shows the next row in the Current List.          ** 1: appl table**
                              FEES II                                  06/28/93
                        GENERAL ARGUMENT QUERY

Fee Control Number: [9303128862104008]
Applicant's Name: [ALPHA COMM CELLULAR PARTNERS              ]
Correspondence Address (Line 1): [1807 SHORE DRIVE                    ]
Correspondence Address (Line 2): [                                    ]
City: [EDGEWATER            ]   State/Country : [MD ]   ZIP Code: [210370000]
Call Sign: [002B      ]    Data Changed Flag: [N]    Debar Flag: [N]

(1) Fee Type Code:  CMX      Fee Multiple:  0001      Fee Due:  $230.00
(2) Fee Type Code:           Fee Multiple:  0000      Fee Due:  $0.00
(3) Fee Type Code:           Fee Multiple:  0000      Fee Due:  $0.00
(4) Fee Type Code:           Fee Multiple:  0000      Fee Due:  $0.00
(5) Fee Type Code:           Fee Multiple:  0000      Fee Due:  $0.00
   Total Amount Remitted:  $      230.00      Overage Amount:  $      0.00
          Current Amount:  $      230.00      Check Flag:

   Waiver:        Status:              Refund:          Payment:
Press S for next screen

* * * * * VT320   Help: Alt-H   Script: Alt-.   fees-wl.fcc.gov:23        TELNET *
WAIVERS                                                                Fee Bill...
Start  N  D  G  M  M  Com  T  E  1..                                   4:28 PM
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1:Feeswl - K-95
Auto
PERFORM:  Query  Previous  Add  Update  Remove  Table  Screen  ...
Shows the next row in the Current List.          ** 1: appl table**
                                FEES II                                06/28/93
                          GENERAL ARGUMENT QUERY

Fee Control Number: [9303128862145015]
Applicant's Name: [ALPHA COMM CELLULAR PARTNERS              ]
Correspondence Address (Line 1): [1807 SHORE DRIVE                    ]
Correspondence Address (Line 2): [                                    ]
City: [EDGEWATER            ]   State/Country : [MD ]   ZIP Code: [210370000]
Call Sign: [015A      ]    Data Changed Flag: [N]    Debar Flag: [N]

(1) Fee Type Code:  CMX      Fee Multiple:  0001      Fee Due:  $230.00
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(3) Fee Type Code:           Fee Multiple:  0000      Fee Due:  $0.00
(4) Fee Type Code:           Fee Multiple:  0000      Fee Due:  $0.00
(5) Fee Type Code:           Fee Multiple:  0000      Fee Due:  $0.00
   Total Amount Remitted:  $      230.00      Overage Amount:  $     0.00
          Current Amount:  $      230.00      Check Flag:

   Waiver:        Status:              Refund:         Payment:
Press S for next screen

