

FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554

MAR 14 2008

OFFICE OF  
MANAGING DIRECTOR

Mr. Jeff Moon  
Moonlink Satellite, Inc.  
2716 Balsam Way Drive  
Sterling Heights, MI 48314

Re: Moonlink Satellite, Inc.  
FYs 2003-2006 Regulatory Fees  
Fee Control No. RROG-08-00009048

Dear Mr. Moon:

This responds to your request (*Request*) on behalf of Moonlink Satellite, Inc. (MSI) for waiver of the penalties for late payment of the fiscal year (FYs) 2003, 2004, 2005, and 2006 regulatory fees. Our records reflect that on March 22, 2004, MSI paid the \$420.00 FY 2003 regulatory fee, which was due by September 25, 2003, but has not paid the \$105.00 penalty. On September 10, 2004, MSI paid the \$400.00 FY 2004 regulatory fee, which was due by August 19, 2004, but has not paid the \$100.00 penalty. On January 18, 2006, MSI paid the \$410.00 FY 2005 regulatory fee, which was due by September 7, 2005, but has not paid the \$102.50 penalty. On October 20, 2006, MSI paid the \$430.00 FY 2006 regulatory fee, which was due by September 19, 2006, but has not paid the \$107.50 penalty. As explained below, we deny your request.

You recite that “I was never notified via US Mail or in any other fashion that I owed the money for these regulatory fees by a certain date.”<sup>1</sup> You assert that “[i]f we don’t receive a bill, my accounting department won’t pay anything . . . [and that i]t has to be an official invoice that has to get approved and paid.”<sup>2</sup> You state that “[w]ithout anything coming in the mail to us to notify us that we owe a payment to the FCC by a certain date, we can’t pay what we don’t know.”<sup>3</sup> Asserting that any late payment penalties are “unacceptable[,]” you say that “my crystal ball does not tell me how much or when these Regulatory fees are due[.]”<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.*

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>5</sup> The Commission's rules provide that a timely payment is one received at the Commission's lockbox bank by the due date.<sup>6</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. Your request does not indicate or substantiate that MSI met this obligation with respect to the FYs 2003 through 2006 regulatory fees. Although MSI may have relied upon receiving a notification or bill from the Commission in paying the FYs 2003 through 2006 regulatory fees, this does not support a waiver of the late charge penalties. Each year, the Commission takes great care to inform its licensees of the due date, amounts of the fees, and payment methods in public notices and fact sheets, which information it also posts on its web site, [www.fcc.gov](http://www.fcc.gov). For the FYs 2003 through 2006 regulatory fees, the Commission timely released several public notices and news releases informing licensees of the deadlines for filing regulatory fees and how to calculate the specific fee, and posted these items on its web site.<sup>7</sup> Although you may not have been aware of or understood the Commission's

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<sup>5</sup> 47 U.S.C. §159(c)(1).

<sup>6</sup> 47 C.F.R. §1.1164.

<sup>7</sup> See (for FY 2003) *Assessment and Collection of Regulatory Fees for Fiscal Year 2003, Report and Order*, 18 FCC Rcd 15985, 15998 (2003) (*FY 2003 Regulatory Fee Report and Order*); *Public Notice, Regulatory Fees due September 24, 2003*, 18 FCC Rcd 15857 (2003) (announcing September 24, 2003 filing deadline and stating that late payments will be assessed a 25 percent penalty); *Public Notice, Federal Communications Commission Extends the Filing Deadline Date of FY 2003 Regulatory Fee*, 18 FCC Rcd 18748 (Sept. 22, 2003) (extending the filing deadline to September 25, 2003); *Regulatory Fees Fact Sheet, What You Owe – International and Satellite Services Licensees For FY 2003* (July 2003); see also (for FY 2004) *Assessment and Collection of Regulatory Fees for Fiscal Year 2004, Report and Order*, 19 FCC Rcd 11662 (2004); *Public Notice, FY 2004 Regulatory Fees Due No Later Than August 19, 2004*, (July 2, 2004); FCC News, *Official FY 2004 Regulatory Fee Payment Window Opens Tomorrow – Fees Due No Later Than August 19* (Aug. 9, 2004) (reminding of deadline and stating that Commission would begin aggressive effort to collect fees, including 25 percent penalty, beginning August 20, 2004); *Public Notice, Deadline for Filing FY 2004 Regulatory Fees*, DA 04-2549 (Aug. 18, 2004); *Regulatory Fees Fact Sheet, What You Owe – International and Satellite Services Licensees For FY 2004* (July 2004); see also (for FY 2005) *Assessment and Collection of Regulatory Fees for Fiscal Year 2005, Report and Order*, 20 FCC Rcd 12259 (2005); *Public Notice, Payment Methods and Procedures for Fiscal Year 2005 Regulatory Fees*, DA 05-2087 (July 27, 2005) (announcing the September 7, 2005 filing deadline and stating that late payments will be assessed a 25 percent late payment penalty); *Public Notice, Fee Filer Now Available for 2005 Regulatory Fees*, DA 05-2088 (Aug. 1, 2005) (reminding of filing deadline); *Public Notice, Commission Extends Regulatory Fee Filing Window for Those Regulatees Affected by Hurricane Katrina*, DA 05-2396 (Aug. 31, 2005) (reminding licensees and regulatees that “the Commission’s rules concerning late payment or non-payment [of regulatory fees] will be enforced”);

