

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

MAR 16 2011

OFFICE OF
MANAGING DIRECTOR

Anthony J. Navarra, President
Global Operations
Globalstar, Inc.
461 South Milpitas Blvd.
Milpitas, CA 95035

Re: Globalstar Licensee LLC
Request for Refund of Filing Fees
Fee Control No. 1003029088239006

Dear Mr. Navarra:

This is in response to your request filed March 10, 2010 (*Request*), on behalf of Globalstar Licensee LLC (Globalstar) for a refund of the fee in connection with a request for modification of waiver conditions (*2009 Application*) filed on December 14, 2009.¹ Globalstar requests either a full refund of the \$28,535.00 fee or a partial refund of \$22,825.00, representing the difference between the fees set forth in section 1.1107 of the Commission's rules, 47 C.F.R. §1.1107, for modification of a non-geostationary orbit (NGSO) satellite system and those for amendment of a pending NGSO space station application (*i.e.*, \$28,535.00 minus \$5,710.00). Our records reflect that Globalstar paid the \$28,535.00 application fee at issue here. For the reasons set forth below, we grant your request for a partial refund in the amount of \$22,825.00.

On January 20, 2006, the Commission granted Globalstar authority to operate ancillary terrestrial component (ATC) stations to provide services integrated with services provided via the Globalstar™ Mobile Satellite Service (MSS) system, using portions of the spectrum bands assigned for Globalstar MSS operation.² On May 16, 2008, Globalstar filed an application to modify its ATC license to permit operations using the WiMAX air interface protocol (*May 2008 Modification Application*).³ As part of its request, Globalstar sought a waiver of certain of the technical rules applicable to ATC services and paid the then-prevailing application filing fee for modification of an NGSO

¹ *Request* at 1 (citing FCC File Nos. SAT-MOD-20080516-00106 and SAT-MOD-20091214-00152).

² *Globalstar LLC, Request for authority to implement an ancillary terrestrial component for the Globalstar Big LEO Mobile Satellite Service (MSS) system, Order and Authorization*, 21 FCC Rcd 398 (2006).

³ See File No. SAT-MOD-20080516-00106.

changes to the technical or operational terms of the authorization.⁷ You state that unlike other sections of Subpart G of Part 1 of the Commission's rules, section 1.1107(9.) (which sets forth the filing fees for NGSO systems) does not specify a filing fee for waiver requests. You assert that in the absence of any guidance in the rules or Bureau precedent, Globalstar filed the *2009 Application* "in an existing IBFS file (IBFS File No. SAT-MOD-20080516-00106), rather than as a new application."⁸ You contend that the Bureau, in the *Bill for Collection* (see *supra* footnote 5), "assigned a new, entirely separate IBFS file number to the . . . [2009 Application] (SAT-MOD-20091214-00152) as though it were an independent application for modification of Globalstar's space station license – which it clearly is not."⁹ You contend that the *2009 Application* does not contain any of the technical information, description of operations, or certifications that the Bureau typically requires to be included in a request for modification of a space station licenses, including those seeking to add or modify ATC authority.¹⁰

You note that at the time it filed the *2009 Application*, Globalstar had a pending application to modify its second-generation NGSO constellation, which it had filed on September 4, 2008 (*September 2008 Modification Application*).¹¹ You maintain that in the absence of a waiver fee in section 1.1107 of the rules, the Bureau should have treated the *2009 Modification Application* either as an amendment to the *September 2008 Application* and assessed a fee of \$5,710.00 under section 1.1107(9.e.) of the rules, 47 C.F.R. §1.1107(9.e.)¹², or as a request for special temporary authority (STA) to extend the interim waiver deadlines (and assessed a fee of \$2,860.00 under section 1.1107(9.d) of the rules, 47 C.F.R. §1.1107(9.d)).¹³ You assert that the Bureau's decision to treat Globalstar's *2009 Application* as a new modification application is particularly unjustified because the application fee system for MSS operators imposes competitive inequities among the four companies holding ATC authority, with Globalstar paying the highest fees.¹⁴

⁷ *Request* at 2 (citing *2008 WiMAX ATC Order* at paras. 41.d. and 41.e.).

⁸ *Id.* at 2.

⁹ *Id.* at 3.

¹⁰ *Id.*

¹¹ See File No. SAT-MOD-20080904-00165 (filed Sept. 4, 2008). On December 19, 2009, Globalstar filed an amendment to the pending *September 2008 Application*. See File No. SAT-AMD-20091221-00147 (filed Dec. 19, 2009).

¹² 47 C.F.R. §1.1107(9.e.) (an amendment to a pending NGSO space station application is subject to a \$5,710.00 application fee).

¹³ *Request* at 3-4.

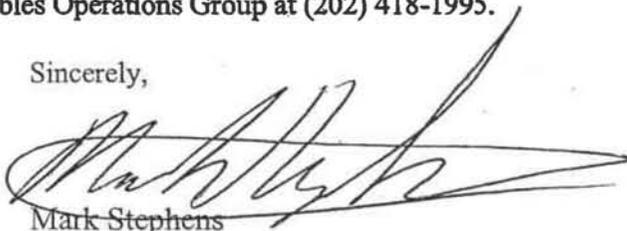
¹⁴ *Id.* at 4.

