

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

OCT 30 2003

OFFICE OF
MANAGING DIRECTOR

James P. Sweeney, Esq.
404 Ludlow Avenue
Spring Lake, NJ 07762

Re: Deutsche Telekom, Inc.
Request for Waiver of FY 2002 Late Charge
Penalty
Fee Control No. 00000RROG-03-096

Dear Mr. Sweeney:

This is in response to your request dated August 28, 2003, filed on behalf of Deutsche Telekom, Inc. (DT, Inc.) for a waiver of the late charge penalty for late payment of the fiscal year (FY) 2002 regulatory fee. Our records reflect that you have paid the FY 2002 regulatory fee of \$93,638.96, but not the \$23,419.74 late charge penalty for late payment of the regulatory fee.

In your request, you state that on November 29, 2001, DT, Inc. changed its name to T-Systems USA, Inc. (T-Systems). You state that T-Systems notified the Commission of the name change when T-Systems submitted its 2001 FCC Form 499A ("Telecommunications Reporting Worksheet"). You state that despite this notification, the Commission "sent an invoice for the [FY 2002] regulatory fees in the incorrect name to a previous address, resulting in a mishandling of this assessment."

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. 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. Your request does not indicate or substantiate that T-Systems met this obligation. Further, although T-Systems may not have been aware of or fully understood the Communications Act or the Commission's rules regarding the FY regulatory fees, Commission licensees are expected to know and understand the requirements and rules governing their licenses. Following notice and comment, the Commission adopted a Report and Order revising its Schedule of Regulatory fees for FY 2002, identifying the revised fee amounts for each fee category, and announcing the due date for payment of the fees.¹ The Commission subsequently published the Report and Order in the Federal Register² in accordance with the requirements of the Administrative

¹ *Assessment and Collection of Regulatory Fees for Fiscal Year 2002, Report and Order*, 17 FCC Rcd 16177 (2002).

² *See* 67 FR 46298-01 (2002).

James P. Sweeney, Esq.

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Procedure Act³ and posted the decision on the Commission's website address. We therefore deny your request for a waiver of the late charge penalty for late payment of the regulatory fee.

Payment of the \$23,419.75 late charge penalty for late payment of the FY 2002 regulatory fee is now due. The late charge penalty should be submitted, together with a Form 159 (copy enclosed), within 30 days of the day of this letter. If you have any questions concerning this matter, please contact the Revenue & Receivable Operations Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Reger", with a small flourish at the end.

Mark A. Reger
Chief Financial Officer

³ See U.S.C. §§552(a) and 553.

00000 RROG-03-996

August 28, 2003

Via facsimile and U.S. Mail

Ms. Claudette Pride
Chief
Revenue & Receivables Operations Group
Federal Communications Commission
445 12th Street, S.W., Room 1A821
Washington, D.C. 20554

Re: FY03CB0088

Dear Ms. Pride:

In reference to your letter dated July 28, 2003, a copy of which is enclosed herewith, and following up on our earlier communications with representatives of your office, we hereby submit a request for a waiver of the penalty assessed in the amount of \$23,419.74 on the regulatory fees assessed to Deutsche Telekom, Inc. (FCC Form 499A Filer ID: 820820) by the Federal Communications Commission (FCC) for FY 2002. As noted in our letter to you dated August 11, 2003, we remitted payment of the full amount of the regulatory fees assessed in the amount of \$93,638.96 on that same day.

On November 29, 2001, Deutsche Telekom, Inc. changed its name to T-Systems USA, Inc. With the submission of T-Systems' 2001 FCC Form 499A, the FCC was provided with notice of the name change. In the fall of 2002, the FCC sent an invoice for the regulatory fees in the incorrect name to a previous address, resulting in a mishandling of this assessment. We therefore believe that there is a reasonable basis for our request that the FCC waive the penalty assessed.

Thank you in advance for your kind assistance and consideration of this matter, and please do not hesitate to contact me at (917) 941-1299 with any questions or concerns you may have.

Sincerely,


James P. Sweeney, Esq.

Enclosure



Federal Communications Commission
Washington, D.C. 20554

7/28/2003

Deutsche Telekom, Inc.
280 Park Ave.
26th Floor
New York, NY 10017

Re: FY03CH0088

Dear Licensee:

This letter is in reference to the Fiscal Year (FY) 2002 regulatory fees, which were due to the Federal Communications Commission (Commission) no later than September 25, 2002. These are mandatory fees established by Congress in accordance with the Omnibus Budget Reconciliation Act of 1993. The fees are used to offset costs associated with the Commission's enforcement, public service, international policy, and rulemaking activities. An unpaid regulatory fee is a debt owed to the United States, see (31 U.S.C. §3701).

The Commission is verifying its FY 2002 regulatory fees collection to identify those licensees who have not paid. We have no record of receiving the FY 2002 regulatory fee under the following FCC Form 499-A Filer ID and FCC Registration Number (FRN):

FCC Form 499-A Filer ID: 820820

FRN: 0009178898

We have examined your most recent FCC Form 499-A, and it appears that you owe the FY 2002 regulatory fee of \$95,634.96. If this amount is correct, and you have not yet paid this fee, then you also owe a 25% penalty, which penalty equals \$23,419.74. The total fee now due is \$117,054.70. If the amount due is incorrect based on a revised FCC Form 499A submitted to NECA, please pay the newly calculated amount and pay this fee with the 25% penalty for this service.

Payment in full should be remitted with the enclosed Remittance Advice and FCC Form 159 to: Federal Communications Commission, P.O. Box 358835, Pittsburgh, PA 15251-5835 within 30 days of the date of this letter. You should submit all payments that are due, including the 25% penalty, for each Filer ID and FRN. The payment type code for this service is 0272. The payment type code to be used for the penalty is 0299. Each payment type code should be listed separately on the Form 159.

If you made full payment within the time required, please provide a complete copy of your submission (Form 159), including proof of payment. If you believe that you were exempt from the FY 2002 regulatory fee under the Commission's rules, please submit complete documentation supporting your position within twenty (20) days of the date of this letter. These documents should be sent to: Federal Communications Commission, Revenue & Receivables Operations Group, Room 1A821, 445 12th Street, SW, Washington, DC 20554.

We urge you to verify that proper payment was made to the Commission for this or any other Filer ID in past years. If you find that you were responsible for this payment but neglected to provide it in a past year, please remit those additional fees plus a 25% penalty before additional administrative action is undertaken.

You are cautioned that failure to respond and/or pay the penalty will subject you to further sanctions as defined by CFR Section 1.1164 of our Rules. These sanctions include subjecting the delinquent payer's pending applications to dismissal, and may require a delinquent payer to show cause why its existing instrument of authorization should not be revoked. Further sanctions include interest charges, and the full cost of collection to the Federal Government pursuant to Section 3720A of the Internal Revenue Code and the provisions of the Debt Collection Improvement Act of 1996.

If you need further assistance, please contact the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,

Claudette Pride, Chief
Revenue & Receivables Operations Group

Enclosure

To. Office of General Counsel

From Tom Putnam

Ref 00000RROG-03-096
T-Systems USA, Inc.

Date: September 16, 2003

Mr. Jim Sweeney stated to me in a phone call that the reason the fiscal year 2002 regulatory fee remained unpaid was due to the billing notice not being received by the due date of September 25, 2002.

He also stated that the FCC had previously been notified of the name change from Deutsche Telekom to T-Systems USA, Inc