

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

JAN 31 2002

OFFICE OF  
MANAGING DIRECTOR

Georgina L.O. Feigen, Esq.  
Zachary A. Zehner, Esq.  
Wilkinson, Barker, Knauer, L.L.P.  
2300 N Street, N.W.  
Washington, D.C. 20037-1128

Re: American Cellular Corporation  
Amended Fiscal Year 2000 Regulatory Fee Filings  
Fee Control No. 0103128835050001

Dear Ms. Feigen and Mr. Zehner:

This is in response to your request dated December 6, 2001, filed on behalf of American Cellular Corporation (ACC) that the Office of Managing Director (OMD) reconsider its decision denying ACC's request for a refund or waiver of the \$35,365.00 late charge penalty submitted with ACC's amended fiscal year 2000 regulatory fee filing submitted on March 8, 2001. See Letter from Mark Reger, Chief Financial Officer, Office of Managing Director, to Georgina L. O. Feigen, Esq. and Zachary A. Zehner, Esq., Wilkinson, Barker, Knauer, L.L.P. (dated Nov. 6, 2001) (*ACC Letter*). Specifically, you request that OMD either waive the late charge penalty or grant an \$801.00 partial refund of the late charge penalty.

As discussed in the *ACC Letter*, on September 20, 2000 (the date on which the fiscal year 2000 regulatory fees were due), ACC filed fiscal year 2000 regulatory fees in the amount of \$3,203.78 on behalf of its affiliated licensees providing commercial wireless services. In the course of a subsequent internal audit, ACC discovered that it had inadvertently failed (among other things) to list all the call signs related to its affiliated licensees on the fiscal year 2000 regulatory fee filings and, as a result, that it had underpaid the regulatory fees for that year. On March 8, 2001, ACC filed amendments to the fiscal year 2000 regulatory fee filings and submitted the appropriate regulatory fee payment of \$141,460.00 for all of its interests (which represented the fiscal year 2000 regulatory fee that was originally due on September 20, 2000), along with a late charge penalty fee of \$35,365.00. On March 9, 2001, ACC filed a request for a partial refund of the fiscal year 2000 regulatory fee, as well as a request for a waiver and refund of the late charge penalty.

In the *ACC Letter*, OMD granted ACC's request that the Commission refund \$3,203.78 of the fiscal year 2000 regulatory fee payment as an overpayment of the regulatory fee originally due on September 20, 2000. OMD denied ACC's request that the Commission grant ACC a waiver and refund of the \$35,365.00 late charge penalty submitted on March 8, 2001 with ACC's amended fiscal year 2000 regulatory fee filing. In denying the waiver and refund request, OMD rejected ACC's assertions that a waiver of the late

payment fee was appropriate because ACC's original submission on September 20, 2000 was timely (albeit incorrect) and because ACC corrected the original payment error and had acted in good faith in its efforts to pay the regulatory fee in a timely manner. OMD explained that the Communications Act of 1934, as amended, requires the Commission to assess a late charge penalty of 25 percent on any regulatory fee not paid in a timely manner. OMD explained that it is the obligation of the licensees responsible for regulatory fee payments to ensure that the Commission receives the fee payment no later than the final date on which regulatory fees are due for the year. OMD found that ACC's request did not indicate or substantiate that ACC met this obligation. OMD therefore denied ACC's request for waiver and refund of the late charge penalty for late payment of the fiscal year 2000 regulatory fee.

In your petition for reconsideration, you raise the same arguments in support of ACC's request for waiver of the late charge penalty for late payment of the fiscal year 2000 regulatory fees that you raised in your March 9, 2001 waiver request. We find that OMD's decision in the *ACC Letter* denying ACC's waiver request was correct and that you have provided no additional justification for a reversal of that decision. We therefore deny your request for a waiver of the late charge penalty.

