



MAY 08 2019

**Federal Communications Commission  
Washington, D.C. 20554**

Robin L. Grimes  
Bookkeeper  
Valley Telecom Group  
P.O. Box 970  
752 E. Maley Street  
Willcox, Arizona 85644

Licensees/Applicants: **Copper Valley Telephone Inc. and Valley Connections LLC**  
Waiver and Refund Request: Late Payment Penalty  
Disposition: **Denied** (47 C.F.R. §§ 1.1157(c)(1), 1.1164)  
Fee: Fiscal Year (FY) 2018 Regulatory Fee Late Fee  
Date Request Filed: October 30, 2018  
Date Regulatory Fee Paid: October 18, 2018  
Date Late Penalty Fee Paid: October 25, 2018  
Fee Control No.: RROG-PGC3168223, PGC3171737, PGC3171734

Dear Ms. Grimes:

This responds to the requests of Copper Valley Telephone, Inc. and Valley Connections (the Valley entities) for a waiver and refund of the penalties assessed against them for late payment of their Fiscal Year (FY) 2018 regulatory fees (collectively, Requests).<sup>1</sup>

Under 47 U.S.C. § 159 and the Commission's implementing rules, we are required to assess and collect regulatory fees to recover the costs of the Commission's regulatory activities,<sup>2</sup>

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<sup>1</sup> Letters from Robin L. Grimes, Valley Telecom, 752 E. Maley St., Willcox, Arizona 85644 to Marlene H. Dortch, Secretary, Federal Communications Commission (October 24, 2018, *rec'd* October 30, 2018) (*Requests*). Copper Valley Telephone Inc and Valley Connections LLC are affiliated entities whose parent company, Valley Telecom filed identical requests on their behalf.

<sup>2</sup> 47 U.S.C. § 159(a)(1); 47 C.F.R. § 1.1151.

and when the required fee payment is received late or it is incomplete, to assess a penalty equal to twenty five percent (25%) of the amount of the fee which was not paid in a timely manner.<sup>3</sup>

Each year, the Commission establishes the final day on which payment must be received before it is considered late, *i.e.*, a deadline after which the Commission must assess charges that include the statutory late payment penalty required by 47 U.S.C. § 159(c)(1) and 47 C.F.R. §§ 1.1157(c)(1) and 1.1164. For FY 2018, the deadline for paying regulatory fees was September 25, 2018.<sup>4</sup> The Valley entities did not pay their FY 2018 regulatory fees and the 25 per cent penalty until October 18, 2018 and October 25, 2018 respectively.

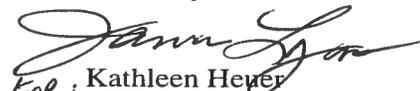
The Valley entities now request that we waive and refund the twenty five percent (25%) penalty assessed against each entity. As justification, the Valley entities state that they paid their fees electronically and received FCC confirmation of the payment on September 11, 2018. However, the Valley entities' bank thereafter refused to honor the payments because their account was blocked. The Valley entities contend that they should not be penalized for late payment of their regulatory fees because the Commission did not inform them that their bank had rejected the payments until October 17, 2018.<sup>5</sup>

When we evaluate such matters, we consider whether the Requests establish the existence of bank error<sup>6</sup> or present legal grounds or clear mitigating circumstances<sup>7</sup> to waive collection of the penalty payments.

The Valley entities do not present valid grounds for relief. The penalty required by 47 U.S.C. § 159(c)(1) is not limited to situations where the failure to pay was knowing or willful, but includes mistakes made by and circumstances within the control of the regulatee, as was the case here. The only error made in this case was the Valley entities' failure to monitor their bank account to ensure that they had sufficient funds to pay the regulatory fees. To suggest that the Commission was responsible for notifying the Valley entities that their payments did not clear is simply false. Accordingly, the Valley entities' Requests for a waiver and refund of their 25 percent penalty payments are denied.

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

Sincerely,

  
For: Kathleen Heuer  
Chief Financial Officer

<sup>3</sup> 47 U.S.C. § 159(c)(1); 47 C.F.R. §§ 1.1157(c)(1); 1.1164.

<sup>4</sup> See Effective Date of FY 2018 Regulatory Fees and Multi-Year Wireless Fees, *Public Notice*, DA 18-952 (September 14, 2018).

<sup>5</sup> *Requests*.

<sup>6</sup> 47 C.F.R. § 1.1164; see also *NTT America, Inc.*, 21 FCC Rcd 8088 (2006).

<sup>7</sup> See *Sitka Broadcasting Co., Inc.*, 70 FCC 2d 2375, 2378 (1979), citing *Lowndes County Broadcasting Co.*, 23 FCC 2d 91 (1970) and *Emporium Broadcasting Co.*, 23 FCC 2d 868 (1970); see also *NextGen Telephone* (OMD, Apr. 22, 2010); *Istel, Inc.* (OMD, Apr. 22, 2010).