



PUBLIC NOTICE

Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554

News media information 202 / 418-5000
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Internet: <http://www.fcc.gov>
<ftp.fcc.gov>

DA-09-1750

Before the
Federal Communications Commission
Washington, D.C. 20554

PUBLIC NOTICE

Released: August 5, 2009

FEE DECISIONS OF THE MANAGING DIRECTOR AVAILABLE TO THE PUBLIC

The Managing Director is responsible for fee decisions in response to requests for waiver or deferral of fees as well as other pleadings associated with the fee collection process. A public notice of these fee decisions is published in the FCC record.

The decisions are placed in General Docket 86-285 and are available for public inspection. A copy of the decision is also placed in the appropriate docket, if one exists.

The following Managing Director fee decisions are released for public information:

Alpha & Omega Communications, LLC. Stations KTMW, KCLP-CA, KMRI (AM), K49GD, K55IT, K59GS and K58FT - Request for waiver of FY 2008 regulatory fees. **Denied** (June 10, 2009) [See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), recon. granted, 10 FCC Rcd 12759 (1995)]

Charles A. Hecht and Alfredo Alfonso Stations WVVT (AM) and WRME (AM) Request for Waiver of FY08 regulatory fees late payment penalty. **Denied** (June 15, 2009) [See 47 C.F.R. §1.1164 (c)]

Coyote Call, LLC. - Request for Waiver and refund of FY07 regulatory fee late payment penalty. **Denied** (June 15, 2009) [See 47 C.F.R. §1.1164 (c)]

Davidson Media Group, LLC. Station WBZK (AM) - Request for waiver of FY 2008 regulatory fee. **Granted** (July 15, 2009) [See Assessment and Collection of Regulatory Fees for Fiscal Year 2008, Report and Order and Further Notice of Proposed Rulemaking, 2008 WL 3318967, para. 76 (Aug. 8, 2008)]

EchoStar Corporation – Request for waiver application fees. **Granted** (June 15, 2009) [See 47 U.S.C. §158(d)(2)]

EchoStar Corporation – Request for waiver application fees. **Granted** (June 10, 2009) [See 47 U.S.C. §158(d)(2)]

EchoStar Satellite Operating L.L.C Request for waiver application fees. **Granted** (June 15, 2009) [See 47 U.S.C. §158(d)(2)]

Legacy Media Memphis, LLC. Station KWAM (AM) - Request for Waiver of FY08 regulatory fee and late payment penalty. **Granted** (June 15, 2009) [See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), recon. granted, 10 FCC Rcd 12759 (1995)]

Legacy Media of South Atlanta, LLC. Station WEKS (FM) - Request for Waiver of FY08 regulatory fee late payment penalty. **Granted** (June 15, 2009) [See 47 C.F.R. §1.1164]

Koncept International, Inc. - Request for waiver of FY 2008 regulatory fee late payment penalty. **Denied** (June 10, 2009) [See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), recon. granted, 10 FCC Rcd 12759 (1995)]

Stations WOOW (AM) and WTOW (AM) - Request for waiver of FY 2008 regulatory fees. **Denied** (June 15, 2009) [See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), recon. granted, 10 FCC Rcd 12759 (1995)]

SATV10, LLC. Station KTRG (TV) Request for deferral and waiver of FY 2008 regulatory fees. **Granted** (June 10, 2009) [See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), recon. granted, 10 FCC Rcd 12759 (1995)]

Shalom Translators, Inc Station W272AC - Request for Waiver of FY07 and FY08 regulatory fees. **Denied** (June 15, 2009) [See 47 C.F.R. §1.1162 (c)]

Trilogy International Enterprises - Request for waiver or reduction of FY08 regulatory fees. **Granted** (June 15, 2009) [See 47 C.F.R. §1.1164]

Triton Telecom Inc. - Request for waiver of application fees. **Denied** (June 24, 2009) [See 47 U.S.C. §§34.39]

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

JUN 10 2009

OFFICE OF
MANAGING DIRECTOR

Barry D. Wood, Esq.
Wood, Maines & Brown, Chtd.
4121 Wilson Blvd., Suite 101
Arlington, VA 22203-4143

Re: Alpha & Omega Communications, LLC
Request for Waiver of FY 2008 Regulatory Fees
Fee Control No. RROG-09-0001133

Dear Mr. Wood:

This is in response to your request filed November 21, 2008 (*Request*) and supplemented on April 12, 2009,¹ on behalf of Alpha & Omega Communications, LLC (Alpha), for a waiver of the fiscal year (FY) 2008 regulatory fees for television Station KTMW, Salt Lake City, Utah, Class A television station KCLP-CA, Boise, Idaho, Station KMRI(AM), West Valley City, Utah, and television translators K49GD, Spanish Fork, K55IT, Provo, K59GS, Salt Lake City, and K58FT, Huntsville (all Utah) (*Stations*),² on the basis of financial hardship. Our records reflect that Alpha has not paid the regulatory fees or the associated penalties for late payment of the FY 2008 regulatory fees. For the reasons that follow, we deny your request.

