

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

MAR 24 2010

OFFICE OF  
MANAGING DIRECTOR

Irene Verdiyan  
Financial Analysis & Reporting  
E! Entertainment Television  
5750 Wilshire Blvd.  
Los Angeles, CA 90036

Re: E! Entertainment.  
Fiscal Year 2009 Regulatory Fee  
Fee Control No. 0911259088198007

Dear Ms. Verdiyan:

This is in response to your request dated November 19, 2009 (*Request*), filed on behalf of E! Entertainment Television (E! Entertainment) for waiver of the penalty for late payment of the fiscal year (FY) 2009 regulatory fee. Our records reflect that you paid the \$210.00 FY 2009 regulatory fee, but not \$52.50 late payment penalty. For the reasons set forth below, we deny your request.

You state that E! Entertainment was not notified that it "had to pay our annual fee by mail or internet without having to receive the invoice."<sup>1</sup> The Communications Act of 1934, as amended, requires the Commission to assess a penalty of 25 percent on any regulatory fee not paid in a timely manner.<sup>2</sup> It is the obligation of the licensees responsible for regulatory fee payments to ensure that the Commission receives the fee payment no later than the final date on which regulatory fees are due for the year.<sup>3</sup> E! Entertainment paid the regulatory fee on November 23, 2009, after the September 22, 2009, deadline for filing regulatory fees, and therefore failed to meet this obligation.

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

<sup>2</sup> 47 U.S.C. §159(c)(1).

<sup>3</sup> See 47 C.F.R. §1.1164, and see *Public Notice, Payment Methods and Procedures for FY 2009*, 24 FCC Rcd 11513, 11513 (Sept. 2, 2009) (*September 2009 Public Notice*), *Public Notice, FY 2009 Regulatory Fees Due No Later Than September 22, 2009*, *Eastern Time (ET)*, 24 FCC Rcd 10890, 10890 (Aug. 21, 2009), and *Public Notice, Fee Filer Mandatory for FY 2009 Regulatory Fees*, 24 FCC Rcd 10893, 10893 (Aug. 21, 2009) (stating that FY 2009 regulatory fees must be received by the Commission no later than September 22, 2009, and that payments received after that date will be charged a 25 percent late payment penalty).

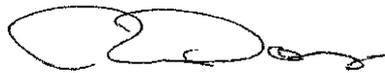
The Commission informs its licensees of the due dates, amounts of the fees, and payment methods in public notices and fact sheets, which information it also posts on its web site, [www.fcc.gov](http://www.fcc.gov). For the FY 2009 regulatory fees, the Commission released several public notices informing licensees of the September 22, 2009, deadline for filing regulatory fees and posted these items on its web site.<sup>4</sup>

Although you may have relied upon receiving a pre-bill from the Commission regarding the regulatory fee, the Commission determined in *Assessment and Collection of Regulatory Fees for Fiscal Year 2009, Report and Order*, 24 FCC Rcd 10301, 10308-10309 (2009), that it would no longer mail pre-bills via surface mail to licensees such as E! Entertainment. That decision, which was adopted on July 28, 2009, and released on July 31, 2009, adopted without change a proposal announced by the Commission in *Assessment and Collection of Regulatory Fees for Fiscal Year 2009, Notice of Proposed Rulemaking*, 24 FCC Rcd 5966, 5972-73 (2009), which was released on May 14, 2009. The Commission adopted the modifications to the notifications procedures at issue here almost two months before the due date for filing the FY 2009 regulatory fees, and proposed those modifications over four months before the due date.

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.”<sup>5</sup> You have not presented circumstances sufficient to mitigate your responsibility as a licensee to apprise yourself of your obligation to pay the FY 2009 regulatory fee by the announced deadline of September 22, 2009. We therefore deny your request for waiver of the penalty for late payment of the fiscal year 2009 regulatory fee for E! Entertainment.

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

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

<sup>5</sup> See *Sitka Broadcasting Co., Inc.*, 70 FCC 2d 2375, 2378 (1979), citing *Lowndes County Broadcasting Co.*, 23 FCC 2d 91 (1970) and *Emporium Broadcasting Co.*, 23 FCC 2d 868 (1970).



12366

November 19, 2009

Irene Verdiyan  
E! Entertainment Television  
5750 Wilshire Blvd  
Los Angeles, CA 90036

0911259088198007

FCC Managing Office of the Director  
445 12<sup>th</sup> Street SW, Room 1-A65  
Washington DC 20554

To Whom It May Concern,

I am requesting that our late fee for the 2009 Regulatory fee be waived because we were not notified that we had to pay our annual fee by mail or internet without having to receive the invoice.

We received an invoice for the fee and late penalty in November, and attached is the copy of the check for the annual fee.

