



# PUBLIC NOTICE

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

News media information 202 / 418-5000  
Fax-On-Demand 202 / 418-2830  
Internet: <http://www.fcc.gov>  
<ftp.fcc.gov>

DA-10-1098

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

## PUBLIC NOTICE

Released: June 21, 2010

### 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:

**Istel, Inc.** - Request for waiver of late fee penalty for FY09 regulatory fee. **Denied** (April 22, 2010) See 47 U.S.C. § 159(c)(1)]

**5Link Enterprises, Inc.** - Request for waiver of FY 09 late fee payment penalty. **Denied** (May 14, 2010) [See 47 U.S.C. § 159(c)(1)]

**Adma Telecom, Inc.** - Request for waiver of FY 09 late fee payment penalty. **Denied** (May 14, 2010) [See 47 U.S.C. § 159(c)(1)]

**Alpha & Omega Communications, LLC** - Request waiver of for FY08 regulatory fees. **Denied** (May 13, 2010) [See Implementation of Section 9 of the Communications Act, 10 FCC Rcd 5333, 5346 (1994), recon. Granted, 10 FCC 12759 (1995)]

**Apollo-USA, LLC** - Request for waiver of FY 09 late fee payment penalty. **Denied** April 22, 2010) [See 47 U.S.C. § 159(c)(1)]

**Anvil Knitwear** - Request for waiver of FY 09 late fee payment penalty. **Denied** April 22, 2010) [See 47 U.S.C. § 159(c)(1)]

**Arkadin, Inc.** - Request for waiver of FY 09 late fee payment penalty. **Denied** April 26, 2010) [See 47 U.S.C. § 159(c)(1)]

**Broadband Dynamics, LLC** - Request for waiver of FY 09 late fee payment penalty. **Denied** (May 14, 2010) [See 47 U.S.C. § 159(c)(1)]

**Bright House Networks, LLC** - Request for waiver of FY 09 late fee payment penalty. **Denied** (April 22, 2010) [See 47 U.S.C. § 159(c)(1)]

**California Sierra Corporation Station K282AE** - Request for waiver FY 09 late fees payment penalties. **Denied** (May 14, 2010) 47 U.S.C. § 159(c)(1)]

**CenturyTel Long Distance, Inc.** - Request for waiver of FY 09 late fee payment penalty. **Denied** (April 22, 2010) See 47 U.S.C. § 159(c)(1)]

**Charter Communications** – Request for refund of application fee. **Granted** (April 22, 2010) [See 47 C.F.R §§1.1104(9) and 1.1115(a)(1)]

**CloseCall America, Inc.** Request of for waiver FY09 regulatory fee. **Denied** (April 22, 2010) See 47 U.S.C. § 159(c)(1) ]

**Coltrace Communication Station WUPS (FM) KPDR** - Request of for waiver FY09 regulatory fee. **Denied** (April 26, 2010) See 47 U.S.C. § 159(c)(1) ]

**Conference Calls Unlimited** - Request for waiver of FY 09 late fee payment penalty. **Denied** (April 26, 2010) See 47 U.S.C. § 159(c)(1) ]

**Craig and Marliyn Caples and Williams Station KPDR** - Request of for waiver FY08 regulatory fees. **Granted** (May 14, 2010) [See Implementation of Section 9 of the Communications Act, 10 FCC Rcd 12759, 12762 (1995)]

**Diamond Broadcasting** - Request waiver of for FY09 regulatory fee. **Dismissed** (April 26, 2010) [See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5346 on recon, 10 FCC 12759 (1995)]

**ETC Communication, Inc.** - Request for of FYs 07, 08, and 09 regulatory fees. **Granted** (May 13, 2010) [See Implementation of Section 9 of the Communications Act, 10 FCC Rcd 12759, 12762 (1995)]

**Flowlers Holdings, LLP.** - Request for waiver of FY 09 late fee payment penalty. **Denied** (April 22, 2010) See 47 U.S.C. § 159(c)(1)]

**Freedom Broadcasting of Texas Licensee, LLC Debtor-in-Possession (DIP) and Freedom Broadcasting of New York Licensee, DIP,** - Request for waiver of application fees. **Granted** (April 26, 2010) See 47 C.F.R. § 1.1117 (e)]

**GMPCS Personal Communications, Inc** – Request for waiver of FY 09 late fee payment penalty. **Denied** (April 22, 2010) See 47 U.S.C. § 159(c)(1) ]

**Global Crossing Limited** - Request for waiver or reduction of FY 09 regulatory fees. **Denied** (May 6, 2010) See 47 U.S.C. § 159(b)(1)(A)]

**GlobalPhone Corporation** - Request for waiver of FY 09 late fee payment penalty. **Denied** (April 22, 2010) See 47 U.S.C. § 159(c)(1) ]

**Granite Telecommunications LLC** - Request for waiver of FY 09 late fee payment penalty. **Denied** (April 22, 2010) See 47 U.S.C. § 159(c)(1)]

**Hi-Tech Solutions, Inc** -Request for waiver of FY 09 late fee payment penalty. **Denied** (April 22, 2010) See 47 U.S.C. § 159(c)(1)]

**IAS Film Corporation** -Request for waiver of FY 09 late fee payment penalty. **Denied** (April 22, 2010) See 47 U.S.C. § 159(c)(1)]

**Koncept International, Inc** -Request for waiver of FY08 regulatory fee. **Granted** (May 13, 2010) [See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), recon. granted, 10 FCC Rcd 12759 (1995)]

**Marco Island Cable** - Request for waiver of FY 09 late fee payment penalty. **Denied** (May 14, 2010) See 47 U.S.C. § 159(c)(1)]