You recite that since January 2, 2006, when Alpha lost access to the systems of the two national satellite television operators, its operating losses have been substantial.³ You assert that small, gospel-centered broadcasters such as Alpha do not have the profit potential enjoyed by commercial broadcasters and that Alpha will incur massive expenses when it converts to digital broadcasting.⁴ You maintain that KCLP-CA is at a distinct

¹ See Letter from Nathaniel J. Hardy, Esq. to Marlene H. Dortch, Secretary, FCC (filed Apr. 12, 2009) (*April 12 Letter*) (noting that Station KMRI(AM) was omitted from the *Request* and seeking inclusion of the station therein; also, stating that the Commission granted the assignment of KMRI to Alpha on August 15, 2007).

² The regulatory fees for KTMW, KCLP-CA, KMRI(AM), K49GD, K55IT, K59GS, and K58FT are \$11,900.00, \$365.00, \$3,325.00, \$365.00, \$365.00, \$365.00, and \$365.00, respectively; the associated penalties are \$2,975.00, \$91.25, \$831.25, \$91.25, \$91.25, \$91.25, and \$91.25, respectively. The regulatory fees and penalties are \$17,050.00 and \$4,171.25 respectively, for a total amount of \$21,221.25.

³ *Request* at 2.

⁴ *Id.*

disadvantage in comparison to the other commercial stations in the Boise DMA because of its very limited power and its religious programming.⁵ You submit a copy of Alpha's "Income and Expenses, Oct. 1, 2007 thru Sept. 30, 2008" (*Financial Statement*) as it reflects the income and expenses of the *Stations*.⁶ You provide financial information regarding Alpha's highest paid employee (the general manager of Station KTMW(TV) and translator stations K49GD, K55IT, K59GS, and K58FT), as well as financial information regarding the only principal of Alpha who receives a salary.⁷

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."⁸ 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 and deductions for depreciation or amortization are considered funds available to pay the fees.

Our review of the record, including Alpha's *Financial Statement*, indicates that the financial loss that Alpha suffered in the fiscal year beginning October 1, 2007, and ending September 30, 2008, was fully offset by depreciation deductions and the salaries paid to one of Alpha's principal and a general manager, which the Commission considers as funds available to pay the fees. In other words, the loss resulted from these items. Thus, Alpha had money from a depreciation deduction and compensation amounts paid to a principal and a general manager from which it could pay the regulatory fees. We therefore deny your waiver request on the grounds of financial hardship.

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. 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 Alpha met this obligation for FY 2008. Payment of the penalties, as well as the regulatory fees for FY 2008, is now due. The regulatory fees and the associated late payment penalties,

⁵ *Id.* at 3.

⁶ *See April 12 Letter, supra* at n.1, Attachment A ("Alpha & Omega Income and Expenses, Oct. 1, 2007 thru Sept. 30, 2008").

⁷ *Id.*

⁸ *See Implementation of Section 9 of the Communications Act*, 9 FCC Rcd 5333, 5346 (1994), *recon. granted*, 10 FCC Rcd 12759 (1995).

totaling \$21,221.25 (*see supra* footnote 1), should be filed together with a Form FCC 159 (copy enclosed) within 30 days from the date of this letter.

You have also requested confidential treatment of the financial data 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 fees 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,

A handwritten signature in black ink, appearing to read 'Mark Stephens', written in a cursive style.

f Mark Stephens
Chief Financial Officer

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

JUN 15 2009

OFFICE OF
MANAGING DIRECTOR

Mr. Charles A. Hecht
Mr. Alfredo Alonso
16 Doe Run
Pittstown, NJ 08867

Re: WVVT(AM) and WRME(AM) ✓
Fiscal Year 2008 Regulatory Fee
Fee Control No. RROG-09-00011552

Dear Mr. Hecht and Mr. Alonso:

This is in response to your emailed correspondence dated March 11, 2009 (*Request*), filed on behalf of Stations WVVT(AM) and WRME(AM) for waiver of the penalty for late payment of the fiscal year (FY) 2008 regulatory fee for each station. Our records reflect that you paid the \$415.00 FY 2008 regulatory fee for each station, but not the associated \$103.75 late payment penalty for each station, for a total of \$207.50. For the reasons set forth below, we deny your request.

You claim that the only notice you received was a final demand for payment referencing a prior bill that neither you nor your attorney received.¹ 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.² 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.³ You

¹ *Request* at 1.

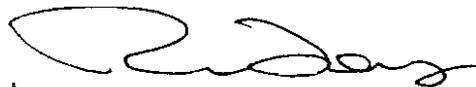
² 47 U.S.C. §159(c)(1).