If you have any questions, please feel free to contact me at 323-692-5109

Sincerely

Irene Verdiyan  
Financial Analysis & Reporting

late Fee amount of \$52.50  
outstanding AT 12/10/09

**comcast.**  
entertainment group

5750 Wilshire Boulevard  
Los Angeles, CA 90036

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

MAR 29 2010

OFFICE OF  
MANAGING DIRECTOR

Pantelis Michalopoulos, Esq.  
Petra A. Vorwig, Esq.  
Brendan Kasper, Esq.  
1330 Connecticut Ave., N.W.  
Washington, D.C. 20036-1795

Re: EchoStar Corporation  
Petition for Waiver of Application Fees  
Fee Control Number RROG-09-00011979

Dear Counsel:

This is in response to your request for waiver of application fees filed August 14, 2009 (*Request*), submitted on behalf of EchoStar Corporation (EchoStar) in connection with an application for a minor amendment to its application to modify its blanket receive-only earth station authority to add the Canadian-licensed Nimiq 5 satellite as a point of communication at 72.7° W.L. to provide service to up to five million receive-only dishes.<sup>1</sup> You request that the Commission find that no fee is required, *i.e.*, waive these fees, or “find that the ‘VSAT’ [*i.e.*, Very Small Aperture Terminal] application amendment fee [*i.e.*, \$175.00] is appropriate.”<sup>2</sup> Our records reflect that EchoStar paid a \$175.00 filing fee with its application. For the reasons set forth below, we grant your request and accept the proffered fee payment.

You recite that EchoStar requests authorization to amend its application to modify its blanket earth station authorization to add the Canadian-licensed 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. You state that in the absence of any provision under the Commission’s rules specifying a charge for this type of application in the DBS service, the application could be subject either to the \$175.00 fee to amend a pending application for a fixed satellite VSAT system or the \$175.00 fee to modify a license for a receive-only earth station application for each of the five million earth stations, for a total fee of \$875,000,000.000.<sup>3</sup> 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 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

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<sup>1</sup> See *Request* at 1 (citing File No. SES-AMD-20090807-00977 (filed Aug. 7, 2009)).

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

<sup>3</sup> *Id.*, citing *International and Satellite Services Fee Filing Guide* at 13 (effective Apr. 28, 2009).

bands.”<sup>4</sup> You aver that because the proposed earth stations are technically identical, “many of the processing activities required to issue a new system license . . . are simply not required[.]”<sup>5</sup> You assert that the Commission has accepted application fees for VSAT networks in similar contexts.<sup>6</sup> You maintain that grant of the application would expand and improve the DBS service that DISH Network can provide to the United States and enable EchoStar to expand service to U.S. customers in the future by making the EchoStar 6 satellite available for possible future redeployment.<sup>7</sup>

You aver that to require EchoStar to pay a \$155.00 fee for each of its five million earth stations “merely because it is providing service from a non-U.S. satellite when an operator providing an identical service using U.S. licensed satellite would not need to apply for licenses for each of its consumer dishes” would constitute “overtly discriminatory treatment among domestic- and foreign-licensed DBS and Direct-to-Home (DTH) providers serving the United States.”<sup>8</sup>

The Commission has discretion to waive filing fees “in any specific instance for good cause shown, where such action would promote the public interest.”<sup>9</sup> 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.

In the *EchoStar Letter Decision*, the Office of Managing Director (OMD) observed that the Commission previously has noted the special circumstances concerning earth station licenses to receive satellite transmissions, including the processing extended to large numbers of “technically identical small antenna earth station facilities.”<sup>10</sup> OMD therefore

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<sup>4</sup> *Id.* at 2.

<sup>5</sup> *Id.* at 4.

<sup>6</sup> *Id.*, citing letter from Mark Stephens, Chief Financial Officer (CFO), Office of Managing Director (OMD), FCC, to Pantelis Michalopoulos, Esq. and Petra A. Vorwig, Esq. (May 9, 2007) (*EchoStar Letter Decision*) and *DIRECTV Enterprises*, 19 FCC Rcd 15529 (International Bur. 2004) (granting DIRECTV’s request for a blanket authorization for one million receive-only earth stations to provide “local-into-local” signals to U.S. consumers using a DIRECTV satellite operating pursuant to a Canadian space station authorization issued to Telesat Canada) and *Digital Broadband Application Corp.*, 18 FCC Rcd 9455 (International Bur. 2003).

<sup>7</sup> *Id.* at 5.

<sup>8</sup> *Id.*

<sup>9</sup> 47 U.S.C. §158(d)(2).