Anthony J. Navarra, President

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A check made payable to the maker of the original check, and drawn in the amount of \$22,825.00 will be sent to you at the earliest practicable time. If you have any questions concerning this letter, please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,

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

Mark Stephens
Chief Financial Officer

About February 1, some six weeks after it had filed its Request, Globalstar received in the mail an invoice for \$28,535, which is the current fee for a modification of an NGSO constellation license. On its face, the invoice made clear that, in addition to treating Globalstar's Request as a submission in the existing IBFS file assigned to Globalstar's Modification Request, the IB also had assigned a new, entirely separate IBFS file number to the Request (SAT-MOD-20091214-00152) as though its were an independent application for modification of Globalstar's space station license – which it clearly is not.^{9/} On February 16, 2010, Globalstar's outside counsel spoke with IB staff members to question their rationale for assigning a new file number to the Request and imposing such a disproportionate fee, but did not receive a clear explanation. Since the IB was not going to accept Globalstar's time-sensitive Request for filing and processing unless Globalstar paid the \$28,535 fee, Globalstar had no choice but to pay the filing fee under protest and seek a refund or reduction of the fee from the Managing Director.

Argument

There does not appear to be an objective basis for the fee chosen. To the extent that the IB believed it had authority to mandate a fee in these circumstances, which is questionable given that Section 1107 does not explicitly provide for such a fee, Globalstar submits that the IB chose the wrong fee - in fact, chose the highest possible wrong fee.

First, there is no rational support for the IB's conclusion that Globalstar's Request constitutes a new application for modification of Globalstar's NGSO constellation. On its face, the Request makes clear that Globalstar has sought only an extension of certain of the interim waivers the Commission granted in the *WiMAX ATC Order*, and nothing more. Globalstar's Request does not seek any different or additional authority from that previously sought in the Modification Application and granted in the *WiMAX ATC Order*. Further, the Request does not contain any of the technical information, description of operations, or certifications that the IB typically requires be included in a requests for modification of a space station licenses – including those seeking to add or modify ATC authority.

Second, even if there were a plausible connection between the Request and Globalstar's underlying constellation authorization, the IB failed to take into account that Globalstar previously had filed, and paid the full application fee associated with, a separate constellation modification application, which was pending at the time its Request was filed (and remains pending today).^{10/} When a constellation modification

^{9/} As of this writing, the IB has not physically placed Globalstar's Request in the newly-assigned IBFS file, File No. SAT-MOD-20091214-00152. The documents can only be found in IBFS under File No. SAT-MOD-20080516-00106.

^{10/} On September 4, 2008, Globalstar filed an application to modify its NGSO constellation in connection with the launch of its second-generation satellite constellation.

FILE

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

MAR 16 2011

OFFICE OF
MANAGING DIRECTOR

Susan Cockerham, Esq.
Thomson Reuters, Esq.
Corporate Software & Services
3100 Cumberland Blvd., Suite # 900
Atlanta, GA 30339

Re: Global Tel*Link Corporation
FY 2009 Regulatory Fee
Fee Control No. 0909289084603002

Dear Counsel:

This responds to your request dated November 6, 2009 (*Request*), filed on behalf of Global Tel*Link Corporation (Global Tel) for a waiver of the penalty for late payment of the fiscal year (FY) 2009 regulatory fee. Our records reflect that Global Tel has paid the \$210,225.00 FY 2009 regulatory fee, but not the \$50,556.25 late penalty. As explained below, we grant your request.

You state that Global Tel files and pays their regulatory fees through Thomson Reuters, formerly known as Telecom Compliance Services (TCS), a third party provider, whose offices are located in Cobb County, Georgia.¹ You say that “[t]hese payments are transmitted through a monthly funded escrow account . . . [and t]hat typically when an invoice is due, a Global Tel[] representative reviews and approves payment of the invoice.”² You state that upon their approval, “Thomson Reuters processes the payment through a check request process in conjunction with its treasury department.”³ You assert that unknown to you and Global Tel, “their escrow account did not have sufficient funds to cover the entire invoice payment.”⁴ You aver that “[t]he treasury department will usually notify the analyst that additional funds are necessary when an escrow account is in the negative in order to pay all fees applicable.”⁵ You claim that “extreme flooding occurred throughout the state of Georgia which caused the timing of these

¹ *Request* at 1.

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

events to be delayed.”⁶ You assert that due to the flooding, many schools, businesses, and roads in the metro-Atlanta area were closed and that the governor of Georgia declared a state of emergency and President Obama issued a disaster declaration involving Cobb County.⁷ You aver that as a result of the flooding, you and many of the employees of Thomson Reuters were unable to travel to their offices.⁸ You state that when you returned to the office on September 23, 2009, you immediately sent the payment by overnight courier.⁹ You explain that Global Tel sent the payment by overnight mail because Global Tel “did not have access to a credit card that would allow charges of such a large amount since their regulatory fee bill totaled over \$210,000.00.”¹⁰

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.¹¹ It is the obligation of the licensee responsible for the regulatory fee payment to ensure that the payment is received no later than the final date on which regulatory fees are due for the year.¹² Global Tel paid the regulatory fee on September 28, 2009, after the September 22, 2009, deadline for filing regulatory fees, and therefore failed to meet this obligation.

