



# PUBLIC NOTICE

Federal Communications Commission  
445 12<sup>th</sup> Street S.W.  
Washington, D.C. 20554

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DA-09-2642

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

## PUBLIC NOTICE

Released: December 30, 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:

**Chaparral Broadcasting, Inc Station KLZY (FM)** - Request for waiver of late fee payment penalty. **Denied** (October 9, 2009) [See 47 U.S.C. §159(c)(2)]

**Cleartel Communications, Inc and Subsidiaries** - Request for Waiver of FY09 regulatory fee. **Granted** (November 05, 2009) [See Assessment and Collection of Regulatory Fees for Fiscal Year 2009, Report and Order, 2009 WL 2356991, para. 43 (released: July 31, 2009)]

**Cranston Acquisition, LLC Station KMCC (TV)** - Request for Waiver of FY09 regulatory fee. **Granted** (Nov 05, 2009) [See Implementation of Section 9 of the Communications Act, 10 FCC Rcd 12759, 12761-62 (1995)]

**Duran – Hill Inc Station KNUW** - Request for Waiver of FY09 regulatory fee. **Granted** (Nov 05, 2009) [See Implementation of Section 9 of the Communications Act, 10 FCC Rcd 12759, 12761-62 (1995)]

**EchoStar Satellite Corporation** - Request for wavier and refund of application fees. **Granted** (Nov 05, 2009) [See 47 C.F.R. §25.112(a)]

**Estuardo Valdemar Rodriguez and Leonor Rodriguez Station** - Request for Waiver of FY09 regulatory fee. **Granted** (Nov 05, 2009) [See Implementation of Section 9 of the Communications Act, 10 FCC Rcd 12759, 12761-62 (1995)]

**Equity Media Holdings Corporation and Affiliated and Subsidiary Companies** Request for waiver of FY09 regulatory fee. **Granted** (October 27, 2009) [See Assessment and Collection of Regulatory Fees for Fiscal Year 2009, Report and Order, 2009 WL 2356991, para. 43 (released: July 31, 2009)]

**Intelsat North America LLC. Station KS35**

Request for waiver of FY09 regulatory fee. **Denied**  
(November 05, 2009) [*See* 47 C.F.R. §1.1160(b)]

**Meridian Communications of Idaho, Inc.** Request  
for waiver and refund of FY09 regulatory fee.

**Granted** (Nov 05, 2009) [*See* 47 C.F.R. §  
73.3598(b)(2)]

**Nancy L. Isserlis, Esq. Stations KAZZ (FM) and**

**KAZZ (FM1)** - Request for Waiver of FY09  
regulatory fee. **Granted** (October 29, 2009) [*See*  
Implementation of Section 9 of the Communications  
Act, 10 FCC Rcd 12759, 12762 (1995)]

**NationsLine District of Columbia, Inc** - Request for

waiver of FY 07 late fee payment penalty. **Denied**  
(October 21, 2009) [*See* 47 C.F.R. §1.1164]

**New Radio Venture Stations KNUV (AM) and**

**KNRV (AM)** - Request for Waiver of FY09  
regulatory fee. **Granted** (October 29, 2009) [*See*  
Implementation of Section 9 of the Communications  
Act, 10 FCC Rcd 12759, 12762 (1995)]

**PC Landing Corp** - Request waiver of FY 08 late fee  
payment penalty. **Granted** (August 31, 2009) [*See* 47  
C.F.R. §1.1164]

**Tribune Company** - Request for Waiver of FY09

regulatory fee. **Granted** (November 05, 2009) [*See*  
Implementation of Section 9 of the Communications  
Act, 10 FCC Rcd 12759, 12762 (1995)]

**Time Warner Cable** – Request for waiver of FY 07  
late fee payment penalty. **Denied** (September 28,  
2009) [*See* 47 C.F.R. §1.1164]

FILE

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

NOV 05 2009

OFFICE OF  
MANAGING DIRECTOR

Matthew H. McCormick, Esq.  
Davina S. Sashkin, Esq.  
Fletcher, Heald & Hildreth, P.L.C.  
1300 North 17<sup>th</sup> Street, 11<sup>th</sup> Floor  
Arlington, Virginia 22209

Re: AM Stations WGSB, WLLN, WLNR,  
and WSRP  
Estuardo Valdemar Rodriguez and  
Leonor Rodriguez  
FY 2009 Regulatory Fees  
Fee Control No. RROG-09-00012022

Dear Counsel:

This is in response to your request filed September 21, 2009 (*Request*), on behalf of Estuardo Valdenar Rodriguez and Leonor Rodriguez (the licensees), for a waiver of the Fiscal Year (FY) 2009 regulatory fees associated with AM Stations WGSB, WLLN, WLNR, and WSRP, and auxiliary stations WPMN438, WPMN439, and KA35204. Our records reflect that you have not paid the \$875.00, \$875.00, \$750.00, and \$2,300.00 FY 2009 regulatory fees for Stations WGSB, WLLN, WLNR, and WSRP (the Stations), respectively, or the \$10.00 FY 2009 regulatory fee for each of the auxiliary stations. For the reasons stated herein, we grant your request.

You state that the Commission has granted the licensees Special Temporary Authority for the Stations to remain silent.<sup>1</sup> In *Implementation of Section 9 of the Communications Act*, 10 FCC Rcd 12759, 12762 (1995), the Commission determined that the imposition of a regulatory fee could be an impediment to the restoration of service by dark stations and that it therefore would waive the fee requirement for stations which have ceased operation.<sup>2</sup>

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

<sup>2</sup> *See Reconsideration Order* at 12762 (broadcast stations which are dark must request permission to suspend operation pursuant to Section 73.1740(a)(4) of the Rules.”).