**Nancy L. Isserlis, Station KAZZ (FM)** - Request for waiver of FY 09 regulatory fees. **Granted** (April 22, 2010) [See Implementation of Section 9 of the Communications Act, 10 FCC Rcd 12759, 12762 (1995)]

**NextGen Telephone** - Request for waiver of late fee penalty for FY09 regulatory fee. **Denied** (April 22, 2010) See 47 U.S.C. § 159(c)(1)]

**One World Telcom, LLC** - Request for waiver of late fee penalty for FY09 regulatory fee. **Denied** (May 14, 2010) See 47 U.S.C. § 159(c)(1)]

**Paxx Telecomm LLC** - Request for waiver of late fee penalty for FY09 regulatory fee. **Denied** (May 14, 2010) See 47 U.S.C. § 159(c)(1)]

**Peoples Network, Inc. Station WJWB** - Request for waiver of late fee penalty for FY09 regulatory fee. **Denied** (April 22, 2010) See 47 U.S.C. § 159(d); 47 C.F.R § 1.1166]

**Pine to Prairie Broadcasting** - Request for waiver of late fee penalty for FY09 regulatory fee. **Denied** (April 22, 2010) See 47 U.S.C. § 159(c)(1)]

**ProNet Communications, Inc** - Request for waiver of late fee penalty for FY09 regulatory fee. **Denied**(April 22, 2010) See 47 U.S.C. § 159(c)(1)]

**Smart Network Solutions** - Request for waiver of late fee penalty for FY09 regulatory fee. **Denied** (May 14, 2010) See 47 U.S.C. § 159(c)(1)]

**Smoothstone IP Communications** - Request for waiver of late fee penalty for FY09 regulatory fee. **Denied** (April 22, 2010) See 47 U.S.C. § 159(c)(1)]

**WNST Sports Media Station WNST (AM)** - Request for waiver of FY 09 late fee payment penalty. **Denied** (May 14, 2010) See 47 U.S.C. § 159(c)(1)]

**Stereo 97, Inc.** -Request for waiver of FY09 regulatory fee. **Granted** (April 22, 2010) [See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), recon. granted, 10 FCC Rcd 12759 (1995)]

**Syniverse Technologies, Inc** - Request for waiver of late fee penalty for FY09 regulatory fee. **Denied** (May 14, 2010) See 47 U.S.C. § 159(c)(1)]

**Teleconferencing Services, LLC** - Request for waiver of FY 09 late fee payment penalty. **Denied** (May 14, 2010) See 47 U.S.C. § 159(c)(1)]

**Telephone Associates, Inc** - Request for waiver of late fee penalty for FY09 regulatory fee. **Denied** (April 22, 2010) See 47 U.S.C. § 159(c)(1)]

**Telescope Communications, Inc** - Request for waiver of late fee penalty for FY09 regulatory fee. **Denied** (April 22, 2010) See 47 U.S.C. § 159(c)(1)]

**Telescan Inc** - Request for waiver of late fee penalty for FY09 regulatory fee. **Denied**(April 22, 2010) See 47 U.S.C. § 159(c)(1)]

**Total Call International, Inc** - Request for waiver of late fee penalty for FY09 regulatory fee. **Denied** (April 22, 2010) See 47 U.S.C. § 159(c)(1)]

**United Communication Association, Inc** - Request for waiver of late fee penalty for FY09 regulatory fee. **Denied** (April 22, 2010) See 47 U.S.C. § 159(c)(1)]

**Volcano Communications Group** - Request for waiver of late fee penalty for FY09 regulatory fee. **Granted** (May 13, 2010) See 47 U.S.C. § 159(c)(1)]

**XM Radio Inc** - Request for refund of FYs 06, 07, 08 and 09 regulatory fees. **Granted** (April 26, 2010) See 47 C.F.R. § 1.1160(a)(1)]

FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554

APR 22 2010

OFFICE OF  
MANAGING DIRECTOR

Kathie Short  
1stel, Inc.  
205 E. Henderson St.  
Cleburne, TX 76031

Re: 1stel, Inc.  
Fiscal Year 2009 Regulatory Fee Waiver Request  
Fee Control No. RROG-09-00012218

Dear Ms. Short:

This letter is in response to your request dated October 19, 2009, on behalf of 1stel, Inc. ("1stel") for waiver of the penalty charged to it for late payment of its Fiscal Year ("FY") 2009 regulatory fees ("*Waiver Request*"). Our records show that 1stel's payment for FY 2009 regulatory fees was not paid when due (*i.e.*, September 22, 2009), thus 1stel was assessed a late payment penalty of \$293.50. For the reasons below, we deny your request for waiver.

In support of your request, you state that 1stel "received Remittance Advice Bill for Collection, today which was postmarked Oct. 14, 2009 with a due date of Sept. 22, 2009" but 1stel "had never received the original bill and called to find out when it was sent and was advised that they no longer send the invoices."<sup>1</sup> You further state when you inquired "how [1stel] was notified about the bill" you were "informed that a general broadcast was posted on the website in late July" but because you "never logon to the site and received an invoice last year, [you] do not feel that the penalties should be charged."<sup>2</sup>

While the Commission takes care to inform licensees of due dates, amounts of the fees, and payment methods in public notices and fact sheets, the Commission has repeatedly and consistently 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>3</sup>

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

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

<sup>3</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).