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.”¹³ In this case, we find that the untimely receipt of the fee was the result of clearly unforeseeable events, including the record-setting flooding in the state of Georgia during the week of September 22, 2009, which prompted federal disaster declarations in 17 counties in north Georgia, that even the best

⁶ *Id.*

⁷ *Id.* at 1-2.

⁸ *Id.* at 2.

⁹ *Id.*

¹⁰ *Id.*

¹¹ 47 U.S.C. §159(c)(1).

¹² 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), *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).

¹³ 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).

of planning could not have avoided. We therefore find good cause to waive the \$50,556.25 penalty for late payment of the FY 2009 regulatory fee.

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', written over a horizontal line.

Mark Stephens
Chief Financial Officer

0909289084603002



THOMSON REUTERS

12297

November 6, 2009

Federal Communications Commission
Financial Operations Department
Regulatory Fee Payments
445 12th Street, SW
Washington, DC 20554

Re: Request for Penalty Waiver for Global Tel*Link Corporation
FRN - 0003-7349-85
Bill # - 1020M0005

To Whom It May Concern;

I am writing on behalf of our client, Global Tel*Link Corporation, on whose behalf we recently received the above-referenced bill related to a late payment penalty on their 2009 ITSP Regulatory Fee filing. The cause of the late payment was due to extenuating circumstances beyond anyone's control; therefore, we respectfully submit this request for a penalty waiver. The following is a summary of the circumstances mentioned above which lead to the late payment.

Global Tel*Link Corporation files and pays their regulatory fees through Thomson Reuters (fka Telecom Compliance Services (TCS), a third-party provider, whose offices are located in Cobb County, Georgia. These payments are transmitted through a monthly funded escrow account. Typically when an invoice is due, a Global Tel*Link representative reviews and approves payment of the invoice. Upon their approval Thomson Reuters processes the payment through a check request process in conjunction with its treasury department. Following approval by a TCS Manager, the request is submitted to the treasury department for payment from Global Tel*Link Corporations escrow account. Unknown to Global Tel*Link or myself, their escrow account did not have sufficient funds to cover the entire invoice payment. The treasury department will usually notify the analyst that additional funds are necessary when an escrow account is in the negative in order to pay all fees applicable.

However, due to unforeseen weather related circumstances beyond all parties' control, extreme flooding occurred throughout the state of Georgia which caused the timing of these events to be delayed. Due to this flooding, many schools, businesses, and roads throughout the metro-Atlanta area, which involved Cobb County, were closed. Governor Perdue of

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FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

OFFICE OF
MANAGING DIRECTOR

May 10, 2011

Mr. George S. Kalman
Integrity Radio of Florida, LLC
201 Asbury Street
Arcadia, FL 34266

Re: Integrity Radio of Florida, LLC
FY 2010 Regulatory Fee
Fee Control No. RROG-10-00013049

Dear Mr. Kalman:

This letter responds to your request filed August 30, 2010, (*Request*) and your email sent on April 12, 2011,¹ on behalf of Integrity Radio of Florida, LLC (Integrity), licensee of Station WFLN, for waiver of the \$875.00 fiscal year (FY) 2010 regulatory fee.² Our records³ reflect that Integrity has not paid the regulatory fee. For the reasons stated herein, we grant your request.

You state that Integrity has had “continued losses during the year 2009 as well as prior years . . . [during 2009, Integrity] lost \$43,000 . . . [as] the owner of the radio station [you] took no money out of the business during 2009[,] but did contribute to make up the losses.” You submit Integrity’s Schedule C (Form 1040), Profit or Loss From Business (Sole Proprietorship), 2009 (*2009 Schedule C*).

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.”⁴ In reviewing a

¹ Letter from George S. Kalman to FCC, Office of the Managing Director (Aug. 24, 2010) (*Request*); Email from WFLNRadio@aol.com to Paul Cascio, FCC (Apr. 12, 2011)(Email).

² Mr. Kalman’s Email clarified the ambiguity that arose from the Request, which asked the FCC to “waiv[e] the regulatory fee for 2009,” even though it was submitted to the FCC more than two months after the Commission had granted Integrity’s request for a waiver of the FY 2009 regulatory fee (Letter from Mark Stephens, Chief Financial Officer, FCC to Mr. George S. Kalman (Jun. 18, 2010)). We accept Mr. Kalman’s clarification.

³ We note that Integrity has more than one FCC Registration Number (FRN) and variations in the spelling of its name. To insure that our records are accurate and correct, we encourage Mr. Kalman to amend information about the licensee that is incorrect or not current. 47 C.F.R. §§ 1.17; 1.8002(b)(2).

⁴ See *Implementation of Section 9 of the Communications Act*, 9 FCC Rcd 5333, 5346 (1994), *recon. granted*, 10 FCC Rcd 12759 (1995).