In your petition for reconsideration, you request for the first time<sup>1</sup> (as an alternative to a grant of your waiver request) that OMD refund \$801.00 of the \$35,365.00 late charge penalty submitted by ACC on March 8, 2001. You state that although ACC filed the full \$141,460.00 fiscal year 2000 payment on March 8, 2001 (and paid a 25 percent late charge penalty on that amount), ACC had already paid \$3,203.78 towards the required \$141,460.00 fiscal year 2000 regulatory fee payment in a timely manner on September 20, 2000.<sup>2</sup> You assert that the 25 percent late charge penalty should therefore apply only to the \$138,256.22 fiscal year 2000 regulatory fee amount that was untimely (i.e., \$141,460.00 minus \$3,203.78 equals \$138,256.22) and not to the full \$141,460.00 payment.

We find it appropriate to apply the 25 percent late charge penalty only to the portion of the fiscal year 2000 regulatory fee that ACC did not pay in a timely manner (i.e., \$138,256.22) and not to the portion that ACC did pay in a timely manner (i.e., \$3,203.78). See 47 U.S.C. §159(c) (penalties for late payment of regulatory fees "shall be 25 percent of the amount of the fee which was not paid in a timely manner"); 47 C.F.R. §1.1164. ACC is therefore subject to a \$34,564.00 charge for late payment of its fiscal year 2000 regulatory fee. Because ACC filed a \$35,365.00 late charge penalty on March 8, 2001, we grant Dobson's request for a \$801.00 partial refund of that amount.

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<sup>1</sup> In your March 9, 2001 request, you requested that the Commission refund the entire \$35,365.00 late charge penalty which, as discussed above, OMD denied.

<sup>2</sup> You explain that ACC paid the \$141,460.00 fiscal year 2000 regulatory fee on March 8, 2001 (as well as a 25 percent late charge penalty on that payment) even though it had already paid \$3,203.78 towards the required regulatory fee on September 20, 2000, out of an abundance of caution.

Accordingly, we deny your request for a waiver of the late charge penalty, but we grant your request for a partial refund of the late charge penalty submitted in connection with ACC's fiscal year 2000 regulatory fee. A check made payable to the maker of the original check, and drawn in the amount of \$801.00, will be sent to you at the earliest practicable time. If you have any questions concerning this matter, please contact the Revenue & Receivables Operation Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Reger". The signature is fluid and cursive, with a large initial "M" and "R".