VT320   Help: Alt-H   Script: Alt-.   fees-wl.fcc.gov:23      TELNET
```

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF GENERAL COUNSEL

memorandum

TO: Donna Viert, OGC
Tom Putnam, OMD

FROM: Paul K. Cascio, OGC

SUBJECT: Request for Refund of Lottery Fee- Alpha Comm Cellular Partners (Lori Frank), Fee cases 9303 1288 6210 4008; 9303 1288 6214 5015

DATE: November 4, 1999

Petitioner, Ms. Lori Frank, seeks a refund of two application fees ($230 each for a total of $460) paid for the cellular unserved areas lottery that included markets in Los Angeles, CA (2B) and Minneapolis, MN (15A). Petitioner states that she applied for the cellular unserved areas lottery in twenty cities, including Los Angeles, CA (2B) and Minneapolis, MN (15A), but the two market areas were removed from the lottery by FCC action. Petitioner refers to a "legal decision" as a ground for claiming refund. Reasonably, one may conclude petitioner is referring to *McElroy Electronic Corporation, et al., v. Federal Communications Commission,* 990 F.2d 1351 (D.C. Cir. 1993) (*McElroy I*), and *McElroy Electronic Corporation, et al., v. Federal Communications Commission*, 86 F.3d 248 (D.C. Cir. 1996) (*McElroy II*).

McElroy Electronic Corporation petitioned the Commission and the courts several times.[1] In *McElroy I*, the court directed the Commission to reinstate *nunc pro tunc* McElroy's applications. Pertinent to this refund request, the Commission's efforts to implement the court's mandate resulted in a decision to consider applications filed by both the parties to the suit and the group of lottery applicant's referred to as the March 10 applicants.

On April 15, 1996, before the court's decision in *McElroy II*, the Commission issued a Lottery Notice publishing the details of the "Domestic Public Cellular Telecommunications Service Lottery for Unserved Areas" to be conducted on Tuesday, June 11, 1996. The notice referred to the Commission's order (*see fn 1, supra)* and the appeal thereof at *McElroy II*. The notice

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[1] *See Memorandum Opinion and Order, In re Applications of McElroy Electronics Corporation, et al.,* 10 FCC Rcd 6762, March 23, 1995, paragraphs 4 – 6 for a discussion of the background. Petitioner is part of the grouping identified as the March 10 applicants.

included the stipulation that any license granted would be "conditioned on the outcome of the appeals of the Commission's order."

Petitioner was identified in attachments to the notice as having been "initially accepted for filing." The results of the lottery were announced in Public Notice, Wireless Telecommunications Bureau Commercial Wireless Division, Results of Unserved Area Cellular Lottery," Report No. CL-96-52, June 12, 1996.

After the lottery, the court published its decision in *McElroy II*. The appellants in *McElroy* contended that the Commission improperly permitted the March 10 applicants to participate. Without going into the other issues, and pertinent to the petition for refund, the court remanded the case to the Commission "with instructions to dismiss the applications of the March 10 filers." 86 F.3d at 259.

In response, the Commission issued a Public Notice, Wireless Telecommunications Bureau Commercial Wireless Division. Information Application Procedures Implementing Remand in McElroy Electronics v. FCC, DA 96-1827, released November 5, 1996. It stated, in part: "In accordance with the Court's mandate, the applications of the March 10 Filers are hereby DISMISSED. This dismissal does not include the application of Price [Communications Cellular, Inc], whose rights will be determined by future Commission order."

That PN noted that the "remaining applicants" to market 2B were McElroy, the Los Angeles SMSA Limited Partnership, JAJ Cellular, and Price. Market 15A was limited to only McElroy.

The standard for refunding an application fee was stated by the *Commission In re Certain Cellular Rural Service Area Applications, Order*, Fee No. 9179072, released April 2, 1999. If the application was "accepted for filing under [the] lottery rules, [and] the applicants actually participated in the initial lotteries . . . , giving them a full opportunity to be selected," then an unsuccessful applicant is not entitled to a refund on the happenstance that the initial winner was disqualified and no second lottery was conducted. The Commission's *Order on Reconsideration In re Cellular Rural Service Area Applications in Market Nos 599A*, DA 99-1426, released July 21, 1999, returned two applications to pending status. It also clearly affirmed its position that a "dismissal without prejudice" did not extend the claim of refund to the applicants whom "participated in an initial lottery."

In the instant matter, the Commission conducted lotteries for areas 2B and 15A, and identified the winners. Nonetheless, the Court required dismissal of all applicants (486 for 15A and 513 for 2B) identified as the March 10 filers. The winners were not within the group identified by the FCC in the November 5, 1996 PN.

Nothing in any of the orders or PN's suggests that the court or the FCC mandated refund of the application fee. The gate for participation in the publicly held lottery was a fee set by Congress. Petitioner, although not a winner, obtained the benefit of the fee. *See Longshore v. United States*, 77 F.3d 440 (Fed. Cir. 1996). No refund is due.

This action was coordinated with Mr. Steve Markendorf, CWD.

DOCKET FILE COPY ORIGINAL

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

DEC 20 1999

CREDIT & DEBIT MANAGEMENT CENTER, OMD

OFFICE OF
MANAGING DIRECTOR

460285

Ms. Lori Frank