Kathie Short  
1stel, Inc.  
Page 2

For the FY 2009 regulatory fees, the Commission released several public notices informing licensees of the September 22, 2009 due date for filing regulatory fees and posted these notices on its website, [www.fcc.gov](http://www.fcc.gov).<sup>4</sup> Moreover, the Commission determined in *Assessment and Collection of Regulatory Fees for Fiscal Year 2009, Report and Order*, 24 FCC Rcd 10301, 10308-09 (2009), that it would no longer mail pre-bills via surface mail to licensees such as 1stel. That decision, which was 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. As such, the modifications to the notification procedures to which the *Waiver Request* refers were proposed more than four months and adopted nearly two months before the due date for filing the FY 2009 regulatory fees.

It is the obligation of 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. Section 9(c)(1) of the Communications Act, as amended, requires the Commission to assess a late payment penalty of 25 percent on any regulatory fee not paid in a timely manner.<sup>5</sup> The Commission's rules provide that a timely payment of a regulatory fee is one received at the Commission's lockbox bank by the due date, which for FY 2009 was September 22, 2009.<sup>6</sup> The Commission, however, did not receive payment of 1stel's regulatory fees until October 27, 2009.

We find therefore that 1stel failed to meet its obligation to timely pay its FY 2009 regulatory fees and that the *Waiver Request* presents no extraordinary circumstances that would warrant waiver of the late payment penalty. Accordingly, we deny your request for waiver of the 25 percent penalty assessed against 1stel for late payment of its FY 2009 regulatory fees.

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<sup>4</sup> See, e.g., *Public Notice, FY 2009 Regulatory Fees Due No Later Than September 22, 2009, Eastern Time (ET)*, 24 FCC Rcd 10890 (Aug. 21, 2009); *Public Notice, Fee Filer Mandatory for FY 2009 Regulatory Fees*, 24 FCC Rcd 10893 (Aug. 21, 2009); *Public Notice, Payment Methods and Procedures for FY 2009*, 24 FCC Rcd 11513 (Sept. 2, 2009).

<sup>5</sup> See 47 U.S.C. § 159(c)(1) ("The Commission shall prescribe by regulation an additional charge which shall be assessed as a penalty for late payment of fees required by subsection (a) of this section [Regulatory Fees]. Such penalty shall be 25 percent of the amount of the fee which was not paid in a timely manner").

<sup>6</sup> 47 C.F.R. § 1.1164.

Payment of the \$293.50 penalty is now due. The payment should be submitted, together with a Form 159 (copy enclosed), within 30 days of the date of this letter. If you have any questions concerning this matter, please 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

Enclosure

**FEDERAL COMMUNICATIONS COMMISSION  
REMITTANCE ADVICE  
BILL FOR COLLECTION**

Approved by OMB  
3060-0589  
Page 1 of 1

FOR INQUIRIES CALL  
1-202-418-1995  
(Revenue and Receivable Operations Group)

Bill Number	Applicant FRN	Current Bill Date
09REO 13239	0008181448	8/18/2009

**Application Information:**

Istel, Inc  
205 E Henderson  
Cleburne, TX 76031

Payable to:  
Federal Communications Commission

Send a copy of this bill to:  
Federal Communications Commission  
Revenue & Receivables Operations Group  
P.O. Box 979084  
St. Louis, MO 63197-9000

Total Amount Due		Due Date
\$1,467.50	<b>TOTAL AMOUNT DUE MUST BE RECEIVED BY</b>	9/22/2009

**Payer FRN No.** Please Complete The Payer Information, FCC Registration Number (FRN) is required

Payer Name (if paying by credit card enter name as it appears on the card)

Address Line No. 1

Address Line No. 2

City State Zip Code

Daytime Phone Number (include area code)

**Reason For Bill:**

FY 2009 Regulatory Fees

Call Sign/Other FCC ID	Payment Type Code	Quantity	Fee Due For (PTC)	Total Fee	FCC Code 1	FCC Code 2
826419	0972	343143	\$0.00	\$1,174.00	343143.45	0
	0999		\$0.00	\$293.50		

**TOTAL DUE \$1,467.50**

**Please choose a method of Payment and complete the section if paying by Credit Card**

Payment Method:

CREDIT CARD  CHECK  WIRE  IPAC  MIPR

MASTERCARD  DISCOVER  VISA  AMEX

ACCOUNT NUMBER \_\_\_\_\_ EXPIRATION DATE \_\_\_\_\_

I hereby authorize the FCC to charge my Credit Card for the service(s) / authorization(s) herein described.

AUTHORIZED SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

205 E. Henderson St. Cleburne, Texas 76031 Fax: 817-357-1514



# FAX

**To:** FCC

**From:** Kathie Short

**FAX** 202-418-7869

**Pages:** 02 (including cover page)

**Phone:**

**Date** October 20, 2009

**RE:** Penalties Dispute

**Phone:** 817-357-1014

**Urgent**   
  **For Review**   
  **Please Comment**   
  **Please Reply**   
  **Please Recycle**

**Comments:**

Attached is the Dispute Letter

Sincerely,

Kathie Short

817-357-1014

817-357-1514 (fax)