requirements and procedures regarding regulatory fees, the Commission has repeatedly held that “[I]licensees 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.”<sup>8</sup> We therefore find that MSI did not meet its obligation to file its FYs 2003, 2004, 2005, and 2006 regulatory fees to be received by the Commission in a timely manner. Accordingly, we deny your request for waiver of the penalties for late payment of the FYs 2003 through 2006 regulatory fees.

Payment of MSI’s \$105.00, \$100.00, \$102.50, and \$107.50 penalties for FYs 2003, 2004, 2005, and 2006 are now due. The late charge penalties, totaling \$415.00, 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 & Receivables Operations Group at (202) 418-1995.

Sincerely,



Mark Stephens  
Chief Financial Officer

Enclosure

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*Regulatory Fees Fact Sheet, What You Owe – International and Satellite Services Licensees For FY 2005* (July 2005); see also (for FY 2006) *Assessment and Collection of Regulatory Fees for Fiscal Year 2006, Report and Order*, 21 FCC Rcd 8092 (2006); *Public Notice, FY 2006 Regulatory Fees Due No Later Than September 19, 2006*, 2006 WL 2129092 (July 31, 2006) (announcing the September 19, 2006 filing deadline and stating that late payments will be assessed a 25 percent late payment penalty); *Public Notice, Fee Filer Now Available for 2006 Regulatory Fees*, DA 06-1661 (Aug. 21, 2006) (reminding of filing deadline); *Regulatory Fees Fact Sheet, What You Owe – International and Satellite Services Licensees For FY 2006* (Aug. 2006).

<sup>8</sup> See *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).

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**Cc:** James Lyons; Cheryl Collins

**Subject:** Re: Per our discussion - Regarding your account with FCC

Jacqueline,

Thank you for putting together all of the analysis on my account. I don't argue with any of what the FCC is trying to present with late fees and penalties, unfortunately the fact still remains that I was never notified via US Mail or in any other fashion that I owed the money for these regulatory fees by a certain date. The first invoices that I have received came this year in 2007 and as your records show, we paid it on time. That is how the system should work. You send an invoice, your get a check. If we don't receive a bill, my accounting department won't pay anything. It has to be an official invoice that has to get approved and paid. Without anything coming in the mail to us to notify us that we owe a payment to the FCC by a certain date, we can't pay what we don't know. Also the IRS requires this for our paperwork for tax purposes.

My records show that we are up to date on all payments that are due to the FCC. Any penalties, interest and fees for payments made late due to the FCC's failure to notify us in a timely manner is unacceptable. Please abate these outstanding fees, now that your system seems to be working properly for the first time in 7 years, (we started out satellite business in 2000).

Jacqueline, over the past 7 years I have dealt with Ms. Penny, Sharri and Michelle regarding these penalties and as you can see we are all still talking about it now. I'd like to request that these penalties get abated, so we can move forward with proper billing and payment processes that are recognized by every other company that does business. My crystal ball does not tell me how much or when these Regulatory fees are due, only an invoice sent to us can do that.

Thanks for your assistance in this matter.

Jeff Moon  
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