

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

APR 22 2010

OFFICE OF
MANAGING DIRECTOR

Timothy K. Bachert
Chief Financial Officer
NextGen Telephone
28 North Country Road
Mt. Sinai, New York 11766

Re: NextGen Telephone
Fiscal Year 2009 Regulatory Fee Waiver Request
Fee Control No. RROG-09-00012278

Dear Mr. Bachert:

This letter is in response to your request dated October 22, 2009, on behalf of NextGen Telephone ("NextGen") 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 NextGen's payment for FY 2009 regulatory fees was not paid when due (*i.e.*, September 22, 2009), thus NextGen was assessed a late payment penalty of \$1,199.75. For the reasons below, we deny your request for waiver.

In support of your request, you state that "NextGen Telephone NEVER received the first bill" and upon inquiry "was informed by two FCC staff members that this was the first year these invoices were NOT sent to licensees and it is our responsibility to 1.) Access your web site to determine when you invoice us, 2.) Know how much you billed us, and 3.) Know what the bill pertains to."¹

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."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.³ 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 NextGen. That decision, which was released on July 31, 2009, adopted without change a proposal announced by the

¹ *Waiver Request*.

² 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).

³ 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).

Timothy K. Bachert, Chief Financial Officer
NextGen Telephone
Page 2

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 payment of 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.⁴ 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, 2009.⁵ The Commission, however, did not receive payment of NextGen's regulatory fees (including the late payment penalty) until October 27, 2009.

We find therefore that NextGen 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 and refund of the 25 percent penalty assessed against NextGen for late payment of its FY 2009 regulatory fees.

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

⁴ 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").

⁵ 47 C.F.R. § 1.1164.



12278

28 North Country Road, Mt. Sinai, New York 11766 Tel: 877-781-6398 Fax: 631-476-0732 www.nextgentelephone.com

2009 OCT 27 P 2: 32

October 22, 2009
Federal Communications Commission
Office of the Managing Director
445 12th Street, S.W. Room 1-A625
Washington, DC 20554

Received & Inspected
OCT 27 2009
FCC Mail Room

Attn: Regulatory Fee Waiver/Reduction Request

RE: FEIN# 11-3535039
FRN# 4319455
Bill # 09E012164

Dear Managing Director

Yesterday I received a "remittance advice/bill for collection notice" (see attached) from the FCC that indicated NextGen Telephone owed \$5,998.75. Of this total \$1,199.75 was a 25% late payment fee because the original amount owed was due on 9/22/09. NextGen Telephone NEVER received the first bill for \$4,799.00.

I was informed by two FCC staff members that this was the first year these invoices were NOT sent to licensees and it is our responsibility to 1.) Access your web site to determine when you invoice us, 2.) Know how much you billed us, and 3.) Know what the bill pertains to.

As the FCC was able to send us the second attached "remittance advice/bill" that included the late fee, a reasonable person would wonder why couldn't the first bill be sent so that it could be paid on time without a 25% penalty.

Further, I was informed by your staff that I could request a waiver of the 25% late payment fee for this invoice; which, I might add is less than 30 days past due. However, in order to request such a waiver I still am required to pay the entire invoice including the late fee before the FCC will even consider my waiver request.

As unreasonable as this is, I am authorizing full payment including the late fee for the invoice we never received and the FCC admits was never sent to us. Further I still have no idea as to what this is even for. Payment is being sent by certified mail today.

I am requesting 1.) The \$1,199.75 late fee be waived and refunded to us, 2.) All future billings from the FCC be mailed to our corporate headquarters at the address

shown above, and 3.) An explanation be given to us as to what the invoice is for and how it is calculated.

Sincerely

A handwritten signature in black ink, appearing to read 'Timothy K. Bachert', written over a horizontal dashed line.

Timothy K. Bachert
Chief Financial Officer
NextGen Telephone
(631) 761-8005

CC: Senator Charles Schumer
Senator Kirsten Gillibrand
Congressman Timothy Bishop

Federal Communications Commission
 REMITTANCE ADVICE
 BILL FOR COLLECTION

OCT 21 2009

Approved by OMB
 3060-0589

BY: _____

Bill Number	Applicant FRN#	Current Bill Date
09RE 012164	0004319455	8/13/09

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

Application Information:

