

Federal Communications Commission

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will be adjusted upward to the next \$5 increment.

(c) Adjustments to fees made pursuant to these procedures will not be subject to notice and comment rulemakings, nor will these decisions be subject to petitions for reconsideration under § 1.429 of the rules. Requests for modifications will be limited to correction of arithmetical errors made during an adjustment cycle.

[52 FR 5289, Feb. 20, 1987, as amended at 53 FR 40889, Oct. 19, 1988; 55 FR 19172, May 8, 1990. Redesignated and amended at 59 FR 30998, June 16, 1994. Redesignated at 60 FR 5326, Jan. 27, 1995, as amended at 65 FR 49762, Aug. 15, 2000; 69 FR 41177, July 7, 2004. Redesignated and amended at 74 FR 3445-3446, Jan. 21, 2009]

§ 1.1118 Penalty for late or insufficient payments.

(a) Filings subject to fees and accompanied by defective fee submissions will be dismissed under § 1.1111 (d) of this subpart where the defect is discovered by the Commission's staff within 30 calendar days from the receipt of the application or filing by the Commission.

(1) A defective fee may be corrected by resubmitting the application or other filing, together with the entire correct fee.

(2) For purposes of determining whether the filing is timely, the date of resubmission with the correct fee will be considered the date of filing. However, in cases where the fee payment fails due to error of the applicant's bank, as evidenced by an affidavit of an officer of the bank, the date of the original submission will be considered the date of filing.

(b) Applications or filings accompanied by insufficient fees or no fees, or where such applications or filings are made by persons or organizations that are delinquent in fees owed to the Commission, that are inadvertently forwarded to Commission staff for substantive review will be billed for the amount due if the discrepancy is not discovered until after 30 calendar days from the receipt of the application or filing by the Commission. Applications or filings that are accompanied by insufficient fees or no fees will have a penalty charge equaling 25 percent of the amount due added to each bill. Any

Commission action taken prior to timely payment of these charges is contingent and subject to rescission.

(c) Applicants to whom a deferral of payment is granted under the terms of this subsection will be billed for the amount due plus a charge equaling 25 percent of the amount due. Any Commission actions taken prior to timely payment of these charges are contingent and subject to rescission.

(d) Failure to submit fees, following notice to the applicant of failure to submit the required fee, is subject to collection of the fee, including interest thereon, any associated penalties, and the full cost of collection to the Federal government pursuant to the provisions of the Debt Collection Improvement Act of 1996 (DCIA), Public Law 104-134, 110 Stat. 1321, 1358 (Apr. 26, 1996), codified at 31 U.S.C. 3711 *et seq.* See 47 CFR 1.1901 through 1.1952. The debt collection processes described above may proceed concurrently with any other sanction in this paragraph.

[52 FR 5289, Feb. 20, 1987, as amended at 53 FR 40889, Oct. 19, 1988; 55 FR 19172, May 8, 1990. Redesignated and amended at 59 FR 30998, June 16, 1994. Redesignated at 60 FR 5326, Jan. 27, 1995, as amended at 67 FR 67337, Nov. 5, 2002; 69 FR 41177, July 7, 2004; 69 FR 27847, May 17, 2004; 69 FR 41177, July 7, 2004. Redesignated and amended at 74 FR 3445-3446, Jan. 21, 2009]

EDITORIAL NOTE: At 69 FR 57230, Sept. 24, 2004, § 1.1116(a) introductory text was corrected by changing the reference to “§ 1.1109(b)” to read “§ 1.1109(d)”; however, the amendment could not be incorporated because that reference does not exist in the paragraph.

§ 1.1119 Petitions and applications for review.

(a) The fees established by this subpart may be waived or deferred in specific instances where good cause is shown and where waiver or deferral of the fee would promote the public interest.

(b) Requests for waivers or deferrals will only be considered when received from applicants acting in respect to their own applications. Requests for waivers or deferrals of entire classes of services will not be considered.