Mr. George S. Kalman

2.

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 and amortization are considered funds available to pay the fees.

Our review of the record, including Integrity's most current tax information, the 2009 Schedule C, indicates that the entity suffered a \$43,031.00 financial loss, which was offset only partially by a depreciation deduction, and that no funds were paid to the sole principal. On these facts, we grant the Request and waive the regulatory fee for FY 2010.

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

Sincerely,

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

Mark Stephens
Chief Financial Officer



13049

RECEIVED

2010 AUG 30 P 2:46

0014425961

RR00-10-00013049

FCC, Office of Managing Director
445 12th Street S.W. (Room 1-A615)
Washington, D.C. 20554

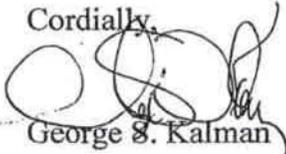
August 24th 2010

Dear Sirs:

We received the enclosed letter regarding regulatory fees for WFLN Radio and are requesting a waiver of the fee due to continued losses during the year 2009 as well as prior years. Enclosed you will find a copy of our 2009 tax return showing we lost \$43,000. As owner of the radio station I took no money out of the business during 2009 but did contribute to make up the losses.

We are trying hard to make WFLN a profitable business but during these tough times it has been a huge undertaking. Please consider our hardship at this time and consider waiving the regulatory fee for 2009. Your consideration is most appreciated.

Cordially,


George S. Kalman

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

MAR 18 2011

OFFICE OF
MANAGING DIRECTOR

Rodney Robinson
Corporate Controller
Infinite Conferencing
100 Morris Ave., Suite 302
Springfield, NJ 07081

Re: Infinite Conferencing
FY 2010 Late Penalty Waiver Request
Filed 11-1-10
Fee Control No. RROG-10-00013317
Regulatory Fee Penalty Amount: \$ 15,224.00
Late Penalty Amount: \$ 3,806.00
Date Regulatory Fee Paid: 10-5-10
Date Late Penalty Paid: Not paid

Dear Mr. Robinson:

This letter responds to the above-referenced request for waiver of the penalty for late payment of FY 2010 regulatory fees. For the reasons stated herein, your waiver request is denied.

Section 9(a)(1) of the Communications Act states that the Commission "shall assess and collect regulatory fees" to recover the costs of its regulatory activities.¹ Section 9(c)(1) provides that "[t]he Commission shall prescribe by regulation an additional charge which shall be assessed as a penalty for late payment of fees required" by Section 9(a) and that "[s]uch penalty shall be 25 percent of the amount of the fee which was not paid in a timely manner."² The Commission's regulations provide that "[a]ny late payment or insufficient payment of a regulatory fee, not excused by bank error, shall subject the regulatee to a 25 percent penalty of the amount of the fee which was not paid in a timely manner."³ For FY 2010, the deadline for paying regulatory fees was August 31, 2010.⁴ You paid the regulatory fee at issue after the due date and therefore failed to meet this obligation.

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

¹ 47 U.S.C. §159(a)(1).

² 47 U.S.C. §159(c)(1).

³ 47 C.F.R. §1.1164.

⁴ *Public Notice, FY 2010 Regulatory Fees Due No Later Than August 31, 2010, Eastern Time (ET)*, DA 10-1451, 2010 WL 3133517 (Aug. 9, 2010).

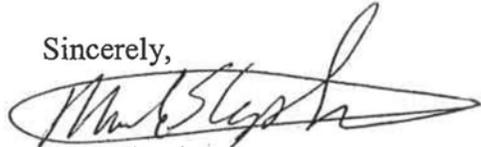
thereof, absent clear mitigating circumstances.”⁵ In your request for waiver, you have not presented circumstances sufficient to mitigate the obligation to pay the regulatory fees at issue by the announced deadline. The Commission has routinely held these circumstances do not constitute clear mitigating circumstances:

- Allegations that the FCC’s records contain an incorrect mailing address. The FCC Registration Number (FRN) information (including the entity’s address) in the FCC database regarding a licensee is supplied by the licensee. The Commission requires entities to keep FRN information current either by updating the information on-line at the CORES link at www.fcc.gov or by filing FCC Form 161.⁶
- Assertions that a licensee had staff turnover or a death of a staff member, mailed its fee check to the wrong place, forgot or lost its password to the Fee Filer system, or had an employee who failed to follow directions/made an administrative error.

These situations do support waiver of the Section 9(c)(1) penalty, which is waived “only in the most extraordinary circumstances.”⁷ The circumstances asserted in your waiver request, as explained above, do not constitute clear mitigating circumstances. Accordingly, your request for waiver and/or reduction of the penalty for late payment of the FY 2010 regulatory fee is denied.

If you did not pay FY 2010 regulatory fees and the associated late penalty in full, payment of the regulatory fees and late penalties is now due. The payments 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

⁵ 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); see also *NextGen Telephone* (OMD, Apr. 22, 2010); *Istel, Inc.* (OMD, Apr. 22, 2010).

