



MAY 08 2019

Federal Communications Commission
Washington, D.C. 20554

Mr. Vince Townsend
President
Pay Tel Communications Inc.
P.O. Box 8179
Greensboro, NC 27419

Licensee/Applicant: **Pay Tel Communications Inc.**
Waiver and Refund Request: Late Payment Penalty
Disposition: **Denied** (47 C.F.R. §§ 1.1157(c)(1),
1.1164)
Fee: Fiscal Year (FY) 2016 Regulatory Fee Late
Fee
Date Request Filed: October 11, 2016
Date Regulatory Fee Paid: September 30, 2016
Date Late Penalty Fee Paid: September 30, 2016
Fee Control No.: RROG-PGA2878910

Dear Mr. Townsend:

This responds to the request of Pay Tel Communications Inc. (Pay Tel) for a waiver and refund of the penalty assessed against it for late payment of its Fiscal Year (FY) 2016 regulatory fees (Request)¹. For the reasons stated below, we deny the Request.

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,² 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.³

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

¹ Letter from Vince Townsend, Pay Tel Communications Inc., P.O. Box 8179, Greensboro, North Carolina 27419 to Marlene H. Dortch, Secretary, Federal Communications Commission (September 30, 2016, *rec'd* October 11, 2016) (*Request*).

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

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

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 2016, the deadline for paying regulatory fees was September 27, 2016.⁴ Pay Tel paid its FY 2016 regulatory fees and the 25 per cent penalty on September 30, 2016, three days after the deadline.

Pay Tel now requests that we waive and refund the twenty five percent (25%) penalty on the grounds that its failure to pay the FY 2016 regulatory fees by the FY 2016 regulatory fee payment deadline was due to several inadvertent errors made by Pay Tel employees.⁵


When we evaluate such matters, we consider whether the Request establishes the existence of bank error⁶ or presents legal grounds or clear mitigating circumstances to waive collection of the penalty payments. Pay Tel's Request does not.

Repeatedly, the Commission has 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

Pay Tel does 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. Accordingly, Pay Tel’s request for a waiver and refund of the 25 percent penalty payment is denied.

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

Sincerely,


FOR : Kathleen Heuer
Chief Financial Officer

⁴ See Effective Date of FY 2016 Regulatory Fees and Multi-Year Wireless Fees, *Public Notice* (September 22, 2016).

⁵ *Request*.

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

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