

SWIDLER BERLIN SHEREFF FRIEDMAN, LLP

THE WASHINGTON HARBOUR
3000 K STREET, NW, SUITE 300
WASHINGTON, DC 20007-5116
TELEPHONE (202) 424-7500
FACSIMILE (202) 424-7645
WWW.SWIDLAW.COM

NEW YORK OFFICE
THE CHRYSLER BUILDING
405 LEXINGTON AVENUE
NEW YORK, NY 10174
TEL. (212) 973-0111
FAX (212) 891-9598

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August 12, 2004

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Federal Communications Commission
Office of Secretary

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SPECIAL OPERATIONS
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VIA COURIER

Marlene H. Dortch, Secretary
Federal Communications Commission
236 Massachusetts Avenue, NE, Suite 100
Washington, D.C. 20002

Attn: Office of Managing Director, Regulatory Fee Waiver/Reduction Request

RE: Regulatory Fees of Onestar Long Distance, Inc.

Dear Secretary Dortch:

Enclosed please find the completed Form 159 for Onestar Long Distance, Inc. ("Oonestar") for the submission of 2004 regulatory fees, based on 2003 revenue of Onestar. Under the 2004 regulatory fee schedule, Onestar would owe a total of \$50,745.32 in regulatory fee payments. By this letter, for the reasons outlined below, Onestar requests a waiver of its regulatory fee payments on the grounds of hardship.

On December 31, 2003, a group of creditors petitioned the U.S. Bankruptcy Court for the Southern District of Indiana to commence involuntary bankruptcy proceedings under Chapter 7 of the U.S. Bankruptcy Code. On February 3, 2004, Onestar filed to convert this proceeding into a voluntary request for protection under Chapter 11 of the U.S. Bankruptcy Code, and is currently undergoing a reorganization under the supervision of the above-referenced court.

In accordance with past Commission practice, Onestar believes that it is eligible for a hardship waiver of its regulatory fees. As Onestar is presently in bankruptcy, it believes that such a waiver is appropriate.

In the event that the Commission does not believe that a hardship waiver is appropriate, then Onestar believes that the Commission must seek the right to payment from the aforementioned Bankruptcy Court. Under U.S. Bankruptcy law, a debtor cannot pay a debt designated as pre-petition absent approval of the supervising U.S. Bankruptcy Court. If the

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Marlene H. Dortch, Secretary

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Commission wishes to make a claim with the supervising court, the Commission must file a proof of claim with the U.S. Bankruptcy Court for the Southern District of Indiana.

Because regulatory fees are based on prior year revenue, Onestar believes that the entire 2004 regulatory bill is, in fact, a pre-petition debt. As such, the fees could not be paid absent approval of the U.S. Bankruptcy Court.

Moreover, under Commission's rules, a company that has filed for bankruptcy is a new entity. Carriers that file for bankruptcy protection must file a notice of this filing with the Commission. Onestar filed such a letter with the Commission. In establishing this rule, the Commission noted that a bankruptcy is a *pro forma* transfer of control. In this case, the post-petition Onestar was thus established on February 3, 2004, and is not responsible for regulatory fee payments owing as a result of revenue prior to this date.

Under the Commission's Regulatory Fee payment guidelines, a company can request waiver of the payment of the regulatory fees at the time of filing of the regulatory fees. While payment under protest is preferred, companies can withhold payment where payment of the fee would be a hardship for the company in question. Because payment of the fee would be a hardship and could constitute a violation of applicable U.S. Bankruptcy laws, Onestar hereby withholds payment.

Onestar believes that good cause having been shown, that a waiver of its 2004 regulatory fees is appropriate on the basis that such fees will cause a financial hardship to Onestar as a debtor currently in bankruptcy.

If you have any questions in this matter, please contact Douglas Orvis, at 202/945-6941.

Respectfully submitted,



Tamar E. Finn
Douglas D. Orvis II

Counsel for Onestar Long Distance, Inc.

