

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
WILLIAM J. KIRSCH) FOIA Control Nos. 2011-552, 2012-176,
) 2012-241, 2012-294, 2013-019, 2013-073,
On Requests for Inspection of Records) 2013-118, 2013-151, 2013-152, 2013-291,
) 2013-298, 2013-299, 2013-300, 2013-301,
) 2013-302, 2013-303, 2013-304, 2013-305,
) 2013-306, 2013-307, 2013-308, 2013-309,
) 2013-310, 2013-311, 2013-356, 2013-357,
) 2013-358, and 2013-393

ORDER ON RECONSIDERATION
AND MEMORANDUM OPINION AND ORDER

Adopted: November 1, 2013

Released: November 1, 2013

By the Commission:

I. INTRODUCTION

1. This consolidated decision addresses several filings by William J. Kirsch related to his series of Freedom of Information Act (FOIA) and Privacy Act (PA) requests, generally pertaining to his employment at the Federal Communications Commission (FCC) during the 1990s, his transfer to the International Telecommunication Union (ITU), and various international telecommunications policies. The Order on Reconsideration denies a petition for reconsideration¹ of a Commission order that denied three applications for review filed by Mr. Kirsch in connection with three of his requests under the FOIA and the PA.² The Memorandum Opinion and Order dismisses in part and denies in part eight applications for review,³ and dismisses an additional three applications for review,⁴ of decisions in connection with another twenty-five of his requests under the FOIA and PA.⁵

¹ See Petition for Reconsideration [a]nd Freedom of Information and Privacy Act Request by William J. Kirsch (filed November 27, 2012) (Petition for Reconsideration or Petition).

² The applications for review sought review of three decisions by the Office of Managing Director (OMD) and the International Bureau (IB) that responded to three of Mr. Kirsch’s FOIA requests. See In the Matter of William J. Kirsch on Requests for Inspection of Records, FOIA Control Nos. 2011-552, 2012-176, and 2012-241, 27 FCC Red 13772 (2012) (Kirsch MO&O or MO&O).

³ See Freedom of Information (FOIA) and Privacy Act (PA) Appeal by William J. Kirsch, filed January 14, 2013 (January 14, 2013 AFR); Unsigned email sent from a private email address to Sean Lev, General Counsel, FCC (sent Feb. 6, 2013 @12:13:56 pm) (February 6, 2013 AFR); Email from William J. Kirsch to Sean Lev, General Counsel, FCC (sent Feb. 19, 2013 @3:50:02 pm) (February 19, 2013 AFR); Email from William Kirsch to FCCINFO Re: Freedom of Information Act (FOIA) and Privacy Act Appeal and FOIA and Privacy Act Request (sent Feb. 22, 2013 @1:04 pm) (February 22, 2013 AFR); Email from William J. Kirsch to General Counsel, FCC (sent May 28, 2013 @5:05:08 pm) (May 28, 2013 AFR); Email from William Kirsch to Mignon Clyburn, Acting Chairwoman, FCC (sent June 5, 2013 @4:30 pm) (June 5, 2013 AFR); Email from William Kirsch to Mignon Clyburn, Acting Chairwoman, FCC (sent June 19, 2013 @5:17 am) (June 19, 2013 AFR); Email from William J. Kirsch to General Counsel, FCC (sent July 14, 2013 @3:32 pm) (July 14, 2013 AFR).

II. ORDER ON RECONSIDERATION

2. On November 27, 2012, Mr. Kirsch filed a petition for reconsideration (PFR) of the *Kirsch MO&O* in FOIA Control Nos. 2011-552, 2012-176, and 2012-241, making two broad requests. First, he requests reconsideration of the alleged withholding of four specific records in response to his initial FOIA request.⁶ He also seeks reconsideration of the *MO&O*'s reference to him as a “former” Commission employee assigned to the [International Bureau],” and asserts that he retains “full FCC re-employment rights” because he received no confirmation that the ITU accepted his resignations.⁷