Our records reflect that the licensees notified the Commission that the Stations went silent on January 1, 2009, due to financial difficulty and that the Commission subsequently granted each of the Stations an STA to remain silent through January 1, 2010.<sup>3</sup> Because the Stations were not operating on the date that the FY 2009 regulatory fee was due (*i.e.*, September 22, 2009), we grant your request for waiver.

If you have any questions concerning this letter, please contact 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

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<sup>3</sup> See Letter from H. Taft Snowdon, Audio Div., Media Bur., FCC, to Estuardo Valdemar Rodriguez and Leonor Rodriguez (WSRP: July 20, 2009); Letters from H. Taft Snowdon, Audio Div., Media Bur., FCC, to Estuardo Valdemar Rodriguez (WGSB: July 20, 2009; WLLN: July 9, 2009; WLNR: June 19, 2009).

FILE

FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554

October 27, 2009

OFFICE OF  
MANAGING DIRECTOR

Howard Weiss, Esq.  
Fletcher, Heald & Hildreth, P.L.C.  
1399 North 17<sup>th</sup> Street, 11th Floor  
Arlington, VA 22209

Re: Equity Media Holdings Corporation and  
Affiliated and Subsidiary Companies  
FY 2009 Regulatory Fees  
Fee Control No. RROG-09-00011923

Dear Mr. Weiss:

This letter responds to your request dated August 19, 2009 (*Request*), supplemented on September 9 and 22, 2009,<sup>1</sup> on behalf of Equity Media Holdings Corporation (EMHC) and its affiliated and subsidiary companies (Subsidiaries) (collectively, Equity) for waiver of the fiscal year (FY) 2009 regulatory fees. Our records reflect that Equity has not paid the regulatory fees at issue here. For the reasons stated herein, we grant your request.

You assert that “the licensee entities have bankrupt status, and there are no assets remaining[.]”<sup>2</sup> You submit copies of documents which establish that EMHC, on December 8, 2008, and the Subsidiaries, on December 16, 2008, filed for Chapter 11 bankruptcy with the United States Bankruptcy Court for the Eastern District of Arkansas (Bankruptcy Court).<sup>3</sup> You state that Equity assigned 47 of its Commission licenses pursuant to the bankruptcy prior to the due date for filing the FY 2009 regulatory fees.<sup>4</sup>

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<sup>1</sup> See email from Howard Weiss to Joanne Wall (Sept. 9, 2009) (*September 9 email*).

<sup>2</sup> *Request* at 2.

<sup>3</sup> *September 9 email*, Attachment 1 (Interim Stipulation and Agreed Order (Bankr. E.D. Dec. 22, 2008) (*Bankruptcy Court Stipulation*)) and Attachment 2 (Order Authorizing and Approving . . . Certain Asset Purchase Agreements (Bankr. E.D. May 4, 2009) (*Bankruptcy Court Order*)); see also *id.*, Attachment 3 (Asset Purchase Agreement (July 6, 2009)).

<sup>4</sup> See email from Howard Weiss to Joanne Wall (Sept. 14, 2009); see also email from Denise Branson to Joanne Wall, Attachment 1 (Sept. 22, 2009) (*September 22 email*) (specifically, the Commission has granted Equity’s applications to assign the following stations and the transactions have been consummated: WYGA-CA/LD, WNGS, WUDT-CA, KWBM, WUJF-LP, KUKC-LP, WTMS-CA, WUMN-CA, WBLU-LP, WNTU-LP,

The record before us reflects that Equity did not hold the authorizations for the Forty-Seven Assigned Stations on the date that the FY 2009 regulatory fees were due (*i.e.*, September 22, 2009<sup>5</sup>). We therefore find that Equity is not responsible for the payment of the FY 2009 regulatory fees for those stations.<sup>6</sup> We note that Equity's assignment of these authorizations was transacted in connection with Equity's filing for bankruptcy. Waiver of the FY 2009 regulatory fees with respect to these stations under the instant circumstances is consistent with the Commission's general policy of waiving regulatory fees for licensees who are bankrupt because the regulatory fee could act as an impediment to the negotiations and the assignment of the station to a new licensee.<sup>7</sup> Accordingly, we cancel the Equity's bill for payment of the FY 2009 regulatory fees for the Forty-Seven Assigned Stations.

With respect to the stations that Equity continues to hold (including the stations that are in the process of being assigned but whose applications have not yet been granted by the Commission or for which the transaction has not yet been consummated<sup>8</sup>), the Commission has determined that it will waive regulatory fees for licensees who are bankrupt or are in receivership at the time the fees are due.<sup>9</sup> Based upon the evidence that you provide that Equity was in bankruptcy on the September 22, 2009, due date for filing FY 2009 regulatory fees, including the *Bankruptcy Court Stipulation* and the *Bankruptcy Court Order*, we grant Equity a waiver of the FY 2009 regulatory fees for its authorized stations.

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WNYI, KWDW-LP, WJMF-LP, WJXF-LP, KUBX-LP/LD, KUTF, WMQF, WUHQ-LP, KEGS-LP, KELM-LP, KNBX-CA, W19BR, W36CP, W49B1, W52CD, W54CV, W61CE, WBVT-CA, WGMU-CA, W17C1, K45GX, KCBU, KQUP, KQUP-LP, KAMK-LP, KTVC, KCHM-LP, KOKT-LP, KUOK, and KUTU-CA (the Forty-Seven Assigned Stations)).

<sup>5</sup> See *Public Notice, FY 2009 Regulatory Fees Due No Later Than September 22, 2009, Eastern Time (ET)*, DA 09-1837, 2009 WL 2595896 (Aug. 21, 2009).

<sup>6</sup> See *Assessment and Collection of Regulatory Fees for Fiscal Year 2009, Report and Order*, 2009 WL 2356991, para. 43 (released: July 31, 2009).