Enclosure

cc: Martin Huebschman

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

TOM PUTMAN
R&ROG

OFFICE OF
MANAGING DIRECTOR

December 20, 2004

Walter H. Sonnenfeldt, Esq.
Walter Sonnenfeldt & Associates
5600 Wisconsin Avenue
Suite 1504
Chevy Chase, MD 20815

Re: ORBCOMM LLC and ORBCOMM License Corp.
Request for Waiver of FY 2003 Regulatory Fee
Fee Control No. 00000RROG-03-112

Dear Mr. Sonnenfeldt:

This is in response to your request dated September 25, 2003, filed on behalf of ORBCOMM LLC and its wholly-owned subsidiary ORBCOMM License Corp. (collectively, ORBCOMM) for a waiver and deferral of the Fiscal Year (FY) 2003 regulatory fees associated with FCC Call Signs S2103, E940534-E94038, and E990057-E990061 on the basis of financial hardship. Our records reflect that you have not paid the \$110,475.00 FY 2003 regulatory fee.

In establishing a regulatory fee program, the Commission recognized that in certain instances payment of a regulatory fee may impose an undue financial hardship upon a licensee. The Commission therefore decided to grant waivers or reductions of its regulatory fees in those instances where a "petitioner presents a compelling case of financial hardship." *See Implementation of Section 9 of the Communications Act*, 9 FCC Rcd 5333, 5346 (1994), *recon. granted*, 10 FCC Rcd 12759 (1995). In reviewing a showing of financial hardship, the Commission relies upon a licensee's cash flow, as opposed to the entity's profits, and considers whether the station lacks sufficient funds to pay the regulatory fee and maintain service to the public. Thus, even if a station loses money, any funds paid to principals, deductions for depreciation or similar items are considered funds available to pay the fees.

You assert that ORBCOMM "continues to operate on a very tight negative cash flow basis" and that ORBCOMM "cannot afford to pay its fiscal year 2003 Regulatory Fees without being forced to substantially curtail or even completely discontinue its operations and the services it provides to its customers." In support, you submit a declaration dated September 25, 2003, from Don Franco, the Co-Chief Executive Officer and Chief Financial Officer of ORBCOMM LLC, together with a table entitled "Compensation to ORBCOMM [LLC] Principals & Record of Monies Invested 2001 - 2003 Year-to-Date

(through 15 September).” The September 25, 2003 declaration states that “ORBCOMM anticipates that for its entire fiscal year 2003, its net operating income will be negative.” The September 25, 2003 declaration incorporates by reference “[a]ll the information relating to [ORBCOMM’s] . . . financial status, compensation paid to Principals, and monies invested by Principals previously provided by ORBCOMM in submissions relating to” its request for waiver of the FY 2002 regulatory and its request for waiver of the filing fees associated with its “Request for Extension of Launch Authority.”¹

In support of its request for waiver of the FY 2002 regulatory fees and its request for waiver of the filing fees on the grounds of financial hardship, ORBCOMM submitted a declaration dated February 14, 2003 from Don Franco, ORBCOMM’s Chief Financial Officer, together with a consolidated balance sheet and statement of operations for the period ended December 31, 2002 (*First Declaration and Balance Sheet*). After the Office of Managing Director dismissed the FY 2002 waiver request and denied the filing fee waiver request,² ORBCOMM submitted a further declaration dated July 30, 2003 from Don Franco, together with a table entitled “Compensation to ORBCOMM [LLC] Principals & Record of Monies Invested 2001 – 2002” (*Second Declaration and Compensation Table*). The *Second Declaration* and the September 25, 2003 declaration define “Principals” as “owners of ORBCOMM [LLC] and/or its controlling parent company ORBCOMM Holdings LLC.” In a subsequent communication, ORBCOMM stated that “the disclosures made on the record [regarding compensation] cover all ORBCOM[M] [o]fficers of record for the periods for which waivers were sought.” ORBCOMM further stated in the *Second Declaration* that “[n]o other employee salaries were at (or anywhere near) the level of the salaries of Messrs. Eisenberg, Franco, or Hoffmann [i.e., persons identified in the *Second Declaration and Compensation Table* as officers and principals of ORBCOMM LLC] during the periods in question.”