Add/Modify Billing Information

Document Number 09REQ13239

FRN 0008181448 Istel, Inc

Bill Date 08/18/09 Bill Amount \$1,467.50

Bill Type REG9 Bill Paid \$1,174.00

Bill Due Date 09/22/09 Lockbox 979084 Bill Balance Due \$293.50

Dunning Indicator Bill Cycle Interest Due \$0.00

Referral Code Waiver Penalty Due \$0.00

Print Seq # 00308591 Waiver Date Admin Chg Due \$0.00

Transaction Date 02/23/10 Acct Period 05 Total Due \$293.50

Bill Description FY 2009 Regulatory Fees

Line Item Sequence 002 BFY FUND PROG ORG PROJ BOC TYPE

Accounting Classification Code 2010 08 90 9500 065 412

Product No. 0999 Quantity Item Amount \$293.50

Document Status G Call Sign Item Paid \$0.00

Transaction Code Item Balance Due \$293.50

Reference Type Reference No. Line 000

Bureau File No. FCC Code 1

Item Description 25% penalty 12218

Fy Days Rate 5.00 FCC Code 2

F1 NEXT F2 PREV F3 VERIFY F4 CRM F6 SAVE F8 BACK F9 EXIT

2/24/2010 ARIPNL2

Fy 09 Reg fee pd on 10/27/09 \$1174.00  
Penalty of \$293 outstanding

AJ 2/24/10

FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554  
MAY 14 2010

OFFICE OF  
MANAGING DIRECTOR

Ms. Jane L. Mulvehill  
5LINX Enterprises, Inc.  
275 Kenneth Drive, Suite 100  
Rochester, NY 14623

Re: 5LINX Enterprises, Inc.  
Fiscal Year 2009 Regulatory Fee  
Fee Control No. 0910279088071007

Dear Ms. Mulvehill:

This is in response to your request dated October 20, 2009 (*Request*), on behalf of 5LINX Enterprises, Inc. (5LINX) for waiver of the penalty for late payment of the fiscal year (FY) 2009 regulatory fee. Our records reflect that you paid the \$43,248.00 regulatory fee, but not the \$10,837.00 late payment penalty. For the reasons set forth below, we deny your request.

You assert that 5LINX works diligently to comply with all Commission regulations and was unaware of recent change that interstate telephone service providers will not receive from the Commission a pre-completed regulatory fee bill in the mail.<sup>1</sup> You aver that 5LINX has made timely payments in years past.<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 fees are due for the year.<sup>4</sup> You paid the regulatory fee for 5LINX on October 27, 2009,

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

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

<sup>3</sup> 47 U.S.C. §159(c)(1).

<sup>4</sup> See 47 C.F.R. §1.1164; and see *Assessment and Collection of Regulatory Fees for Fiscal Year 2009, Report and Order*, 24 FCC Rcd 10301, 10311 (2009); *Public Notice, Payment Methods and Procedures for FY 2009*, 24 FCC Rcd 11513, 11513 (Sept. 2, 2009) (*September 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).

after the September 22, 2009, deadline for filing regulatory fees, and therefore failed to meet this obligation. 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 timely released several public notices and news releases informing licensees of the new filing requirement and the September 22, 2009, deadline for filing regulatory fees and posted these items on its web site.<sup>5</sup>

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 FY 2009 regulatory fees for 5LINX.

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>5</sup> See *supra*.

<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).

09/0279 088071004



5LINX Enterprises, Inc.  
275 Kenneth Dr.  
Suite 100  
Rochester, NY 14623  
(585) 359-2922 tel  
(585) 359-0233 fax  
[www.5LINX.com](http://www.5LINX.com)

October 20, 2009

Federal Communications Commission  
Office of the Managing Director  
445 12<sup>th</sup> Street, S.W., Room 1-A625  
Washington, D.C. 20554  
Attn: Regulatory Fee Waiver/Reduction Request

To Whom It May Concern,

On October 19, 2009, we received a remittance advice for FY 2009 Regulatory Fees that were due September 22, 2009. Our FRN number is 0015304645. The invoice is attached for your review. It includes a past due amount of \$10,812.00 which I am requesting a waiver for.

Our company works diligently to comply with all the FCC regulations and was not aware of the recent change that ITSP providers will not receive a pre-completed regulatory fee bill in the mail. There have never been any previous issues sending our payments out in a timely manner and ask for leniency on this oversight. I have earmarked the date on my calendar to check the FCC website for any future notifications.

Thank you for your consideration.

Sincerely,

Jane L. Mulvehill  
(585)321-5942  
[jmulvehill@5linx.com](mailto:jmulvehill@5linx.com)

1/19/10 reviewed w/ Devin. He will prepare proper dispute form

Add/Modify Billing Information

Document Number 09RE014019

FRN 0015304645

SLINK Enterprises Inc. DBA Globalinx

Bill Date 08/18/09 Bill Amount \$54,085.00

Bill Type REG9 Bill Paid \$43,248.00

Bill Due Date 09/22/09 Lockbox 979084 Bill Balance Due \$10,837.00

Dunning Indicator Bill Cycle Interest Due \$0.00

Referral Code Waiver Penalty Due \$0.00

Print Seq # 00308830 Waiver Date Admin Chg Due \$0.00

Transaction Date 01/26/10 Acct Period 04 Total Due \$10,812.00

Bill Description FY 2009 Regulatory Fees

Line Item Sequence 001 BFY FUND PROG ORG PROJ BOC TYPE

Accounting Classification Code 2009 REG9 90 9500 065 0199

Product No. 0972 Quantity 12645731 Item Amount \$43,248.00

Document Status P Call Sign 826248 Item Paid \$43,248.00

Transaction Code Item Balance Due \$0.00

Reference Type Reference No. 0910279088071007 Line 000

Bureau File No. FCC Code 1 12645731

Item Description Paid Late 10/27/09 WTS#12623

Fy Days 360 Rate 0.00 FCC Code 2 0

F1 NEXT F2 PREV F3 VERIFY F4 CRM F6 SAVE F8 BACK F9 EXIT

1/26/2010 ARIPNL2

Fy 09 Payment of \$43,248.00 was Pd 10/27/09  
Fy 09 late fee payment of \$10,837 is outstanding.  
AJ 1/26/10

## James Lyons

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**From:** Roland Helvajian  
**Sent:** Thursday, January 21, 2010 9:14 AM  
**To:** James Lyons  
**Subject:** FW: 2009 Regulatory Fees  
**Attachments:** 2681\_001.pdf

Hi Jim:

The attached ITSP sent in a waiver letter (to waive the 25% penalty) dated October 9, 2009, but their 25% bill was sent to Treasury. Can we recall the bill (09RE014019) from Treasury until the pending waiver is resolved? Thank you very much, Jim.