<sup>10</sup> See *EchoStar Letter Decision* at 2, citing *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, ¶¶ 245-248 (1987).

found that, based on the circumstances of EchoStar's application, EchoStar's plan comports with the Commission's expressed intent in the *DISCO II* decision.<sup>11</sup> OMD explained that, 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."<sup>12</sup> OMD therefore found "that the public interest is served in permitting a blanket application and waiving the fees that would have been required to accompany one million separate license requests."<sup>13</sup> For the same reasons supporting OMD's decision to grant EchoStar a waiver of the application fees in the *EchoStar Letter Decision*, we find that the public interest is served in waiving the fees that would have been required to accompany five million separate applications for amendment of the application at issue here.

Your request is granted to the extent stated herein and the Commission accepts your check of \$175.00. If you have any questions concerning this letter, please call the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,



Mark Stephens  
Chief Financial Officer

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<sup>11</sup> *Id.*, citing *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, ¶¶ 201-204 (1997) (*DISCO II*).

<sup>12</sup> *Id.* at 3.

<sup>13</sup> *Id.* In reaching its decision, OMD cited Letter from Mark A. Reger, CFO, OMD, FCC to Gary M. Epstein, Esq., *et al.* (dated June 15, 2004) and Letter from Mark Reger, CFO, OMD, FCC, to Patricia J. Paoletta, Esq., Todd M. Stansbury, Esq., and Jennifer D. Hindin, Esq. (dated June 24, 2002).

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

RR06-09-00011979

\_\_\_\_\_) )  
In the Matter of ) )  
ECHOSTAR CORPORATION ) )  
Petition for Waiver of ) )  
Application Fees Pursuant to ) )  
Section 1.1117 of the Commission's Rules ) )  
\_\_\_\_\_)

RECEIVED - FCC  
AUG 14 2009  
Federal Communications Commission  
Bureau / Office

To: Office of the Managing Director

**PETITION FOR WAIVER OF APPLICATION FEES**

EchoStar Corporation ("EchoStar") respectfully requests that, pursuant to Sections 1.3 and 1.1117 of the Commission's Rules,<sup>1</sup> and the Communications Act of 1934, as amended (the "Act"),<sup>2</sup> the Commission waive to the extent necessary certain application fees associated with its concurrently filed application for a minor modification of its application to modify its blanket receive-only earth station authority to add the Canadian-licensed Nimiq 5 satellite as a point of communication at 72.7° W.L.<sup>3</sup> The Commission's Rules and the Act specifically provide that such fees may be waived where good cause is shown and the public interest would be served.<sup>4</sup> As demonstrated below, good cause exists for, and the public interest would be served by, waiver of fees in this case because the modification application fee would not be commensurate with the

<sup>1</sup> 47 C.F.R. §§ 1.3 and 1.1117.

<sup>2</sup> 47 U.S.C. § 158(d)(2).

<sup>3</sup> See File No. SES-AMD-20090807-00977 (filed August 7, 2009) ("Application"). For convenience, this petition is being attached as an Attachment to this application.

<sup>4</sup> 47 C.F.R. § 1.1117; 47 U.S.C. § 158(d)(2).

Commission's actual costs of processing EchoStar's Application and would represent a regulatory barrier to EchoStar's proposed provision of service. If the Commission determines that a fee is required, EchoStar requests that the Commission find that the "VSAT" application amendment fee is appropriate. EchoStar has already paid the \$175 fee for such applications, to which the instant request to provide service to up to 5,000,000 receive-only dishes is similar.

## **I. BACKGROUND**

EchoStar is requesting a minor amendment to its application to modify its blanket earth station authorization to add the Canadian-licensed 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. The Commission's Rules do not designate any specific charges for the type of application being filed in the DBS service. The following schedule of charges for applications for the types of services which could be applied to EchoStar's Application include:

- Application Amendment for a Fixed Satellite Very Small Aperture Terminal (VSAT) System = \$175 per system<sup>5</sup>
- Modification of License for a Receive-Only Earth Stations = \$175 per station<sup>6</sup>

EchoStar's proposed network of DBS earth stations is most like a VSAT system; therefore, it should be subject to at most the \$175 application fee for an application to modify a VSAT system.

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<sup>5</sup> See *International and Satellite Services Fee Filing Guide* at 13 (effective Apr. 28, 2009) ("*Fee Filing Guide*").

<sup>6</sup> *Id.*

EchoStar's proposed system architecture will consist of as many as 5,000,000 technically identical earth stations operating in the DBS portion of the Ku-band. This architecture is consistent with the FCC'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.<sup>7</sup> Because EchoStar believes that its system is most like a VSAT network, it has paid the \$175.00 VSAT system modification fee. However, if the Commission determines that the \$175.00 per station fee for receive-only earth stations applies to this application, EchoStar seeks a waiver of that \$875 million application fee.

