

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

MAR 14 2008



OFFICE OF  
MANAGING DIRECTOR

Ms. Suzett Williams  
Monticello Spring Corporation  
Accounting Department  
Post Office Box 705  
3137 South Freeman Road  
Monticello, Indiana 47960

Re: Monticello Spring Corporation  
Call Sign E960391  
FY 2001 Regulatory Fee  
Fee Control No. RROG-08-00008746

Dear Ms. Williams:

This is in response to your request dated October 24, 2007 (*Request*), filed on behalf of Monticello Spring Corporation (MSC) for a waiver of the regulatory fee for earth station E960391 (the *Station*) for fiscal year (FY) 2001 and the associated penalty for late payment of the regulatory fee. Our records reflect that MSC paid neither the \$180.00 regulatory fee nor the \$45.00 penalty for FY 2001, for a total of \$225.00. For the reasons set forth below, we deny your request.

You state that “[a]s we did have use and possession of the satellite, we agree the fee is due.”<sup>1</sup> You assert that “[i]n May of 2003, . . . our Controller at the time, formerly [*sic*] requested that the license be dismissed and any and all fees be waived.”<sup>2</sup> You state that “[p]ayment was sent for [FYs] 2002 . . . and 2003 . . . , years we did not have or use the satellite.”<sup>3</sup> You “request[] that the fees that [MSC] . . . paid for 2002 and 2003 be applied to the open billing for use during . . . 2001, that all fees and penalties be waived and a refund issued to . . . [MSC].”<sup>4</sup>

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<sup>1</sup> *Request* at 1.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.* Although you also request that the fees paid by MSC for FYs 2002 and 2003 “be applied for use during 2000[,]” our records reflect that MSC does not owe a regulatory fee for FY 2000. We note that MSC paid a \$140.00 FY 2002 regulatory fee, plus a \$35.00 penalty for late payment of the regulatory fee, and a \$210.00 FY 2003 regulatory fee, plus a late payment penalty of \$52.50.

The Commission may waive, reduce, or defer regulatory fees only upon a showing of good cause and a finding that the public interest will be served thereby.<sup>5</sup> Our records reflect that the Commission granted MSC a 10-year license for the *Station* on September 6, 1996. In a letter dated May 20, 2003, MSC requested that the Commission “dismiss . . . call sign E960391.”<sup>6</sup> The Commission cancelled the *Station*'s license on May 24, 2004. Our records show that MSC was the licensee of the *Station* at the time the FY 2001 regulatory fee payment obligation attached (*i.e.*, MSC was the licensee on or before October 1, 2000<sup>7</sup>) and that the license for the *Station* was cancelled on May 24, 2004, more than three and a half years after the payment obligation attached. We therefore find that MSC is responsible for payment of the FY 2001 regulatory fee. Our records also show that MSC was the licensee of the *Station* at the time the FYs 2002 and 2003 regulatory fee payment obligations attached (*i.e.*, MSC was the licensee on or before October 1, 2001 and October 1, 2002, respectively<sup>8</sup>) and that the license for the *Station* was cancelled more than two and a half years after the payment obligation for FY 2002 attached and more than one and a half years after the payment obligation for FY 2003 attached. We therefore find that MSC was responsible for payment of the regulatory fees that the corporation paid for FYs 2002 and 2003. We therefore deny MSC's request that the regulatory fees that MSC “paid for 2002 and 2003 be applied to the open billing for . . . 2001.” Your assertion that MSC “did not have or use the satellite” in 2002 and 2003 does not persuade us otherwise given that the license was cancelled on May 24, 2004.

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<sup>5</sup> See 47 U.S.C. §159(d); 47 C.F.R. §1.1166; see also *Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year, Report and Order*, 9 FCC Rcd 5333, 5344 (1994), *on recon.*, *Memorandum Opinion and Order*, 10 FCC Rcd 12759, 12761 (1995) (1995 *Memorandum Opinion and Order*) (regulatory fees may be waived, deferred, or reduced on a case-by-case basis in extraordinary and compelling circumstances upon a clear showing that a waiver would override the public interest in reimbursing the Commission for its regulatory costs).