(c) Petitions for waivers, deferrals, fee determinations, reconsiderations and applications for review will be

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acted upon by the Managing Director with the concurrence of the General Counsel. All such filings within the scope of the fee rules shall be filed as a separate pleading and clearly marked to the attention of the Managing Director. Any such request that is not filed as a separate pleading will not be considered by the Commission. Requests for deferral of a fee payment for financial hardship must be accompanied by supporting documentation.

(1) Petitions and applications for review submitted with a fee must be submitted to the Commission's lock box bank at the address for the appropriate service set forth in §§ 1.1102 through 1.1107.

(2) If no fee payment is submitted, the request should be filed with the Commission's Secretary.

(d) Deferrals of fees will be granted for an established period of time not to exceed six months.

(e) Applicants seeking waivers must submit the request for waiver with the application or filing, required fee and FCC Form 159, or a request for deferral. A petition for waiver and/or deferral of payment must be submitted to the Office of the Managing Director as specified in paragraph (c) of this section. Waiver requests that do not include these materials will be dismissed in accordance with § 1.1111 of this subpart. Submitted fees will be returned if a waiver is granted. The Commission will not be responsible for delays in acting upon these requests.

(f) Petitions for waiver of a fee based on financial hardship will be subject to the provisions of paragraph 1.1166(e).

[52 FR 5289, Feb. 20, 1987, as amended at 55 FR 19172, May 8, 1990; 55 FR 38065, Sept. 17, 1990. Redesignated and amended at 59 FR 30998, June 16, 1994, as further amended at 59 FR 30999, June 16, 1994. Redesignated at 60 FR 5326, Jan. 27, 1995, as amended at 65 FR 49762, Aug. 15, 2000; 66 FR 36202, July 11, 2001; 67 FR 67337, Nov. 5, 2002; 68 FR 48467, Aug. 13, 2003. Redesignated and amended at 74 FR 3445-3446, Jan. 21, 2009]

§ 1.1120 Error claims.

(a) Applicants who wish to challenge a staff determination of an insufficient fee or delinquent debt may do so in writing. A challenge to a determination that a party is delinquent in paying the full application fee must be ac-

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companied by suitable proof that the fee had been paid or waived (or deferred from payment during the period in question), or by the required application payment and any assessment penalty payment (*see* § 1.1118) of this subpart). Failure to comply with these procedures will result in dismissal of the challenge. These claims should be addressed to the Federal Communications Commission, Attention: Financial Operations, 445 12th St., SW., Washington, DC 20554 or e-mailed to ARINQUIRIES@fcc.gov.

(b) Actions taken by Financial Operations staff are subject to the reconsideration and review provisions of §§ 1.106 and 1.115 of this part, EXCEPT THAT reconsideration and/or review will only be available where the applicant has made the full and proper payment of the underlying fee as required by this subpart.

(1) Petitions for reconsideration and/or applications for review submitted by applicants that have not made the full and proper fee payment will be dismissed; and

(2) If the fee payment should fail while the Commission is considering the matter, the petition for reconsideration or application for review will be dismissed.

[52 FR 5289, Feb. 20, 1987, as amended at 53 FR 40889, Oct. 19, 1988. Redesignated at 59 FR 30998, June 16, 1994. Redesignated at 60 FR 5326, Jan. 27, 1995, as amended at 65 FR 49763, Aug. 15, 2000; 69 FR 27848, May 17, 2004. Redesignated and amended at 74 FR 3445-3446, Jan. 21, 2009]

§ 1.1121 Billing procedures.

(a) The fees required for the International Telecommunications Settlements (§ 1.1103 of this subpart), Accounting and Audits Field Audits and Review of Arrest Audits (§ 1.1106 of this subpart) should not be paid with the filing or submission of the request. The fees required for requests for Special Temporary Authority (*see* generally §§ 1.1102, 1.1104, 1.1106 & 1.1107 of this subpart) that the applicant believes is of an urgent or emergency nature and are filed directly with the appropriate Bureau or Office should not be paid with the filing of the request with that Bureau or Office.