³ See 47 C.F.R. §1.1164, and see *Assessment and Collection of Regulatory Fees for Fiscal Year 2008, Report and Order and Further Notice of Proposed Rulemaking*, FCC 08-182, 2008 WL 3318967, paras. 63 and 64 (released: Aug. 8, 2008); *Public Notice, Payment Methods and Procedures for Fiscal Year 2008 Regulatory Fees*, 23 FCC Rcd 12849, 12849, 12851 (Aug. 26, 2008) (reminding of filing deadline and that “[i]t is the responsibility of the licensee to pay for all regulatory fee obligations by the due date, regardless of whether or not a bill is received”), *Public Notice, Fee Filer Now Available for 2008 Regulatory Fees*, 23 FCC Rcd 12857, 12857 (Aug. 26, 2008) (reminding of filing deadline and late payment penalty); *Regulatory Fees Fact Sheet, What You Owe – Media Services Licensees for FY 2008* (Aug. 2008) (providing instructions as to which

paid the regulatory fees for Stations WVVT(AM) and WRME(AM) on March 20, 2009, after the September 25, 2008, deadline for filing regulatory fees, and therefore failed to meet this obligation. The Commission takes great care to inform its licensees of the due dates, 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. For the FY 2008 regulatory fees, the Commission timely released several public notices and news releases informing licensees of the September 25, 2008, deadline for filing regulatory fees and posted these items on its web site. 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.”⁴ We therefore find that the fact that you may have relied upon receiving a notification or bill from the Commission in paying the FY 2008 regulatory fees, this does not support a waiver of the late payment penalties. We therefore deny your request for waiver of the penalty for late payment of the fiscal year 2008 regulatory fees for Stations WVVT(AM) and WRME(AM).

Payment of the late payment penalties for Stations WVVT(AM) and WRME(AM), totaling \$207.50, is now due. The payment should be submitted, together with a Form 159 (copy enclosed), within 30 days of the date of this letter. If you have any questions concerning this matter, please call the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,



Mark Stephens
Chief Financial Officer

Enclosure

media services licensees must pay FY 2008 regulatory fees and how to calculate and pay the fee).

⁴ 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).

RR0G-09-000/1552

Sherry Elkheshin

From: ARINQUIRIES
Sent: Wednesday, March 11, 2009 4:06 PM
To: Sherry Elkheshin
Subject: FW: Penalty Fees for FRN 0010291813

COPY

Stephen M. French, PMP
Protiviti Government Services
OMD-Financial Operations
Office: 2-A629
Direct Line: 202-418-1878
Fax: 202-418-7869

From: Charles Hecht [mailto:hechtassoc@sprintmail.com]
Sent: Wednesday, March 11, 2009 3:45 PM
To: ARINQUIRIES
Subject: Penalty Fees for FRN 0010291813

To Whom It May Concern:

We would like to pay our annual regulatory fees that are due in the amount of \$830.00 for FRN account 0010291813. However, a substantial late fee has been added to our account. The only notice we received was a final demand for payment which references a prior bill we never received. Additionally, our attorney checked his records and could not locate a record of a prior invoice. Therefore, we request that the penalty fees be removed.

We would have paid this amount now, but the system will not allow us to pay the fees due without the penalty. The final demand letter references a payment deadline of March 20. We would like to resolve this matter promptly so the deadline can be met.

Thank you.

Charles A. Hecht & Alfredo Alonso
16 Doe Run
Pittstown, NJ 08867
Voice 908.730.7959
Fax 908.730.7408
E-mail hechtassoc@sprintmail.com

3/11/2009

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

JUN 15 2009

OFFICE OF
MANAGING DIRECTOR

David Lindgren
Coyote Call, LLC
14927 S. Caenen Ln.
Olathe, Kansas 66062

Re: Coyote Call, LLC
Fiscal Year 2007 Regulatory Fee
Late Penalty
Fee Control No. 0809239084160003

Dear Mr. Lindgren:

This responds to your request dated November 12, 2008 (Request) on behalf of Coyote Call, LLC (Coyote Call), Olathe, Kansas, for waiver and refund of the \$45.50 penalty for late payment of the \$182.00 fiscal year (FY) 2007 regulatory fee.¹ Our records show that Coyote Call has paid the FY 2007 regulatory fee and late penalty. As set forth below, we deny your request.

You state that in early September, 2008, Coyote Call received, and promptly paid, a bill for \$182.00 for its FY 2007 regulatory fee and late penalty.² You state further that Coyote Call had not received an invoice for 2007 before that time and, for that reason, you ask that the \$45.50 late penalty be waived and refunded to you.³

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.⁴ 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.⁵ Your request does not indicate or substantiate that Coyote Call

¹ Facsimile from David Lindgren, Coyote Call, LLC, to FCC (dated November 12, 2008).