3. We first deny Mr. Kirsch’s PFR as to his argument that the Commission improperly withheld four specified responsive documents. None of the four documents he now identifies was located by staff in response to the initial FOIA requests at issue, and the sole responsive document that was located was disclosed, not withheld.⁸ We concluded in the *Kirsch MO&O* that OMD’s initial search was “reasonably calculated to uncover all relevant documents” in accordance with the requirements of the FOIA.⁹ Mr. Kirsch presents no specific arguments in support of his renewed challenge seeking reconsideration of the Commission’s decision. We surmise that Mr. Kirsch has personal knowledge of certain documents that, if they still existed in the Commission’s files, might be responsive to his initial FOIA request in FOIA Control No. 2011-552 notwithstanding the fact that he did not list these documents in his prior filings in this case. This is not a basis for repeating, or further extending, the reasonable searches that have been conducted by OMD in response to Mr. Kirsch’s previous requests.¹⁰ Accordingly, we deny his petition for reconsideration.

4. We also remind the petitioner that a FOIA proceeding is not the appropriate avenue for the correction of personnel records. In the PFR, Mr. Kirsch seeks correction of our characterization of

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⁴ Email from William J. Kirsch to Sean Lev, General Counsel, FCC (sent April 18, 2013 @7:36:06 pm) (April 18, 2013 AFR); Email from William Kirsch to Sean Lev, General Counsel, FCC (sent May 2, 2013 @1:48 pm) (May 2, 2013 AFR); Email from William J. Kirsch to Sean Lev, General Counsel, FCC (sent July 20, 2013 @1:11 am).

⁵ We note that although Mr. Kirsch references the PA in many of his FOIA-related filings, some of them contain no PA issues. We address PA issues in this order to the extent they are discernable.

⁶ According to Mr. Kirsch’s Petition for Reconsideration, he claims the following documents were improperly withheld:

- “a) telephone call record for Rod Porter, Deputy Bureau Chief, IB to [Mr. Kirsch] at Studio House concerning the transfer;
- b) e-mail from Ruth Milkman, Deputy Bureau Chief, IB to [Mr. Kirsch] as Head, External Affairs, ITU, concerning continuation of [their professional relationship];
- c) 21st century FCC/IB/Satellite web-site listing of [Mr. Kirsch] as an employee; and
- d) Department of State transfer approval.”

Petition for Reconsideration at para. 1. Note that, although Mr. Kirsch does not specify a particular FOIA reference number, we construe his claim to refer to FOIA Control No. 2011-552, requesting information related to his employment transfer.

⁷ See Petition for Reconsideration at para. 1.

⁸ OMD redacted personal identifying information to protect Mr. Kirsch’s privacy, 5 U.S.C. § 552(b)(6), because if the documents were released under the FOIA, they would be considered available to any member of the public.

⁹ *Kirsch MO&O*, 27 FCC Rcd at 13775-76.

¹⁰ See 47 C.F.R. § 1.106(b)(2) (“Where the Commission has denied an application for review, a petition for reconsideration will be entertained only if ... (i) The petition relies on facts or arguments that relate to events which have occurred or circumstances that have changed since the last opportunity to present such matters to the Commission; or (ii) The petition relies on facts or arguments unknown to petitioner until after his last opportunity to present them to the Commission ...”). Neither of these circumstances is present here.

him in the *Kirsch MO&O* as a “former” Commission employee assigned to the [International Bureau],” and asserts that he retains “full FCC re-employment rights” because he received no confirmation that the ITU accepted his resignations.¹¹ We find no basis for changing the wording of our prior *MO&O*. As the *MO&O* previously advised, if Mr. Kirsch believes that his personnel records contain errors, he can seek any corrections to his personnel records in accordance with our PA implementing regulations.¹²