 Mark A. Reger  
Chief Financial Officer

# Payment Transactions Detail Report

Date: 01/17/2002

BY: FEE CONTROL NUMBER

Fee Control Number	Payor Name	Fcc Account Number	Payer TIN	Received Date							
0103128835050001	AMERICAN CELLULAR CORPORATION 13439 N BROADWAY EXT SUITE 200 OKLAHOMA CITY OK 73114	WP00035404	0223043811	3/08/2001 00:00:0							
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
\$176,825.00	\$176,825.00	27	0099	1		ACC WISCONSIN LICENSE LLC	731142202		\$35,365.00	1	PMT
\$176,825.00	\$176,825.00	15	0011	25302	KNKA455	ACC NEW YORK LICENSE III LLC	731142202		\$7,590.00	1	PMT
\$176,825.00	\$176,825.00	6	0011	20513	KNKA504	ACC MINNESOTA LICENSE LLC	731142202		\$6,153.00	1	PMT
\$176,825.00	\$176,825.00	14	0011	33296	KNKA701	ACC NEW YORK LICENSE II LLC	731142202		\$9,988.00	1	PMT
\$176,825.00	\$176,825.00	19	0011	20805	KNKA763	ACC WAUSAU LICENSE LLC	731142202		\$6,241.00	1	PMT
\$176,825.00	\$176,825.00	22	0011	23637	KNKA814	ACC WISCONSIN LICENSE LLC	731142202		\$7,091.00	1	PMT
\$176,825.00	\$176,825.00	24	0011	14225	KNKN344	ACC WISCONSIN LICENSE LLC	731142202		\$4,267.00	1	PMT
\$176,825.00	\$176,825.00	25	0011	5168	KNKN345	ACC WISCONSIN LICENSE LLC	731142202		\$1,550.00	1	PMT
\$176,825.00	\$176,825.00	10	0011	19663	KNKN375	ACC MINNESOTA LICENSE LLC	731142202		\$5,898.00	1	PMT
\$176,825.00	\$176,825.00	23	0011	12745	KNKN386	ACC WISCONSIN LICENSE LLC	731142202		\$3,823.00	1	PMT
\$176,825.00	\$176,825.00	11	0011	18629	KNKN447	ACC MINNESOTA LICENSE LLC	731142202		\$5,588.00	1	PMT
\$176,825.00	\$176,825.00	13	0011	11220	KNKN512	ACC NEW YORK LICENSE I LLC	731142202		\$3,366.00	1	PMT
\$176,825.00	\$176,825.00	18	0011	21234	KNKN526	ACC TENNESSEE LICENSE LLC	731142202		\$6,370.00	1	PMT
\$176,825.00	\$176,825.00	12	0011	50220	KNKN633	ACC NEW YORK LICENSE I LLC	731142202		\$15,066.00	1	PMT
\$176,825.00	\$176,825.00	2	0011	14047	KNKN666	ACC KENTUCKY LICENSE LLC	731142202		\$4,214.00	1	PMT
\$176,825.00	\$176,825.00	16	0011	23784	KNKN713	ACC OHIO LICENSE LLC	731142202		\$7,135.00	1	PMT
\$176,825.00	\$176,825.00	17	0011	14892	KNKN781	ACC PENNSYLVANIA LICENSE LLC	731142202		\$4,467.00	1	PMT
\$176,825.00	\$176,825.00	20	0011	6377	KNKN839	ACC WEST VIRGINIA LICENSE LLC	731142202		\$1,913.00	1	PMT
\$176,825.00	\$176,825.00	5	0011	21396	KNKN859	ACC MICHIGAN LICENSE LLC	731142202		\$6,418.00	1	PMT
\$176,825.00	\$176,825.00	4	0011	6148	KNKN939	ACC KENTUCKY LICENSE LLC	731142202		\$1,844.00	1	PMT
\$176,825.00	\$176,825.00	3	0011	27012	KNKN940	ACC KENTUCKY LICENSE LLC	731142202		\$8,103.00	1	PMT
\$176,825.00	\$176,825.00	21	0011	25619	KNKN941	ACC WEST VIRGINIA LICENSE LLC	731142202		\$7,685.00	1	PMT
\$176,825.00	\$176,825.00	1	0011	18720	KNKQ346	ACC KENTUCKY LICENSE LLC	731142202		\$5,616.00	1	PMT
\$176,825.00	\$176,825.00	9	0011	5710	KNKQ409	ACC MINNESOTA LICENSE LLC	731142202		\$1,713.00	1	PMT
\$176,825.00	\$176,825.00	8	0011	2916	KNKQ414	ACC MINNESOTA LICENSE LLC	731142202		\$874.00	1	PMT

# Payment Transactions Detail Report

Date: 01/17/2002

BY: FEE CONTROL NUMBER

Fee Control Number	Payor Name				Fcc Account Number	Payer TIN	Received Date					
0103128835050001	AMERICAN CELLULAR CORPORATION 13439 N BROADWAY EXT SUITE 200 OKLAHOMA CITY OK 73114				WP00035404	0223043811	3/08/2001 00:00:0					
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	
\$176,825.00	\$176,825.00	26	0011	7782	KNKQ441	ACC WISCONSIN LICENSE LLC	731142202		\$2,334.00	1	PMT	
\$176,825.00	\$176,825.00	7	0011	20513	KNKR230	ACC MINNESOTA LICENSE LLC	731142202		\$6,153.00	1	PMT	
<b>Total</b>	<b>27</b>								<b>\$176,825.00</b>			