NextGen Telephone, Inc.
 28 North Country Road
 Mt. Sinai, NY 11766

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	TOTAL AMOUNT DUE MUST BE RECEIVED BY	Due Date
\$5,998.75		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
819863	0 9 7 2	1403339	.00342	\$ 4,799.00	1403339	0
	0 9 9 9	0		\$ 1,199.75		

TOTAL DUE \$5,998.75

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

Steve Franchi *Monique*

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: One World Telcom, LLC
Fiscal Year 2009 Regulatory Fee
Fee Control No. 0910309088093009

Dear Mr. Augustino:

This is in response to your request dated February 26, 2010 (*Request*), on behalf of One World Telcom, LLC (OWT) for waiver of the penalty for late payment of the fiscal year (FY) 2009 regulatory fee. Our records reflect that you paid the \$18,559.00 regulatory fee, but not the \$4,664.75 late payment penalty. For the reasons set forth below, we deny your request.

You assert that OWT 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.¹ You aver that OWT 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.² You claim that the penalty is a significant hardship to OWT given that “[t]he margins in international prepaid are extremely slim” and that OWT must report the face value of its prepaid cards or services as revenues, even though OWT receives 35 to 40 percent less than this amount when it sells services through distributors.³

The Communications Act of 1934, as amended, requires the Commission to assess a penalty of 25 percent on any regulatory fee not paid in a timely manner.⁴ It is the obligation of the licensees responsible for regulatory fee payments to ensure that the Commission receives the fee payment no later than the final date on which regulatory

¹ *Request* at 1.

² *Id.*

³ *Id.* at 2.

⁴ 47 U.S.C. §159(c)(1).

fees are due for the year.⁵ OWT paid the regulatory fee on October 30, 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. 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.⁶

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), that it would no longer mail pre-bills via surface mail to licensees such as OWT. 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. OWT is bound by these new rules whether or not it chose to participate in the rulemaking proceedings in which they were adopted.

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.”⁷ 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.

Finally, with respect to your statement that the penalty is a significant hardship for OWT, we note that even though the Commission will waive its regulatory fees in those instances where a petitioner presents a compelling case of financial hardship, you do not request a waiver of the FY 2009 regulatory fee and provide no documentation that would support

⁵ 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).

⁶ *Id.*

⁷ 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).

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

Payment of the \$4,664.75 penalty for OWT 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,

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

Mark Stephens
Chief Financial Officer

Enclosure

⁸ 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

WASHINGTON HARBOUR, SUITE 400
3050 K STREET, NW
WASHINGTON, D.C. 20007-5108

(202) 342-8400

12747
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BRUSSELS, BELGIUM

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STEVEN A. AUGUSTINO
DIRECT LINE: (202) 342-8612
EMAIL: saugustino@kelleydrye.com

0910309088093009

February 26, 2010

BY HAND DELIVERY

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

Re: One World Telecom, LLC. (FRN 0010219624) – Request for Waiver of
Late Payment Fees

Dear Ms. Dorsey:

On behalf of One World Telecom, LLC. (“One World”), this letter is to request that the Commission waive the late payment penalty assessed on One World’s payment of its Fiscal Year 2009 regulatory fees. The fees are reflected on invoice 09RE013567 (enclosed). In light of the unusual events surrounding the imposition of Fiscal Year 2009 regulatory fees and One World’s lack of knowledge of the due date, strict imposition of the penalty does not serve the public interest. One World therefore requests that the Commission waive the late payment penalty assessed in invoice 09RE013567.

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

¹ 47 C.F.R. § 1.3.

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

³ *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.⁴

One World is a small carrier providing prepaid international calling services. Unlike larger filers, One World 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, One World 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 2009.⁵ One World, however, was not a participant in this docket, nor did it receive any actual notice of the Commission's change in practice. For example, One World 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.

One World only became aware that its payment was past due when (ironically) the Commission *mailed an invoice* to One World Telecom in October 2009.⁶ Upon receiving the invoice, One World quickly paid the base FCC regulatory fees that were due. Payment of the regulatory fees was made on October 28, 2009. (See enclosure). Thus, One World promptly remedied its deficiency upon learning that the deadline had passed. In addition, One World 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 One World do not have the resources to monitor all FCC dockets and, in One World'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 One World was increased by 25% for having filed the fee late.

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

⁴ *Northeast Cellular*, 897 F.2d at 1166.

⁵ *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).