**II. GOOD CAUSE EXISTS FOR, AND THE PUBLIC INTEREST WOULD BE SERVED BY, WAIVER OF THE RECEIVE-ONLY EARTH STATION APPLICATION FEE**

The Commission has the authority to waive application fees where -- such as here -- good cause is shown and the public interest would be served.<sup>8</sup> As demonstrated below, a fee of up to \$875 million would be prohibitively high for EchoStar, would deny competitive service offerings to the public, and would not be commensurate with FCC processing resources.

**A. FCC Application Fees are Intended to Recover the Costs of Standard Application Processing**

The Commission's schedule of application fees is intended to reimburse the government for the work involved in providing certain regulatory services associated with processing applications. In setting the fees, the Commission has noted that "the charges represent a rough approximation of the Commission's actual cost of providing the regulatory actions listed" and

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<sup>7</sup> See *Streamlining the Commission's Rules and Regulations for Satellite Application and Licensing Procedures*, Order, 11 FCC Rcd. 21581, 21592 (1996).

<sup>8</sup> See *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969), *aff'd*, 459 F.2d 1203 (D.C. Cir. 1972), *cert. denied*, 409 U.S. 1027 (1972).

that “the very core of this effort is to reimburse the government -- and the general public -- for the regulatory services provided to certain members of the public.”<sup>9</sup> However, in certain instances, the Commission’s schedule of filing fees may not reasonably approximate the costs involved in handling a particular application or may not otherwise serve the public interest. For this reason, the Commission’s Rules and the Act allow for parties to seek a waiver of the application fees.<sup>10</sup>

A filing fee waiver is warranted here because many of the processing activities required to issue a new system license -- the costs of which the application fees are designed to recover -- are simply not required in reviewing EchoStar’s Application. For example, the Commission need not review 5,000,000 different technical parameters to grant EchoStar’s Application. Rather, as in the case of a VSAT network, the Commission only needs to review one set of technical parameters for all of the technically identical earth stations. In similar contexts, the Commission has accepted application fees for VSAT networks.<sup>11</sup> Thus, the \$175.00 application fee paid for this Application would be consistent with past practice and fairly compensate the Commission for the costs involved in its review of the application.

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<sup>9</sup> *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, 948 (1987).

<sup>10</sup> *See supra* note 4.

<sup>11</sup> *See, e.g., Application of EchoStar Satellite Operating Corporation for Pro Forma Assignment of Blanket Earth Station License*, File No. SES-ASG-20070228-00278, (granted Apr. 3, 2007) (fee waiver granted in a letter from Mark Stephens, CFO, FCC, to Pantelis Michalopoulos, Counsel for EchoStar Satellite L.L.C., dated May 9, 2007); *Application of DIRECTV Enterprises, LLC*, DA 04-2526 (rel. Aug. 13, 2004) (approving application in which applicant paid VSAT application fee for 1,000,000 receive-only terminals to be used for DBS service from a Canadian satellite).

**B. The Public Interest Would Be Served by Granting the Requested Fee Waiver**

In addition to being supported by the requisite good cause, granting EchoStar's request for a waiver of application fees for its Application is also consistent with the public interest. As described in detail in the original application,<sup>12</sup> grant of the authority requested by EchoStar to provide DBS services in the United States using the Nimiq 5 satellite at 72.7° W.L. will further a number of compelling public interest objectives. Among other benefits, a grant would expand and improve the DBS service that EchoStar's customer, DISH Network, can provide to the United States, and enable EchoStar to expand service to U.S. customers in the future by making the EchoStar 6 satellite available for possible future redeployment.

EchoStar should not be required to pay a \$175.00 fee for each of its 5,000,000 earth stations merely because it is providing service from a non-U.S. satellite when an operator providing an identical service using a U.S.-licensed satellite would not need to apply for licenses for each of its consumer dishes.<sup>13</sup> The result would be overtly discriminatory treatment among domestic- and foreign-licensed DBS and Direct-to-Home ("DTH") providers serving the United States. Such a result would also not be consistent with the Commission's decision to eliminate the requirement to obtain a license – or to pay a separate fee – for U.S. receive-only earth

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<sup>12</sup> File No. SES-MFS-20090306-00253 (filed Mar. 6, 2009).

<sup>13</sup> Except for the fact that EchoStar will be using a Canadian orbital location, EchoStar would not have to file an application for these earth stations. *See* 47 C.F.R. § 25.131(j); *see also In the Matter of Telesat Canada Petition for Declaratory Ruling for Inclusion of ANIK F1 on the Permitted Space Station List*, Order, 16 FCC Rcd 16365, 16369 (2001) (holding that "receive-only earth stations receiving transmissions from any non-U.S. licensed satellite, regardless of whether the satellites is on the Permitted List, must be licensed.").

stations to communicate with foreign-licensed Fixed Satellite Service satellites on the Permitted Space Station List.<sup>14</sup>

### III. CONCLUSION

Under current Commission fee guidelines, EchoStar could potentially be required to pay a fee of \$175.00 for each of its 5,000,000 receive-only earth stations. That would amount to a total fee of up to \$875 million. Clearly, the imposition of such a high fee was not what Congress or the Commission intended when the fee guidelines were adopted. Such an astronomical application fee would be a barrier to any operator that desires to offer an innovative, competitive service to the public, as proposed by EchoStar.