III. MEMORANDUM OPINION AND ORDER

5. January 14, 2013 Application for Review of FOIA Control Nos. 2013-019, 2013-073, 2013-118. Mr. Kirsch’s January 14, 2013 application for review (AFR) concerns three FOIA requests. In a memorandum assigned FOIA Control No. 2013-019, Mr. Kirsch makes a number of personnel-related requests.¹³ In FOIA Control No. 2013-073, Mr. Kirsch requests information “concerning FCC efforts to ensure market access for U.S. carriers in the home countries of [ITU-elected officials originating from Japan, China, Canada, and the United Kingdom],” and a request for waiver of fees.¹⁴ FOIA Control No. 2013-118 consists of multiple letters from Mr. Kirsch to then Chairman Genachowski requesting correspondence with 16 specified individuals in the communications field and a waiver of applicable fees.¹⁵ The January 14, 2013 AFR does not refer to any specific errors in the FCC’s responses to these three FOIA requests, but instead generally requests “review of the denial or anticipatory denial of [his] FOIA and [Privacy Act] requests for misfeasance, nonfeasance or malfeasance, including untimely processing.”¹⁶ The AFR also generally requests the “immediate grant” of his FOIA and PA requests.¹⁷ In addition, it specifically references a letter decision in FOIA Control No. 2013-073 that denied Mr. Kirsch’s fee waiver request, presenting a “top ten list” of material to show how his initial request met the fee waiver criteria.¹⁸

¹¹ See Petition for Reconsideration at para. 1; see also May 28, 2013 Application for Review (referring to unspecified “damage to [Mr. Kirsch] personally under the Privacy Act . . .”); June 5, 2013 Application for Review (referring to an unspecified “personal attack on [Mr. Kirsch that] is, of course an insult that may be addressed separately under the Privacy Act particularly in light of the harm suffered as a result of FCC misconduct”); June 19, 2013 Application for Review (also requesting “a grant within ten days of my Privacy Act request(s) for correction of my personnel record as per [*Citizens for Responsibility and Ethics in Washington v. Federal Election Comm’n*, 711 F.3d 180 (D.C. Cir. 2013)]);” Email from William Kirsch to Sean Lev, General Counsel, FCC (sent June 28, 2013 @2:56 pm) (requesting “review of the denial of [Mr. Kirsch’s] [P]rivacy [A]ct correction request and the grant of my [P]rivacy [A]ct correction request and the FCC payment of 1998-2012 retirement payments . . . to [Mr. Kirsch’s retirement] account upon receipt”).

¹² See 47 C.F.R. §§ 0.556, 0.557.

¹³ Memorandum to Leslie Smith, Federal Communications Commission from William J. Kirsch (received October 11, 2012). Mr. Kirsch requested unspecified corrections to his personnel records, transmittal of his retirement papers, and payment of any accrued benefits.

¹⁴ Note that Mr. Kirsch’s request for information is contained in the same document as his Petition for Reconsideration. See Petition for Reconsideration (also containing new FOIA request, which was designated FOIA Request No. 2013-073).

¹⁵ See, e.g., Letter from William J. Kirsch to FCC Chairman Genachowski (dated Dec. 22, 2012) (requesting “any and all written communications to or from William Kennard”). The remaining 15 letters make similar requests as to communications with 15 other specified individuals in the communications field.

¹⁶ See January 14, 2013 AFR at 1.

¹⁷ *Id.*

¹⁸ *Id.* at 1-2.

6. We dismiss in part and deny in part Mr. Kirsch's January 14, 2013 AFR. First, we dismiss Mr. Kirsch's request for review with respect to FOIA Control No. 2013-019,¹⁹ because no adverse action had been taken in FOIA Control No. 2013-019 at the time the AFR was filed.²⁰

7. We also dismiss in part and deny in part Mr. Kirsch's general request for review in FOIA Control No. 2013-073 as to "denial ... for misfeasance, nonfeasance or malfeasance, including untimely processing." On December 12, 2012, IB staff requested clarification of Mr. Kirsch's FOIA request because the request failed reasonably to describe the records sought, and advised Mr. Kirsch that the request would be dismissed if Mr. Kirsch did not provide the requested clarification within 30 calendar days.²¹ Mr. Kirsch did not provide the requested clarification or make any response within the stated time period and his request was dismissed. We agree with the Bureau's actions to dismiss FOIA Control No. 2013-073. The January 14, 2013 AFR lacks a sufficient showing under our rules and provides no basis for review of the Bureau's dismissal, and accordingly is denied.²² We also dismiss, as moot, Mr. Kirsch's request for review in FOIA Control No. 2013-073 as to the December 17, 2012 letter denying Mr. Kirsch's fee waiver request.²³ Because his underlying FOIA request in Control No. 2013-073 was dismissed,²⁴ his request for review of the denial of his fee waiver request is moot, and is dismissed. We therefore do not consider the merits of any of his statements in his January 14, 2013 AFR concerning fee waiver matters in FOIA Control No. 2013-073.²⁵

¹⁹ See *supra* n.13].