Our review of your submissions, including the *First Declaration and Balance Sheet*, the supplemental information on the *Second Declaration and Compensation Table* and the September 25, 2003 declaration, and your responses to staff inquiries, indicates that ORBCOMM suffered a financial loss in the 2002 calendar year, which was only partially offset by depreciation and amortization, and compensation paid to its principals and officers. Given that ORBCOMM suffered a financial loss in calendar year 2002, we grant your request for a waiver of the regulatory fees for FY 2003 associated with FCC Call Signs S2103, E940534-E94038, and E990057-E990061.

¹ ORBCOMM’s request for waiver of FY 2002 regulatory fees and request for waiver of filing fees are addressed in separate letters.

² See Letter from Mark A. Reger, Chief Financial Officer, Office of Managing Director, to Walter H. Sonnenfeldt, Esq. (dated Jan. 15, 2003) (dismissing request for waiver of FY 2002 regulatory fees); Letter from Mark A. Reger, Chief Financial Officer, Office of Managing Director, to Walter H. Sonnenfeldt, Esq. (dated June 12, 2003) (denying request for waiver of filing fees).

You have also requested confidential treatment of the material that you submitted with your request for fee relief. Pursuant to section 0.459(d)(1) of the Commission's rules, 47 C.F.R. §0.459(d)(1), we do not routinely rule on requests for confidential treatment until we receive a request for access to the records. The records are treated confidentially in the meantime. If a request for access to the information submitted in conjunction with your regulatory is received, you will be notified and afforded the opportunity to respond at that time.

If you have any questions concerning this matter, please contact the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,



†
Mark A. Reger
Chief Financial Officer

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

December 3, 2004

OFFICE OF
MANAGING DIRECTOR

Brendan Holland
Counsel
Shaw Pittman, L.L.P.
2300 N Street, N.W.
Washington, D.C. 20037-1128

Re: Request for Waiver of Filing Fee
Control No. 00000RROG-04-077

Dear Mr. Holland:

This letter responds to your request dated July 15, 2004 for waiver of filing fees in the total of \$1,610.00 submitted on behalf of the following licensees: Pegasus Broadcasting Associates, L.P. WILF(TV), Williamsport, PA; Pegasus Broadcasting Television, Inc. WO5CK, Tylertown, MS; Pegasus Broadcasting Television, Inc. W23CM, Tylertown, MS; HMW, Inc., WPXT(TV), Portland, ME; WDSI License Corporation, WDSI-TV, Chattanooga, TN; WDSI License Corporation, WPDP-LP, Cleveland, OH; WGFL License Corporation, WGFL(TV), High Springs, FL; WGFL License Corporation, WYGN-CA, Gainesville, FL; WGFL License Corporation, WLCF-LP Lake City, FL; Wolf License Corporation, WOLF-TV, Hazleton, PA; WOLF License Corporation, W52CE, Sayre, PA; WTLH License Corporation, WTLH(TV), Bainbridge, GA; WTLH License Corporation, WBFL-CA, Valdosta, GA; WTLH License Corporation, WBVJ-LP, Valdosta, GA. (collectively License Companies).

You state that on June 2, 2004, the License Companies, their direct corporate parent and certain other affiliated companies filed a voluntary petition for bankruptcy in the United States Bankruptcy Court, District of Maine seeking to reorganize under Chapter 11 of the United States Bankruptcy Code. In support, you have attached a copy of the initial Petition for Bankruptcy, a copy of the Bankruptcy Court's order authorizing the debtor companies to continue operating in the ordinary course, and copies of the notifications made to the FCC regarding the petitions for Bankruptcy. You request a waiver and refund of the filing fees that accompanied the License Companies' electronic filing of applications for involuntary *pro forma* assignment of the licensed stations to the License Companies as debtors-in-possession pursuant to the pending bankruptcy petition.

Section 1.1117 of the Commission's Rules, 47 C.F.R. § 1.1117, provides that filing fees may be waived 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 3558, 3572-73 (1990). We find that the current Chapter 11 bankruptcy proceeding involving the License Companies substantiates their claim of financial hardship and demonstrates good cause for waiver and refund of the application fees. See MobileMedia Corporation, 14 FCC Rcd 8017, 8027 (1999) (bankruptcy establishes good cause for waiver of filing fee). Therefore, your request is granted.

If you have any questions concerning this letter, please contact the Revenue and Receivable Operations Group at (202) 418-1995.

Sincerely,



Mark A. Reger
Chief Financial Officer