

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

FILE

JUL 27 2004

OFFICE OF
MANAGING DIRECTOR

Guy P. Drapeau
Financial Officer
ComTech 21, LLC
One Barnes Park South
Wallingford, Connecticut 06492

Re: Request to Waive Late Payment Penalty
Fee Control No. 0405118340348003
Bill NO. 04RE003381

Dear Mr. Drapeau:

This is in response to your request dated April 30, 2004, for waiver of the late payment penalty associated with the fiscal year (FY) 2003 regulatory fee for ComTech 21, LLC (ComTech). Our records reflect that your \$7,543.01 regulatory fee was received on May 10, 2004, but that we have not received the \$1,885.75 late payment penalty.

In support of your request, you state that you have no record of receiving a bill. You provide two arguments as to why our imposition of a late payment penalty is unfair. First, you state that you find the 25 per cent penalty to be extremely excessive, especially for start up companies like ComTech faced with regulatory fees, rules and reports. Second, you find the FCC's inflexibility is also unfair; you state that in the rare cases where some fees or bills "fall through the cracks," you think the Commission should allow leniency on a case by case basis.

The Commission's rules are clear that licensees such as ComTech are required to pay to the Commission an annual regulatory fee in a timely manner. *See* 47 C.F.R. §1.1157; *see also Assessment and Collection of Regulatory Fees for Fiscal Year 2003, Report and Order*, 18 FCC Rcd 15, 985 (2003) (2003 Report and Order); 47 U.S.C. §159. It is the obligation of the licensees responsible for regulatory fee payments to ensure the Commission receives the fee payment no later than the final date on which regulatory fees are due for the year. *See* 47 C.F.R. § 1.1157. The Commission issued public notices announcing the date on which the FY 2003 regulatory fees were due. *See* Public Notice, *Regulatory Fees Due September 24, 2003*, DA 03-2557 (July 30, 2003); Public Notice, *Federal Communications Commission Extends the Filing Deadline Date of FY 2003 Regulatory Fee*, DA 03-2907 (Sept. 22, 2003) (extending deadline to September 25, 2003). As a Commission licensee, ComTech is charged with the responsibility to familiarize itself with the Commission's rules and requirements. Therefore, ComTech's lack of familiarity with the Commission's rules and policies governing regulatory fee payments does not mitigate or excuse ComTech's failure to pay its FY 2003 regulatory fee in a timely manner. The Commission has repeatedly held that "[l]icensees are expected to know and comply with the Commission's rules and regulations and will not

be excused for violations thereof, absent clear mitigating circumstances." *Sitka Broadcasting Co., Inc.*, 70 FCC 2d 2375, 2378 (1979), citing *Lowndes County Broadcasting Co.*, 23 FCC 2d 91 (1970) and *Emporium Broadcasting Co.*, 23 FCC 2d 868 (1970). Furthermore, 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. 47 U.S.C. §159(c).

For the reasons discussed above, we deny your request to waive the late charge penalty for late payment of the FY 2003 regulatory fee.

Payment of ComTech's \$1,885.75 late payment penalty for the FY 2003 regulatory fee is now due. It should be submitted, together with a copy of Bill No.04RE003381, within 30 days of the date of this letter. If you have any questions concerning this matter, please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,



Mark A. Reger
Chief Financial Officer

0405118340348003



04/30/2004

Attn: Tom Putnam
Federal Communications Commission
Washington D.C. 20554

Dear Tom:

This letter is in reference to an invoice (Doc No. 04RE001835) dated February 19, 2004. This invoice was due in September 2003 for our 2002 FCC Annual Regulatory Fee. Our office does not have a record of receiving notification that this fee was due or even existed. When we received the before mentioned invoice, we noticed a 25% penalty for non-payment of the fee. After our conversation, you explained to me that the penalty was a statutory fee and was not subject to waiver or abatement.

Consequently, I would like to lodge two formal complaints:

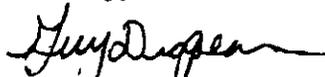
First, the assessed 25% penalty is extremely excessive, especially for startup type companies like Comtech 21, LLC. In addition to the many other regulatory fees, rules, and reports that are required to sell communications services, to be strapped with an excessive penalty may be an expense that startup companies just cannot endure.