²⁰ See, e.g., *James A. Kay, Jr. on Request for Inspection of Records*, 11 FCC Rcd 12452, 12452 n.1 (1996) (AFR of "implied denial" that was filed prior to due date for Bureau action on FOIA request dismissed as premature); *Applications of Center for Study and Application of Black Economic Development for Renewal of License of Station KUCB-FM, Des Moines, Iowa, et al.*, 7 FCC Rcd 3101, 3105 para.16 (1992) (AFR of issues pending before the Review Board at time of filing dismissed as premature).

Subsequent to the AFR filing, OMD responded to Mr. Kirsch on January 31, 2013. Letter from Bonita Tingley, Chief Human Capital Officer, FCC to William J. Kirsch (dated Jan. 31, 2013). Mr. Kirsch did not respond to OMD's January 31, 2013 letter. Although OMD's response was untimely, see, e.g., 47 C.F.R. § 0.461(g)(1) (general FOIA response deadline of 20 business days, unless extended or tolled under specified circumstances), (e)(2)(ii) (FOIA clarification request within ten calendar days of receipt tolls response deadline), an agency may cure a failure to respond within a statutory time limit by responding before a requester goes to court, and OMD did so here. See, e.g., *Oglesby v. U.S. Dep't of the Army*, 920 F.2d 57, 63-64 (D.C. Cir. 1990) (agency may "cure" failure to respond to a FOIA request within the statutory time period by responding before the requester seeks judicial intervention); see generally *Gottlieb v. Peña*, 41 F.3d 730, 734 (D.C. Cir. 1994) (failure to meet statutory deadline does not divest agency of authority to act absent a default consequence).

²¹ Letter from Sarah Van Valzah, Assistant Bureau Chief – Management, Administrative & Management Staff, International Bureau, FCC to William Kirsch (dated Dec. 12, 2012). Such requests for clarification are permissible under 47 C.F.R. § 0.461(a)(2).

²² See 47 C.F.R. §§ 0.461(j), 1.115(b); *Skybridge Spectrum Foundation*, 26 FCC Rcd 13800, 13803 para. 11 (2011); *Paging Systems, Inc.*, 25 FCC Rcd 450, 452-53 (2010); *Maureen Nevin*, 24 FCC Rcd 12362 (2009). In addition, to the extent the AFR is intended as an AFR of the Bureau's December 12, 2012 letter, the January 14, 2013 AFR is dismissed as untimely since it was filed more than 30 days after December 12, 2012. See, e.g., *Michael C. Olson*, 13 FCC Rcd 20593 (1998) (dismissing application for review filed one day late).

²³ Letter from Joel Kaufman, Associate General Counsel and Chief, Administrative Law Division, FCC to William J. Kirsch (dated Dec. 17, 2012) (denying fee waiver request in FOIA Control No. 2013-073).

²⁴ See *supra* n.21.

²⁵ See Request at 1-2. In addition to his general claim of "misfeasance, nonfeasance or malfeasance, including untimely processing" of his requests in FOIA Control No. 2013-073, Mr. Kirsch provides a "top ten list," perhaps to show that a fee waiver is in the public interest, although he does not say that. Even if we so construe his top ten list, his request for review would be denied because, among other things, he does not demonstrate an ability or intent to disseminate any documents to the public. See 47 C.F.R. § 0.470(e)(2); *McClellan Ecological Seepage Situation v.*

(continued...)