Managing Partner, Alpha Comm Cellular Partners
1506 Circle Drive
Annapolis, Maryland 21401

RE: Request for refund of applications fees-Cellular Unserved Areas
Fee Control Nos. 9303128862104008; 9303128862145015

Dear Ms. Frank:

This responds to your letter of November 20, 1998 requesting a refund of the two application fees paid to enter and participate in the lotteries for cellular unserved areas. Your applications were accepted for filing, each received an exclusive code number, and each participated in a lottery conducted on June 11, 1996.

The fee, established by Congress in the Comprehensive Omnibus Budget Reconciliation Act of 1986, Pub.L. No. 99-272, §5002(e), 100 Stat 82, 118, *codified at* 47 U.S.C. § 158 (1988), permitted participation in the lottery. *See Longshore v. United States,* 77 F.3d 440 (Fed. Cir. 1996). Concerning these processing costs, the Commission has stated that "except for the limited instances enumerated in . . . section 1.1111 of the rules, fees will be retained by the government irrespective of the substantive disposition of the underlying application or filing. Therefore, once an application has cleared the fee process, its subsequent rejection by the relevant bureaus or offices for any reason will not result in a refund." *Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985*, 2 FCC Rcd 947, 949 (1987) (footnoted deleted) (emphasis added).

Under the circumstances, a refund is not warranted, and your request is denied. If you have any questions concerning this letter, please call the Credit & Debt Management Center at (202) 418-1995.

Sincerely,

Mark Reger
Chief Financial Officer

9303128862104008 (tracking #)
9303128862145015

November 20, 1998

Billings and Collections
Room 452
FCC
1919 M St NW
Washington, DC 20554

RECEIVED
Dec 14 10 13 AM '98
ACCOUNTS PROCESSING BRANCH

Re: Refund of Application fees for Cellular Unserved Areas in Los Angeles, and Minneapolis

Dear FCC:

Alpha Comm Cellular Partners applied for the cellular unserved areas lottery in twenty cities. This included the Los Angeles, CA (2B) market and the Minneapolis, MN (15A) market. Due to a FCC legal decision that took place after the applications were filed, however, the FCC never placed these two markets into the lottery. Instead, the two licenses were awarded to other entities.

Therefore, please return to us the application fees ($230 each or $460 total) at your earliest convenience. Please make the check out to Lori Frank, as the Alpha Comm Cellular Partners checkbook has been closed.

Thank you for your prompt assistance.

Sincerely,

Lori Frank Taylor

Lori Frank
Managing Partner, Alpha Comm Cellular Partners

At the time my address was: 1807 Shore Drive
Edgewater, MD 21037

My current address is: 1506 Circle Drive
Annapolis, MD 21401
(410)349-0673

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f::Feesw1 - K-95
Auto
PERFORM:  Query  Previous  Add  Update  Remove  Table  Screen  ...
Shows the next row in the Current List.          ** 1: appl table**
                                FEES II                          06/28/93
                          GENERAL ARGUMENT QUERY

Fee Control Number: [9303128362104003]
Applicant's Name: [ALPHA COMM CELLULAR PARTNERS          ]
Correspondence Address (Line 1): [1807 SHORE DRIVE                  ]
Correspondence Address (Line 2): [                                  ]
City: [EDGEWATER          ]   State/Country : [MD ]   ZIP Code: [210370000]
Call Sign: [002B      ]    Data Changed Flag: [N]    Debar Flag: [N]

(1) Fee Type Code:  CMX      Fee Multiple:  0001      Fee Due:  $230.00
(2) Fee Type Code:           Fee Multiple:  0000      Fee Due:  $0.00
(3) Fee Type Code:           Fee Multiple:  0000      Fee Due:  $0.00
(4) Fee Type Code:           Fee Multiple:  0000      Fee Due:  $0.00
(5) Fee Type Code:           Fee Multiple:  0000      Fee Due:  $0.00
   Total Amount Remitted:  $      230.00      Overage Amount:  $     0.00
          Current Amount:  $      230.00      Check Flag:

   Waiver:        Status:              Refund:          Payment:
Press S for next screen

* * * * * VT320   Help: Alt-H   Script: Alt-.   fees-w1.fcc.gov:23      TELNET *
WAIVERS                                                    Fee Bill...
Start  N.  D.  G.  M.  M.  Com.  T.  E.  1..                  4:28 PM
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1:Feeswl - K-95
Auto
PERFORM:  Query  Previous  Add  Update  Remove  Table  Screen  ...
Shows the next row in the Current List.          ** 1: appl table**
                                FEES II                          06/28/93
                          GENERAL ARGUMENT QUERY

Fee Control Number: [9303128362145015]
Applicant's Name: [ALPHA COMM CELLULAR PARTNERS              ]
Correspondence Address (Line 1): [1807 SHORE DRIVE                    ]
Correspondence Address (Line 2): [                                    ]
City: [EDGEWATER          ]   State/Country : [MD ]   ZIP Code: [210370000]
Call Sign: [015A      ]    Data Changed Flag: [N]    Debar Flag: [N]

(1) Fee Type Code:  CMX      Fee Multiple:  0001      Fee Due:  $230.00
(2) Fee Type Code:           Fee Multiple:  0000      Fee Due:  $0.00
(3) Fee Type Code:           Fee Multiple:  0000      Fee Due:  $0.00
(4) Fee Type Code:           Fee Multiple:  0000      Fee Due:  $0.00
(5) Fee Type Code:           Fee Multiple:  0000      Fee Due:  $0.00
   Total Amount Remitted:  $      230.00      Overage Amount:  $     0.00
          Current Amount:  $      230.00      Check Flag:

   Waiver:        Status:              Refund:         Payment:
Press S for next screen

VT320   Help: Alt-H   Script: Alt-.   fees-wl.fcc.gov:23      TELNET
```