⁶ See 47 C.F.R. §1.8002(b)(2); see also *Amendment of Parts 1, 21, 61, 73, 74 and 76 of the Commission’s Rules, Adoption of a Mandatory FCC Registration Number, Report and Order*, 16 FCC Rcd 16138 (2001).

⁷ *McLeodUSA Telecommunications Services, Inc., Memorandum Opinion and Order*, 19 FCC Rcd 6587, 6589 (2004) (denying the request for waiver of 25 percent penalty).

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

MAR 18 2011

FILE

OFFICE OF
MANAGING DIRECTOR

Thomas M. Lynch, Esq
Brennan Lynch LLP
The Crosby Building
705 Melvin Avenue, Suite 104
Annapolis, MD 21401

Re: IPC Network Services, Inc.
FY 2010 Regulatory Fee Penalty Waiver Request
Filed 9-7-10
Fee Control No. RROG-10-00013275
Regulatory Fee Amount: \$ 370,222.00
Late Penalty Amount: \$ 92,555.50
Date Regulatory Fee Paid: 9-3-10
Date Late Penalty Paid: 9-3-10

Dear Mr. Lynch:

This letter responds to the above-referenced request for waiver of the penalty for late payment of FY 2010 regulatory fees. For the reasons stated herein, your waiver request is denied.

Section 9(a)(1) of the Communications Act states that the Commission "shall assess and collect regulatory fees" to recover the costs of its regulatory activities.¹ Section 9(c)(1) provides that "[t]he Commission shall prescribe by regulation an additional charge which shall be assessed as a penalty for late payment of fees required" by Section 9(a) and that "[s]uch penalty shall be 25 percent of the amount of the fee which was not paid in a timely manner."² The Commission's regulations provide that "[a]ny late payment or insufficient payment of a regulatory fee, not excused by bank error, shall subject the regulatee to a 25 percent penalty of the amount of the fee . . . which was not paid in a timely manner."³ For FY 2010, the deadline for paying regulatory fees was August 31, 2010.⁴

¹ 47 U.S.C. §159(a)(1).

² 47 U.S.C. §159(c)(1).

³ 47 C.F.R. §1.1164.

⁴ *Public Notice, FY 2010 Regulatory Fees Due No Later Than August 31, 2010, Eastern Time (ET)*, DA 10-1451, 2010 WL 3133517 (Aug. 9, 2010) (*FY 2010 Filing Deadline Public Notice*).

You paid your regulatory fees after the August 31, 2010, deadline for filing regulatory fees, and therefore failed to meet this obligation. 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.”⁵ The assertion in your request, that the deadline was earlier than in previous years and/or that the notice period was shorter or sooner than expected does not constitute circumstances sufficient to mitigate your obligation to pay the FY 2010 regulatory fees by the announced deadline of August 31, 2010.

In *Assessment and Collection of Regulatory Fees for Fiscal Year 2010*, 25 FCC Rcd 9278, 9279 (2010) (*2010 Report and Order*), which was adopted on July 8, 2010, and released on July 9, 2010, the Commission stated that “[c]onsistent with our established practice, we intend to collect these [FY 2010] regulatory fees during an August 2010 filing window.” On August 9, 2010, the Commission announced the August 31, 2010, due date for filing the FY 2010 regulatory fees.⁶ Given that the Commission announced an August 2010 filing window on July 9, 2010, and adopted the August 31, 2010, due date on August 9, 2010, we find that you had ample notice of the filing deadline to ensure compliance with their FY 2010 regulatory fee payment obligations.

Confusion regarding the deadline for payment or concerning the use of the Fee Filer system does not provide sufficient grounds for a waiver of the regulatory fees rules, particularly given the Commission’s announcement regarding the August 2010 filing window and access to instructions for Fee Filer access in the *2010 Report and Order*.⁷ Moreover, history of timely payment of the regulatory fee does not provide sufficient grounds to support a waiver of the late payment penalties.⁸ Further, any assertion that payment was “only a little late” does not rise to the showing required for a waiver; although the Commission has waived late fees on a showing of good cause, neither the statute nor the Commission’s regulations contemplates a waiver of or reduction in the late payment penalty based on the amount of time after the deadline within which the regulatee satisfies its payment obligations.⁹ Finally, Section 9(c)(1) does not limit the late payment penalty to regulatees whose failure to pay was knowing or willful. In short, the Commission has waived the Section 9(c)(1) penalty “only in the most extraordinary circumstances”¹⁰ and we find no such extraordinary circumstances here. Your request for waiver or reduction of the penalties for late payment of the FY 2010 regulatory fees is denied.

⁵ 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); see also *NextGen Telephone* (OMD, Apr. 22, 2010); *Istel, Inc.* (OMD, Apr. 22, 2010).

⁶ See *FY 2010 Filing Deadline Public Notice*.

⁷ See *2010 Report and Order* at 9291 (advising regulatees to “check[] the Commission’s website periodically beginning in July, . . . to ascertain the fee due date, and receive instructions on how to access Fee Filer, view their bill, and make a fee payment”).

⁸ See *TWC Digital Phone, LLC* (OMD, Sept. 28, 2009); *Big River Telephone Company* (OMD, July 21, 2009).