<sup>6</sup> Letter from Peter J. Gray, Controller, MSC, to Office of the Secretary, FCC (May 20, 2003) (explaining that MSC “discontinued the use of satellite communication in August of 2001 and returned the equipment to Redsat Communications (the lessor) September 24, 2001” (*Letter*)); see also Letter from Peter J. Gray, Controller, MTC to Ms. Eleanor Lott, Office of the Secretary, FCC (May 10, 2004) (requesting “cancellation of the license.”).

<sup>7</sup> See *Assessment and Collection of Regulatory Fees for Fiscal Year 2001, Report and Order*, 16 FCC Rcd 13525, 13536-37 (2001); see also *Public Notice, FY 2001 International and Satellite Service Regulatory Fees* (Aug. 3, 2001).

<sup>8</sup> See *Assessment and Collection of Regulatory Fees for Fiscal Year 2002, Report and Order*, 17 FCC Rcd 13203, 13212-13 (2002), *Erratum*, 17 FCC Rcd 16177 (2002); *Public Notice, FY 2002 International and Satellite Services Regulatory Fees* (Aug. 5, 2002); *Assessment and Collection of Regulatory Fees for Fiscal Year 2003, Report and Order*, 18 FCC Rcd 15985, 15994-95 (2003); *Regulatory Fees Fact Sheet, What You Owe – International and Satellite Services Licensees* (July 2003).

With respect to your assertion that MSC requested dismissal of the *Station* license on May 20, 2003 (the date of the *Letter*), we find that even if the Commission had cancelled the license for the station on that date, MSC would still have been responsible for payment of the regulatory fees for FYs 2002 and 2003 because the payment obligation attached on October 1, 2001, and October 2, 2002, respectively, well before the May 20, 2003 *Letter* date. We therefore deny your request for regulatory fee relief.

The Communications Act of 1934, as amended, requires the Commission to assess a penalty of 25 percent on any regulatory fee not paid in a timely manner.<sup>9</sup> 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.<sup>10</sup> Your request does not indicate or substantiate that MSC met this obligation for FY 2001. We therefore deny your request for waiver of the penalty.

Payment of the regulatory fees for FY 2001, as well as the associated penalty for late payment, is now due. The regulatory fee and the associated late penalty, totaling \$225.00, should be filed together with a Form FCC 159 (copy enclosed) within 30 days from the date of this letter. If you have any questions concerning this matter, please contact the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,



Mark Stephens  
Chief Financial Officer

Enclosure

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<sup>9</sup> 47 U.S.C. §159(c)(1).

<sup>10</sup> See 47 C.F.R. §1.1164.



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October 24, 2007

Federal Communications Commission  
Office of the Secretary  
445 – 12<sup>th</sup> Street, S.W., Room 1A820  
Washington D.C. 20554

Re: 02-INB0260, Refund and Waiver  
Call Sign: E960391

Dear Office of the Secretary:

This morning I spoke with Adama Jarr regarding the fees due from our company, Monticello Spring Corporation, for the satellite we had until September 2001. She explained to me that the billing period was for the previous year being October 2000 to September 2001. As we did have use and possession of the satellite, we agree the fee is due. However, we have had this issue for several years regarding these billings. Adama Jarr has kindly attached all of the documentation that I have sent to her to resolve this matter once and for all.

In May of 2003, Peter Gray, our Controller at the time, formerly requested that the license be dismissed and any and all fees be waived. Payment was sent for 2002 (\$175.00, Ck 47668, Dated 04/15/04) and 2003 (\$262.50 Ck 47562, Dated 3/25/04), years we did not have or use the satellite. Again, we are requesting that the fees that Monticello Spring Corporation paid for 2002, and 2003 be applied to the open billing for use during 2000 and 2001, that all fees and penalties be waived and a refund issued to Monticello Spring Corporation.

Thank you for your assistance in this matter.

Best Regards,

  
Suzett Williams

Monticello Spring Corporation  
Accounting Department  
(574) 583-8090 Ext 1117