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF GENERAL COUNSEL

memorandum

TO: Donna Viert, OGC
Tom Putnam, OMD

FROM: Paul K. Cascio, OGC

SUBJECT: Request for Refund of Lottery Fee- Alpha Comm Cellular Partners (Lori Frank), Fee cases 9303 1288 6210 4008; 9303 1288 6214 5015

DATE: November 4, 1999

Petitioner, Ms. Lori Frank, seeks a refund of two application fees ($230 each for a total of $460) paid for the cellular unserved areas lottery that included markets in Los Angeles, CA (2B) and Minneapolis, MN (15A). Petitioner states that she applied for the cellular unserved areas lottery in twenty cities, including Los Angeles, CA (2B) and Minneapolis, MN (15A), but the two market areas were removed from the lottery by FCC action. Petitioner refers to a "legal decision" as a ground for claiming refund. Reasonably, one may conclude petitioner is referring to *McElroy Electronic Corporation, et al., v. Federal Communications Commission,* 990 F.2d 1351 (D.C. Cir. 1993) (*McElroy I*), and *McElroy Electronic Corporation, et al., v. Federal Communications Commission*, 86 F.3d 248 (D.C. Cir. 1996) (*McElroy II*).

McElroy Electronic Corporation petitioned the Commission and the courts several times.[1] In *McElroy I*, the court directed the Commission to reinstate *nunc pro tunc* McElroy's applications. Pertinent to this refund request, the Commission's efforts to implement the court's mandate resulted in a decision to consider applications filed by both the parties to the suit and the group of lottery applicant's referred to as the March 10 applicants.

On April 15, 1996, before the court's decision in *McElroy II,* the Commission issued a Lottery Notice publishing the details of the "Domestic Public Cellular Telecommunications Service Lottery for Unserved Areas" to be conducted on Tuesday, June 11, 1996. The notice referred to the Commission's order (*see fn 1, supra)* and the appeal thereof at *McElroy II.* The notice

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[1] *See Memorandum Opinion and Order, In re Applications of McElroy Electronics Corporation, et al.,* 10 FCC Rcd 6762, March 23, 1995, paragraphs 4 – 6 for a discussion of the background. Petitioner is part of the grouping identified as the March 10 applicants.

included the stipulation that any license granted would be "conditioned on the outcome of the appeals of the Commission's order."

Petitioner was identified in attachments to the notice as having been "initially accepted for filing." The results of the lottery were announced in Public Notice, Wireless Telecommunications Bureau Commercial Wireless Division, Results of Unserved Area Cellular Lottery," Report No. CL-96-52, June 12, 1996.

After the lottery, the court published its decision in *McElroy II*. The appellants in *McElroy* contended that the Commission improperly permitted the March 10 applicants to participate. Without going into the other issues, and pertinent to the petition for refund, the court remanded the case to the Commission "with instructions to dismiss the applications of the March 10 filers." 86 F.3d at 259.

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That PN noted that the "remaining applicants" to market 2B were McElroy, the Los Angeles SMSA Limited Partnership, JAJ Cellular, and Price. Market 15A was limited to only McElroy.

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In the instant matter, the Commission conducted lotteries for areas 2B and 15A, and identified the winners. Nonetheless, the Court required dismissal of all applicants (486 for 15A and 513 for 2B) identified as the March 10 filers. The winners were not within the group identified by the FCC in the November 5, 1996 PN.