The financial hardship that a \$875 million filing fee would impose on EchoStar, or indeed any other entity, would clearly preclude an application from being filed at all. Filing fees should reimburse the government for the costs of processing applications, not act as a regulatory barrier to entry for competitive services. For all of the aforementioned reasons, EchoStar respectfully requests that the Commission grant the requested fee waiver to the extent necessary in conjunction with its Application to provide DBS service from Nimiq 5 at 72.7° W.L.

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<sup>14</sup> See *Amendment of the Commission's Space Station Licensing Rules and Policies*, Second Report and Order in IB Docket No. 02-34, Second Report and Order in IB Docket No. 00-248, and Declaratory Order in IB Docket No. 96-111, 18 FCC Rcd 12507, 12516-17 (2003).

Respectfully submitted,

/s/

Pantelis Michalopoulos  
Petra A. Vorwig  
**Steptoe & Johnson LLP**  
1330 Connecticut Avenue, N.W.  
Washington, D.C. 20036-1795  
(202) 429-3000

*Counsel for EchoStar Corporation*

Dated: August 7, 2009

cc: Steven VanRoekel, Managing Director, Office of the Managing Director (via hand delivery)

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

MAR 1 2010

OFFICE OF  
MANAGING DIRECTOR

Claire Leibee, Controller  
Eventbuilder.com  
1300 SW 5<sup>th</sup> Ave.  
Suite 900  
Portland, Oregon 97021

Re: Encounter Collaborative Corporation  
d/b/a Eventbuilder.com  
Fiscal Year 2009 Regulatory Fee  
Fee Control No. 091179088170003

Dear Ms. Leibee:

This is in response to your request dated November 10, 2009, filed on behalf of Encounter Collaborative Corporation d/b/a Eventbuilder.com (ECC) for waiver of the penalty for late payment of the fiscal year (FY) 2009 regulatory fee. Our records reflect that you paid the \$2,569.00 FY 2009 regulatory fee, but not the \$642.25 late payment penalty. For the reasons set forth below, we deny your request.

You assert that ECC is a small company and “we never had communication we were to pay this invoice until the late notice was sent[.]”<sup>1</sup> You state that the Commission’s website does not explain the abbreviation “PTC” as it is listed on the “Remittance Advice: Bill for Collection” dated October 15, 2009 (*October 15, 2009 Bill for Collection*), and sent to ECC regarding the FY 2009 regulatory fee and late payment penalty.<sup>2</sup>

The Communications Act of 1934, as amended, requires the Commission to assess a penalty of 25 percent on any regulatory fee not paid in a timely manner.<sup>3</sup> It is the obligation of the licensees responsible for regulatory fee payments to ensure that the Commission receives the fee payment no later than the final date on which regulatory

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

<sup>2</sup> *Id.* PTC is an abbreviation for “Payment Type Code,” as is indicated on the *October 15, 2009 Bill for Collection*.

<sup>3</sup> 47 U.S.C. §159(c)(1).

fees are due for the year.<sup>4</sup> ECC paid the regulatory fee on November 17, 2009, after the September 22, 2009, deadline for filing regulatory fees, and therefore failed to meet this obligation.

The Commission takes 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](http://www.fcc.gov). For the FY 2009 regulatory fees, the Commission released several public notices informing licensees of the September 22, 2009, deadline for filing regulatory fees and posted these items on its web site.<sup>5</sup>

Further, the Commission determined in *Assessment and Collection of Regulatory Fees for Fiscal Year 2009, Report and Order*, 24 FCC Rcd 10301, 10308-10309 (2009) (2009 Report and Order), that it would no longer mail pre-bills via surface mail to licensees such as ECC. That decision, which was adopted on July 28, 2009, and released on July 31, 2009, adopted without change a proposal announced by the Commission in *Assessment and Collection of Regulatory Fees for Fiscal Year 2009, Notice of Proposed Rulemaking*, 24 FCC Rcd 5966, 5972-73 (2009), which was released on May 14, 2009. The Commission adopted the modifications to the notifications procedures at issue here almost two months before the due date for filing the FY 2009 regulatory fees, and proposed those modifications over four months before the due date.