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**From:** Jane Mulvehill [mailto:jmulvehill@5linx.com]  
**Sent:** Wednesday, January 20, 2010 4:53 PM  
**To:** Roland Helvajian  
**Subject:** 2009 Regulatory Fees

Dear Roland,

We are a VoIP provider, filer id #826248 and have been assessed a 25% penalty for \$10,812 for late payment of our 2009 Regulatory Fees. I was not aware that invoices were not being mailed this year and submitted the payment minus the penalty upon notice of amount due. The letter attached was sent requesting waiver of the late fee to the Office of Managing Director.

The Department of Treasury has contacted us for payment of this late fee. Can you provide some advice on handling this matter? Many companies must have missed the payment due date because of the new invoicing policy and I'd like to properly request waiver of this penalty.

Your guidance would be greatly appreciated.

Sincerely,

*Jane L. Mulvehill*  
5Linx Enterprises, Inc.  
275 Kenneth Drive Suite 100  
Rochester, NY 14623  
Phone: (585)321-5942  
Fax: (585)991-6238  
jmulvehill@5linx.com

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**From:** Canon Printer  
**Sent:** Wednesday, January 20, 2010 4:41 PM  
**To:** Jane Mulvehill  
**Subject:** Attached Image

rec'd 10/17/09

Federal Communications Commission  
REMITTANCE ADVICE  
BILL FOR COLLECTION

Approved by OMB  
3060-0589

Bill Number	Applicant FRN#	Current Bill Date	FOR INQUIRIES CALL 1-202-418-1995 (Revenue & Receivable Operations Group)
09RE014019	0015304645	10/15/09	

Application Information:

SLINX Enterprises Inc. DBA Globalinx  
275 Kenneth Drive  
Rochester, NY 14623

Payable to:  
Federal Communications Commission  
Send a copy of this bill to:  
Federal Communications Commission  
Revenue & Receivables Operations Group  
P.O. BOX 979064  
ST. LOUIS, MO 63197-9000

Total Amount Due	TOTAL AMOUNT DUE MUST BE RECEIVED BY	Due Date
\$54,060.00		9/22/09

Payer FRN No. Please Complete The Payer Information, FCC Registration Number (FRN) is required

Payer Name (if paying by credit card enter name as it appears on the card)

Address Line No. 1

Address Line No. 2

City State Zip Code

Daytime Phone Number (include area code)

Reason For Bill:  
FY 2009 Regulatory Fees

Call Sign/Other FCC ID	Payment Type Code	Quantity	Fee Due For (PTC)	Total Fee	FCC Code 1	FCC Code 2
826248	0 9 7 2	12645731	00342	\$ 43,248.00	12645731	0
	0 9 9 9	0		\$ 10,812.00	penalty 25%	
no paper record		e mail sent dweiser@globalinx.com				
TOTAL DUE					\$54,060.00	

Please choose a method of Payment and complete the section if paying by Credit Card

Payment Method:  
Credit Card  Check  Wire  IPAC  MIPR

MASTERCARD  DISCOVER  VISA  AMEX

Account No. Expiration Date  
Month Year

I hereby authorize the FCC to charge my Credit Card for the service(s) / authorization(s) herein described.

AUTHORIZED SIGNATURE DATE

IF PAYING BY CHECK, PLEASE WRITE YOUR BILL NUMBER ON YOUR REMITTANCE AND ATTACH A COPY OF THIS BILL TO YOUR PAYMENT TO ENSURE PROPER CREDIT  
FCC Form 159B Page 1 of 1

FCC.gov fees on left hand side reg fees due 2009 other fees start with



**Fee Filer**

Report for Submitted Fees

**Report for Submitted Fees**

Report Date : 10/20/2009 01:23:49

Payer FRN : 0015304645  
Voucher # : E001680191

Payer Name : 5LINX Enterprises Inc. DBA Globalinx

[PRINT](#)

Amount filed :	\$43,248.00	Amount paid :	\$0.00
Penalty amount :	\$10,812.00	Penalty paid :	\$0.00
Total amount :	\$54,060.00	Total paid :	\$0.00

Licensee : 5Linx Enterprises, Inc. (FRN: 0015304645)

Call Sign	PTC	Quantity	Amount	FCC Code 1	FCC Code 2	Bill Number
826248	0972	12645731	\$43,248.00	12645731.00	0.00	09RE014019
<b>Total:</b>	*****	<b>12645731</b>	<b>\$43,248.00</b>	*****	*****	*****

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FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

MAY 14 2010

OFFICE OF  
MANAGING DIRECTOR

Steven A. Augustino, Esq.  
Kelley Drye & Warren LLP  
Washington Harbour, Suite 400  
3050 K Street, NW  
Washington, D.C. 20007-5108

Re: ADMA Telecom, Inc.  
Fiscal Year 2009 Regulatory Fee  
Fee Control No. 0910309088093008

Dear Mr. Augustino:

This is in response to your request filed February 26, 2010 (*Request*), on behalf of ADMA Telecom, Inc. (ADMA), for waiver of the penalty for late payment of fiscal year (FY) 2009 regulatory fee. Our records reflect that ADMA paid the \$63,420.00 FY 2009 regulatory fee, but not the \$15,855.00 late payment penalty. For the reasons set forth below, we deny your request.