Nothing in any of the orders or PN's suggests that the court or the FCC mandated refund of the application fee. The gate for participation in the publicly held lottery was a fee set by Congress. Petitioner, although not a winner, obtained the benefit of the fee. *See Longshore v. United States*, 77 F.3d 440 (Fed. Cir. 1996). No refund is due.

This action was coordinated with Mr. Steve Markendorf, CWD.

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

DOCKET FILE COPY ORIGINAL
CREDIT & DEBIT MANAGEMENT CENTER, OMD

OFFICE OF
MANAGING DIRECTOR

DEC 20 1999

86-285

Mr. Louis R. Biosca
8240 Tricefield Road
St. Michaels, Maryland 21663

RE: Request for refund of applications fees-Cellular Unserved Areas
Fee Control Nos. 9303128862104021; 9303128862130018

Dear Mr. Biosca:

This responds to your letter of November 20, 1998 requesting a refund of the two application fees paid to enter and participate in the lotteries for cellular unserved areas. Your applications were accepted for filing, each received an exclusive code number, and each participated in a lottery conducted on June 11, 1996.

The fee, established by Congress in the Comprehensive Omnibus Budget Reconciliation Act of 1986, Pub.L. No. 99-272, §5002(e), 100 Stat 82, 118, *codified at* 47 U.S.C. § 158 (1988), permitted participation in the lottery. *See Longshore v. United States,* 77 F.3d 440 (Fed. Cir. 1996). Concerning these processing costs, the Commission has stated that "except for the limited instances enumerated in . . . section 1.1111 of the rules, fees will be retained by the government irrespective of the substantive disposition of the underlying application or filing. Therefore, once an application has cleared the fee process, its subsequent rejection by the relevant bureaus or offices for any reason will not result in a refund." *Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985*, 2 FCC Rcd 947, 949 (1987) (footnoted deleted) (emphasis added).

Under the circumstances, a refund is not warranted, and your request is denied. If you have any questions concerning this letter, please call the Credit & Debt Management Center at (202) 418-1995.

Sincerely,

Mark Reger
Chief Financial Officer

see copy
Rm. 8A463

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF GENERAL COUNSEL

memorandum

TO: Donna Viert, OGC
Tom Putnam, OMD

FROM: Paul K. Cascio, OGC

SUBJECT: Request for Refund of Lottery Fee- Louis R. Biosca,
Fee cases 9303 1288 6210 4021; 9303 1288 6213 0018

DATE: November 4, 1999

Petitioner, Mr. Louis R. Biosca, seeks a refund of two application fees ($230 each for a total of $460) paid for the cellular unserved areas lottery that included markets in Los Angeles, CA (2B) and Minneapolis, MN (15A). Petitioner states that he applied for the cellular unserved areas lottery in four cities, including Los Angeles, CA (2B) and Minneapolis, MN (15A), but the two market areas were removed from the lottery by FCC action. Petitioner refers to a "legal decision" as a ground for claiming refund. Reasonably, one may conclude petitioner is referring to *McElroy Electronic Corporation, et al., v. Federal Communications Commission,* 990 F.2d 1351 (D.C. Cir. 1993) (*McElroy I*), and *McElroy Electronic Corporation, et al., v. Federal Communications Commission*, 86 F.3d 248 (D.C. Cir. 1996) (*McElroy II*).

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In the instant matter, the Commission conducted lotteries for areas 2B and 15A, and identified the winners. Nonetheless, the Court required dismissal of all applicants (486 for 15A and 513 for 2B) identified as the March 10 filers. The winners were not within the group identified by the FCC in the November 5, 1996 PN.

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This action was coordinated with Mr. Steve Markendorf, CWD.

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

OFFICE OF
MANAGING DIRECTOR

Mr. Louis R. Biosca
8240 Tricefield Road
St. Michaels, Maryland 21663

RE: Request for refund of applications fees-Cellular Unserved Areas
Fee Control Nos. 9303128862104021; 9303128862130018

Dear Mr. Biosca:

This responds to your letter of November 20, 1998 requesting a refund of the two application fees paid to enter and participate in the lotteries for cellular unserved areas. Your applications were accepted for filing, each received an exclusive code number, and each participated in a lottery conducted on June 11, 1996.