<sup>7</sup> See *Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year, Memorandum Opinion and Order*, 10 FCC Rcd 12759, 12762 (1995) (*1994 Memorandum Opinion and Order*).

<sup>8</sup> See *September 22 email*, Attachment 1.

<sup>9</sup> See *1994 Memorandum Opinion and Order*, 10 FCC Rcd at 12762.

Howard Weiss, Esq.

3.

If you have any questions concerning this letter, please contact 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

FILE

FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554

NOV 05 2009

OFFICE OF  
MANAGING DIRECTOR

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R. Stanton Dodge  
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1233 20<sup>th</sup> Street, N.W. Suite 302  
Washington, D.C. 20036-2396

Re: EchoStar Satellite Corporation  
Application for Authority to Construct,  
Launch, and Operate a Geostationary C-  
Band Satellite  
Fee Control No. 0806169093562001

Dear Sirs and Mesdames:

This letter is in response to your request filed June 23, 2009 (*Request*), on behalf of EchoStar Corporation (EchoStar) for a refund of the fee associated with the application for authority to construct, launch, and operate a C-band Fixed Satellite Service space station at the 84.9° W.L. orbital location (the *Application*).<sup>1</sup> Our records reflect that you paid the \$110,580.00 application fee as well as an additional application fee of \$115,990.00. For the reasons set forth below, we grant EchoStar a refund in the amount of \$115,990.00.

You state that on May 23, 2008, EchoStar filed the *Application* along with the \$110,580.00 application fee.<sup>2</sup> You say that on May 27, 2009, the FCC's International Bureau (Bureau) returned the *Application* as unacceptable for filing without prejudice to refiling under section 25.112(a) of the Commission's rules<sup>3</sup> on the grounds that EchoStar

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<sup>1</sup> See File No. SAT-LOA-20080523-00112 (Call Sign: S2752).

<sup>2</sup> See *Request* at 2.

<sup>3</sup> See 47 C.F.R. §25.112(a) (an application for space station authority will be unacceptable for filing and will be returned to the applicant if it is defective with respect to completeness of answers to questions, informational showings, is internally inconsistent, or does not substantially comply with the Commission's rules).

did not rebut the presumption of section 25.159(d) of the Commission's rules, 47 C.F.R. §25.159(d), or request a waiver of the rule.<sup>4</sup> You state that on May 28, 2009, EchoStar resubmitted the application, along with an additional filing fee in the amount of \$115,990.00, reflecting the \$5,410.00 increase in the applicable fee since the original filing of the application.<sup>5</sup> You assert that EchoStar is entitled to a refund of the original application fee under section 1.1111(d) of the Commission's rules, 47 C.F.R. §1.1111(d), and Commission precedent.<sup>6</sup> You maintain that it is not clear that section 25.159(d) even applies to EchoStar and that the refiled application posed no additional burden on Commission resources because, apart from the information to rebut the section 25.159(d) presumption, the resubmitted application is virtually identical to the originally-filed application.<sup>7</sup>

Section 1.1111(d) of the rules provides that “[a]pplications returned to applicants for additional information or corrections will not require an additional fee when resubmitted, unless the additional information results in an increase of the original fee amount.” The record reflects that the Bureau returned the *Application* as unacceptable for filing without prejudice to refiled under section 25.112(a) because EchoStar had missed three space station milestones within a three-year period and did not rebut the presumption of section 25.159(d) by “provid[ing] adequate information to demonstrate that it is very likely to construct its licensed facilities if it were allowed to file more applications” and did not request a waiver of the rule.<sup>8</sup> In refiled the application in response to the *May 27 Letter*, EchoStar provided information to rebut the section 25.159(d) presumption and to request a waiver of the rule. We find that the application filed by EchoStar on May 28, 2009, provided additional information in support of its *Application* within the meaning of

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<sup>4</sup> See *Request* at 2 (citing letter from Robert G. Nelson, Satellite Div., International Bur., FCC to Pantelis Michalopoulos, Esq., 24 FCC Rcd 7132 (International Bur. May 27, 2009) (*May 27, 2009 Letter*); see also 47 C.F.R. §25.159(d) (“In the event that a licensee misses three or more milestones within any three-year period, the Commission will presume that the licensee obtained one or more of those licenses for speculative purposes. Unless the licensee rebuts this presumption, it will not be permitted to apply for a GSO-like satellite or an NGSO-like satellite system in any frequency band if it has two or more satellite applications pending, or two licensed-but-unbuilt satellite systems of any kind. This limit will remain in effect until the licensee provides adequate information to demonstrate that it is very likely to construct its licensed facilities if it were allowed to file more applications.”).

<sup>5</sup> *Request* at 3.

<sup>6</sup> *Id.* at 3-4 (citing letter from Robert G. Nelson, Satellite Div., International Bur., FCC, to Lesley Cooper, 24 FCC Rcd 4192 (International Bur. Apr. 9, 2009).

<sup>7</sup> *Id.* at 4.

<sup>8</sup> See *May 27, 2009 Letter* at 2.

Pantelis Michalopoulos, Esq.

3.

section 1.1111(d) of the rules. We also find that this additional information did not result in an increase of the original fee amount under section 1.1111(d) of the rules and that a refund of \$115,990.00 (*i.e.*, the refiled application fee) is warranted.