You assert that ADMA is a small carrier providing prepaid international calling services with a small staff, including one person who is responsible for compliance with all regulatory obligations and who relied upon receiving invoices from the FCC regarding the due date for regulatory fees.<sup>1</sup> You aver that ADMA was unaware that the Commission had eliminated its practice of mailing pre-bills to carriers, did not receive actual notice of this change, was not a party to the docket in which the Commission issued the order adopting the change, and has always relied upon receiving the pre-bill.<sup>2</sup> You claim that the penalty is a significant hardship to ADMA given that “[t]he margins in international prepaid are extremely slim” and that ADMA must report the face value of its prepaid cards or services as revenues, even though ADMA receives 35 to 40 percent less than this amount when it sells services through distributors.<sup>3</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>4</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.*

<sup>3</sup> *Id.* at 2.

<sup>4</sup> 47 U.S.C. §159(c)(1).

support such a request.<sup>8</sup> Accordingly, we deny your request for waiver of the penalty for late payment of the fiscal year 2009 regulatory fee.

Payment of the \$15,855.00 penalty for ADMA is now due. The penalty should be submitted, together with a Form 159 (copy enclosed), within 30 days of the date of this letter. If you have any questions concerning this matter, please call the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,



Mark Stephens  
Chief Financial Officer

Enclosure

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<sup>8</sup> See *Implementation of Section 9 of the Communications Act*, 9 FCC Rcd 5333, 5346 (1994), *on recon*, 10 FCC Rcd 12759 (1995).

KELLEY DRYE & WARREN LLP  
A LIMITED LIABILITY PARTNERSHIP

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STEVEN A. AUGUSTINO  
DIRECT LINE: (202) 342-8012  
EMAIL: saugustino@kelleydrye.com

AFFILIATE OFFICES  
MUMBAI, INDIA

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Financial Operations Center  
February 26, 2010

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0910309088093008

BY HAND DELIVERY

Ms. Regina Dorsey  
Office of Managing Director  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, D.C. 20554

RECEIVED - FCC

FFR 26 2010

Federal Communications Commission  
Bureau / Office

Re: ADMA Telecom, Inc. (FRN 015301732) – Request for Waiver of Late Payment Fees

Dear Ms. Dorsey:

On behalf of ADMA Telecom, Inc. (“ADMA”), this letter is to request that the Commission waive the late payment penalty assessed on ADMA’s payment of its Fiscal Year 2009 regulatory fees. The fees are reflected on invoice 09RE014015 (enclosed). In light of the unusual events surrounding the imposition of Fiscal Year 2009 regulatory fees and ADMA’s lack of knowledge of the due date, strict imposition of the penalty does not serve the public interest. ADMA therefore requests that the Commission waive the late payment penalty assessed in invoice 09RE014015.

The Commission may waive application of its rules if good cause is shown.<sup>1</sup> Good cause justifying waiver of a rule exists where the specific facts make strict application of the rule inconsistent with the public interest.<sup>2</sup> The Commission also may consider factors such as resulting hardship, equity and other, more effective methods of implementing a policy on an individual basis.<sup>3</sup> Accordingly, waiver of a Commission rule is warranted where there are

<sup>1</sup> 47 C.F.R. § 1.3.

<sup>2</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (“*Northeast Cellular*”).

<sup>3</sup> *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969), *aff’d*, 459 F.2d 1203 (D.C. Cir. 1972).

Ms. Regina Dorsey  
February 26, 2010  
Page 2

extenuating circumstances and strict compliance with the rule would not benefit the public interest.<sup>4</sup>

ADMA is a small carrier providing prepaid international calling services. Unlike larger filers, ADMA has a very small staff, including one person who is responsible for compliance with all federal, state, and international regulatory obligations. Like many other filers, ADMA relied upon the Commission's longstanding practice of issuing invoices for the annual regulatory fees to alert the company to when such fees were due. However, in Fiscal Year 2009, the Commission altered this practice, without giving advance notice to prior year filers. The Commission eliminated its long-standing practice of mailing pre-bills to ITSP carriers (and a few other classes of filers) in July 2009.<sup>5</sup> ADMA, however, was not a participant in this docket, nor did it receive any actual notice of the Commission's change in practice. For example, ADMA was not mailed a notice alerting it of the change in practice at any time between adoption of this order and the due date for the regulatory fees.

ADMA only became aware that its payment was past due when (ironically) the Commission *mailed an invoice* to ADMA in October 2009.<sup>6</sup> Upon receiving the invoice, ADMA quickly paid the base FCC regulatory fees that were due. Payment of the regulatory fees was made on October 28, 2009. (See enclosure). Thus, ADMA promptly remedied its deficiency upon learning that the deadline had passed. In addition, ADMA is working with its outside counsel to make sure that it is aware of and meets all future filing deadlines for the FCC regulatory fee.

It is unfair for the Commission to refrain from mailing an invoice until *after* the due date of the fee, and then assess a 25% penalty on that invoice. Small carriers like ADMA do not have the resources to monitor all FCC dockets and, in ADMA's case, it did not receive any actual notice either that the Commission would no longer send invoices or of the due date for filing its annual regulatory fee. Instead, the Commission's first and only invoice to ADMA was increased by 25% for having filed the fee late.

Further, the late payment fee is a significant hardship upon a small company like ADMA. ADMA has *de minimis* domestic telecommunications revenues. It owes FCC regulatory fees at all only because 99% of ADMA's revenues are from providing international

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<sup>4</sup> *Northeast Cellular*, 897 F.2d at 1166.