² *Id* at 1. We note that your Request implies, incorrectly, that the \$182.00 amount includes the 25 percent late penalty. The copy of the referenced bill that you attach to your Request shows, however, that the full amount that Coyote Call was billed is \$227.50, which consists of the FY 2007 regulatory fee of \$182.00 plus the late penalty of \$45.50.

³ Request at 1.

⁴ 47 U.S.C. §159(c)(1).

⁵ See 47 C.F.R. §1.1164, and see *Assessment and Collection of Regulatory Fees for Fiscal Year 2007, Report and Order and Further Notice of Proposed Rulemaking*, 22 FCC Rcd 15712 (2007); *Public Notice, Payment Methods and Procedures for Fiscal Year 2007 Regulatory Fees*, DA 07-3758 (Aug. 28, 2007) (reminding of filing deadline and late payment penalty); *Public Notice, Fee Filer Now Available for 2007 Regulatory Fees*, 22 FCC Rcd 16051, 16051 (Aug. 23, 2007) (Aug. 23, 2007) (reminding of filing deadline and late payment penalty); *August 13 Public Notice* (announcing the September 19, 2007 filing deadline

met this obligation. The Commission takes great care to inform its licensees of the due dates, 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. For the FY 2007 regulatory fees, the Commission timely released several public notices and news releases informing licensees of the September 19, 2007, deadline for filing regulatory fees and posted these items on its web site. 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.”⁶ More specifically, we have fully considered your statement that Coyote Call did not receive any invoice for the FY 2007 regulatory fee prior to the bill dated September 17, 2008, for both the fee and late penalty. Our records indicate that Coyote Call was not issued a bill during our normal cycle prior to the FY 2007 regulatory fee deadline because the information you submitted to the Commission on Form 499-A (due April 1, 2007) concerning your revenues, which is used to calculate these bills, was erroneous insofar as it inaccurately reported to us that Coyote Call’s FY 2007 revenues fell into a category that is exempt from regulatory fees. Our records further indicate that Coyote Call filed a revision with the Commission on August 1, 2007, correcting this error. Thus, it is clear that Coyote Call was aware that its revenues were not exempt from regulatory fees well before the FY 2007 due date and, in any event, should have known that payment was due at that time. As we have previously advised as to billed entities, “[i]t is the responsibility of the licensee to pay for all regulatory fee obligations by the due date, *regardless of whether or not a bill is received.*”⁷ We therefore find that Coyote Call did not meet its obligation to file its FY 2007 regulatory fee in a timely manner, and we deny your request for waiver of the penalty for late payment.

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

Sincerely,



 Mark Stephens
Chief Financial Officer

and stating that late payments will be assessed a 25 percent late payment penalty); *Regulatory Fees Fact Sheet, What You Owe – Interstate Telecommunications Service Providers (ITSP) for FY 2007* (Aug. 2007) (providing instructions as to which ITSP licensees must pay FY 2007 regulatory fees and how to calculate and pay the fee).

⁶ 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).

⁷ *Public Notice, Payment Methods and Procedures for Fiscal Year 2007 Regulatory Fees*, DA 07-3758, 22 FCC Rcd 16156, 16158 (Aug. 28, 2007) (italics added); see *Regulatory Fees Fact Sheet, What You Owe – Interstate Telecommunications Service Providers (ITSP) for FY 2007* (Aug. 2007) (as to regulatees who “owe an ITSP regulatory fee but did not receive a bill,” providing detailed instructions for calculation and payment of fees, and correction of records).

Coyote Call, LLC.

14927 S. Caenen Ln. Olathe, KS 66062
913-897-2194 Fx: 913-897-9624

10758

COPY

November 12, 2008

To: FCC
From: David Lindgren

Subject: Letter Of Appeal

In early September, 2008 we received (and promptly paid) a \$182 bill for "FY2007 ITSP REG FEE including 25% penalty" for \$182. We had not received an invoice for 2007 before. For that reason we ask that the 25% penalty be waived and returned to us.

Just so you know mistakes can happen, they happened twice with our account. The second was that the FCC showed us as having paid only \$136.50 instead of \$182.00.

Thank you in advance for your understanding.

David Lindgren

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

OFFICE OF
MANAGING DIRECTOR

July 15, 2009

Ms. Carmen Gliessner
Accounts Payable
Davidson Media Group, LLC
Post Office Box 2368
Davidson, NC 28036

Re: Station WBZK(AM) ✓
FY 2008 Regulatory Fee
Fee Control No. 0809189084031001

Dear Ms. Gliessner:

This letter responds to your request filed March 12, 2009 (*Request*), submitted on behalf of Davidson Media Stations WBZK Licensee, LLC (Davidson), licensee of Station WBZK(AM), for a waiver of the Fiscal Year (FY) 2008 regulatory fee. Our records reflect that Peak has paid the \$1,310.00 regulatory fee for the station. For the reasons stated herein, we grant your request.