A check, made payable to the maker of the original check, and drawn in the amount of \$115,990.00, 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 Stephens  
Chief Financial Officer

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

RECEIVED - FCC

JUN 23 2009

Federal Communications Commission  
Bureau / Office

\_\_\_\_\_  
In the Matter of )

EchoStar Corporation )

Application for Authority to Construct,  
Launch and Operate a Geostationary C-Band  
Satellite in the Fixed-Satellite Service at the  
84.9° W.L. Orbital Location )

File No. SAT-LOA-20080523-00112

To: Managing Director

**PETITION FOR REFUND OF APPLICATION FEES**

EchoStar Satellite Corporation (“EchoStar”), pursuant to Sections 1.1117 and 1.1111(d) of the Rules, 47 C.F.R. §§ 1.1117, 1.1111(d), respectfully requests that the Commission refund the application fee (\$110,580.00) submitted by EchoStar with the above-captioned application.<sup>1</sup> Because the application was returned to EchoStar for additional information, 47 C.F.R. § 25.159(d), and a new application and increased fee (\$115,990) have now been submitted, refund of the original application fee is consistent with the Commission’s rules, 47 C.F.R. § 1.1111(d). Even if that rule were not applicable, refund of the application fee would serve the public interest and be supported by good cause. The refiled application poses no additional strain on Commission resources. What is more, the refund would avoid an inequity: without it, EchoStar

<sup>1</sup> See Application of EchoStar Corporation for Authority to Construct, Launch and Operate a Geostationary C-band Satellite in the Fixed-Satellite Service at the 84.9° W.L. Orbital Location, File No. SAT-LOA- 20080523-00112 (filed May 23, 2008) (“Application”).

would be paying twice for the same application, which was dismissed *without prejudice* and simply resubmitted.

## I. BACKGROUND

On May 23, 2008, EchoStar filed an application with the Commission to construct, launch and operate a C-band Fixed Satellite Service (FSS) space station at the 84.9° W.L. orbital location.<sup>2</sup> Accompanying the application was an FCC Form 159 and a check in the amount of \$110,580 to cover the applicable filing fee.

On May 27, 2009, the Commission sent a letter<sup>3</sup> returning the application “as unacceptable for filing without prejudice to refiling,” on the ground that EchoStar’s application did not supply certain information required by the Commission’s rules.<sup>4</sup> Specifically, the Commission’s letter stated that EchoStar did not “rebut the presumption or request a waiver of [Section 25.159(d)].”<sup>5</sup> That section provides that, if a licensee misses three implementation milestones within a three-year period, a presumption arises that it obtained one or more of the licenses for speculative purposes.<sup>6</sup> In such a case, the rule continues, the licensee may not file

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<sup>2</sup> *See id.*

<sup>3</sup> Letter from Robert G. Nelson, Chief, Satellite Division, International Bureau, FCC to Pantelis Michalopoulos re Application File No. SAT-LOA-20080523-00112 (Call Sign: S2752), at 1 (May 27, 2009) (“Letter”).

<sup>4</sup> *See* 47 C.F.R. § 25.112 (providing that the Commission will return an application as unacceptable for filing if the application is defective with respect to completeness of answers or informational showings, is internally inconsistent, or does not substantially comply with the Commission’s rules unless a waiver of the rules is requested).

<sup>5</sup> *See* Letter at 1.

<sup>6</sup> 47 C.F.R. § 25.159(d).

another application in certain circumstances unless it rebuts the presumption or requests a waiver of that rule.<sup>7</sup>

EchoStar refiled its application on May 28, 2009. In the resubmitted application, EchoStar respectfully explained its view that Section 25.159(d) does not apply to its case, but went on to rebut the presumption created by that rule, and also to request the rule's waiver. In connection with this refiled application, EchoStar submitted a FCC Form 159 along with a check in the amount of \$115,990, reflecting a \$5,410 increase in the applicable fee since the original filing of the application. That check was received by the Commission on June 5, 2009. Since the time of the original application for 84.9° W.L., the filing fee had increased by \$5,410.

## II. DISCUSSION

Under Section 1.1111(d) of the Commission's Rules, 47 C.F.R. § 1.1111(d), applications returned to applicants "for additional information or corrections will not require an additional fee when resubmitted," unless the additional information increases the original fee amount.<sup>8</sup> Here, the Commission did indeed request additional information--the rebuttal of an evidentiary presumption or the facts supporting a waiver of the rule creating that presumption, and the requested information did not increase the original fee amount. In the words of the letter: "EchoStar did not rebut the presumption or request a waiver of [Section 25.159(d)]. Consequently, we return the application as unacceptable for filing without prejudice to refileing."<sup>9</sup>

The missing information is indistinguishable from, say, a missing range of frequencies, as the

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<sup>7</sup> *Id.*

<sup>8</sup> 47 C.F.R. § 1.1111(d).

<sup>9</sup> Letter at 1.

rule itself draws no distinction among different categories of missing information. Indeed, the Commission has previously granted a refund in at least one case that cannot be distinguished from this one.<sup>10</sup>

Even if the rule did not apply, however, the requested refund would serve the public interest and be supported by abundant good cause. First of all, refund is particularly appropriate in this case because, as set forth in the resubmitted application, it is not clear that the rule of § 25.159(d) is even properly applied to EchoStar. As set forth in its new satellite application, EchoStar has not “missed three milestones in the last three-year period” because (1) the three referenced licenses in the Commission’s Letter were not surrendered by EchoStar, but by a subsidiary of DISH Network, from which EchoStar has been spun off; and (2) neither EchoStar nor DISH Network has “missed” milestones within the meaning of the rule because DISH Network surrendered three discrete authorizations in a timely manner, and due to a legitimate justification.<sup>11</sup>

Second, the refiling of the application has posed no additional burden on Commission resources. But for the missing information which has now been supplied, the resubmitted application is virtually identical to the originally filed one. Finally, and in a related vein, the

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<sup>10</sup> See e.g. Letter from FCC to Ms. Lesley Cooper, SES-MOD-20090317-00336 (Apr. 9, 2009) (providing a refund under 47 C.F.R. § 1.1111(d) where the applicant did not provide in the original application, but provided in its refiled application, the required certifications for exceeding the power density for earth stations listed in 47 C.F.R. § 25.12(c), and a demonstration showing that the earth station complies with the off-axis EIRP density limits in 47 C.F.R. § 25.218(f)).