<sup>5</sup> *See Assessment and Collection of Regulatory Fees for Fiscal Year 2009*, Report and Order, FCC 09-62, MD Docket 09-65 (rel. July 31, 2009).

<sup>6</sup> Although the invoice ADMA received bears a date of 8/18/2009, to the best of its knowledge, this invoice was not sent to ADMA prior to the imposition of late fees. ADMA did not receive the invoice until sometime in October 2009.

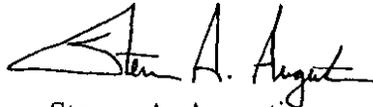
KELLEY DRYE & WARREN LLP

Ms. Regina Dorsey  
February 26, 2010  
Page 3

prepaid telecommunications services. The margins in international prepaid are extremely slim, with the vast majority of revenues going toward the payment of foreign carrier termination charges. In addition, due to FCC rules, ADMA must *report* as telecommunications revenues the face value of its prepaid cards or services, even though in most instances ADMA *receives* 35-40 percent less than this amount when it sells services through distributors. In other words, ADMA must report and then pay fees based on "phantom" revenue that it does not actually receive. As a result, the 25% late payment penalty would meaningfully reduce ADMA's actual revenues and negatively affect the profitability of the company. Under these circumstances, the 25% late payment penalty should be waived.

If you have any questions concerning this request, kindly contact the undersigned at (202) 342-8612 or [saugustino@kelleydrye.com](mailto:saugustino@kelleydrye.com).

Respectfully submitted,



Steven A. Augustino

*Counsel to ADMA Telecom, Inc.*

Enclosures

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

MAY 13 2010

OFFICE OF  
MANAGING DIRECTOR

Barry D. Wood, Esq.  
Stuart W. Nolan, Jr.  
Wood, Maines & Nolan, PC  
4600 Fairfax Drive, Suite 604  
Arlington, VA 22203

Re: Alpha & Omega Communications, LLC  
Request for Waiver of FY 2008 Regulatory Fees  
Fee Control No. RROG-09-00011830

Dear Counsel:

This is in response to your request filed July 14, 2009 (*Reconsideration Request*), on behalf of Alpha & Omega Communications, LLC (Alpha), licensee of Station KTMW, Salt Lake City, Utah, Class A television station KCLP-CA, Boise, Idaho, Station KMRI(AM), West Valley City, Utah, and television translators K49GD, Spanish Fork, K55IT, Provo, K59GS, Salt Lake City, and K58FT, Huntsville (all Utah) (Stations), that the Office of Managing Director (OMD) reconsider its decision denying Alpha a waiver of the regulatory fees for Fiscal Year (FY) 2008, on the basis of financial hardship.<sup>1</sup> Our records reflect that Alpha has not paid the regulatory fees or the associated penalties for late payment of the FY 2008 regulatory fees. For the reasons that follow, we deny your request.

In establishing a regulatory fee program, the Commission recognized that in certain instances payment of a regulatory fee may impose an undue financial hardship upon a licensee. The Commission therefore decided to grant waivers or reductions of its regulatory fees in those instances where a "petitioner presents a compelling case of financial hardship."<sup>2</sup> In reviewing a showing of financial hardship, the Commission relies upon a licensee's cash flow, as opposed to the entity's profits, and considers whether the station lacks sufficient funds to pay the regulatory fee and maintain service to the public. Thus, even if a station loses money, any funds paid to principals and deductions for depreciation or amortization are considered funds available to pay the fees.

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<sup>1</sup> See Letter from Mark Stephens (Stephens), Chief Financial Officer (CFO), OMD, FCC, to Barry D. Wood (June 10, 2009) (*2009 Letter*). The regulatory fees for KTMW, KCLP-CA, KMRI(AM), K49GD, K55IT, K59GS, and K58FT are \$11,900.00, \$365.00, \$3,325.00, \$365.00, \$365.00, \$365.00, and \$365.00, respectively; the associated penalties are \$2,975.00, \$91.25, \$831.25, \$91.25, \$91.25, \$91.25, and \$91.25, respectively. The regulatory fees and penalties are \$17,050.00 and \$4,171.25 respectively, for a total amount of \$21,221.25.

<sup>2</sup> See *Implementation of Section 9 of the Communications Act*, 9 FCC Rcd 5333, 5346 (1994), *recon. granted*, 10 FCC Rcd 12759 (1995) (*Memorandum Opinion and Order*).

In denying your request for waiver of the FY 2008 regulatory fees, we found that the record, including a financial document submitted by Alpha entitled "Income and Expenses, Oct. 1, 2007 thru Sept. 30, 2008" (*Financial Statement*) as it reflects the income and expenses of the Stations, indicated that the financial loss that Alpha suffered in the fiscal year beginning October 1, 2007, and ending September 30, 2008, was fully offset by depreciation deductions and the salaries paid to one of Alpha's principals and Alpha's highest paid employee (the general manager of Station KTMW(TV) and translator stations K49GD, K55IT, K59GS, and K58FT); which the Commission considers as funds available to pay the fees. Thus, we found that Alpha had money from a depreciation deduction and compensation amounts paid to a principal and a general manager from which it could pay the regulatory fees. We therefore denied Alpha's waiver request.