8. We also deny Mr. Kirsch's request for review in FOIA Control No. 2013-118. Mr. Kirsch's request for review in this case is timely filed as to one decision by the agency, a January 9, 2013 letter decision denying his fee waiver request.²⁶ Mr. Kirsch's showing in support of his request for review, however, consists solely of a reference to "misfeasance, nonfeasance or malfeasance, including untimely processing."²⁷ We deny Mr. Kirsch's claim as to untimely processing. Although there is no deadline for the agency to respond to a fee waiver request, in this case the fee waiver denial was issued six business days after Mr. Kirsch's mailing was received at the FCC on December 31, 2012.²⁸ Otherwise, Mr. Kirsch's claims of "misfeasance, nonfeasance or malfeasance" in the January 14, 2013 AFR neither identify the questions presented for review nor the factors that warrant Commission consideration, as required under our rules.²⁹

9. February 6, 2013 Application for Review of FOIA Control Nos. 2013-118 and 2012-294. Similar to the January 14, 2013 AFR, the February 6, 2013 AFR generally requests "immediate review and grant" of Mr. Kirsch's sixteen requests, which were collectively assigned FOIA Control No. 2013-118.³⁰ More specifically, in the February 6, 2013 AFR, Mr. Kirsch argues that the FCC "waived its right, if any, to consolidate" his letters because the initial confirmation letter from FCC FOIA processing staff on January 3, 2013 did not address the issue.³¹ Mr. Kirsch also argues that consolidation of his request to prevent him from evading FOIA fees fails the reasonableness standard set forth in section 0.470(b)(2), because "it would be a better strategy to file one request every 31 days for a year" to evade the assessment of FOIA fees.³² Mr. Kirsch also makes a number of statements as to his request in FOIA Control No. 2012-294 for documents related to the FCC's alleged malfeasance relating to the 1998 World Trade Organization (WTO) Agreement on Basic Telecommunications Services, apparently challenging staff's response stating that any documents responsive to his request would no longer be maintained and/or its denial of his fee waiver request.³³ The February 6, 2013 AFR also generally argues that denial of the

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Carlucci, 835 F.2d 1282, 1287 (9th Cir. 1987) (requester who failed to give details about intention to convey information to the public is not eligible for a fee waiver); *Larson v. CIA*, 843 F.2d 1481, 1483 (D.C. Cir. 1988) (absence of specific information regarding ability to disseminate requested information is grounds for denying a fee waiver). Further, his "top ten list" consists of complaints about U.S. foreign telecommunications policy and other assertions that bear no apparent relation to the required fee waiver showing or the court cases he cited in his initial fee waiver request, and thus would be denied for lack of sufficient showing under our rules. See 47 C.F.R. §§ 0.461(j), 1.115(b); *Skybridge Spectrum Foundation*, 26 FCC Rcd 13800, 13803 para. 11 (2011); *Paging Systems, Inc.*, 25 FCC Rcd 450, 452-53 (2010); *Maureen Nevin*, 24 FCC Rcd 12362 (2009). As to "untimely processing," Commission staff have processed Mr. Kirsch's fee waiver request, and his FOIA request, in a timely manner and met all applicable deadlines. See 47 C.F.R. § 0.461(e)(1), (e)(2), (g)(1).

²⁶ In a letter dated January 9, 2013, Commission staff advised Mr. Kirsch that his requests had been consolidated into a single FOIA request for processing, and denied his associated fee waiver request for lack of a showing on any of the fee waiver criteria. Letter from Joel Kaufman, Associate General Counsel and Chief, Administrative Law Division, FCC to William J. Kirsch (dated Jan. 9, 2013) (January 9, 2013 Letter Decision in FOIA Control No. 2013-118 or January 9, 2013 Letter).

²⁷ See January 14, 2013 AFR.

²⁸ January 9, 2013 Letter.

²⁹ See *supra* n.25.

³⁰ Unsigned email sent from a private email address to Sean Lev, General Counsel, FCC (sent Feb. 6, 2013 @12:13:56 pm) (February 6, 2013 AFR).

³¹ February 6, 2013 AFR.