<sup>11</sup> See Application of EchoStar Corporation for Authority to Construct, Launch and Operate a Geostationary C-band Satellite in the Fixed-Satellite Service at the 84.9° W.L. Orbital Location, File No. SAT-LOA-20080523-00112 (filed May 28, 2009).

refund would avoid what would otherwise be an inequity: EchoStar would be paying twice for the same request. EchoStar has now submitted a total of \$226,570 in filing fees to process its application for a satellite at 84.9° W.L. The application was dismissed without prejudice to refiling, and this is precisely what EchoStar did--it refiled a virtual copy of its application plus the requested information.

### III. CONCLUSION

EchoStar respectfully requests that the Commission grant this Petition, and refund to EchoStar the \$110,580.00 in fees associated with the dismissed Application filed on May 23, 2008.

Respectfully submitted,

\_\_\_\_\_/s/\_\_\_\_\_  
R. Stanton Dodge  
Executive Vice President, General Counsel and  
Secretary  
Linda Kinney  
Vice President, Law and Regulation  
Brad Gillen  
Director and Senior Counsel  
**EchoStar Corporation**  
1233 20<sup>th</sup> Street, N.W.  
Suite 302  
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(202) 293-0981

Pantelis Michalopoulos  
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Steptoe & Johnson LLP  
1330 Connecticut Avenue  
Washington, DC 20036  
(202) 429-3000  
*Counsel for EchoStar Corporation*

June 23, 2009

*\* Admitted in New York and practicing under the supervision of an active member of the District of Columbia Bar.*

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

NOV 05 2009

OFFICE OF  
MANAGING DIRECTOR

Richard F. Swift  
Davina S. Shashkin  
Counsel for Duran-Hill, Inc.  
Fletcher, Heald & Hildreth, P.L.C.  
1300 North 17<sup>th</sup> Street, 11<sup>th</sup> Floor  
Arlington, Virginia 22209

Re: Duran-Hill, Inc.  
Fiscal Year 2009 Regulatory Fee  
Fee Control No. RROG-09-00012016

Dear Counsel:

This letter is in response to your request filed on September 16, 2009, on behalf of Duran-Hill, Inc. ("Duran-Hill"), for waiver of the fiscal year 2009 regulatory fees for FM station KNUW, Santa Clara, New Mexico, and associated auxiliary stations WPJF713 and WPJM373 ("*Waiver Request*").<sup>1</sup> Our records show that Duran-Hill has not paid the regulatory fees for fiscal year 2009, which total \$1,470.00.<sup>2</sup> For the reasons below, we grant your request.

In support of your request, you state that on December 22, 2008, citing financial reasons for the station's silence, Duran-Hill filed a Notification of Suspension of Operations and a Request for Silent Special Temporary and that the station KNUW "remains off the air and will not return to the air before the fees are due."<sup>3</sup>

The Commission has determined that the imposition of a regulatory fee could be an impediment to the restoration of broadcast service and therefore it will grant "petitions for waivers of the regulatory fees on the grounds of financial hardship from licensees of broadcast stations which are dark (not operating)." *Implementation of Section 9 of the Communications Act*, 10 FCC Rcd 12759, 12762 (1995). Because station KNUW was not operating on the date that the fiscal year 2009 regulatory fee was due (*i.e.*, September 22, 2009), we grant your request for waiver.

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<sup>1</sup> *Waiver Request* at 1-2.

<sup>2</sup> The fiscal year 2009 regulatory fee for KNUW is \$1,450, and is \$10 for WPJF713 and \$10 for WPJM373.

<sup>3</sup> *Waiver Request* at 1.

Richard F. Swift, Esq. & Davina S. Shashkin, Esq.

2.

If you have any questions concerning this letter, please contact 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

ORIGINAL

HARRY F. COLE  
ANNE GOODWIN CRUMP  
VINCENT J. CURTIS, JR.  
JOSEPH M. DI SCIPIO  
PAUL J. FELDMAN  
JEFFREY J. GEE  
KEVIN M. GOLDBERG  
FRANK R. JAZZO  
M. SCOTT JOHNSON  
MITCHELL LAZARUS  
STEPHEN T. LDVELADY\*  
SUSAN A. MARSHALL  
HARRY C. MARTIN  
MICHELLE A. McCLURE  
MATTHEW H. McCORMICK\*  
FRANCISCO R. MONTERO  
LEE G. PETRO\*  
RAYMOND J. QUIANZON  
JAMES P. RILEY  
DAVINA SASHKIN  
PETER TANNENWALD  
KATHLEEN VICTORY  
HOWARD M. WEISS

FLETCHER, HEALD & HILDRETH, P.L.C.

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www.fhhlaw.com

RECEIVED

SEP 21 2009

Financial Operations  
Center

September 16, 2009

RR06-09-00012016

FILED/ACCEPTED

SEP 16 2009

Federal Communications Commission  
Office of the Secretary

RETIRED MEMBERS  
RICHARD HILDRETH  
GEORGE PETRUTSAS  
  
CONSULTANT FOR INTERNATIONAL AND  
INTERGOVERNMENTAL AFFAIRS  
SHELDON J. KRYS  
U. S. AMBASSADOR (ret.)  
  