# Payment Transactions Detail Report

Date: 01/17/2002

BY: FEE CONTROL NUMBER

Fee Control Number	Payor Name	Fcc Account Number	Payer TIN	Received Date
0009228835761001	AMERICAN CELLULAR CORPORATION 13439 N BROADWAY EXT SUITE 200 OKLAHOMA CITY OK 73114	WP00028234	0223042811	9/21/2000 00:00:0

Payment Amount	Current Balance	Seq Num	Payment		Callsign Other Id	Applicant Name	Applicant Zip	Bad Check	Detail Amount	Trans Code	Payment Type
			Type Code	Quantity							
\$3,203.78	\$0.00	23	0072	1	802635	DUTCHESS COUNTY CELLULA TELEPH			(\$130.82)	5	RFD
\$3,203.78	\$0.00	11	0072	111810	802635	DUTCHESS COUNTY CELLULA TELEPH			\$130.82	5	PMT
\$3,203.78	\$0.00	22	0072	1	806982	CHILL CELLULAR CORPORATION			(\$172.79)	5	RFD
\$3,203.78	\$0.00	10	0072	147682	806982	CHILL CELLULAR CORPORATION			\$172.79	5	PMT
\$3,203.78	\$0.00	17	0072	1	808548	ACC OF KENTUCKY LLC			(\$908.78)	5	RFD
\$3,203.78	\$0.00	5	0072	776739	808548	ACC OF KENTUCKY LLC			\$908.78	5	PMT
\$3,203.78	\$0.00	18	0072	1	809720	ACC OF TENNESSEE LLC			(\$90.03)	5	RFD
\$3,203.78	\$0.00	6	0072	76947	809720	ACC OF TENNESSEE LLC			\$90.03	5	PMT
\$3,203.78	\$0.00	15	0072	1	811188	ACC OF WAUSAU			(\$112.19)	5	RFD
\$3,203.78	\$0.00	3	0072	95892	811188	ACC OF WAUSAU			\$112.19	5	PMT
\$3,203.78	\$0.00	24	0072	1	811190	ALEXANDRA CELLULAR CORPORATION			(\$268.35)	5	RFD
\$3,203.78	\$0.00	12	0072	229355	811190	ALEXANDRA CELLULAR CORPORATION			\$268.35	5	PMT
\$3,203.78	\$0.00	16	0072	1	811194	ACC OF MICHIGAN CORPORATION			(\$143.99)	5	RFD
\$3,203.78	\$0.00	4	0072	123067	811194	ACC OF MICHIGAN CORPORATION			\$143.99	5	PMT
\$3,203.78	\$0.00	14	0072	1	811196	ACC OF WISCONSIN LLC			(\$344.03)	5	RFD
\$3,203.78	\$0.00	2	0072	294044	811196	ACC OF WISCONSIN LLC			\$344.03	5	PMT
\$3,203.78	\$0.00	13	0072	1	811200	ACC OF MINNESOTA			(\$485.83)	5	RFD
\$3,203.78	\$0.00	1	0072	415240	811200	ACC OF MINNESOTA			\$485.83	5	PMT
\$3,203.78	\$0.00	20	0072	1	811689	ACC OF WEST VIRGINIA CORPORATI			(\$336.80)	5	RFD
\$3,203.78	\$0.00	8	0072	287864	811689	ACC OF WEST VIRGINIA CORPORATI			\$336.80	5	PMT
\$3,203.78	\$0.00	19	0072	1	811691	ACC OF PENNSYLVANIA LLC			(\$71.75)	5	RFD
\$3,203.78	\$0.00	7	0072	61325	811691	ACC OF PENNSYLVANIA LLC			\$71.75	5	PMT
\$3,203.78	\$0.00	21	0072	1	811692	ACC OF OHIO CORPORATION			(\$138.42)	5	RFD
\$3,203.78	\$0.00	9	0072	118305	811692	ACC OF OHIO CORPORATION			\$138.42	5	PMT
<b>Total</b>										24	\$0.00

FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554

DEC 14 2001

DUE DATE: 1/11/02

Putnam's  
CUTL# 2001-14

OFFICE OF  
MANAGING DIRECTOR

Zachary A. Zehner  
Wilkinson Barker Knauer, LLP  
2300 N Street, NW  
Suite 700  
Washington, DC 20037

Dear Sir:

This letter is acknowledging receipt of your letter dated December 6, 2001 which was received by the FCC on December 6, 2001. Within 30 days of this letter we will mail you either a resolution to your item or a letter telling you when you can expect a resolution. If you have any questions concerning this letter please call the Office of the Chief Financial Officer at (202) 418-1925.