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.”<sup>6</sup> You have not presented any circumstances sufficient to mitigate your responsibility as a licensee to apprise yourself of your obligation to pay the FY 2009 regulatory fee by the announced deadline of September 22, 2009. We therefore deny your request for waiver of the penalty for late payment of the fiscal year 2009 regulatory fee for ECC.<sup>7</sup>

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<sup>4</sup> See 47 C.F.R. §1.1164, and see *Public Notice, Payment Methods and Procedures for FY 2009*, 24 FCC Rcd 11513, 11513 (Sept. 2, 2009) (*September 2009 Public Notice*), *Public Notice, FY 2009 Regulatory Fees Due No Later Than September 22, 2009, Eastern Time (ET)*, 24 FCC Rcd 10890, 10890 (Aug. 21, 2009), and *Public Notice, Fee Filer Mandatory for FY 2009 Regulatory Fees*, 24 FCC Rcd 10893, 10893 (Aug. 21, 2009) (stating that FY 2009 regulatory fees must be received by the Commission no later than September 22, 2009, and that payments received after that date will be charged a 25 percent late payment penalty).

<sup>5</sup> See *supra* note 4.

<sup>6</sup> See *Sitka Broadcasting Co., Inc.*, 70 FCC 2d 2375, 2378 (1979), citing *Lowndes County Broadcasting Co.*, 23 FCC 2d 91 (1970) and *Emporium Broadcasting Co.*, 23 FCC 2d 868 (1970).

<sup>7</sup> You make assertions and raise questions regarding various fees that are not relevant to your request for waiver of the FY 2009 regulatory fee (including assertions and questions regarding the Universal Service Fund fees) and we do not address them here. See

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

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Stephens", written over a horizontal dashed line.

Mark Stephens  
Chief Financial Officer

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1.1166(a) ("Requests for waivers [of the regulatory fees] . . . shall be filed as a separate pleading and clearly marked to the attention of the Managing Director. Any such request that is not filed as a separate pleading will not be considered by the Commission."). Your questions regarding the specific procedures for payment and collection of the regulatory fees are addressed in the *2009 Report and Order*.



12407

RECEIVED

1300 SW 5<sup>th</sup> Avenue, Suite 900 • Portland, Oregon • 97201 • 800.290.5900 • www.eventbuilder.com 2009 DEC -8 A 10: 4

FCC  
Office of the Managing Director  
Attn: Late Penalty Fee Waiver  
445 12<sup>th</sup> St. SW  
Washington, DC 20554

09 117908-817 0008

November 10, 2009

Re: FCC ID 827266 FRN 0017982745

Dear Sir or Madame,

Enclosed is a copy of a remittance advice - bill for collection that we were sent by the FCC. The date of the bill is 10/15/09 however the due date of the bill is 9/22/09 and the bill was mailed from your offices on 10/16/09. The bill is for a fee for PTC. And in talking to someone in your revenue and receivable operations I was told that the bill was supposed to be paid by the due date and was to be accessed or paid on-line somehow. In addition as I suspected \$642.25 was added to the PTC charge of \$2569.00 as a late charge.

You probably know that our company, Encounter Collaborative Corporation DBA Eventbuilder.com was one of the conferencing companies that were required to start paying USF fees starting in October, 2008. We are a small company and to the best of our abilities have tried to keep compliant with the FCC ruling requiring us to report and pay the USF fees. We have always filed in a timely manner, despite having issues accessing the site to file because you cannot save the site as a "bookmark", you must type the address in the search engine every time you want to access the site. If you do use a "bookmark" you get a password error message, so confirmations were sometimes not done in a timely manner. We thought we were in compliance until we started receiving invoices from several companies for charges/fees we had no idea we would be billed for. They include NECA, Neustar and the North American Numbering Plan. The NECA invoice was for TRS fund that the FCC announced the contribution factor on 6/26/09 and was for over eight thousand dollars.

When I received the bill for collection from the FCC I went out to the site and looked up PTC and the only reference I found that "spelled out" what PTC is was Parents Television Council. At least the invoice we received from NECA had a letter attached explaining the fee.

There are several questions to pose:

- 1. Most importantly can we have the late fee waived because we never had communication we were to pay this invoice until the late notice was sent?**

2. How do we receive the invoice for PTC before it is past due? How often will we be invoiced for this?
3. How many other companies are going to contact us telling us we owe them money, because we are now required to pay USF fees? Is there someplace on the FCC website that these companies, charges and when they will be invoiced are detailed?
4. Are these additional bills included in the contribution percentage you calculate every quarter? If not, are we allowed to add in a percentage to recoup these additional fees from our customers?
5. Expecting that the late fee will be waived I am sending payment without the late fee included to the address on the bill for collection in St. Louis, Missouri.

Thank you for taking the time to respond to the questions I have.