In your *Reconsideration Request*, you assert that the *2009 Letter* cited no authority "for the proposition that a licensee is obligated to divert salary legally due to its general manager for services rendered in order to [sic] regulatory fees to the FCC."<sup>3</sup> You also assert that the *Alpha Letter* cited no authority "for the proposition that principals who provide services to a licensee must serve without compensation if necessary to pay regulatory fees."<sup>4</sup> You claim that the *2009 Letter* is inconsistent with OMD's decision to grant Alpha a waiver of the FY 2003 regulatory fees, while relying "in part . . . on losses occasioned by wage expense [sic] of employees (including the . . . general manager whose salary is . . . [at issue here.])."<sup>5</sup> You maintain that the *2009 Letter* fails to explain how Alpha "could possibly [operate consistent with Commission requirements] with a smaller staff. . . . [or how] the general manager [is] supposed to pay his bills[.]"<sup>6</sup> You claim that "disallowance" of Alpha's depreciation expense is at odds with the Commission's requirement that full power television stations convert to digital transmission and that the requirement caused Alpha tremendous expense.<sup>7</sup> You submit information regarding the expenses incurred in FY 2008, as well as in FY 2009, in connection with Alpha's digital conversion.<sup>8</sup> With respect to including the FY 2009 expenses in Alpha's request for waiver of FY 2008 regulatory fees, you assert that Alpha began looking for money to pay for the conversion in FY 2008 and that "it is appropriate to relieve stations from the obligation to pay regulatory fees during the period when they were (and are) struggling to assemble the funds for the digital conversion."<sup>9</sup>

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<sup>3</sup> *Reconsideration Request* at 2.

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

<sup>5</sup> *Id.* (citing Letter from Mark A. Reger, CFO, OMD, FCC, to Paul H. Brown, Esq. (Dec. 1, 2003) (*2003 Letter*)).

<sup>6</sup> *Id.* at 3.

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

<sup>8</sup> See email from Barry D. Wood to Joanne Wall, Attachment (October 20, 2009) (*Attachment*).

<sup>9</sup> *Id.*

Our review of the record, including Alpha's *Financial Statement*, indicates that the financial loss that Alpha suffered in the fiscal year beginning October 1, 2007, and ending September 30, 2008, was fully offset by depreciation deductions and the salaries paid to one of Alpha's principals and its highest paid employee. The Commission has stated that consideration of such compensation reflects the appropriate balance between the Commission's interest in receiving from its licensees the statutorily-mandated regulatory fees that cover the costs of certain of its regulatory activities and the Commission's willingness to grant a waiver in extraordinary and compelling circumstances "only when the impact of the regulatory fee will affect a regulatee's ability to serve the public."<sup>10</sup> Consistent with this standard, applicants asserting claims of financial hardship are required to provide "a list of their officers and their individual compensation, together with a list of their highest paid employees, other than officers, and the amount of their compensation, or similar information."<sup>11</sup> We consider compensation paid to principals, officers, and highest paid employees in reviewing requests for waiver of the regulatory fees based on financial hardship.<sup>12</sup>

Our denial of your waiver request connotes no judgment on whether the salaries paid to Alpha's principal and highest paid employee was necessary or fair. Issues regarding whether to compensate principals and employees and the amount of any such compensation are business decisions within the licensee's discretion. Rather, we simply found consistent with the Commission's directive,<sup>13</sup> that the ability to pay these salaries indicated that these funds were available from which to pay the fees. With regard to Alpha's depreciation deduction, we did not "disallow" the depreciation deduction, but found that the deduction represented amounts that were available to pay the regulatory fees consistent with prior Commission and OMD decisions.<sup>14</sup>

With respect to Alpha's digital conversion expenses for FY 2008 (*i.e.*, October 1, 2007 through September 1, 2008) as reflected in the *Attachment*, we find that those amounts are not so extraordinary and compelling as to warrant a waiver of our regulatory fee rules.

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

<sup>11</sup> *Id.*

<sup>12</sup> *See, e.g.*, Letter to Jack Lotsof (May 7, 2009); Letter to Richard A. Helmick, Esq. (July 26, 2006); Letter to Paul H. Brown, Esq. (May 23, 2005), Letter to Robert Lewis Thompson, Esq. (Jan. 12, 2005), Letter to George A. Mattmiller, Jr. (the then-Acting President of Reading Broadcasting, Inc.) (Jan. 4, 2005), Letter to Jerry DeCiccio (Dec. 20, 2004), Letter to Robert Lewis Thompson, Esq. (Dec. 1, 2004), and Letter to Aaron P. Shainis, Esq. (Sept. 1, 2004).

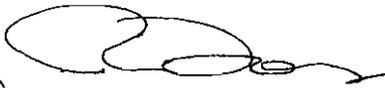
<sup>13</sup> *Id.*

<sup>14</sup> *See Implementation of Section 9 of the Communications Act*, 9 FCC Rcd at 5346, *recon. granted*, 10 FCC Rcd at 12762; *see also* Letter to Jack Lotsof (May 7, 2009); Letter to Simpson Tian (June 10, 2009); Letter to Sarah M. Fryar (Nov. 5, 2008).

Also, we reject your contention that the digital conversion expenses incurred by Alpha in FY 2009 should be considered in connection with its request for waiver of FY 2008 regulatory fees because consideration of expenses incurred in a subsequent year or years would not provide an accurate reflection of Alpha's financial position and ability to pay the FY 2008 regulatory fees on the due date.<sup>15</sup> We therefore deny your request for reconsideration based on financial hardship.

Payment of Alpha's FY 2008 regulatory fees and the associated late payment penalties is now due. The regulatory fees and penalties, totaling \$21,221.25, should be submitted, together with a Form 159 (copy enclosed), within 30 days of the day of this letter. If you have any questions concerning this letter, please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,



Mark Stephens  
Chief Financial Officer

Enclosure

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<sup>15</sup> See Memorandum Opinion and Order at 12762.