



# PUBLIC NOTICE

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DA 21-1137

Released: September 10, 2021

## PROCEDURES FOR FILING REQUESTS FOR WAIVER, REDUCTION, DEFERRAL AND INSTALLMENT PAYMENT OF FY 2021 REGULATORY FEES DUE TO THE CORONAVIRUS PANDEMIC

Each year the Commission is required to collect regulatory fees equal to its annual appropriation. This year the Commission's assessment of FY 2021 regulatory fees is set forth in the *Assessment and Collection of Regulatory Fees for FY 2021*, Report and Order and Notice of Proposed Rulemaking, FCC 21-98 (*FY 2021 Regulatory Fees Report and Order*), released on August 26, 2021.<sup>1</sup> The *FY 2021 Regulatory Fees Report and Order*, along with Fact Sheets and Public Notices providing payment instructions, industry-specific guidance and other important information can be viewed on the Commission website at: <https://www.fcc.gov/licensing-databases/fees/regulatory-fees>.

**FY 2021 regulatory fees must be paid in full and payment received by the Commission no later than 11:59 PM, Eastern Daylight Time, on September 27, 2021.**<sup>2</sup> Except as otherwise explained in this Public Notice and in the *FY 2021 Regulatory Fees Report and Order*, regulatory fees that are not paid in full by September 27, 2021 will be assessed a 25% late payment penalty and will accrue interest until paid in full.<sup>3</sup> Further, the Commission may pursue all available remedies to collect unpaid regulatory fee debt, including placing delinquent debtors on "red light," dismissing their pending applications and request for benefits<sup>4</sup> and referring the debt to the United States Treasury for further collection.<sup>5</sup>

Due to the ongoing economic effects of the pandemic, the Commission has extended to FY 2021 the temporary COVID-19 relief measures it adopted for FY 2020 regulatory fees.<sup>6</sup> While the Commission's

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<sup>1</sup> *Assessment and Collection of Regulatory Fees for Fiscal Year 2021*, Report and Order and Notice of Proposed Rulemaking, 2021 WL 3847250 (rel. August 26, 2021) (*FY 2021 Regulatory Fees Report and Order*).

<sup>2</sup> See *Regulatory Fee Filing Window is Extended to Monday, September 27, 2021*, Public Notice, DA 21-1201 (Office of the Managing Director, Sept. 24, 2021).

<sup>3</sup> 47 U.S.C. § 159a(c); 31 USC § 3717; 47 CFR §§ 1.1164 and 1.1940.

<sup>4</sup> Under the Commission's "red light" rule, the Commission will not act on any application or request for benefit filed by a party that owes delinquent debt to the Commission. The delinquent debtor must pay its debt in full or make payment arrangements satisfactory to the Commission. Failure to do so will result in dismissal of the debtor's filing. 47 CFR §§ 1.1164 and 1.1910.

<sup>5</sup> 31 U.S.C. § 3701, *et seq.*; 47 CFR § 1.1901, *et. seq.*

<sup>6</sup> *FY 2021 Regulatory Fees Report and Order* at paras. 69-72; *Assessment and Collection of Regulatory Fees for Fiscal Year 2020*, Report and Order and Further Notice of Proposed Rulemaking, 36 FCC Rcd 1731, 1759-62, paras. 76-87 (2020) (*FY 2020 Regulatory Fees Report and Order*).

authority to provide relief is limited,<sup>7</sup> the Commission is using its existing authority to offer assistance to regulatees experiencing financial hardship arising from the pandemic, by streamlining and easing its processes for requesting and obtaining waiver, deferral and installment payment relief for FY 2021 regulatory fees, as it did for FY 2020 regulatory fees. Importantly, the Commission's standard for granting a waiver request remains the same. The Commission may waive, reduce or defer payment of a regulatory fee in a specific instance if a regulatee demonstrates good cause for the relief sought and that waiver, reduction or deferral of the fee promotes the public interest. Fee relief may be granted, but only to those regulatees "unambiguously articulating 'extraordinary circumstances' outweighing the public interest in recouping the cost of the Commission's regulatory services."<sup>8</sup>

Waiver, reduction and deferral on financial hardship grounds.

A request for waiver or reduction of a FY 2021 regulatory fee<sup>9</sup> based on financial hardship must be filed on or before September 27, 2021 and accompanied by either (i) full payment of the FY 2021 regulatory fee or a request to defer payment and (ii) financial documentation demonstrating the financial hardship of the regulatee.<sup>10</sup> A party seeking waiver and deferral of its FY 2021 regulatory fees based on financial hardship may file a single request for both waiver and deferral.<sup>11</sup> Parties are directed to file their requests electronically by emailing their requests, together with all supporting financial documents, to the following email address: [2021regfeerelief@fcc.gov](mailto:2021regfeerelief@fcc.gov).