⁹ See *XO Communications, LLC* (OMD, Nov. 10, 2010).

¹⁰ *McLeodUSA Telecommunications Services, Inc., Memorandum Opinion and Order*, 19 FCC Rcd 6587, 6589 (2004) (denying the request for waiver of 25 percent penalty).

With respect to IPC Network Services' assertions that it has been a financially difficult year, 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, IPC Network Services does not request a waiver of the FY 2010 regulatory fee and provides no documentation that would support such a request.¹¹ We therefore deny IPC Network Services' request on the grounds of financial hardship.

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

Sincerely,

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

Mark Stephens
Chief Financial Officer

¹¹ 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. 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) (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). The Commission will waive, reduce or defer its regulatory fees in those instances where a petitioner presents a compelling case of financial hardship. See *Implementation of Section 9 of the Communications Act*, 9 FCC Rcd at 5346, *on recon.*, 10 FCC Rcd 12759, 12761-62. (1995).

RROG-10-00013275

BRENNAN LYNCH LLP
ATTORNEYS AT LAW
THE CROSBY BUILDING
705 MELVIN AVENUE, SUITE 104
ANNAPOLIS, MARYLAND 21401

DIRECT (410) 268-2600 x 100
TLYNCH@TELECOMLAWYERS.COM

LICENSED IN
MD, VA & DC

September 7, 2010

VIA USPS AND EMAIL

Mr. Steven VanRoekel
Office of the Managing Director
Federal Communications Commission
445 12th Street, S.W., Room 1-A625
Washington, DC 20554
steven.vanroekel@fcc.gov

Re: Regulatory Fee Waiver/Reduction Request: Request for Waiver of 25% Late Fee on Annual Regulatory Fees – IPC Network Services, Inc. (FRN 0008398166)

Dear Mr. VanRoekel:

IPC Network Services, Inc. (“IPC”), through its undersigned counsel, hereby requests a waiver of the 25% late fee applied to its payment of the annual Regulatory Fee due August 31, 2010.¹ IPC logged onto Fee Filer to pay the Regulatory Fee on September 2, 2010, in accordance with its long history of paying the Fee according to FCC rules in September. When making the payment using the mandatory Fee Filer system, a late fee totaling \$92,555.50 was automatically applied. It was a financial hardship, but IPC paid the late fee in accordance with the Commission’s “pay and dispute” policy, and now seeks a refund for good cause.

The Commission has a longstanding practice of requiring payment of the annual Regulatory Fee during a period that includes some weeks in September, and IPC set its calendar to comply with that longstanding practice. For example, in 2009, the Commission released a public notice dated September 2 in which it stated that annual Regulatory Fees were due immediately, but no later than September 22, 2009.² Similarly, in 2008, the Commission released a public notice dated August 26 in which the annual

¹ 47 C.F.R. §1.3 (waiver of Commission Rules may be granted for good cause shown).

² See *Payment Methods and Procedures For Fiscal Year 2009 Regulatory Fees*, Rel. Sept. 2, 2009, DA 09-1841.

Regulatory Fees were due September 25, 2008.³ For 2007, the payments were due by September 19.⁴ This year, the Regulatory Fee was due August 31, 2010, and other than the single public notice issued on August 9, 2010, no attempt was made to contact regulated entities to apprise them of the earlier, and unusual date. IPC has consistently complied with the FCC's requirements and has always paid its Regulatory Fees on time. Its calendar is set with a reminder to make the payment on or about September 1, and in good faith IPC went to pay the Fees on September 2. With a \$92,000 penalty for making the payment two days late in reasonable reliance on prior Commission practice, IPC is suffering what amounts to an oppressive fine for a minor, and unintentional violation. IPC's mistake was not unreasonable, and payment of the penalty will have a materially negative impact on IPC's ability to compete in the market for telecommunications services, which is contrary to the public interest.

The Commission's policy with respect to fines and forfeitures may be instructive when considering whether the penalty assessed is appropriate in the instant case. It is well settled that the Commission has broad discretion to issue warnings instead of forfeitures.⁵ The Commission has further stated that except for egregious violations, it has been the Commission's general practice to issue warnings to first time violators who are not licensed on an individual basis. *Forfeiture Guidelines* at par. 23. The Commission has also stated that warnings can be an effective compliance tool in some cases involving minor or first time violations. *Forfeiture Guidelines* at par. 31. Furthermore, in the *Forfeiture Guidelines*, the Commission listed the primary factors that it evaluates in considering the actions of a violator and whether to eliminate or reduce a forfeiture.⁶ The primary factors are: egregious misconduct, ability or inability to pay, intentional violation, prior violation of same or other requirements, good faith or voluntary disclosure, and history of overall compliance. IPC's payment was two days late, and was not intentional. IPC relied in good faith on prior Commission practice and payment of the \$92,000 late fee would amount to a significant financial hardship for IPC. IPC has a history of timely payment of the Regulatory Fees, and complied with the Commission's "pay and dispute" policy, even though to do so was a hardship. Accordingly, IPC submits that a waiver with a warning in the instant case is more appropriate than assessing the \$92,000 penalty.