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

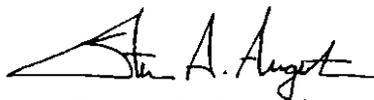
KELLEY DRYE & WARREN LLP

Ms. Regina Dorsey
February 26, 2010
Page 3

international 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, One World must *report* as telecommunications revenues the face value of its prepaid cards or services, even though in most instances One World *receives* 35-40 percent less than this amount when it sells services through distributors. In other words, One World 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 One World’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.

Respectfully submitted,



Steven A. Augustino

Counsel to One World Telecom, LLC.

Enclosures

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

MAY 14 2010

OFFICE OF
MANAGING DIRECTOR

Kurt Tittelbach, General Manager
Paxx Telecom LLC
Post Office Box 12637
Scottsdale, AZ 85267-2637

Re: Paxx Telecomm LLC
Fiscal Year 2009 Regulatory Fee
Fee Control No. 0912309088049003

Dear Mr. Tittelbach:

This is in response to your request filed January 7, 2010 (*Request*), on behalf of Paxx Telecomm LLC (Paxx) for waiver of the penalty for late payment of the fiscal year (FY) 2009 regulatory fee. Our records reflect that you paid the \$3,852.00 regulatory fee and the \$963.00 late payment penalty. For the reasons set forth below, we deny your request.

You assert that you did not receive a regulatory fee bill prior to the regulatory fee due date and were not advised of the Commission's recent decision not to send out bills in advance of the due date.¹ You aver that Paxx is a small company of three employees and have no legal staff dedicated to monitoring regulatory web site changes.² You allege that you have a prior history of paying the regulatory fees on time.³

The Communications Act of 1934, as amended, requires the Commission to assess a penalty of 25 percent on any regulatory fee not paid in a timely manner.⁴ It is the obligation of the licensees responsible for regulatory fee payments to ensure that the Commission receives the fee payment no later than the final date on which regulatory fees are due for the year.⁵ You paid the regulatory fee for Paxx on December 30, 2009,

¹ *Request* at 1.

² *Id.*

³ *Id.*

⁴ 47 U.S.C. §159(c)(1).

⁵ See 47 C.F.R. §1.1164; and see *Assessment and Collection of Regulatory Fees for Fiscal Year 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. 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.⁶

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.”⁷ 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 Paxx.

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

⁶ See *supra*.

⁷ 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).

0412509088049003
PAXX TELECOM LLC

PO BOX 12637 - SCOTTSDALE, AZ 85267-2637
TEL (480) 368-9748 FAX (480) 368-2614

December 31, 2009

Federal Communications Commission
Office of the Managing Director
445 12th Street SW, Room 1-A625
Attn. Regulatory Fee Waiver/Reduction Request
Washington DC 20554

RECEIVED

2010 JAN -7 P 2:31

FINANCIAL OPERATIONS
CENTER

12595

Bill # 09RE013169 FRN # 0007745730 – Request for penalty waiver

On 10/22/09 we received the above referenced invoice from the FCC. The bill stated it was for regulatory fees and it was due 9/22/09, three weeks before the invoice date.

On 10/27/09 I contacted the phone number on the bill asking why we received an invoice with a penalty already added when we never received the original bill. The representative informed me that this bill was for the annual regulatory fee plus penalties because we did not pay in time.

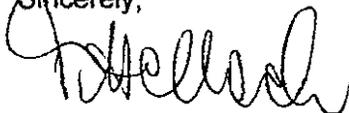
I told her that we had not yet received the 2009 Regulatory Fee invoice, to which she replied that no such invoices were mailed out in 2009. When I asked how we can pay a bill that we did not know to exist, she said information was posted on the FCC website stating that no bills were going to be mailed out. I told her that we received no letter or email informing us that these invoices will not be mailed out. When I asked how we could know about the new procedures without such communication, the representative suggested we put in a protest and she sent me link to the FCC website.

We are a small company of 3 employees. We have no legal staff dedicated to monitoring regulatory website changes. I am writing to ask that you please waive the penalty amount, as we were not aware of the change in procedure. We have always strived to pay any fees in full and on time and to my knowledge have never incurred any penalties for nonpayment or underpayment of any regulatory fees.

We are trying to hold on to three employees and this penalty is creating a hardship for us. We paid the principal amount of \$3852.00 with check #2316.

Would you please waive the penalty fee and confirm that no further penalties will accumulate while the original penalty is being appealed?

