



MAY 08 2019

Federal Communications Commission
Washington, D.C. 20554

Mr. Louis Cires
InPhonex.com LLC
7206 NW 31 Street
Miami, Florida 33122

Licensee/Applicant: **InPhonex.com LLC**
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: October 5, 2016
Date Late Penalty Fee Paid: October 5, 2016
Fee Control No.: RROG- PGC2880680

Dear Mr. Cires:

This responds to the request of InPhonex.com LLC (InPhonex) for a waiver and refund of the penalties assessed and paid 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 payment is received late or it is incomplete, to assess a penalty equal to "25 percent of the amount of the fee which was not paid in a timely manner."³ Specifically, "[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."⁴

¹ Letter from Louis Cires, InPhonex.com LLC., 7206 NW 31 Street, Miami, FL 33122, to Marlene H. Dortch (October 4, 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.

⁴ 47 C.F.R. § 1.1164.

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 2016, the deadline for paying regulatory fees was September 27, 2016.⁵ InPhonex did not pay its FY 2016 regulatory fees until October 5, 2016.⁶ Thereafter, InPhonex asked for a waiver and refund of the statutory penalty.

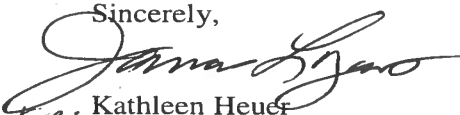
InPhonex requests that we waive and refund the late payment penalty because it inadvertently failed to pay the FY 2016 regulatory fees by the deadline.⁷

When we evaluate such matters, we consider whether the Request establishes the existence of bank error or presents legal grounds or clear mitigating circumstances to waive collection of the penalty payments. InPhonex'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.”⁸

InPhonex 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 include mistakes made by and circumstances within the control of the regulatee, as was the case here.

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

Sincerely,

Kathleen Heuer
Chief Financial Officer

⁵ See Effective Date of FY 2016 Regulatory Fees and Multi-Year Wireless Fees, *Public Notice* (September 22, 2016).

⁶ InPhonex also paid the late payment penalty on October 5, 2016.

⁷ Request.

⁸ 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).