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Under the circumstances, a refund is not warranted, and your request is denied. If you have any questions concerning this letter, please call the Credit & Debt Management Center at (202) 418-1995.

Sincerely,

Mark Reger
Chief Financial Officer

9303120062104T021 (Tracking #)
& 93031288621300 18

Holly

November 20, 1998

Billings and Collections
Room 452
FCC
1919 M St NW
Washington, DC 20554

RECEIVED
NOV 23 1998
FCC

Re: Refund of Application fees for Cellular Unserved Areas in Los Angeles, and Minneapolis

Dear FCC:

I applied for the cellular unserved areas lottery in four cities. This included the Los Angeles, CA (2B) market and the Minneapolis, MN (15A) market. Due to a FCC legal decision that took place after the applications were filed, however, the FCC never placed these two markets into the lottery. Instead, the two licenses were awarded to other entities.

Therefore, please return to me the application fees ($230 each or $460 total) at your earliest convenience.

Thank you for your prompt assistance.

Sincerely,

Louis R Biosca

Louis R. Biosca
8240 Tricefield Rd
St. Michaels, MD 21663
(410)745-6567

At the time my address was: 6500 Lisa Ln
Bowie, MD 20720

Office Microsoft

1::Feesw1 - K-95

Auto

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PERFORM:   Query  Next [          ] Add  Update  Remove  Table  Screen  ...
Shows the previous row in the Current List.      ** 1: appl table**

                          FEES II                                  05/21/90
                    APPLICANT QUERY SCREEN

Fee Control Number: [93031288621040211]
Applicant Name: [BIOSCA, LOUIS                          ]
Correspondence Address (Line 1): [6500 LISA LANE                    ]
Correspondence Address (Line 2): [                                  ]
City: [BOWIE                ]   State/Country: [MD ]   ZIP code: [207150000]
Call Sign: [002B      ]       (Data Changed Flag: [N])    Debar Flag: [N]

(1) Fee Type Code:  CMX    Fee Multiple:  1        Fee Due:  $230.00
(2) Fee Type Code:         Fee Multiple:  0        Fee Due:  $0.00
(3) Fee Type Code:         Fee Multiple:  0        Fee Due:  $0.00
(4) Fee Type Code:         Fee Multiple:  0        Fee Due:  $0.00
(5) Fee Type Code:         Fee Multiple:  0        Fee Due:  $0.00
Overage Amount:  $0.00                Total Amount Remitted:  $230.00
Check Flag:                           Current Amount:  $230.00
Waiver:              Status:          Refund:            Payment:
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VT320 Help: Alt-H Script: Alt-. fees-w1.fcc.gov:23 TELNET

Start | Nov | Day | Gro... | FC... | Micr... | Ker... | 1::... | Doc... | 12:37 PM

call sign = ØØ2B

Office Microsoft

1::Feesw1 - K-95

Auto

```
PERFORM:   Query        Previous  Add  Update  Remove  Table  Screen  ...
Shows the next row in the Current List.          ** 1: appl table**

                          FEES II                                05/21/90
                    APPLICANT QUERY SCREEN

Fee Control Number: [9303128862130018]
Applicant Name: [BIOSCA, LOUIS                          ]
Correspondence Address (Line 1): [6500 LISA LANE                    ]
Correspondence Address (Line 2): [                                  ]
City: [BOWIE                ]   State/Country: [MD ]   ZIP code: [207150000]
Call Sign: [015A      ]       (Data Changed Flag: [N])    Debar Flag: [N]

(1) Fee Type Code:  CMX    Fee Multiple:  1         Fee Due:  $230.00
(2) Fee Type Code:         Fee Multiple:  0         Fee Due:  $0.00
(3) Fee Type Code:         Fee Multiple:  0         Fee Due:  $0.00
(4) Fee Type Code:         Fee Multiple:  0         Fee Due:  $0.00
(5) Fee Type Code:         Fee Multiple:  0         Fee Due:  $0.00
Overage Amount:  $0.00                Total Amount Remitted:  $230.00
Check Flag:                           Current Amount:  $230.00
Waiver:             Status:           Refund:            Payment:
```

VT320 Help: Alt-H Script: Alt-. fees-w1.fcc.gov:23 TELNET

Start | Nov | Day | Gro... | FC... | Micr... | Ker... | 1:... | Doc... | 12:37 PM

Call sign = Ø15A