Sincerely,



Kurt Tittelbach
General Manager
Paxx Telecom LLC

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

APR 22 2010

OFFICE OF
MANAGING DIRECTOR

Charles E. Harder
Peoples Network, Inc.
571 NW McClurg Court
White Springs, FL 32096

Re: Peoples Network, Inc.
Station WJWB
FY 2009 Regulatory Fee
Fee Control No. RROG-09-00012561

Dear Mr. Harder:

This letter responds to your request dated December 24, 2009 (*Request*), submitted on behalf of Peoples Network, Inc. (Peoples), for waiver of the Fiscal Year (FY) 2009 regulatory fee. Our records reflect that Peoples has not paid the \$400.00 FY 2009 regulatory fee. For the reasons stated herein, we dismiss your request.

You state that you had heart surgery and were hospitalized several times in 2008 and 2009.¹ You assert that the Commission's delays in granting the application for Station WJWB "killed us" because "the economy tanked" when the license was granted and "there [was] no money anywhere to sell, build, partner, or whatever."² You claim that the Commission's dismissal of an application to transfer WJFA as moot cost you "untold thousands in lost dollars[.]"³ You aver that you are "on SSD and have no income[.]"⁴

The Commission may waive, reduce, or defer regulatory fees only upon a showing of good cause and a finding that the public interest will be served thereby.⁵ The Commission will waive, reduce or defer its regulatory fees in those instances where a petitioner presents a compelling case of financial hardship.⁶ Regulatees can establish financial hardship by submitting:

¹ *Request* at 1.

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ See 47 U.S.C. §159(d); 47 C.F.R. §1.1166; see also *Implementation of Section 9 of the Communications Act*, 9 FCC Rcd 5333, 5344 (1994), *on recon.*, *Memorandum Opinion and Order*, 10 FCC Rcd 12759, para. 12 (1995) (*Memorandum Opinion and Order*), (regulatory fees may be waived, deferred, or reduced on a case-by-case basis in extraordinary and compelling circumstances upon a clear showing that a waiver would override the public interest in reimbursing the Commission for its regulatory costs).

⁶ See *Implementation of Section 9 of the Communications Act*, 9 FCC Rcd at 5346, *on recon.*, 10 FCC Rcd 12759 (1995).

Mr. Charles E. Harder

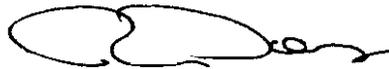
information such as a balance sheet and profit and loss statement (audited, if available), a cash flow projection . . . (with an explanation of how calculated), a list of their officers and their individual compensation, together with a list of their highest paid employees, other than officers, and the amount of their compensation, or similar information.⁷

In determining whether a licensee has sufficient revenues to pay its regulatory fees, the Commission relies upon a licensee's cash flow, as opposed to the entity's profits. Thus, although deductions for amortization and depreciation, which do not affect cash flow, and payments to principals, reduce gross income for tax purposes, those deductions also represent money which is considered to be available to pay the regulatory fee.

In the absence of such documentation, or other relevant showing, you have failed to establish a compelling case for relief. Therefore, your request for a waiver of the FY 2009 regulatory fees for Peoples is dismissed. Payment of the FY 2009 regulatory fee is now due. The payment should be filed together with a Form FCC 159 (copy enclosed) within 30 days from the date of this letter. However, in view of your allegations of financial hardship, in lieu of payment, you may refile Peoples' request together with appropriate supporting documentation and a request to further defer payment of the fee, within 30 days from the date of this letter.

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

Sincerely,



Mark Stephens
Chief Financial Officer

Enclosure

⁷ *Memorandum Opinion and Order*, 10 FCC Rcd at 12761-12762.

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

APR 22 2010

OFFICE OF
MANAGING DIRECTOR

Phil Ehlke
Station Manager
Pine to Prairie Broadcasting
Highway 2 East, 606
Fosston, MN 56542

Re: Pine to Prairie Broadcasting
Fiscal Year 2009 Regulatory Fee Waiver Request
Fee Control No. 0909259084367006

Dear Mr. Ehlke:

This letter is in response to your request dated October 20, 2009, on behalf of Pine to Prairie Broadcasting ("PPB") for waiver of the 25 percent penalty charged to it for late payment of its Fiscal Year ("FY") 2009 regulatory fees ("*Waiver Request*"). Our records show that PPB's fiscal year 2009 regulatory fees were not paid when due (*i.e.*, September 22, 2009), and therefore, PPB was assessed a late payment penalty of \$517.50. For the reasons below, we deny your request for waiver.