You state that Davidson sold Station WBZK(AM) on September 17, 2008, five days after paying the FY 2008 regulatory fees.¹ Our records reflect that the station has been licensed to 980 AM, Inc. since September 16, 2008. Because Davidson did not hold the license for the station on the due date for submitting FY 2008 regulatory fees (*i.e.*, September 25, 2008), Davidson is not required to pay a FY 2008 regulatory fee for the station.² We therefore grant your request for a refund of the FY 2008 regulatory fee for Station WBZK(AM).

¹ *Request* at 1.

² See *Assessment and Collection of Regulatory Fees for Fiscal Year 2008, Report and Order and Further Notice of Proposed Rulemaking*, 2008 WL 3318967, para. 76 (Aug. 8, 2008) (“[r]egulatory fees must be paid for all broadcast facility licenses granted on or before October 1, 2007. In instances where a permit or license is transferred or assigned after October 1, 2007, responsibility for payment rests with the holder of the permit or license as of the fee due date.”).

Ms. Carmen Gliessner

2.

A check made payable to the maker of the original check, and drawn in the amount of \$1,310.00, will be sent to you at the earliest practicable time. If you have any questions concerning this matter, please contact the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Stephens", with a long horizontal flourish extending to the right.

 Mark Stephens
Chief Financial Officer

WTS 11606



Received & Inspected

MAR 12 2009

FCC Mail Room

February 10, 2009

Federal Communications Commission
445 12th Street SW
Washington, DC 20554

To Whom It May Concern:

This request concerns FRN 0012982096, Davidson Media Station WBZK Licensee, LLC. This station was officially sold on 09/17/08 just 5 days after we processed our filings for our FCC Annual Fees. We processed the payment at the time because there was not a clear date for closing by the time the FCC fee was due. The full amount under the license of \$ 1310.00 was paid.

Info regarding the licensee:

Davidson Media Stations WBZK Licensee, LLC
670 Broadway, 3rd Floor
New York, NY 10012

Contact and Refund Info:

Please use the info below to refund any fees or contact us. The info above is not longer valid.

Davidson Media Stations WBZK Licensee, LLC
PO Box 2368
Davidson, NC 28036

Contact 704-987-3585, ext 13 Carmen Gliessner, Accounts Payable
Or you may contact via email: cgliessner@davidsonmediagroup.com

I have attempted to look-up this station in the ULS System, but cannot locate it via the FRN, file number, etc.

Sincerely,


Carmen Gliessner
Accounts Payable
Davidson Media Group, LLC

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

JUN 15 2009

FILE

OFFICE OF
MANAGING DIRECTOR

Pantelis Michalopoulos
Petra A. Vorwig
Counsel for EchoStar Corporation
Steptoe & Johnson LLP
1330 Connecticut Avenue, N.W.
Washington, D.C. 20036-1795

Re: EchoStar Corporation
Petition for Waiver of Application Fees
Fee Control No. 0901309093899531

Dear Counsel:

This is in response to your petition for waiver of application fees dated May 12, 2008,¹ submitted on behalf of EchoStar Corporation (EchoStar) in connection with an application for authority to operate 5,000,000 receive-only earth stations in the United States to receive Direct Broadcast Satellite (DBS) programming from the EchoStar 6 satellite, operating as a Canadian satellite at 72.7° W.L.² You request that the Commission find that no fee is required, *i.e.*, waive these fees, or find that the Very Small Aperture Terminal (VSAT) initial application fee in the amount of \$8,895.00 is appropriate. Our records reflect that EchoStar paid \$8,895.00 in service of its fee obligation as to the Application. As explained below, we grant your request and accept the proffered fee payment.

You state that EchoStar requests authorization for five million technically identical receive-only earth station antennas “in order to expand its provision of multichannel video services to consumers in the United States.”³ You further state that in the absence of Commission rules designating charges for the type of DBS application at issue here, the application could be subject either to the \$8,895.00 initial application fee for a fixed satellite VSAT system⁴ or to the \$365.00 per station application fee for five million receive-only earth stations, which would total \$1,825,000,000.⁵ Citing *Streamlining the Commission’s Rules and Regulations for Satellite Application and Licensing Procedures*, 11 FCC Rcd 21581, 21592 (1996), you assert that EchoStar’s proposed system is

¹ *EchoStar Petition for Waiver of Application Fees* (dated May 12, 2008) (Petition).

² *EchoStar Application for Authority To Operate 5,000,000 Receive-Only Earth Stations in the United States To Receive Direct Broadcast Satellite Service from the Canadian-Licensed EchoStar 6 Satellite at the 72.7° W.L. Orbital Location*, File No. SES-LFS-20080512-00595 (dated May 12, 2008) (Application).

³ Petition at 2.