OF COUNSEL  
ALAN C. CAMPBELL  
THOMAS J. DOUGHERTY, JR.  
DONALD J. EVANS  
ROBERT M. GURSS\*  
RICHARD F. SWIFT  
  
WRITER'S DIRECT  
  
703-812-0458  
SASHKIN@FHHLAW.COM

\* NOT ADMITTED IN VIRGINIA

**Via Hand Delivery**

Ms. Marlene Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

**Attn: Office of the Managing Director**

**Re: Request for Waiver of FY 2009 Regulatory Fees  
Duran-Hill, Inc.  
FRN: 0005015771**

Dear Ms. Dortch:

By its counsel, Duran-Hill, Inc., licensee of FM broadcast station KNUW, Santa Clara, New Mexico (Facility ID 41114), hereby respectfully requests a waiver of its obligation to pay regulatory fees due September 22, 2009, for KNUW because the station is silent.

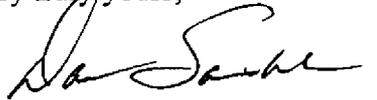
In *Implementation of Section 9 of the Communications Act*, 10 FCC Rcd 12759, 12762 (1995), the Commission determined that regulatory fees may be waived for stations which are not on the air. Duran-Hill filed a Notification of Suspension of Operations and a Request for Silent Special Temporary Authority for KNUW on December 22, 2008, citing financial reasons for the station's silence. See FCC File No. BLSTA-20081222ABL. The station remains off the air and will not return to the air before the fees are due.

Marlene Dortch, Secretary  
September 16, 2009  
Page 2

Because the primary station, KNUW, is silent, the licensee respectfully requests that the FY 2009 regulatory fees for the associated auxiliary licenses, WPJF713 and WPJM373, also be waived.

In light of the foregoing, the licensee respectfully requests relief from payment of the FY2009 regulatory fees due for the above-referenced stations. Should you have any questions, please do not hesitate to contact the undersigned.

Very truly yours,



Richard F. Swift  
Davina S. Sashkin  
*Counsel for Duran-Hill, Inc.*

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

NOV 05 2009

OFFICE OF  
MANAGING DIRECTOR

Robert J. Rini  
Jonathan E. Allen  
Counsel for Cranston Acquisition, LLC  
Rini Coran, PC  
1140 19<sup>th</sup> Street, NW, Suite 600  
Washington, DC 20036

Re: KMCC-TV, Laughlin, Nevada  
Fiscal Year 2009 Regulatory Fee Waiver Request  
Fee Control No. RROG-09-00012044

Dear Counsel:

This letter is in response to your request filed on September 21, 2009, on behalf of Cranston Acquisition, LLC, Debtor-in-Possession ("Cranston"), licensee of KMCC-TV, Laughlin, Nevada, requesting deferral and waiver of the regulatory fees for fiscal year 2009 ("*Waiver Request*"). Our records show that Cranston has not paid the regulatory fees for fiscal year 2009, which total \$13,370. For the reasons below, we grant your request.

In support of your request, you state that on June 17, 2008, Cranston, a Delaware limited liability company, and Cranston II, LLC, also a Delaware limited liability company and the sole member and 100% owner of Cranston, filed voluntary petitions for reorganization with the U.S. Bankruptcy Court for the Southern District of New York under Chapter 11 of the bankruptcy code and that both companies remain under its protection.<sup>1</sup>

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). Based on the documents you submitted concerning Cranston's bankruptcy status, your request for waiver of the regulatory fees for fiscal year 2009 is granted.

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<sup>1</sup> *Waiver Request* at 2.

Robert J. Rini, Esq. & Jonathan E. Allen, Esq.

2.

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 stylized flourish at the end.

 Mark Stephens  
Chief Financial Officer



RINI CORAN, PC  
 Telecom | Media | Technology  
 Law and Policy

12044

Robert J. Rini  
 Rini Coran, PC  
 Direct Dial: 202.463.4301  
 E-mail: rrini@rinicoran.com

~~FRN 001551477~~

September 18, 2009

RR06-09-00012044

ORIGINAL

By FedEx  
 Federal Communications Commission  
 Regulatory Fees  
 c/o U.S. Bank – Government Lockbox # 979084  
 SL-MO-C2-GL  
 1005 Convention Plaza  
 St. Louis, MO 63101  
 Attn: Petitions

Re: **Cranston Acquisition, LLC Debtor In Possession**  
**FY-2009 Regulatory Fees**  
**Request For Waiver of Fees**

Dear Ms. Dortch:

Transmitted herewith, on behalf of Cranston Acquisition, LLC Debtor In Possession, are an original and two copies of a request for waiver of its FY-2009 Regulatory Fees.

Please date-stamp the indicated copy of this filing and return it to our offices. Also, please contact the undersigned directly if there are any questions concerning this matter.

Respectfully submitted,

Robert J. Rini

Enclosures

cc: Ms. Marlene H. Dortch, Office of The Secretary (via US mail)

FILE

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

NOV 05 2009

OFFICE OF  
MANAGING DIRECTOR

Keith Parsons, Vice President  
Cleartel Communications  
2855 S. Congress Avenue  
Delray Beach, Florida 33445

Re: Cleartel Communications, Inc. and Subsidiaries  
FY 2009 Regulatory Fees  
Fee Control No. RROG-09-00012024

Dear Mr. Parsons:

This letter responds to your request dated September 22, 2009 (*Request*), on behalf of certain subsidiaries of Cleartel Communications, Inc. (Cleartel) for waiver of the fiscal year (FY) 2009 regulatory fees.<sup>1</sup> Our records reflect that the Subsidiaries have not paid the regulatory fees at issue here. For the reasons stated herein, we grant your request.