In support of your request, you state that you "mailed the check on September 18th and it cleared our bank on September 25th" and that you "felt that by getting the check in postmarked several days before the deadline would be sufficient."¹

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.² 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.³

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, which for FY 2009 was September 22, 2009. The Commission, however, did not receive payment PPB's FY 2009 regulatory fees until September 25, 2009. As explained above, a payment is timely if it is received by Commission by the due date and thus the postmark date is not relevant to the determination of timeliness.

¹ *Waiver Request*.

² 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").

³ 47 C.F.R. § 1.1164.

Phil Ehlke
Station Manager
Pine to Prairie Broadcasting
Page 2

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

Payment of the \$517.50 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 & 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

0909259084367006

12276

October 20, 2009

Federal Communications Commission
Accounts Receivable Inquiries

Regarding Bill number 0920000212

To whom it may concern,

The purpose of this letter is to ask your forgiveness of a penalty assessed regarding our regulatory fees. We received notice in August (Notification ID: 13710) of the regulatory fees due by September 22, 2009. We operate 3 stations in Fosston, MN, a town of 1400 people in Northwest Minnesota, and the bill of \$2070.00 is very significant for us. I worked very hard to set aside these funds without having to borrow, and I felt that by getting the check in postmarked several days before the deadline would be sufficient. I mailed the check on September 18th and it cleared our bank on September 25th. The penalty of \$517.50 is a hard pill to swallow. Could you find it in your heart to forgive this penalty? It would be very much appreciated.

Please let me know of your decision by phone or email. The phone number is 218-435-1919, or my email is phil@yourqfm.com. Thank you.

Sincerely,



Phil Ehlke
Station Manager

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

APR 22 2010

OFFICE OF
MANAGING DIRECTOR

Coral Johnston, President
ProNet Communications, Inc.
Post Office Box 966
Morehead, KY 40351

Re: ProNet Communications, Inc.
Fiscal Year 2009 Regulatory Fee Waiver Request
Fee Control No. RROG-09-00012214

Dear Ms. Johnston:

This letter is in response to your request dated October 22, 2009, on behalf of ProNet Communications, Inc. ("ProNet") 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 ProNet's payment for FY 2009 regulatory fees was not paid when due (*i.e.*, September 22, 2009), thus ProNet was assessed a late payment penalty of \$81. For the reasons below, we deny your request for waiver.

In support of your request, you state that ProNet "understand[s] now that you no longer send a paper bill but until we called the Help Desk we did not know" and that ProNet "previously had [no] need to check the FCC website for bills as you always sent us an annual bill" and thus ProNet "did not anticipate that we should examine the FCC site for such an action."¹

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."²

For 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.³ 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 ProNet. That decision, which was released on July 31, 2009, adopted without change a proposal announced by the

¹ *Waiver Request*.

² 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).

³ 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).

Coral Johnston, President
ProNet Communications, Inc.
Page 2

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 payment of 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.⁴ 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, 2009.⁵ The Commission, however, did not receive payment of ProNet's regulatory fees until October 29, 2009.

We find therefore that ProNet 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 ProNet for late payment of its FY 2009 regulatory fees.

Payment of the \$81 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,



Mark Stephens
Chief Financial Officer

Enclosure

⁴ 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").

⁵ 47 C.F.R. § 1.1164.

ProNet Communications, Inc.

P.O. Box 966, Morehead, KY 40351
606•780•2521, www.pronetcommunications.com

12214

0909019084896588

October 22, 2009

Federal Communications Commission
Revenue and Receivables Operations Group
P.O. Box 979084
St. Louis, MO 63197-9000

RE: ProNet Communications, Inc.
Bill Number 09RE013446, FRN 0009-2679-39
Request for deferment of payment of the ITSP Regulatory Fee until 11/22/09
Request for waiver of penalty for late payment of ITSP Regulatory Fee

Dear Sir or Madam:

We request a deferment of payment of the ITSP Regulatory Fee of \$324 until 11/22/2009 as we did not receive the bill until yesterday. We understand now that you no longer send a paper bill but until we called your Help Desk we did not know. We are sending payment as requested but we would like to forestall further action against our company. We request the deferment in order for you to receive the paper check and bill.

We have not previously had a need to check the FCC website for bills as you always sent us an annual bill. We did not anticipate that we should examine the FCC site for such an action. We were caught truly unaware. We are a tiny long distance reseller, taking compliance very seriously. Our two person staff would never dream of the need to anticipate this event to remain in compliance.