⁴ Petition at 2 (citing *International and Satellite Services Fee Filing Guide* (Fee Filing Guide) at 13); see also 47 C.F.R. § 1.1107(6.a.) (2008).

⁵ Petition at 2 (citing *Fee Filing Guide* at 12); see also 47 C.F.R. § 1.1107(5.a.) (2008).

consistent with the Commission's definition of VSAT networks, "which are networks of technically identical small antennas that generally communicate with a larger hub station and operate in the 12/14 GHz frequency bands."⁶ You state that because the proposed earth stations are technically identical, many of the processing activities required to modify individual earth station licenses are simply not required.⁷ You assert that the Commission has accepted the VSAT application fees for similar networks and applications.⁸ You state that EchoStar should not be required to pay a \$365.00 fee for each of its 5 million earth stations because it would result in "overtly discriminatory treatment among DBS and [Direct-to-Home] providers serving the United States."⁹

The Commission has discretion to waive filing fees "in any specific instance for good cause shown, where such action would promote the public interest." 47 U.S.C. § 158(d)(2). We construe this waiver authority narrowly, and limit its application to only those situations where the applicant has made the requisite showing of good cause and demonstrated that the action would promote the public interest.

The Commission previously has noted the special circumstances among earth station licenses to receive satellite transmissions, including the processing extended to large numbers of "technically identical small antenna earth station facilities."¹⁰ Based on the circumstances of this application, we find that EchoStar's plan comports with the Commission's expressed intent in the *DISCO II* decision.¹¹ As in that situation, Commission staff will expend fewer resources and will be able to more efficiently process EchoStar's application because the multiple earth stations are technically identical. Consequently, we find that you have shown that the public interest is served in waiving the fees that would have been required to accompany five million separate license requests.¹²

⁶ Petition at 3.

⁷ Petition at 4.

⁸ Petition at 4.

⁹ Petition at 5.

¹⁰ See *Establishment of a Fee Collection Program To Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985*, Report and Order, 2 FCC Rcd 947, ¶¶ 245-48 (1987).

¹¹ See *Amendment of the Commission's Regulatory Policies To Allow Non-U.S. Licensed Space Stations To Provide Domestic and International Satellite Service in the United States*, Report and Order, 12 FCC Rcd 24094, ¶¶ 201-04 (1997) (*DISCO II*) (e.g., "To impose the least burdensome requirements possible while fulfilling our regulatory responsibilities, we will permit applicants to request 'blanket' licenses for large numbers of technically identical receive-only antennas, such as home 'dishes.' Blanket applications may be filed by the space station operator, the service supplier, the equipment manufacturer, or the electronics retailer. Further, in cases where we have previously granted a particular satellite access to the United States to provide DTH/DBS or other receive-only services, we will allow the earth station applicant to include an exhibit citing to the previous Commission grant of access for that satellite and stating that it intends to use the satellite to provide the same services as those previously authorized.").

¹² See, e.g., Letter to Pantelis Michalopoulos, Esq. and Petra A. Vorwig, Esq., Counsel for EchoStar Corporation, Steptoe & Johnson LLP, from Mark Stephens, Chief Financial Officer, FCC (dated October 23, 2008).

Your request is granted to the extent stated herein and the Commission accepts your \$8,895.00 payment to meet your fee obligation as to your Application. If you have any questions concerning this letter, please call the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Stephens', with a long horizontal flourish extending to the right.

 Mark Stephens
Chief Financial Officer

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

JUN 10 2009

OFFICE OF
MANAGING DIRECTOR

Pantelis Michalopoulos
Petra A. Vorwig
Counsel for EchoStar Corporation
Steptoe & Johnson LLP
1330 Connecticut Avenue, N.W.
Washington, D.C. 20036-1795

Re: EchoStar Corporation
Petition for Waiver of Application Fees
Fee Control No. RROG-09-00011598

Dear Counsel:

This is in response to your petition for waiver of application fees filed March 6, 2009,¹ submitted on behalf of EchoStar Corporation (EchoStar) in connection with an application to modify its existing blanket receive-only earth station authority to add the Canadian-licenses Nimiq satellite as a point of communication at 72.7° W.L.² You request that the Commission find that no fee is required, *i.e.*, waive these fees, or find that the Very Small Aperture Terminal (VSAT) modification application fee in the amount of \$170.00 is appropriate. Our records reflect that EchoStar paid \$170.00 in service of its fee obligation as to the Application. As explained below, we grant your request and accept the proffered fee payment.

You state that EchoStar requests a modification to its blanket earth station authorization to add the Canadian-licenses Nimiq 5 satellite as a point of communication so that its customer, DISH Network Corporation (DISH Network), "can expand its provision of multichannel video services to consumers in the United States."³ You further state that in the absence of Commission rules designating charges for the type of DBS application at issue here, the application could be subject either to the \$170.00 application fee to modify a license for a fixed satellite VSAT system⁴ or to the \$170.00 per station application fee to modify a license for 5 million receive-only earth stations, which would total \$850 million.⁵ Citing *Streamlining the Commission's Rules and Regulations for Satellite*

¹ *EchoStar Petition for Waiver of Application Fees* (filed March 6, 2009) (Petition).