You assert that on August 26, 2009, Cleartel closed a transaction transferring all of the customers of Cleartel to various subsidiaries of Birch Communications, Inc.<sup>2</sup> You maintain that Cleartel has ceased all commercial operations and no longer operates as a telecommunications carrier.<sup>3</sup>

Our records reflect that on May 11, 2009, Cleartel and the Subsidiaries filed an application under section 63.03 of the Commission's rules, 47 C.F.R. §63.03, seeking approval to complete a proposed transaction whereby substantially all of their customers, customer accounts, and telecommunications assets would be acquired by Birch Communications, Inc. (f/k/a Access Integrated Networks, Inc.), Birch Telecom, Inc. (BTI), and certain subsidiaries of BTI (*Transfer of Control Application*).<sup>4</sup> On July 2, 2009, the Wireline Competition Bureau (Bureau) granted the *Transfer of Control*

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<sup>1</sup> See *Request* at 1. Specifically, you request waiver of the FY 2009 regulatory fees on behalf of Cleartel Telecommunications, Inc., IDS Telcom Corp., nii communications, ltd., Now Communications, Inc., Supra Telecommunications and Information Systems, Inc., and Telecon Communications Corporation (the Subsidiaries), respectively.

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

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

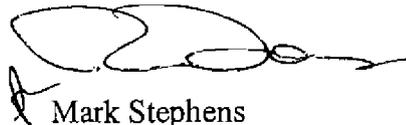
<sup>4</sup> See *Public Notice, Domestic Section 214 Application Filed for the Acquisition of Assets of Cleartel Communications, Inc. and its Subsidiaries by Birch Communications, Inc.*, WC Docket No. 09-67, 24 FCC Rcd 7408 (WCB, June 1, 2009).

*Application.*<sup>5</sup> In correspondence dated September 25, 2009, Birch Communications advised the Commission that the transfer of control at issue here had been completed,<sup>6</sup> and Birch states that the transaction was consummated on August 25, 2009.<sup>7</sup>

The record before us reflects that the transfer of control was consummated on August 25, 2009, and that the Subsidiaries had transferred all of the customers to Birch Communications, Inc. (f/k/a Access Integrated Networks, Inc.), Birch Telecom, Inc. (BTI), and certain subsidiaries of BTI before the date that the FY 2009 regulatory fees were due (*i.e.*, September 22, 2009<sup>8</sup>). As a result, the Subsidiaries were not operating as telecommunications carriers authorized to provide service on September 22, 2009, and we therefore find that the Subsidiaries are not responsible for the payment of the FY 2009 regulatory fees.<sup>9</sup>

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

Sincerely,



Mark Stephens  
Chief Financial Officer

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<sup>5</sup> See *Public Notice, Notice of Domestic Section 214 Authorization Granted*, DA 09-1501, WC Docket No. 09-67, DA 09-1226, 2009 WL 1916522, (WCB, July 2, 2009).

<sup>6</sup> See letter from Sharyl D. Fowler, Birch Communications, to Marlene H. Dortch, FCC, WC Docket No. 09-67 (Sept. 25, 2009). On June 11, 2009, Cleartel filed an application requesting authority under section 63.71 of the Commission's rules, 47.C.F.R. § 63.71, to discontinue the provision of telecommunications services to customers not included in the *Transfer of Control Application*. Cleartel stated in the application that it would discontinue these services prior to September 22, 2009. *Public Notice, Comments Invited on Application of Cleartel Telecommunications, Inc. to Discontinue Domestic Telecommunications Services*, WC Docket No. 09-112, DA 09-1492, 2009 WL 1884086 (WCB, June 30, 2009).

<sup>7</sup> See email from Sharyl Fowler to Joanne Wall (Oct. 9, 2009).

<sup>8</sup> See *Public Notice, FY 2009 Regulatory Fees Due No Later Than September 22, 2009, Eastern Time (ET)*, DA 09-1837, 2009 WL 2595896 (Aug. 21, 2009).

<sup>9</sup> See *Assessment and Collection of Regulatory Fees for Fiscal Year 2009, Report and Order*, 2009 WL 2356991, para. 43 (released: July 31, 2009).



COMMUNICATIONS

RR06-09-0001224

September 22, 2009

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 Request

RE: Regulatory Fees of Cleartel Communications, Inc. and its subsidiaries

Dear Secretary Dortch:

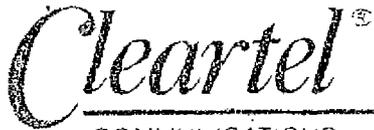
By this letter, for the reasons outlined below, certain subsidiaries of Cleartel Communications, Inc. (FRN 0015409139),<sup>1</sup> (collectively, "Cleartel"), hereby contests its regulatory fee assessment for Fiscal Year 2009, or in the alternative, requests a waiver of its regulatory fee payments on the grounds of financial hardship. Under the FY 2009 regulatory fee schedule, Cleartel has an outstanding bill of approximately \$71,439 in regulatory fee payments.

As of today, the date regulatory fees are due, no Cleartel entity operates as a provider of interstate telecommunications service to end users. On August 26, 2009, Cleartel closed a transaction whereby all of the customers of Cleartel were transferred to various subsidiaries of Birch Communications, Inc. As such, Cleartel is no longer operating as a telecommunications carriers and is not subject to FCC regulatory fees.

Even if Cleartel were deemed to be a carrier subject to FCC regulatory fees, Cleartel would also meet the standard for a waiver of the FCC regulatory fees on the grounds of financial hardship. Cleartel has ceased all commercial operations, and has liabilities far in excess of its assets. Cleartel intends to commence a liquidation of the company and its subsidiaries in the near future and does not anticipate any future commercial activities. As such, the payment of regulatory fees would be a financial burden on Cleartel and the public interest would not be served by requiring the payment of regulatory fees from a company in such a financial condition. Cleartel believes that a waiver is consistent with Commission precedent.

Under the Commission's Regulatory Fee payment guidelines, a company can request waiver of the payment of the regulatory fees at the time of the payment of regulatory fees. While payment

<sup>1</sup> Specifically, the operating subsidiaries referenced here are Cleartel Telecommunications, Inc. (FRN 000777139), IDS Telecom Corp. (FRN 0012643243), nii communications, ltd. (FRN 0004340472), Now Communications, Inc. (FRN 0009916305), Supra Telecommunications and Information Systems, Inc. (FRN 0015327745) and Telecon Communications Corporation (FRN 0006949051).