³² *Id.*

³³ *Id.*

AFR “would deny petitioner’s [C]onstitutional rights under the petitions, unlawful entry, takings, due process, equal protection, postal and supremacy clauses of the ‘[U.S.] Constitution.’”³⁴

10. We deny the February 6, 2013 AFR as to Mr. Kirsch’s objection to the consolidation of his sixteen FOIA requests into FOIA Control No. 2013-118.³⁵ We disagree with his argument that consolidation was unreasonable because “it would be a better strategy to file one request every 31 days for a year” to evade the assessment of FOIA fees.³⁶ As indicated previously, in sixteen letters mailed in four envelopes, all postmarked December 19, 2012 or December 22, 2012, Mr. Kirsch requested “any and all written communications to or from” a person in the communications field named in each letter.³⁷ We find that the staff’s decision to aggregate the letters in a single FOIA request for processing by IB, and thus apply one partial FOIA fee exemption under section 0.470(a)(3),³⁸ but not sixteen of them, was reasonable since the letters were largely identical in substance but for the recipient or sender of the requested correspondence and easily could have been sent as a single letter with a list of sixteen names. The purpose of consolidating multiple FOIA requests pursuant to section 0.470(b)(2) is to prevent a FOIA requester from breaking a single logically related request into multiple pieces to avoid FOIA fees and such consolidation was reasonable here. Whether or not any other filing “strategy” that Mr. Kirsch could have used would have avoided consolidation is irrelevant, and presents no basis for revising the staff’s decision that aggregation was reasonable in this case. We also disagree with Mr. Kirsch’s argument that the FCC waived any right to consolidate because its initial confirmation letter did not address the issue. Section 0.470(b)(2) expressly provides for such aggregation where the agency reasonably believes that the requester is submitting separate individual requests for the purpose of evading fees and sets no deadline for this action.³⁹ In this case, FOIA processing staff aggregated the requests within days after the FOIA requests were received and within the statutory period for substantive agency response and set a unified response deadline. Thus, the Commission did not, as Mr. Kirsch claims, “waive its rights” in the initial January 3, 2013 confirmation letter that did not address aggregation.⁴⁰ The purpose of confirmation letters is to notify parties that their FOIA requests have been received and, as such, the confirmations are sent prior to substantive review. For that reason, they do not waive the agency’s ability to consolidate related FOIA requests once they have been reviewed.

11. We also find no error in the January 9, 2013 Letter denial of Mr. Kirsch’s fee waiver request in FOIA Control No. 2013-118.⁴¹ Mr. Kirsch incorrectly suggests that he should pay no fee because he is not a commercial use requester.⁴² Neither the January 9, 2013 Letter nor any other communication issued to Mr. Kirsch contains any indication that the agency believes he should be categorized as a commercial use requester under section 0.470(a)(1) of our rules, as he suggests in the February 6, 2013 AFR.⁴³ Moreover, in other FOIA requests, Mr. Kirsch consistently has been categorized

³⁴ *Id.* Mr. Kirsch also identifies a “September 8, 2008 memo to Kevin Martin” and an “August 17, 2010 letter to Julius Genachowski” as additional examples of his “requests” to which the FCC has failed to respond. These two pieces of correspondence do not appear to be requests under the FOIA, and we do not address them here.

³⁵ *See supra* n.26.

³⁶ February 6, 2013 AFR.

³⁷ January 9, 2013 Letter.

³⁸ The exemption provides the first 100 pages of reproduction and the first two hours of search time without charge.

³⁹ 47 C.F.R. § 0.470(b)(2); *see* February 6, 2013 AFR.

⁴⁰ February 6, 2013 AFR.

⁴¹ January 9, 2013 Letter Decision in FOIA Control No. 2013-118. Mr. Kirsch’s request for fee waiver in FOIA Control No. 2013-118 merely requested waiver “in the public interest” and thus was denied for lack of any showing on any of the applicable waiver criteria. *Id.*

⁴² February 6, 2013 AFR.

⁴³ *Id.*

as an “all other” requester under section 0.470(a)(3) of our rules, which applies to “requesters who do not fit into any of” the [other FOIA fee] categories.⁴⁴ Moreover, absent a fee waiver, FOIA fees apply to “all other” requesters like Mr. Kirsch.⁴⁵ As OGC correctly found in its decision previously, in order to obtain a fee waiver, a petitioner must show that “disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.”⁴⁶ Mr. Kirsch did not make that showing.⁴⁷ In particular, Mr. Kirsch was denied a fee waiver in FOIA Control No. 2013-118 because he failed to make any showing in support of the public interest standard.⁴⁸

12. In addition, we dismiss Mr. Kirsch’s challenge to FOIA Control No. 2012-294 as untimely. A request for review of IB’s May 21, 2012 response in FOIA Control No. 2012-294 would have been due June 20, 2012.⁴⁹ Mr. Kirsch’s AFR was not filed until February 6, 2013.