Sincerely,

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

Claire Leabee  
Controller  
Eventbuilder.com

FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554  
MAR 1 2010

FILE

OFFICE OF  
MANAGING DIRECTOR

Dan J. Alpert  
The Law Office of Dan J. Alpert  
2120 N. 21<sup>st</sup> Road  
Arlington, VA 22201

Re: Estate of John R. Powley  
Station K29GD, Amarillo, TX  
Fiscal Year 2009 Regulatory Fee Waiver Request  
Fee Control No. RROG-09-00012171

Dear Counsel:

This letter is in response to your request filed on September 23, 2009, on behalf of the Estate of John R. Powley, licensee of Station K29GD, Amarillo, Texas, for waiver and refund of the \$400.00 fiscal year 2009 regulatory fee ("*Waiver Request*"). Our records show that the Estate of John R. Powley has paid the regulatory fee. For the reasons below, we grant your request.

In support of your request, you state that the "station is currently dark."<sup>1</sup> In addition, the attachment accompanying your request indicates that the FCC extended its grant of Special Temporary Authority for Station K29GD to remain silent "to October 12, 2009."<sup>2</sup>

The Commission has determined that the imposition of a regulatory fee could be an impediment to the restoration of broadcast service and therefore 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 K29GD was not operating on the date that the fiscal year 2009 regulatory fees were due (*i.e.*, September 22, 2009), we grant your request for waiver and for refund of the fee.

A check in the amount of \$400.00, made payable to the maker of the original check, will be sent to you on the earliest practicable date. If you have any questions concerning this matter, please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,



Mark Stephens  
Chief Financial Officer

<sup>1</sup> *Waiver Request* at 1 (dated September 22, 2009).

<sup>2</sup> April 6, 2009 Letter from the Federal Communications Commission to the Estate of John R. Powley, Caroline Kaye Smith, Executrix.

The Law Office of

**Dan J. Alpert**

2120 N. 21st Rd.  
Arlington, VA 22201  
DJA@COMMLAW.TV

12171

(703) 243-8690

(703) 243-8692 (FAX)

September 22, 2009

RECEIVED - FCC

Mr. Steven VanRoekel  
Managing Director  
Federal Communications Commission  
445 12<sup>th</sup> St. S.W.  
Washington, DC 20554

SEP 23 2009

Federal Communications Commission  
Bureau / Office

**Re: 2009 Annual Regulatory Fee  
Station K29GD  
Facility No. 130117**

Dear Mr. VanRoekel:

The Estate of John R. Powley, by its attorney, hereby requests a waiver and refund of its 2009 Annual Regulatory Fee. In support thereof, the following is stated.

In the Memorandum Opinion and Order issued with respect to Implementation of Section 9 of the Communications Act, FCC 95-257 (June 22, 1995), the FCC recognized that waiver of the annual Regulatory Fee was appropriate in certain instances, and specifically determined that it would grant waivers to licensees of broadcast stations which are dark (not operating). The Commission recognized that an imposition of regulatory fees could be an impediment to the restoration of broadcast service, and that such it would be unnecessary for such stations to make any further showing to warrant grant of a waiver. Id. at ¶ 15.

The Estate of John R. Powley is licensee of Station K29GD. The station currently is dark. See Attachment. Accordingly, a waiver and refund of the \$400.00 2009 Annual Regulatory Fee that has been paid is appropriate.

**WHEREFORE**, it respectfully is requested that this request be granted.

Very truly yours,

Dan J. Alpert

*Counsel for The Estate of John R. Powley*



FEDERAL COMMUNICATIONS COMMISSION  
445 12<sup>TH</sup> Street, S.W.  
Washington, D.C. 20554

April 6, 2009

The Estate of John R. Powley, Caroline Kaye  
Smith Executrix  
7588 Manatee Street  
Navarre, FL 32566

In re: LPTV or TV Translator Station of:  
The Estate of John R. Powley, Caroline Kaye  
Smith Executrix  
K29GD, Amarillo, TX  
BLESTA-20090403ACX  
Fac. ID #: 130117

Gentlemen:

This refers to your above-captioned Low Power Television or Television Translator Station and your request for extension of Special Temporary Authority to remain silent.

Your request IS HEREBY GRANTED and silent authority is authorized to October 12, 2009. Any further request must be accompanied by a progress report as to your efforts to resume operations.

As a matter of law, the license for the above station will automatically expire if broadcast operations do not commence within 12 months from the date that the station ceased broadcasting.<sup>1</sup> See Section 312(g) of the Communications Act, 47 U.S.C. Section 312(g).