² *EchoStar Application for Modification of Authority To Operate 5,000,000 Receive-Only Earth Stations in the United States To Receive Direct Broadcast Satellite Service from the Canadian-Licensed Nimiq 5 Satellite at the 72.7° W.L. Orbital Location*, File No. SES-MFS-20090306-00253 (filed March 6, 2009) (Application).

³ Petition at 2.

⁴ Petition at 2 (citing *International and Satellite Services Fee Filing Guide* (Fee Filing Guide) at 13); see also 47 C.F.R. § 1.1107(6.b.) (2008).

⁵ Petition at 2 (citing *Fee Filing Guide* at 12); see also 47 C.F.R. § 1.1107(5.b.) (2008).

Application and Licensing Procedures, 11 FCC Rcd 21581, 21592 (1996), you assert that EchoStar's proposed system is consistent with the Commission's definition of VSAT networks, "which are networks of technically identical small antennas that generally communicate with a larger hub station and operate in the 12/14 GHz frequency bands."⁶ You state that because the proposed earth stations are technically identical, many of the processing activities required to modify individual earth station licenses are simply not required.⁷ You assert that the Commission has accepted the VSAT application fees for similar networks and applications.⁸ You state that EchoStar should not be required to pay a \$170.00 fee for each of its 5 million earth stations because it would result in "overtly discriminatory treatment among DBS and [Direct-to-Home] providers serving the United States."⁹

The Commission has discretion to waive filing fees "in any specific instance for good cause shown, where such action would promote the public interest." 47 U.S.C. § 158(d)(2). We construe this waiver authority narrowly, and limit its application to only those situations where the applicant has made the requisite showing of good cause and demonstrated that the action would promote the public interest.

The Commission previously has noted the special circumstances among earth station licenses to receive satellite transmissions, including the processing extended to large numbers of "technically identical small antenna earth station facilities."¹⁰ Based on the circumstances of this application, we find that EchoStar's plan comports with the Commission's expressed intent in the *DISCO II* decision.¹¹ As in that situation, Commission staff will expend fewer resources and will be able to more efficiently process EchoStar's application because the multiple earth stations are technically identical. Consequently, we find that you have shown that the public interest is served in waiving the fees that would have been required to accompany five million separate license requests.¹²

⁶ Petition at 3.

⁷ Petition at 4.

⁸ Petition at 4.

⁹ Petition at 5.

¹⁰ See *Establishment of a Fee Collection Program To Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985*, Report and Order, 2 FCC Rcd 947, ¶¶ 245-48 (1987).

¹¹ See *Amendment of the Commission's Regulatory Policies To Allow Non-U.S. Licensed Space Stations To Provide Domestic and International Satellite Service in the United States*, Report and Order, 12 FCC Rcd 24094, ¶¶ 201-04 (1997) (*DISCO II*) (e.g., "To impose the least burdensome requirements possible while fulfilling our regulatory responsibilities, we will permit applicants to request 'blanket' licenses for large numbers of technically identical receive-only antennas, such as home 'dishes.' Blanket applications may be filed by the space station operator, the service supplier, the equipment manufacturer, or the electronics retailer. Further, in cases where we have previously granted a particular satellite access to the United States to provide DTH/DBS or other receive-only services, we will allow the earth station applicant to include an exhibit citing to the previous Commission grant of access for that satellite and stating that it intends to use the satellite to provide the same services as those previously authorized.").

¹² See, e.g., Letter to Pantelis Michalopoulos, Esq. and Petra A. Vorwig, Esq., Counsel for EchoStar Corporation, Steptoe & Johnson LLP, from Mark Stephens, Chief Financial Officer, FCC (dated October 23, 2008).

Your request is granted to the extent stated herein and the Commission accepts your \$170.00 payment to meet your fee obligation as to your Application. If you have any questions concerning this letter, please call the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Stephens', with a stylized flourish at the end.

 Mark Stephens
Chief Financial Officer

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

JUN 15 2009

OFFICE OF
MANAGING DIRECTOR

Pantelis Michalopoulos
Petra A. Vorwig
Counsel for EchoStar Satellite Operating L.L.C.
Steptoe & Johnson LLP
1330 Connecticut Avenue, N.W.
Washington, D.C. 20036-1795

Re: EchoStar Satellite Operating L.L.C.
Petition for Waiver of Application Fees
Fee Control No. RROG-09-00011425

Dear Counsel:

This is in response to your petition for waiver of application fees filed January 30, 2009,¹ submitted on behalf of EchoStar Satellite Operating L.L.C. (EchoStar) in connection with a blanket application to operate receive-only earth stations in the United States to provide Direct Broadcast Satellite (DBS) programming from a Mexican-licensed satellite.² You request that the Commission find that no fee is required for the one million receive-only earth station antennas, *i.e.*, waive these fees, or find that the Very Small Aperture Terminal (VSAT) initial application fee in the amount of \$8,895 is appropriate.³ Our records reflect that EchoStar paid \$8,895 in service of its fee obligation as to the Application.

