



March 8, 2019

Mr. Brian D. Weimer  
Mr. Eamon Tierney  
Sheppard Mullin Richter & Hampton LLC  
2099 Pennsylvania Ave. NW, Suite 100  
Washington, D.C. 20006

Re: Waiver and Deferral of Application Fee (47 U.S.C.  
§158(d)(2); 47 C.F.R. § 1.1119)  
Petitioning Party: **Susan Uecker, Receiver for Skybridge  
Spectrum Foundation, V2G LLC and Environmental  
LLC**  
Disposition: **Dismissed and Denied** (47 U.S.C.  
§158(d)(2); 47 C.F.R. § 1.1119)  
Date Request Filed: November 1, 2018  
Date Application Fees Paid: N/A  
Date Late Penalty Fee Paid: N/A  
Fee Control No.: RROG-2019-16589

Dear Counsel:

This responds to the petitions for waiver and deferral of application fees (the Requests) filed by Susan L. Uecker, in her capacity as the court-appointed receiver (the Receiver) for Skybridge Spectrum Foundation, V2G LLC, and Environmental LLC.<sup>1</sup> For the reasons stated below, we dismiss and deny the Requests.

The Receiver filed the Requests, together with an application to extend the construction deadline for multiple paging licenses (the Application), on November 1, 2018 through the Commission's ECFS online filing system. The Receiver requested a six-month deferral and ultimately, a waiver, of the \$139,930 fee owed for the Application. The Receiver stated that she "faces a financial hardship regarding paying the application fees" and that she "cannot continue operating the estate and pay the application fees". The Receiver represented that there are insufficient funds in the receivership estate to pay the application fees and other claims against the receivership estate, and that waiving the application fee to permit the Receiver to "continue to manage the estate's licenses and to pay pre-existing creditors" is in the public interest. To

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<sup>1</sup> Petition for Waiver of Application Fees and Petition for Deferral of Application Fees, each filed by Susan L. Uecker, Receiver in the Commission's Office of the Secretary on [date] (the *Requests*).

support her assertion of financial hardship, the Requests included a summary of receivership cash account balances controlled by the Receiver as of September 30, 2018.<sup>2</sup>

Section 1.1119(c) of the Commission's rules require that waiver and deferral petitions filed without payment of the underlying fee must be filed with the Commission's Secretary, to the attention of the Managing Director by mail or by delivering a copy of the filings to the Office of the Secretary.<sup>3</sup>

Section 8(d) of the Communications Act of 1934, as amended, permits the Commission to waive, reduce, or defer payment of an application fee upon a showing of good cause and a finding that the public interest will be served thereby.<sup>4</sup> The Commission has narrowly interpreted its waiver authority under Section 8(d) to require a showing of extraordinary and compelling circumstances that outweigh the public interest in recouping the Commission's regulatory costs.<sup>5</sup> While fee relief may be granted based on financial hardship, "[m]ere allegations or documentation of financial loss, standing alone," do not suffice.<sup>6</sup> Among the documents the Commission has suggested that a regulatee provide to prove its claim of financial hardship are audited balance sheets and profit and loss statements, cash flow projections for the next twelve months (with an explanation of how calculated), a list of officers and highest paid employees (other than officers) and each individual's compensation, or similar information.<sup>7</sup> The foregoing list of documents is not exhaustive and "it is incumbent upon each [requestor] to fully document its financial position and show that it lacks sufficient funds to pay the ... fee and maintain its service to the public."<sup>8</sup> On this information, the Commission considers on a case-by-case basis whether the requesting party has met its burden of proof and has demonstrated the existence of extraordinary and compelling circumstances that outweigh the public interest in recouping the Commission's regulatory costs.<sup>9</sup>

First, the Requests fail on procedural grounds and we dismiss, because the Receiver failed to file the Requests in accordance with the filing requirements set forth in the Commission's rules.<sup>10</sup>

As an alternative and independent basis for our decision, we deny the Requests on the merits because the Receiver failed to demonstrate that deferral or waiver of the application fees is warranted. Specifically, the Receiver failed to fully document her claim of financial hardship,

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<sup>2</sup> *Requests*, Exhibit C.

<sup>3</sup> 47 C.F.R. §1.1119(c).

<sup>4</sup> 47 U.S.C. §159(d); 47 C.F.R. §1.1119(a).

<sup>5</sup> *See* Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year, *Report and Order*, 9 FCC Rcd 5333, 5344, ¶ 29 (1994), *recon. denied*, 10 FCC Rcd 12759 (1995) (Adopting the Commission's "extraordinary and compelling circumstances" application fee waiver standard for waiver of regulatory fees.)

<sup>6</sup> Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year, Memorandum Opinion and Order, 10 FCC Rcd 12759, 12761-62, ¶ 13 (1995).

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> 47 C.F.R. §1.1119(c).

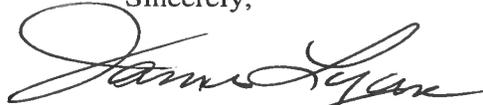
choosing to provide only a list of receivership cash account balances as of September 30, 2018.<sup>11</sup> The Receiver provided no documentation or information regarding other receivership assets available to pay receivership operating expenses and claims, for e.g., potential cash infusions from the receivership entity owners, assets that could or will be sold or that could collateralize operating loans to the receivership, accounts receivable or any other present or future cash sources.

Similarly, the Receiver's assertion of over \$1,035,000 in pre-receivership claims and administrative claims against the receivership estate raises more questions than it answers. For example, the Receiver did not disclose whether and to what extent any of the asserted claims have been allowed or are disputed; whether California receivership law establishes a priority of payment of claims against the receivership estate, and what priority of repayment the application fees would receive; which of the claims were actually due and owing and which were payable at a later date; or whether assets belonging to one receivership entity may be used to pay claims against another receivership entity or whether all receivership assets are available to pay claims against each of the entities. All of this information and supporting documentation would be relevant to the Commission's consideration of the Receiver's financial hardship claim.

In sum, the Receiver failed to establish financial hardship justifying deferral and waiver of the fees and failed to otherwise establish extraordinary and compelling circumstances that outweigh the public interest in recouping the Commission's regulatory costs.

Accordingly, the Requests are hereby dismissed and denied.

Sincerely,

  
FOR: Kathleen Heuer  
Chief Financial Officer

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<sup>11</sup> *Requests*. The Receiver also provided copies of the construction deadline extension request and a list of the relevant paging licenses. These do not directly document the Receiver's claim of financial hardship.