Sincerely,



Mark A. Reger  
Chief Financial Officer

COPY

WILKINSON ) BARKER ) KNAUER ) LLP

2300 N STREET, NW  
SUITE 700  
WASHINGTON, DC 20037  
TEL 202.783.4141  
FAX 202.783.5851  
www.wbklaw.com

December 6, 2001

BY HAND DELIVERY

Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12th Street, TW-A325  
Washington, DC 20554

Attention: Managing Director

RECEIVED

DEC - 6 2001

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: *American Cellular Corporation – Petition for Reconsideration  
Amended Fiscal Year 2000 Regulatory Fee Filing  
Fee Control No. 0103128835050001*

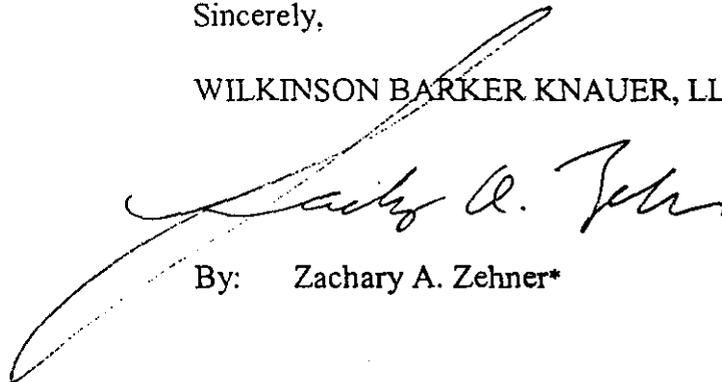
Dear Ms. Salas:

Please find enclosed on behalf of American Cellular Corporation, an original and four copies of its petition for reconsideration in the above-referenced matter.

Please contact the undersigned with any questions regarding this submission.

Sincerely,

WILKINSON BARKER KNAUER, LLP



By: Zachary A. Zehner\*

\* Practice limited to matters before federal courts and agencies.

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

RECEIVED  
DEC - 6 2001  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of: )  
)  
American Cellular Corporation ) Fee Control No.  
Amended Fiscal Year 2000 ) 0103128835050001  
Regulatory Fee Filings )  
)

To: Managing Director, Federal Communications Commission

PETITION FOR RECONSIDERATION

American Cellular Corporation ("ACC"), by its attorneys, hereby submits this petition for reconsideration of the decision by the Office of Managing Director ("OMD") that denied in part ACC's request for refund of its fiscal year ("FY") 2000 annual regulatory fee payment.

On September 20, 2000, ACC timely filed its FY 2000 regulatory fees in the amount of \$3,203.78 on behalf of its subsidiaries providing commercial wireless services. As the result of an internal audit, ACC discovered that inadvertent errors were made when completing the regulatory fee filings. In some instances, ACC listed incorrect payment type codes, licensee names and/or Taxpayer Identification Numbers ("TIN's"), and did not list all call signs.

Accordingly, on March 8, 2001, ACC submitted amended Forms 159 and 159-C to the Commission, which corrected the errors in the original submission. Furthermore, ACC submitted a recalculated regulatory fee payment of \$141,460.00, and an amount of \$35,365.00, which would reflect a 25 percent penalty should the Commission decide to impose such an assessment. Although ACC timely filed its original regulatory fee payment for FY 2000, ACC exercised good faith by including the additional 25% monetary penalty calculated on the full