³ See *Payment Methods and Procedures For Fiscal Year 2008 Regulatory Fees*, Rel. Aug. 26, 2008, DA - 08-1973.

⁴ See *Payment Methods and Procedures For Fiscal Year 2007 Regulatory Fees*, Rel. Aug. 28, 2007, DA - 07-3758. The due dates for 2006, 2005, 2004, 2003 and 2002, respectively were September 19, September 7, August 19, September 24 and September 25.

⁵ See *In the Matter of the Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, CI Docket No. 95-6, Report and Order, 12 FCC Rcd 17087 (1987), recon. denied, 15 FCC Rcd 303 (1999) ("Forfeiture Guidelines").

⁶ See also, 47 C.F.R. § 1.80(f)(3).

For all the reasons set forth above, under Section 1.3 of the Commission's Rules and 47 U.S.C. § 159(d), IPC requests a waiver and refund of the \$92,555.50 penalty assessed for having mistakenly paid its Regulatory Fees on September 2 instead of August 31, 2010, in reasonable reliance on prior Commission practice, thus demonstrating good cause, and submits that such a waiver is in the public interest.

Sincerely,



Thomas M. Lynch
Counsel for IPC Network Services, Inc.

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

OFFICE OF
MANAGING DIRECTOR

March 22, 2011

Aaron P. Shainis, Esq.
Shainis & Peltzman, Chartered
1850 M Street, NW, Suite 240
Washington, DC 20036

Re: KM Television of El Dorado, LLC
Station KEJB-TV
FY 2010 Regulatory Fee Waiver Request
Filed 8-31-10
Fee Control No. RROG-10-0013160
Regulatory Fee Amount: \$ 3,050.00

Dear Mr. Shainis:

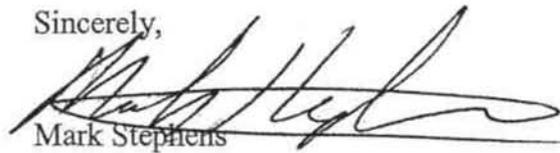
This letter responds to your request, referenced above, for waiver of regulatory fee ("Regulatory Fee"). Our records reflect that the fee has not been paid. For the reasons stated herein, we grant your request.

Our records reflect that the license for the above-referenced station ("Station") was cancelled prior to the due date for filing the Regulatory Fee in question, or that you filed for Special Temporary Authority ("STA") for the Station to remain silent prior to the due date and that the Station was still silent on the due date.

The Commission has determined that the imposition of a regulatory fee could be an impediment to the restoration of service by dark stations and that it therefore would waive the fee requirement for stations which have ceased operation.¹ Because our records reflect that you were not operating the Station on the date that the Regulatory Fee in question was due, we grant the request for waiver of the Regulatory Fee.

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

¹ *Memorandum Opinion and Order in MD Docket No. 94-19, FCC 95-257, 10 FCC Rcd 12759, 12762 (1995).* Broadcast stations that are dark must request permission to suspend operation pursuant to Section 73.1740(a)(4) of the Commission's rules. *Id.*

Shainis & Peltzman, Chartered

Counselors at Law

Suite 240

1850 M Street, N.W.
Washington, D.C. 20036

(202) 293-0011

Fax (202) 293-0810

e-mail: shainispeltzman@s-plaw.com

August 31, 2010

Special Counsel

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Lee J. Peltzman
lee@s-plaw.com

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

FILED/ACCEPTED

AUG 31 2010

Federal Communications Commission
Office of the Secretary

Re: KM Television of El Dorado, LLC

Dear FCC:

KM Television of El Dorado, LLC ("KM"), licensee of KEJB(TV), El Dorado, Arkansas, Facility ID No. 84164 (the "Station"), by its counsel and pursuant to the Commission's Regulatory Fee Fact Sheet, Waivers, Reductions and Deferments of Regulatory Fees (dated August 2010, the "Waiver Fact Sheet"), respectfully requests the waiver of the annual regulatory fees to be paid by KM for the Station for fiscal year 2010 ("FY 2010"), as well as a deferment of the deadline for payment of the annual regulatory fees. The Waiver Fact Sheet states that the Commission will consider the waiver of annual regulatory fees in extraordinary and compelling circumstances, and upon a showing that such a waiver would serve the public interest. For the reasons stated herein, KM also respectfully requests that the Commission defer payment of the regulatory fees for the Station until the Commission acts upon this request for waiver of the fees.

The fees for the KM station is listed on Schedule I.

FO WAIVER TRACKING SYSTEM
CONTROL # 13160

ORIGINAL

Shainis & Heltzman, Chartered

Office of the Managing Director

August 31, 2010

Page 2 of 2

In support of KM showing of financial hardship, attached hereto as Schedule II is an unaudited Profit and Loss Statement for calendar year 2009. The P&L reflects that KM suffered a net loss of \$_____. The poor financial condition of KM reflects that the station is silent for ~~most of the year and is in fact currently silent.~~

Also attached as Schedule III is a Balance Sheet for KM. The Balance Sheet supports the inability of KM to pay the regulatory fees.

KM has had no employees.

