

Ms. Beatriz Archilla  
President  
Ochoa Broadcasting, Corporation  
P.O. Box 9230  
Humacao, Puerto Rico 00792

May 13, 2021

Licensee: Ochoa Broadcasting, Corporation  
Re: Request for Waiver and Deferral of FY 2016 Regulatory Fees  
Disposition: Dismissed and Denied (47 U.S.C. § 159(d);<sup>1</sup> 47 CFR §§ 1.1160 and 1.1166)  
Date Request Filed: December 6, 2016  
Date Regulatory Fees Paid: September 27, 2016  
Date Late Penalty Fee Paid: N/A  
Fee Control No.: RROG-2017-16290

Dear Ms. Archilla:

This responds to the request for deferral and/or waiver of FY 2016 regulatory fees (the Request) of Ochoa Broadcasting, Corporation (Ochoa).<sup>2</sup> For the reasons stated below, we dismiss and deny the Request.

Ochoa filed its Request by letter dated December 6, 2016, addressed to the Commission's Office of the Managing Director. The Request asks the Commission to waive and/or defer Ochoa's payment of its FY 2016 fees on the basis that it was then experiencing financial hardship.<sup>3</sup> At the time the Request was filed, Ochoa had paid its FY 2016 regulatory fees in full.

Section 1.1166(a) of the Commission's rules requires waiver requests to be addressed to the Commission's Secretary, to the attention of the Managing Director.<sup>4</sup>

Section 9 of the Communications Act of 1934, as amended, permits the Commission to waive, reduce, or defer payment of a regulatory fee upon a showing of good cause and a finding that the public interest will be served thereby.<sup>5</sup> The Commission has narrowly interpreted its waiver authority under section 9 to require a showing of extraordinary and compelling circumstances that outweigh the public interest in recouping the Commission's regulatory costs.<sup>6</sup> While fee relief may be granted based on

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<sup>1</sup> 47 U.S.C. § 159(d) is now codified as 47 U.S.C. § 159A(d).

<sup>2</sup> Letter from Ms. Archilla, President, Ochoa Broadcasting, Corporation, to the Federal Communications Commission, Office of the Managing Director, 445 12<sup>th</sup> St. SW, Room 1-A625, Washington, D.C. (Nov.15, 2017, rec'd Dec. 6, 2016) (Request). Though Ochoa styled the Request as a request for waiver of its FY 2017 regulatory fees, several references within the Request make it clear that Ochoa intended to request waiver of its FY 2016 fees. In addition, Ochoa timely paid its FY 2016 regulatory fees. Accordingly, we will treat the Request as request for waiver and refund of Ochoa's FY 2016 regulatory fees.

<sup>3</sup> Request.

<sup>4</sup> 47 CFR §1.1166(a).

<sup>5</sup> 47 U.S.C. §159(d), now codified at 47 USC § 159A(d); 47 CFR § 1.1166.

<sup>6</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, para.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.)

financial hardship, “[m]ere allegations or documentation of financial loss, standing alone,” do not suffice.<sup>7</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>8</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>9</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>10</sup>

First, we dismiss the Request on procedural grounds, because Ochoa failed to file the Request in accordance with the requirements of section 1.1166 of the Commission’s rules.<sup>11</sup> The Request is addressed to the Commission’s Office of Managing Director, rather than to the Commission’s Secretary and marked to the attention of the Managing Director, as the rule requires.

We also dismiss as unnecessary Ochoa’s request to defer payment of its FY 2016 regulatory fees, because Ochoa paid the fees in full before it filed the Request.

As an alternative and independent basis for our decision, we deny the Request on the merits because Ochoa failed to demonstrate that waiver of its obligation to pay the regulatory fees is warranted. Specifically, the financial statements Ochoa submitted in support of its waiver request were insufficient to prove financial hardship. The financial statements, purporting to cover some period ending on September 30, 2015, were outdated. Because Ochoa did not submit any then current financial documentation, we are unable to determine that waiver on the basis of financial hardship is merited. In addition, Ochoa failed to otherwise establish extraordinary and compelling circumstances that outweigh the public interest in recouping the Commission’s regulatory costs.

Accordingly, the Request is hereby dismissed and denied.

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

Sincerely,



James Lyons  
Deputy Chief Financial Officer

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<sup>7</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, para.13 (1995).

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

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

<sup>10</sup> *Id.*

<sup>11</sup> 47 C.F.R. §1.1166.