13. Finally, as we stated with regard to the January 14, 2013 AFR, Mr. Kirsch’s claims of “malfeasance, nonfeasance, or misfeasance” in the February 6, 2013 AFR neither identify the questions presented for review nor the factors that warrant Commission consideration, as required under our rules.⁵⁰ Similarly, his vague allegation that the Commission has violated his Constitutional rights lacks any explanation or support, and we deny it.⁵¹

14. *February 19, 2013 Application for Review of FOIA Control No. 2013-019.* In the February 19, 2013 AFR, Mr. Kirsch requests review of his request assigned FOIA Control No. 2013-019, referencing the “untimely denial” and the “denial of procedural and substantive due process” in that case.⁵² Although he does not refer clearly to specific purported errors in the FCC’s response, among other things, Mr. Kirsch raises issues concerning Federal retirement benefits and his interest in FCC re-employment.⁵³ Mr. Kirsch also requests review of “the unconstitutional denial of my rights under the petition, takings, due process, equal protection, and supremacy clauses” as to FOIA Control No. 2013-2019.”⁵⁴

15. We deny Mr. Kirsch’s claims as to untimeliness. On January 31, 2013, OMD responded to Mr. Kirsch concerning FOIA Control No. 2013-019, requesting clarification of his requests and

⁴⁴ 47 C.F.R. § 0.470(a)(3)(i); *see, e.g.*, Letter from Joel Kaufman, Associate General Counsel and Chief, Administrative Law Division, Office of General Counsel to William J. Kirsch (Feb. 22, 2013) (FOIA Control No. 2013-151), Letter from Sarah Van Valzah, Assistant Bureau Chief – Management, International Bureau to William J. Kirsch (March 21, 2013) (FOIA Control No. 2013-204).

⁴⁵ *See* 47 C.F.R. § 0.470(a)(3)(i).

⁴⁶ January 9, 2013 Letter Decision in FOIA Control No. 2013-118.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *See* 47 C.F.R. § 0.461(j).

⁵⁰ *See supra* n.25.

⁵¹ *Id.*

⁵² *See* Email from William J. Kirsch to Sean Lev, General Counsel, FCC (sent Feb. 19, 2013 @3:50:02 pm) (February 19, 2013 AFR). Even though the AFR does not identify a specific request by FOIA Control No. or clear description, we treat it as a request for review of FOIA Control No. 2013-019, because the AFR identifies the date of the initial request as September 12, 2012, and concerns personnel-related matters. Mr. Kirsch also raises a number of issues that do not relate to his FOIA-related requests to the FCC. We do not address these issues here.

⁵³ February 19, 2013 AFR.

⁵⁴ *Id.*

offering to meet with him.⁵⁵ As we find above, although the response was untimely, an agency's failure to respond to a FOIA within the statutory deadline is cured if it replies later, unless the requester has gone to court before the agency replies, which Mr. Kirsch did not do.⁵⁶ We also deny Mr. Kirsch's claims as to unconstitutionality. Specifically, we find Mr. Kirsch's claim that the Bureau violated Constitutional provisions lacks any explanation or support, and thus presents an insufficient basis for review.⁵⁷

16. February 22, 2013 Application for Review of FOIA Control Nos. 2013-151 and 2013-152. Mr. Kirsch's February 22, 2013 AFR generally requests "review and grant" of his requests in FOIA Control Nos. 2013-151 and 2013-152.⁵⁸ In FOIA Control Nos. 2013-151 and 2013-152, Mr. Kirsch requests information related to, respectively, his previous requests to former FCC General Counsel Austin Schlick, and U.S. telecommunications policy with Mexico and with the United Kingdom, Canada, and the [British] Commonwealth.⁵⁹ The February 22 AFR references a letter decision in FOIA Control No. 2013-152 denying his fee waiver request for failure to meet the public interest standard,⁶⁰ claiming that the letter "continues a clear pattern of clear error, abuse of discretion and [arbitrary] and capricious decision making that constitutes malfeasance, nonfeasance or misfeasance."⁶¹ Mr. Kirsch also claims that his initial request for fee waiver in FOIA Control No. 2013-152 met the applicable criteria and presents additional information to support his fee waiver request. In addition, Mr. Kirsch challenges the aggregation of his multiple requests for information into a single request that is assigned FOIA Control No. 2013-152.⁶²