Second, the FCC's inflexibility regarding this penalty is also unfair. Many companies like Comtech 21, LLC are making extensive efforts to report and pay all regulatory fees to the vast number of agencies timely. Some fees, or reports WILL inevitably fall through the cracks and be remitted late or incorrectly. Companies like Comtech21, LLC should be allowed leniency/abatement on a case by case basis when rare circumstances like this happen.

While we recognize that NOT knowing about the fee is not a justified reason for not paying, we anticipated some leniency on the penalty due to the short financial history (2 years) of Comtech 21, LLC. We are more than willing to abide by all fees, terms and rules imposed by the FCC and have sent payment of \$7,543.01 Chk #12459 to your Pittsburgh lockbox, which is the amount of the 2002 fee without the penalty.

We would respectfully request that you review and evaluate our claim to waive the penalty based on the complaints stated above. If you have any further questions, please do not hesitate to call me @ (203) 679-7174. Thank you for your consideration.

Sincerely,



Guy P. Drapeau
Finance Officer
Comtech 21, LLC



Federal Communications Commission
Washington, D.C. 20554

February 19, 2004

ComTech21, LLC
One Barnes Park South
Wallington, CT 06492

Re: 04RE003381

Dear Licensee:

This letter is in reference to the Fiscal Year (FY) 2003 regulatory fees, which were due to the Federal Communications Commission (Commission) no later than September 26, 2003. 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 2003 regulatory fees collection to identify those licensees who have not paid. We have no record of receiving the FY 2003 regulatory fee under the following FCC Form 499-A Filer ID and FCC Registration Number (FRN):

FCC Form 499-A Filer ID: 821980

FRN: 0005-8788-97

We have examined your most recent FCC Form 499-A, and it appears that you owe the FY 2003 regulatory fee of \$7,543.01. If this amount is correct, and you have not yet paid this fee, then you also owe a 25% penalty, which penalty equals \$1,885.75. The total fee now due is \$9,428.76. 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 0372. The payment type code to be used for the penalty is 0399. 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 2003 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 Price, Chief
Revenue & Receivables Operations Group

Enclosure



RAMIS ACCOUNT RECEIVABLES

Check Number Query Report

FEE Control Number : 0405118340348003			
Customer FRN	: 0005878897	FRN Name	: ComTech21 LLC
Check Number	: 126310000000		
Receipt Amount	: \$0.00	Date Received	: 05/10/2004
FEE Control Number : 0405118340348003A			
Customer FRN	: 0005878897	FRN Name	: ComTech21 LLC
Check Number	: 000000000000		
Receipt Amount	: \$7,543.01	Date Received	: 05/10/2004



Bill Processing

Document Number 04RE003381

FRN 0005878897

ComTech21 LLC

F1 NEXT

F9 EXIT

Add/Modify Billing Information

Document Number 04RE003381

FRN 0005878897

ComTech21 LLC

Bill Date 02/19/04

Bill Amount \$7,543.01

Bill Type REG9

Bill Paid \$5,657.26

Bill Due Date 03/20/04

Lockbox

Bill Balance Due \$1,885.75

Dunning Indicator

Bill Cycle

Interest Due \$0.00

Referral Code

Waiver

Penalty Due \$0.00

Print Seq # 00024870

Waiver Date

Admin Chg Due \$0.00

Transaction Date 07/14/04

Acct Period 10

Total Due \$1,885.75

Bill Description CB FY03 Non-Payment 0399 Late Fee \$ 1,885.75

Line Item Sequence 001 BFY FUND PROC ORG PROJ BOC TYPE

Accounting Classification Code

2004

REG9

90

9500

065

0199

Product No. 0372

Quantity

Item Amount

\$7,543.01

Document Status

Call Sign

Item Paid

\$5,657.26

Transaction Code

Item Balance Due

\$1,885.75

Reference Type

Reference No.

Line 000

Bureau File No.

FCC Code 1

Item Description

Fy Days 360 Rate 0.00

FCC Code 2

F1 NEXT

F2 PREV

F3 VERIFY

F4 CRM

F6 SAVE

F8 BACK

F9 EXIT