

Joseph A. Stroud, President
Oxford Media Group, Inc.
1900 Spring Road
Suite 202
Oak Brook, IL 60523

May 13, 2021

Licensee: Oxford Media Group, Inc.
Call Sign: WJYS (DT)
Waiver/Refund Request: FY 2017 Late Payment Penalty
Disposition: Denied (47 U.S. C. § 159(c) and (d),¹ 47
CFR §§ 1.1160, 1.1164 and 1.1166)
Date Request Filed: April 4, 2018
Paid: February 20, 2018
Fee Control No.:

Dear Mr. Stroud:

This responds to the request of Oxford Media Group, Inc. (Oxford) for a waiver and refund of the penalty assessed against Oxford for late payment of its Fiscal Year (FY) 2017 regulatory fees (Request).² 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,³ 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.”⁴ 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.”⁵

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. The deadline for paying FY 2017 regulatory fees was September 26, 2017.⁶ Oxford did not pay its FY 2017 regulatory fees until October 20, 2017.

Oxford argues that it should be excused from paying the penalty because Oxford attempted to pay its regulatory fees via ACH on September 25, 2017 and had no reason to believe that the payment would fail. Oxford states that it did not know that the fee payment failed until after the payment deadline when, in the course of filing an application with the Commission, it discovered that it was on red light for nonpayment of its FY 2017 regulatory fee. In its Request, Oxford states that its bank declined payment

¹ 47 U.S.C. § 159(c) and (d) are now codified at 47 U.S.C. § 159A(c) and (d).

² Petition for Waiver and Refund of Penalty For Fiscal Year 2017 Regulatory Fees, addressed to the attention of the Managing Director and filed with the Office of the Secretary, Federal Communications Commission (rec’d Apr. 4, 2018).

³ 47 U.S.C. § 159(a); 47 CFR § 1.1151.

⁴ 47 U.S.C. § 159(c), now codified at 47 U.S.C. §159A(c).

⁵ 47 CFR § 1.1164.

⁶ See Fee Filer is Open for Payment of FY 2017 Regulatory Fees, *Public Notice* (September 5, 2017), https://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db0906/DOC-346547A1.pdf The Commission later extended the deadline to September 29, 2017 for regulatees in certain states and territories affected Hurricanes Harvey, Irma and Maria. However, the extended deadline did not apply to Oxford. See *Regulatory Fee Filing Window for Those Regulatees Affected by Hurricane Maria is Extended to Friday, September 29, 2017*, Public Notice, 32 FCC Rcd 7306 (OMD 2017).

because the bank could not identify the bank account provided in Oxford's regulatory fee submission, and that Oxford was unable to determine why the payment was not made.⁷

Each year, in advance of the regulatory fee payment deadline, the Commission publishes several notices designed to provide fee payors with all of the information needed to ensure timely payment of regulatory fees. A September 6, 2017 notice published on the Commission's website includes the following advice, in bold print: "**Fee payors are strongly encouraged to contact their financial institutions to confirm that the correct Routing Number for this method of payment is being used. Fee payors should also verify with their bank that their account has authorization to accept ACH transactions.**"⁸ The same notice states "For purposes of meeting the filing deadline, the FCC will consider payment to be received when account information is successfully accepted. Funds may not clear for up to 2 business days. Fee payors are responsible for obtaining confirmation from their financial institution that payment was successfully debited from the designated account(s)."⁹

The Commission's records confirm that Oxford initiated payment of its regulatory fees on September 25, 2017 as Oxford states. However, the Commission's records also show that on the following day, a notice was posted to Oxford's Fee Filer page notifying Oxford that payment failed. Had Oxford consulted its page and its bank on that day or the next, it could have rectified the error and timely paid the fee.

In evaluating the Request, we consider whether the Request establishes the existence of bank error¹⁰ or presents legal grounds or clear mitigating circumstances¹¹ to waive collection of the penalty. Oxford's Request does not. Oxford's untimely late payment was entirely avoidable, and due to circumstances entirely within its control. Accordingly, the Request is denied.

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

Sincerely,



James Lyons
Deputy Chief Financial Officer

⁷ Request.

⁸ *Payment Methods and Procedures for Fiscal Year 2017 Regulatory Fees*, Public Notice (Sept. 6, 2017), https://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db0906/DOC-346547A1.pdf.

⁹ *Id.*

¹⁰ 47 CFR § 1.1164. Oxford does not allege that the bank's refusal to honor its payment request was due to bank error, only stating that it never determined why the error was made.

¹¹ See *Sitka Broadcasting Co., Inc.*, Memorandum Opinion and Order, 70 FCC 2d 2375, 2378, para. 6 (1979), citing *Lowndes County Broadcasting Co.*, Memorandum Opinion and Order, 23 FCC 2d 91 (1970) and *Emporium Broadcasting Co.*, Memorandum Opinion and Order, 23 FCC 2d 868 (1970); see also *NextGen Telephone* (OMD, Apr. 22, 2010); *Istel, Inc.* (OMD, Apr. 22, 2010).