

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

AUG 26 2005

AMD-FO  
(CHRON)

OFFICE OF  
MANAGING DIRECTOR

Russell M. Blau  
Douglas D. Orvis II  
Counsel for Universal Access, Inc.  
Swider Berlin LLP  
The Washington Harbour  
3000 K Street, N.W., Ste. 300  
Washington, D.C. 20007-5116

Re: Universal Access, Inc.  
Regulatory Fee for FY 2004  
Fee Control No. 00000RROG-05-052

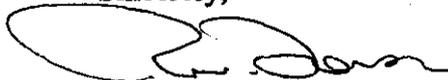
Dear Counsel:

This responds to your letter dated May 10, 2005, submitted on behalf of Universal Access, Inc. (Universal Access) requesting waiver of the regulatory fees for fiscal year (FY) 2004, on grounds of financial hardship. You assert that on August 4, 2004, Universal Access filed a petition under Chapter 11 in the United States Bankruptcy Court for the Northern District of Illinois, Eastern Division. By letter dated June 3, 2005, you submitted documentation to supplement your original request, including a copy of the bankruptcy filing. Our records show that Universal Access has paid \$11,345.38 of the \$27,682.72 total amount at issue here.

The Commission will grant waivers of its regulatory fees on a sufficient showing of financial hardship. Evidence of bankruptcy or receivership is sufficient to establish financial hardship. See Implementation of Section 9 of the Communications Act, 10 FCC Rcd 12759, 12761-62 (1995) (waivers granted for licensees whose stations are bankrupt, undergoing Chapter 11 reorganization, or in receivership). Based on the documents you submitted concerning Universal Access's bankruptcy status, your request for waiver of the regulatory fees for FY 2004 is granted. A check to refund your partial payment of the FY 2004 regulatory fees, drawn in the amount of \$11,345.38, will be sent to you at the earliest practicable time.

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

Sincerely,



Mark A. Reger  
Chief Financial Officer

May 10, 2005

RECEIVED

MAY 10 2005

**VIA COURIER**

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

Federal Communications Commission  
Office of Secretary

**Attn: Office of Managing Director, Regulatory Fee Waiver Request**

**RE: Regulatory Fees of Universal Access, Inc.**

Dear Secretary Dortch:

By this letter, for the reasons outlined below, Universal Access, Inc., FRN No. 00-89045-83 ("Universal Access"), requests a waiver of its 2004 regulatory fee payments on the grounds of hardship. Under the 2004 regulatory fee schedule, Universal Access has an outstanding bill of approximately \$16,337.38 in regulatory fee payments, plus possible late payment fees.

On August 2, 2004, Universal Access filed a petition under Chapter 11 of the U.S. Bankruptcy Code in the United States Bankruptcy Court for the Northern District of Illinois, Eastern Division (the "Court"). This case is jointly administrated under the case *In Re: Universal Access Global Holdings, Inc., et al.*, Case No. 04 B 28747.

On or about August 19, 2004, Universal Access partially paid its assessment of \$27,682.72, in the amount of \$11,345.38. This partial payment represented a good faith allocation of the regulatory fees into pre-petition and post-petition portions. The remainder of the original assessment remains unpaid. In accordance with past Commission practice, Universal Access believes that it is eligible for a hardship waiver of its regulatory fees. As Universal Access 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 Universal Access notes that under the Commission's rules, a company that has filed for bankruptcy is considered a new entity. Carriers that file for bankruptcy protection must file a notice of this filing 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 Universal Access was thus established on August 2, 2004, and is not responsible for regulatory fee payments owing as a result of revenue prior to this date.

Marlene H. Dortch, Secretary

May 10, 2005

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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 remainder of the fee would be a hardship, Universal Access has thus far withheld payment of the remaining \$16,337.34.

Universal Access also requests that the Commission issue this waiver immediately. Universal Access is in the process of completing the sale of all assets as part of its reorganization under the supervision of the Court. Because of the outstanding pre-petition regulatory fee balance, the FCC has placed Universal Access on "red light" status and will not process the transfer application until this waiver is processed. Such processing is necessary in order to receive FCC approval of the transfer application which may be necessary to complete the Court approved sale of assets immediately.

Universal Access believes that good cause having been shown, a waiver of its outstanding 2004 regulatory fees, plus any late fees, on the basis that such fees will cause a financial hardship to Universal Access as a debtor currently in bankruptcy. If you have any questions in this matter, please contact the undersigned.

Respectfully submitted,



Russell M. Blau  
Douglas D. Orvis II

Counsel for Universal Access, Inc.

cc: Richard Monto

## Mark Reger

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**From:** Anthony Dale  
**Sent:** Friday, August 12, 2005 12:40 PM  
**To:** Mark Reger; Andrew Fishel  
**Cc:** Patricia Cappello  
**Subject:** RE: reg fee decisions

adding patty b/c mark is out . . .

the following letters are ok for release: Vitech, EN Bigso & Sons, Universal Access, North River Investments, Runnels Broadcasting, North River Investments, and Teton Management. they are all fine to go as-is -- i did not notice any typos on these, but you may want to take one more look b/c some of these other letters had typos. also, on a going-forward basis, please ensure the letters are drafted with comment #3 below stylistically so the reader doesn't have to wait until the end.

i would still like the responses per the below and to my NTTAmerica AFR questions when you are able to get a chance.

feel free to send somebody up for the whole batch -- my edits per the below will be evident in the file.

thanks

\*\*\* Non-Public: For Internal Use Only \*\*\*

-----Original Message-----

**From:** Anthony Dale  
**Sent:** Wednesday, August 10, 2005 3:38 PM  
**To:** Mark Reger; Andrew Fishel  
**Subject:** reg fee decisions

i've gone thru the 13 or so file folders you left with me. i have a few questions on some of these items (in the order of my notes):

- 1) general -- why does omd issue a response to petition for recon filed for a bureau dismissal of a pending application (this is skyline, bms,, and krsn in particular)? in each case, the underlying application was dismissed for failure to pay the delinquent debt. does omd issue the dismissal?
- 2) Fee Decision Public Notice -- this refers to letters with May 2005 dates. those letters were all released, right? were they reviewed and approved by OCM before release?
- 3) general -- it would be helpful if the outcome were put in the second sentence of each letter, e.g., "As explained below, we grant/grant in part/deny your request" so that the reader doesn't have to read the full document to know what the outcome is.
- 4) Real Radio/KRSN, Broadcast Mgmt Service/KCAA, Skyline -- what is the timeline of the underlying correspondence for each of these cases? it would be helpful (and i think strengthen the document) for the letters to more clearly state the timeline and to cite to the underlying letters sent to the companies. i've marked up the copies here and can provide them back to you whenever. also, are these all small entities that the redlight rule could be seen as being overly harsh on? i understand one application would be dismissed for failure to pay \$480 on time . . . .
- 5) Skyline -- i am concerned about the bottom line here. it looks like Skyline owed a delinquent debt, then paid it, then a few days later, the bureau dismissed its application. it would seem that the ding should be on us for failing to dismiss the application quickly enough. thoughts?
- 6) Guaranty -- there's a typo and a sentence fragment in the letter that need to be corrected. more importantly, what is the standard that we have for granting an installment plan? i'm not sure i understand the criteria here
- 7) NTT America -- subject of a separate email

that's about it