Accordingly, for the reasons stated herein, KM respectfully requests that the Commission waive the \$3,050 in annual regulatory fees due from KM for the Station for fiscal year 2010. KM also requests that the Commission defer the deadline by which KM must pay such annual regulatory fees based on the financial hardship demonstrated herein.

Sincerely yours,



Aaron P. Shainis
Counsel for

KM Television of El Dorado, LLC

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

Ann M

OFFICE OF
MANAGING DIRECTOR

March 31, 2011

Suzanne E. Rogers, President
Meridian Communications of Idaho, Inc.
455 Capitol Mall, Suite 210
Sacramento, CA 95814

Re: Meridian Communications of Idaho, Inc.
FY 2010 Regulatory Fee
Fee Control No. RROG-10-00013053

Dear Ms. Rogers:

This is in response to your request filed August 31, 2010 (*Request*), on behalf of Meridian Communications of Idaho, Inc. (Meridian), permittee of commercial television station Channel 20, Idaho Falls, Idaho, for a waiver and refund of the \$3,050.00 fiscal year (FY) 2010 regulatory fee. Our records reflect that you have paid the regulatory fee. For the reasons that follow, we grant your request.

You recite that the construction permit authorizing Channel 20 to serve the community of Idaho Falls, Idaho, was granted by the Commission's Media Bureau (Bureau) on July 22, 2003, and that The Post Company (Post) filed a petition for reconsideration of that decision on August 21, 2003.¹ You assert that the filing of the petition for reconsideration "made the status of the [s]tation uncertain and tolled the construction period on the permit."² You state that after the Bureau denied Post's petition for reconsideration on July 21, 2005, the successor to Post, NPG of Idaho, Inc. (NPG), filed an application for review on August 22, 2005, to which Meridian filed an opposition.³ You contend that Meridian "has not been in possession of a functional Commission license or permit since August 21, 2003 (including on October 1, 2009, the date for determining 2010 regulatory fee obligations), resulting in a tolling of . . . [the s]tation permit since that time."⁴

¹ *Request* at 2.

² *Id.* at 3.

³ *Id.*

⁴ *Id.*

Received & Inspected

AUG 31 2010

MERIDIAN COMMUNICATIONS
OF IDAHO, INC.

FCC Mail Room
455 Capitol Mall, Suite 210, Sacramento, California 95814 (916) 448-8800 Fax (916) 448-6455

RR0G-10-0001305

0004349155

August 30, 2010

VIA FEDERAL EXPRESS OVERNIGHT

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
9300 East Hampton Drive
Capitol Heights, MD 20743

ATTN: Steven VanRoekel, Managing Director
Office of Managing Director

Re: **Regulatory Fee Waiver Request of Meridian Communications of Idaho, Inc.,
Permittee of Analog TV Channel 20, Idaho Falls, Idaho; Facility ID# 41238**

200 AUG 31 P 3:30
RECEIVED

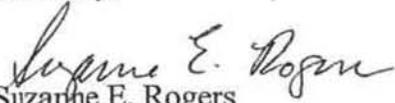
Dear Ms. Dortch:

Enclosed for filing with the Office of Managing Director is one original and four copies of Meridian Communications of Idaho's ("MCID") Petition for Waiver of Regulatory Fee ("Petition"). MCID has submitted full payment of the assessed regulatory fee electronically and encloses herein at Exhibit C to the Petition a true and correct copy of its regulatory fee remittance, FCC Form 159 (with the FRN number redacted for confidentiality purposes).

Also enclosed is a "stamp & receipt" copy of the Petition for return-receipt purposes. For your convenience a self-addressed stamped envelope is provided to return the stamp-receipted copy.

Thank you for your assistance with this matter. If you require any additional information in support of this request or have any questions regarding the enclosed documents, please feel free to contact me at the address and phone number listed above.

Sincerely,


Suzanne E. Rogers
President

Enclosures

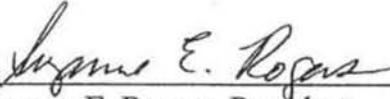
public interest in reimbursing the Commission for its regulatory costs.”⁵ Specifically, MCID asserts that the Commission’s levy of a regulatory fee on the Station is not in the public interest, as no regulated interest has been vested in MCID.

5. MCID has timely remitted the full \$3,050 in regulatory fees due (*see* copy of electronic File Copy of FCC Online Payment Receipt, FCC Form 159, attached hereto at Exhibit C), and accompanies such payment with this Petition for Waiver of Regulatory Fee. MCID does so having made no income to date, as it has not been able to build or operate the Station.

Pursuant to the facts set forth above and in accordance with the policy stated in the FY 1994 *Report and Order* and the FY 1994 *Memorandum Opinion and Order*, MCID requests a waiver and refund of its regulatory fees for fiscal year 2010. MCID requests that this refund be tendered at the earliest possible date.

Respectfully submitted,

Meridian Communications of Idaho, Inc.

By: 
Suzanne E. Rogers, President

Dated: August 30, 2010

⁵See FY 1994 *Report and Order* and FY 1994 *Memorandum Opinion and Order*, *supra* note 2.