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<sup>1</sup>Notification of resumption of broadcast operations can be filed electronically using CDBS or must be mailed to:

Federal Communication Commission  
Media Bureau/Video Division  
445 12<sup>th</sup> Street, S.W.  
Washington DC 20554

FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554

FILE

OFFICE OF  
MANAGING DIRECTOR

MAR 1 2010

Dan J. Alpert  
The Law Office of Dan J. Alpert  
2120 N. 21<sup>st</sup> Road  
Arlington, VA 22201

Re: Estate of John R. Powley  
Station W61DU, Columbus, GA  
Fiscal Year 2009 Regulatory Fee Waiver Request  
Fee Control No. RROG-09-00012172

Dear Counsel:

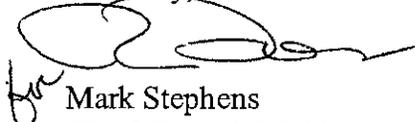
This letter is in response to your request filed on September 23, 2009, on behalf of the Estate of John R. Powley, licensee of Station W61DU, Columbus, Georgia, for waiver and refund of the \$400.00 fiscal year 2009 regulatory fee ("*Waiver Request*"). Our records show that the Estate of John R. Powley has paid the regulatory fee. For the reasons below, we grant your request.

In support of your request, you state that the "station is currently dark."<sup>1</sup> In addition, the attachment accompanying your request states that the FCC has granted Special Temporary Authority for Station W61DU to remain silent "from August 22, 2009 to February 22, 2010."<sup>2</sup>

The Commission has determined that the imposition of a regulatory fee could be an impediment to the restoration of broadcast service and therefore 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 W61DU was not operating on the date that the fiscal year 2009 regulatory fees were due (*i.e.*, September 22, 2009), we grant your request for waiver and for refund of the fee.

A check in the amount of \$400.00, made payable to the maker of the original check, will be sent to you on the earliest practicable date. If you have any questions concerning this matter, please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,

  
Mark Stephens  
Chief Financial Officer

<sup>1</sup> *Waiver Request* at 1 (dated September 22, 2009).

<sup>2</sup> September 4, 2009 Federal Communications Commission Letter to the Estate of John R. Powley, Caroline Kaye Smith, Executrix.

0909 22908488 <01 >

The Law Office of

Dan J. Alpert

2120 N. 21st Rd.  
Arlington, VA 22201  
DJA@COMMLAW.TV

12172

(703) 243-8690

(703) 243-8692 (FAX)

September 22, 2009

RECEIVED - FCC

Mr. Steven VanRoekel  
Managing Director  
Federal Communications Commission  
445 12<sup>th</sup> St. S.W.  
Washington, DC 20554

SEP 23 2009

Federal Communications Commission  
Bureau / Office

Re: 2009 Annual Regulatory Fee  
Station W61DU  
Facility No. 128039

Dear Mr. VanRoekel:

The Estate of John R. Powley, by its attorney, hereby requests a waiver and refund of its 2009 Annual Regulatory Fee. In support thereof, the following is stated.

In the Memorandum Opinion and Order issued with respect to Implementation of Section 9 of the Communications Act, FCC 95-257 (June 22, 1995), the FCC recognized that waiver of the annual Regulatory Fee was appropriate in certain instances, and specifically determined that it would grant waivers to licensees of broadcast stations which are dark (not operating). The Commission recognized that an imposition of regulatory fees could be an impediment to the restoration of broadcast service, and that such it would be unnecessary for such stations to make any further showing to warrant grant of a waiver. Id. at ¶ 15.

The Estate of John R. Powley is licensee of Station W61DU. The station currently is dark. See Attachment. Accordingly, a waiver and refund of the \$400.00 2009 Annual Regulatory Fee that has been paid is appropriate.

**WHEREFORE**, it respectfully is requested that this request be granted.

Very truly yours,

Dan J. Alpert

*Counsel for The Estate of John R. Powley*



FEDERAL COMMUNICATIONS COMMISSION  
445 12<sup>TH</sup> Street, S.W.  
Washington, D.C. 20554

September 4, 2009

The Estate of John R. Powley, Caroline  
Kaye Smith Executrix  
7855 Manatee Street  
Navarre, FL 35266

In re: LPTV or TV Translator Station of:  
The Estate of John R. Powley, Caroline  
Kaye Smith Executrix  
W61DU, Columbus, GA  
BLSTA-20090827ADA  
Fac. ID #: 128039

Gentlemen:

This refers to your above-captioned low power television or television translator station and your request for Special Temporary Authority to remain silent.

Your request IS HEREBY GRANTED and silent authority is authorized from August 22, 2009 to February 22, 2010. Any further request must be accompanied by a progress report as to your efforts to resume operations.

As a matter of law, the license for the above station will automatically expire if broadcast operations do not commence within 12 months from the date that the station ceased broadcasting.<sup>1</sup> See Section 312(g) of the Communications Act, 47 U.S.C. Section 312(g).

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<sup>1</sup>Notification of resumption of broadcast operations can be filed electronically using CDBS or must be mailed to:

Federal Communication Commission  
Media Bureau/Video Division  
445 12<sup>th</sup> Street, S.W.  
Washington DC 20554