COMMUNICATIONS

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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 it is not clear that the fees are even applicable, Cleartel is hereby withholding payment pending resolution of these issues.

If you have any questions in this matter, please contact the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Keith Parsons".

Keith Parsons  
Vice President

**ROUTING AND TRANSMITTAL SLIP**

Date **10/23/09**

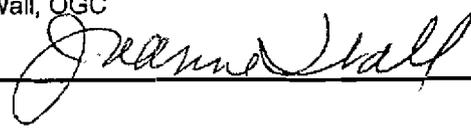
TO: (Name, office symbol, room number building, Agency/Post)	Initials	Date
1. Pete Belvin, OGC	<i>PB</i>	10/23/09
2. Adama Jarr, OMD- Room 1-A762		
3. Regina Dorsey, OMD		
4. Steven VanRoekel, Chief Financial Officer		
5.		

Action	File	Note and Return
Approval	For Clearance	Per Conversation
As Requested	For Correction	Prepare Reply
Circulate	For Your Information	See Me
Comment	Investigate	Signature
Coordination	Justify	

**REMARKS**

Re: Cleartel Communications, Inc. and Subsidiaries  
 FY 2009 Regulatory Fees  
 Fee Control No. RROG-09-00012024

DO NOT use this form as a RECORD of approvals, concurrences, disposals  
 Clearances, and similar actions

FROM: (Name, org, symbol, Agency/Post) Joanne Wall, OGC	Room 8-A500
	Phone 418-1773

5041-102 OPTIONAL FORM 41 (Rev. 7-76)  
 Prescribed by GSA  
 FPMR (41 CFR) 101-112-6

Keith Parsons  
Vice President  
Cleartel Communications  
2855 S. Congress Ave.  
Delray Reach, FL 33445

Re: Cleartel Communications, Inc. and Subsidiaries  
FY 2009 Regulatory Fees  
Fee Control No. RROG-09-00012024

Dear Mr. Parsons:

This letter responds to your request dated September 22, 2009 (*Request*), on behalf of certain subsidiaries of Cleartel Communications, Inc. (Cleartel) for waiver of the fiscal year (FY) 2009 regulatory fees.<sup>1</sup> Our records reflect that the Subsidiaries have not paid the regulatory fees at issue here. For the reasons stated herein, we grant your request.

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Our records reflect that on May 11, 2009, Cleartel and the Subsidiaries filed an application under section 63.03 of the Commission's rules, 47 C.F.R. §63.03, seeking approval to complete a proposed transaction whereby substantially all of their customers, customer accounts, and telecommunications assets would be acquired by Birch Communications, Inc. (f/k/a Access Integrated Networks, Inc.), Birch Telecom, Inc. (BTI), and certain subsidiaries of BTI (*Transfer of Control Application*).<sup>4</sup> On July 2, 2009, the Wireline Competition Bureau (Bureau) granted the *Transfer of Control Application*.<sup>5</sup> In correspondence dated September 25, 2009, Birch Communications

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

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<sup>4</sup> See *Public Notice, Domestic Section 214 Application Filed for the Acquisition of Assets of Cleartel Communications, Inc. and its Subsidiaries by Birch Communications, Inc.*, WC Docket No. 09-67, 24 FCC Rcd 7408 (WCB, June 1, 2009).

<sup>5</sup> See *Public Notice, Notice of Domestic Section 214 Authorization Granted*, DA 09-1501, WC Docket No. 09-67, DA 09-1226, 2009 WL 1916522, (WCB, July 2, 2009).

advised the Commission that the transfer of control at issue here had been completed,<sup>6</sup> and Birch states that the transaction was consummated on August 25, 2009.<sup>7</sup>

The record before us reflects that the transfer of control was consummated on August 25, 2009, and that the Subsidiaries had transferred all of the customers to Birch Communications, Inc. (f/k/a Access Integrated Networks, Inc.), Birch Telecom, Inc. (BTI), and certain subsidiaries of BTI before the date that the FY 2009 regulatory fees were due (*i.e.*, September 22, 2009<sup>8</sup>). As a result, the Subsidiaries were not operating as telecommunications carriers authorized to provide service on September 22, 2009, and we therefore find that the Subsidiaries are not responsible for the payment of the FY 2009 regulatory fees.<sup>9</sup>

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

Sincerely,

Mark Stephens  
Chief Financial Officer

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<sup>6</sup> See letter from Sharyl D. Fowler, Birch Communications, to Marlene H. Dortch, FCC, WC Docket No. 09-67 (Sept. 25, 2009). On June 11, 2009, Cleartel filed an application requesting authority under section 63.71 of the Commission's rules, 47.C.F.R. § 63.71, to discontinue the provision of telecommunications services to customers not included in the *Transfer of Control Application*. Cleartel stated in the application that it would discontinue these services prior to September 22, 2009. *Public Notice, Comments Invited on Application of Cleartel Telecommunications, Inc. to Discontinue Domestic Telecommunications Services*, WC Docket No. 09-112, DA 09-1492, 2009 WL 1884086 (WCB, June 30, 2009).

<sup>7</sup> See email from Sharyl Fowler to Joanne Wall (Oct. 9, 2009).

<sup>8</sup> See *Public Notice, FY 2009 Regulatory Fees Due No Later Than September 22, 2009, Eastern Time (ET)*, DA 09-1837, 2009 WL 2595896 (Aug. 21, 2009).

<sup>9</sup> See *Assessment and Collection of Regulatory Fees for Fiscal Year 2009, Report and Order*, 2009 WL 2356991, para. 43 (released: July 31, 2009).