Second, we request a waiver for the penalty of \$81 for late payment of ITSP Regulatory Fee. Had we known we had a bill we would have paid it. \$81 is a days pay for one of our staff. The penalty is a hardship to our company. Thank you for consideration in this matter.

Respectfully submitted,

Coral Johnston

Coral Johnston
President
cj@gopronet.com

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

MAY 14 2010

OFFICE OF
MANAGING DIRECTOR

Ms. Sandra Valencia
Smart Network Solutions
5201 Blue Lagoon Drive, Suite 840
Miami, FL 33126

Re: Smart Network Solutions
Fiscal Year 2009 Regulatory Fee
Fee Control No. 0910229084882929.

Dear Ms. Valencia:

This is in response to your request filed October 29, 2009 (*Request*), on behalf of Smart Network Solutions (SNS) for waiver of the penalty for late payment of the fiscal year (FY) 2009 regulatory fee. Our records reflect that you paid the \$608.00 regulatory fee and the \$152.00 late payment penalty. For the reasons set forth below, we deny your request.

You assert that after receiving from the Commission a "Notice of Withholding of Action" dated September 24, 2009,¹ stating that SNS had 30 days to respond to the *Notice*, SNS paid the FY 2009 regulatory fee and penalty on October 22, 2009, via the Commission's web site.² You allege that because SNS paid the regulatory fee immediately after receiving the *Notice*, the penalty does not apply.³

The Communications Act of 1934, as amended, requires the Commission to assess a penalty of 25 percent on any regulatory fee not paid in a timely manner.⁴ It is the obligation of the licensees responsible for regulatory fee payments to ensure that the Commission receives the fee payment no later than the final date on which regulatory

¹ *Request* at 1; see also *Notice of Withholding Action*, from Cheryl A. Collins, Office of Managing Director, FCC, to Smart Network Solutions Communications Corp. (dated Sept. 24, 2009) (stating that because Smart Network Solutions Communications Corp. is delinquent in paying its 2009 regulatory fees, "action will be withheld on this application or benefit request (*i.e.*, File No. 0014810303, IB2008001839) . . . [and i]f payment is not made within 30 days of the date of this letter, the application or benefit sought . . . will be dismissed") (*Notice*).

² *Id.*

³ *Id.*

⁴ 47 U.S.C. §159(c)(1).

fees are due for the year.⁵ You paid the regulatory fee for SNS on October 22, 2009, 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. 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.⁶

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.”⁷ 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. The *Notice* set a 30-day deadline for SNS to pay the already late FY 2009 regulatory fee, after which the International Bureau would dismiss SNS’s pending application or benefit request with the Bureau. The *Notice* did not set or extend the due date for purposes of filing a timely FY 2009 regulatory fee. We therefore deny your request for waiver of the penalty for late payment of the FY 2009 regulatory fees for SNS.

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

⁵ 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).

⁶ See *supra*.

⁷ 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).



Smart Network Solutions
S&S Communications
Smart Network Solutions Comm., S.A. de C.V.

Miami, October 22, 2009

Received & Inspected

12353

OCT 20 2009

FCC Mail Room

FEDERAL COMMUNICATIONS COMMISSION
Office of Managing Director
ATN. LATE PENALTIES FEE WAIVER
445 - 12th ST S.W. Room 1-A865
Washington, DC 20554

REF. Bill Number 09RE013955 / FRN 0014810303

Dear Sir or Madam,

We just got a notice from you saying that there is a penalty and an extra fee for not paying on time the bill on the reference. We had received the first notice on 9/24/09 (see attached letter) and it said we had 30 days to response.

We paid this afternoon thru your website (please see the copy of Receipt of Payment) but the fee for \$152 dollars does not apply on this case because we are paying on time.

We are very much surprised about getting this new letter dated on 10/15/09 with due date of 9/22/09 (see attached letter received TODAY at our new address location).

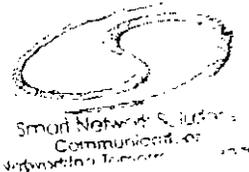
Will you be so kind please to waive the fee you are sending today for us?

We appreciate your response to this matter.

Please keep in mind we changed our office location since 1 year ago to the new address below my signature.

Regards,

Sandra Valencia
SMART NETWORK SOLUTIONS
5201 Blue Lagoon Dr Ste 840 Miami, FL 33126



www.smartisvoip.com

MIAMI

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MEXICO

EUROPA

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PL - 14870 788514
sales@smartisvoip.com