

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

JUN 18 2010

OFFICE OF
MANAGING DIRECTOR

Sally Last, Controller
Vocalocity, Inc.
1375 Peachtree Street, NE
Suite 175
Atlanta, GA 30309

Re: Vocalocity, Inc.
Fiscal Year 2009 Regulatory Fee
Fee Control No. 0911049088121002

Dear Ms. Last:

This is in response to your request dated October 30, 2009 (*Request*), on behalf of Vocalocity, Inc. (Vocalocity) for waiver of the penalty for late payment of the fiscal year (FY) 2009 regulatory fee. Our records reflect that you paid the \$19,919.00 regulatory fee and the \$2,479.75 late payment penalty. For the reasons set forth below, we deny your request.

You assert that you "were unaware that any fees were due until we received the FCC Remittance Advice Bill for Collection, Bill No. 09RE014332 (Oct. 15, 2009) (*Bill for Collection*).¹ You aver that you "processed payment as quickly as possible . . . [and] sent payment for this invoice in a timely fashion."²

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.³ It is the obligation of the licensee 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.⁴ Vocalocity paid the regulatory fee on November 3, 2009, after the September 22, 2009, deadline for filing regulatory fees, and therefore failed to meet this obligation.

¹ *Request* at 1.

² *Id.*

³ 47 U.S.C. §159(c)(1).

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

The Commission 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.⁵

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 Vocalocity. That decision, which was adopted on July 28, 2009, and released on July 31, 2009, adopted without change a proposal announced by the Commission in *Assessment and Collection of Regulatory Fees for Fiscal Year 2009, Notice of Proposed Rulemaking*, 24 FCC Rcd 5966, 5972-73 (2009), which was released on May 14, 2009. The Commission adopted the modifications to the notifications procedures at issue here almost two months before the due date for filing the FY 2009 regulatory fees, and proposed those modifications over four months before the due date. The *Bill for Collection* did not establish or otherwise extend the deadline for filing FY 2009 regulatory fees. Rather, the *Bill for Collection* advised Vocalocity that it had failed to pay the FY 2009 regulatory fee by the due date and identified the regulatory fee and the late payment penalty.

The Commission has repeatedly held that “[l]icensees are expected to know and comply with the Commission’s rules and regulations and will not be excused for violations thereof, absent clear mitigating circumstances.”⁶ You have not presented circumstances sufficient to mitigate your responsibility as a licensee to apprise yourself of your obligation to pay the FY 2009 regulatory fee by the announced deadline of September 22, 2009. We therefore deny your request for refund of the FY 2009 regulatory fee.⁷

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 *Id.*

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

⁷ Your request that the Commission recalculate Vocalocity’s FY 2009 regulatory fees based upon the corporation’s revised 2009 FCC Form 499-A, Telecommunications Worksheet (Reporting Calendar 2009 Revenues) will be addressed separately by the Office of Managing Director.

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vocalocity

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10/30/2009

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

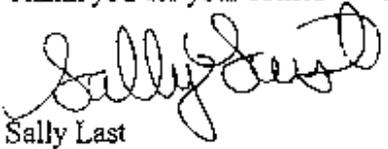
To Whom It May Concern:

I would like to request to have the late fees removed from our FY 2009 Regulatory Fees bill. We were unaware that any fees were due until we received the enclosed bill. The bill is dated 10/15/2009 and was due 9/22/2009. As soon as we received the bill, we researched the fees and processed payment as quickly as possible. Given that we sent payment for this invoice in a timely fashion, we request that you refund us the \$2,479.25 in late fees that we were assessed.

Additionally, we would like to request that you recalculate our regulatory fees. The fees that are detailed in the enclosed invoice are based on our initial 499A filing. We have since revised our 499A, so we request that you base our fees off of the revised form. I have enclosed a copy of our revised 499A to assist with your calculation.

Per your requirement, I mailed payment for the full amount that we were billed. Upon approval of our request, I ask that you return all fees that are due back to Vocalocity.

Thank you for your consideration,



Sally Last
Controller
Vocalocity