A request to waive and/or defer payment of FY 2021 regulatory fees on financial hardship grounds must include supporting financial documents to show financial hardship. In order to prove financial hardship sufficient to justify a waiver, a regulatee must show that it lacks sufficient funds to pay its FY 2021 regulatory fee in full while maintaining service to the public.<sup>12</sup> Among the documents that a regulatee may wish to include to prove financial hardship sufficient to justify a waiver are: tax returns, a balance sheet and profit and lost statement (audited if possible), cashflow projections for the next twelve months, a list of officers and highest paid individual employees with each person's compensation. Regulatees might also include documents demonstrating the pandemic's effect on its financial decline, such as banking and investment account records, credit card statements, monthly statements of cash receipts and disbursements, accounting ledgers and journals, and loan (including secured and unsecured loans, lines of credit, etc.) documents, including balances owed. For individual regulatees, such documents might

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<sup>7</sup> The Commission must collect \$374,000,000 in FY 2021 regulatory fees and it must fairly and proportionately allocate the burden of those fees among regulatees. It cannot exempt groups of regulatees, other than those expressly exempt in the statute. Similarly, it cannot waive, reduce or defer fees or the 25% late payment penalty, except on a case-by-case basis, where extraordinary circumstances are shown. *Assessment and Collection of Regulatory Fees for Fiscal Year 2020*, Report and Order and Notice of Proposed Rulemaking, 35 FCC Rcd 4976, 5004, para. 74 (2020) (*FY 2020 NPRM*)

<sup>8</sup> *Assessment and Collection of Regulatory Fees for Fiscal Year 2019*, Report and Order and Further Notice of Proposed Rulemaking, 34 FCC Rcd 8189, 8207, para. 50 (2019).

<sup>9</sup> Requests to waive, reduce and/or defer payment of regulatory fees may include requests to waive, reduce and/or defer payment of the 25% penalty and accrued interest. 47 U.S.C. § 159a(d).

<sup>10</sup> Waiver requests filed after the September 27, 2021 deadline will not be dismissed for late filing. However, all regulatory fees that are not paid in full or for which a request to waive and defer is not filed by the September 27, 2021 deadline will be automatically assessed a 25% late payment penalty and may accrue interest under 47 U.S.C. § 159a(c).

<sup>11</sup> *FY 2021 Regulatory Fees Report and Order*, 2021 WL 3847250 at \*26, para. 70. The Commission has waived section 1.1166(a) of its rules for waivers based on financial hardship to permit a single filing requesting both waiver and deferral, in lieu of requiring separate filings each for waiver and deferral. *Id.*

<sup>12</sup> *Assessment and Collection of Fees for Fiscal Year 2019*, Report and Order and Further Notice of Rulemaking, 34 FCC Rcd 8189, 8207, para. 50 (2019) (*FY 2019 Report and Order*).

include wage statements, documents disclosing non-wage income, such as rental income; real estate valuations and mortgage documents; bank, credit card and loan statements; account numbers and balances for all cash accounts and investments; monthly income and expense summaries. Commission staff will inform and work with regulatees that have filed financial hardship waiver requests if additional documents are needed to render a decision on their waiver requests.

The Commission waives the “red light” under section 1.1910 of the Commission’s rules<sup>13</sup> to the extent necessary to permit a regulatee that owes debt to the Commission to request a waiver or reduction of its FY 2021 regulatory fees.<sup>14</sup> However, the Commission will not grant a financial hardship waiver request without satisfactory resolution of all outstanding debt owed by the regulatee to the Commission. Depending upon the severity of a regulatee’s financial circumstances, satisfactory resolution of debt may include full payment, payment of a reduced amount, curing defaults under existing installment debt and/or payment via an installment payment agreement.

#### Waiver or reduction of fees on other grounds.

Requests for waiver or reduction of FY 2021 regulatory fees on any grounds other than financial hardship must be filed by September 27, 2021 and must comply with section 1.1166 of the Commission’s rules,<sup>15</sup> except as set forth in this paragraph with respect to electronic filing. Parties are directed to file their requests electronically by emailing their requests, together with all supporting documents, to the following email address: [2021regfeerelief@fcc.gov](mailto:2021regfeerelief@fcc.gov). A request filed on grounds other than financial hardship that fails to comply with section 1.1166 of the Commission’s rules (as modified by the above electronic filing instructions) or that is filed by a party on “red light” under section 1.1910 of the Commission’s rules will be dismissed.<sup>16</sup>

#### Installment payment of FY 2021 regulatory fee debt.

A regulatee that is financially unable to pay its FY 2021 regulatory fee debt in full before the September 27, 2021 payment deadline may request an installment payment plan electronically, by sending its request, together with supporting financial documentation to [2021regfeerelief@fcc.gov](mailto:2021regfeerelief@fcc.gov). The request may be combined in a single filing with a waiver and deferral request made on financial hardship grounds. The supporting financial documentation submitted with an installment payment request must show that the regulatee cannot pay its FY 2021 fees in full by September 27, 2021. Commission staff will inform and work with regulatees that have filed installment payment requests if additional documents are needed to render a decision on the installment payment requests.

The Commission also waives the “red light” under section 1.1910 of its rules<sup>17</sup> to the extent necessary to permit a party that owes debt to the Commission to request installment payment relief.<sup>18</sup> However, the Commission will not grant an installment payment request without satisfactory resolution of all outstanding debt owed to the Commission by the party requesting the relief. Depending upon the severity of a regulatee’s financial circumstances, satisfactory resolution of a regulatee’s debt may include full payment, payment of a reduced amount, curing defaults under existing installment debt, and/or combining existing installment debt with the FY 2021 regulatory fee debt into a new installment payment agreement.

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<sup>13</sup> 47 CFR §1.1910.

<sup>14</sup> *FY 2021 Regulatory Fees Report and Order*, 2021 WL 3847250 at \*26, para. 70.

<sup>15</sup> 47 CFR §1.1166.

<sup>16</sup> 47 CFR §1.1164; 47 CFR §1.1910.

<sup>17</sup> 47 CFR §1.1910.

<sup>18</sup> *FY 2020 Regulatory Fees Report and Order*, 36 FCC Rcd 1731, 1761, para. 84.

If an installment payment request is granted, the Commission will ease the payment terms it typically requires for installment payment agreements, including reducing the interest rate it typically charges to a nominal rate of interest and waiving the 10% down payment.

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