You state that EchoStar requests authorization for one million technically identical receive-only earth station antennas "to expand its provision of multichannel video services to consumers in the United States."⁴ You further state that in the absence of Commission rules designating charges for the type of DBS application at issue here, the application could be subject either to the \$8,895 fee for an initial application for a fixed satellite VSAT system pursuant to section 1.1107(6)(a) of the Commission's rules, 47 C.F.R. § 1.1107(6)(a), or the \$365 fee for an initial application for a receive-only earth station pursuant to section 1.1107(5)(a), 47 C.F.R. § 1.1107(5)(a), for each of the one million earth stations, for a total fee of \$365 million.⁵ Citing *Streamlining the*

¹ *EchoStar Petition for Waiver of Application Fees* (filed January 30, 2009) (Petition).

² *EchoStar Application for Blanket Earth Station License To Operate with EchoStar 1, Operating as a Mexican-Licensed Satellite at 77.15° W.L.*, File No. SES-LFS-20090130-00106 (filed January 30, 2009) (Application).

³ Petition at 2.

⁴ Petition at 2.

⁵ See Petition at 2.

Commission's Rules and Regulations for Satellite Application and Licensing Procedures, 11 FCC Rcd 21581, 21592 (1996), you assert that EchoStar's proposed system is consistent with the Commission's definition of VSAT networks which, you state, "are networks of technically identical small antennas that generally communicate with a larger hub station and operate in the 12/14 GHz frequency bands."⁶ You argue that because the proposed earth stations are technically identical, many of the processing activities required to issue individual earth station licenses are simply not required.⁷ You assert that the Commission has accepted the VSAT application fees for similar networks and applications.⁸ You state that EchoStar should not be required to pay a \$365.00 fee for each of its one million earth stations because it would result in "overtly discriminatory treatment among DBS and [Direct-to-Home] providers serving the United States."⁹

The Commission has discretion to waive filing fees "in any specific instance for good cause shown, where such action would promote the public interest." 47 U.S.C. § 158(d)(2). We construe this waiver authority narrowly, and limit its application to only those situations where the applicant has made the requisite showing of good cause and demonstrated that the action would promote the public interest.

The Commission previously has noted the special circumstances among earth station licenses to receive satellite transmissions, including the processing extended to large numbers of "technically identical small antenna earth station facilities."¹⁰ Based on the circumstances of this application, we find that EchoStar's plan comports with the Commission's expressed intent in the *DISCO II* decision.¹¹ As in that situation, Commission staff will expend fewer resources and will be able to more efficiently process EchoStar's application because the multiple earth stations are technically identical. Consequently, we find that you have shown that the public interest is served in waiving the fees that would have been required to accompany one million separate license requests.¹²

⁶ Petition at 3.

⁷ Petition at 4.

⁸ Petition at 4.

⁹ Petition at 5.

¹⁰ See *Establishment of a Fee Collection Program To Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985*, Report and Order, 2 FCC Rcd 947, ¶¶ 245-48 (1987).

¹¹ See *Amendment of the Commission's Regulatory Policies To Allow Non-U.S. Licensed Space Stations To Provide Domestic and International Satellite Service in the United States*, Report and Order, 12 FCC Rcd 24094, ¶¶ 201-04 (1997) (*DISCO II*) (e.g., "To impose the least burdensome requirements possible while fulfilling our regulatory responsibilities, we will permit applicants to request 'blanket' licenses for large numbers of technically identical receive-only antennas, such as home 'dishes.' Blanket applications may be filed by the space station operator, the service supplier, the equipment manufacturer, or the electronics retailer. Further, in cases where we have previously granted a particular satellite access to the United States to provide DTH/DBS or other receive-only services, we will allow the earth station applicant to include an exhibit citing to the previous Commission grant of access for that satellite and stating that it intends to use the satellite to provide the same services as those previously authorized.").

¹² See, e.g., Letter to Pantelis Michalopoulos, Esq. and Petra A. Vorwig, Esq., Counsel for EchoStar Corporation, Steptoe & Johnson LLP, from Mark Stephens, Chief Financial Officer, FCC (dated October 23, 2008).

Your request is granted to the extent stated herein and the Commission accepts your \$8,895 payment to meet your fee obligation as to your Application. If you have any questions concerning this letter, please call the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,

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Mark Stephens
Chief Financial Officer