17. We also dismiss in part and deny in part Mr. Kirsch's February 22, 2013 AFR. First, we dismiss his request for review in FOIA Control No. 2013-151. Although the February 22, 2013 AFR generally requests review of FOIA Control No. 2013-151, Mr. Kirsch fails to clearly specify any issue for review in that case.⁶³

18. As to Mr. Kirsch's objection to aggregation of his requests in FOIA Control No. 2013-152, we find no error in the staff's decision. Mr. Kirsch states, "[t]he FCC did not initially combine these requests and cannot do so later. The FCC waived its rights and the request must be granted without

⁵⁵ Letter from Bonita Tingley, Chief Human Capital Officer, FCC to William J. Kirsch (dated Jan. 31, 2013).

⁵⁶ See *supra* n.20.

⁵⁷ See *supra* n.25. We also dismiss Mr. Kirsch's request for Chairman Genachowski's recusal from this proceeding as moot. Chairman Genachowski left the agency on May 17, 2013. Insofar as Mr. Kirsch indicates an interest in OMD's offer to meet with him regarding the accuracy of his personnel records, Mr. Kirsch should contact OMD directly. As we have stated previously, however, a FOIA proceeding is not the appropriate avenue for correction of personnel records. See *supra* para. 4 (citing *Kirsch MO&O*, 27 FCC Rcd 13772, 13777 (2012)).

⁵⁸ See February 22, 2013 AFR at para. 1.

⁵⁹ Note that the request assigned FOIA Control No. 2013-151 is contained in the same document as the January 14, 2013 AFR. See January 14, 2013 AFR at 1. The request assigned FOIA Control No. 2013-152 consists of two letters in a single mailing. See Letter from William J. Kirsch to FCC Chairman Genachowski Re: Mexico (dated Jan. 6, 2013), Letter from William J. Kirsch to FCC Chairman Genachowski Re: The United Kingdom, Canada and the [British] Commonwealth (dated Jan. 6, 2013). These two letters were docketed by FCC FOIA processing staff on Jan. 25, 2013 and assigned FOIA Control No. 2013-152.

⁶⁰ Letter from Joel Kaufman, Associate General Counsel and Chief, Administrative Law Division, FCC to William J. Kirsch (dated February 6, 2013) (February 6, 2013 Letter Decision in FOIA Control No. 2013-152).

⁶¹ *Id.* at paras. 1-2.

⁶² See February 22, 2013 AFR at para. 1. We note that the information requests at issue were combined by FOIA processing staff on January 25, 2013, when Mr. Kirsch's requests were docketed and assigned FOIA Control No. 2013-152 for processing, and not, as Mr. Kirsch suggests, by any action taken pursuant to the February 6, 2013 Letter Decision.

⁶³ See 47 C.F.R. §§ 0.461(j), 1.115(b).

charge.”⁶⁴ In this case, in a single mailing Mr. Kirsch enclosed two letters to the FCC purporting to be separate FOIA requests related to U.S. telecommunications policy, respectively, with Mexico, and with the United Kingdom, Canada, and the [British] Commonwealth.⁶⁵ Similar to our conclusion as to the consolidation of sixteen letters in FOIA Control No. 2013-118, we find here that the staff’s decision to assign the requests to IB for processing under FOIA Control No. 2013-152, and thus apply to Mr. Kirsch’s mailing one partial FOIA fee exemption under section 0.470(a)(3), but not two or more, was reasonable. As previously indicated, section 0.470(b)(2) expressly provides for such aggregation where the agency reasonably believes that the requester is submitting separate individual requests for the purpose of evading fees.⁶⁶ Moreover, in this case, FOIA processing staff aggregated the requests on the same day the letters were docketed and within the statutory period for an agency response and set a unified response deadline. Thus, for the reasons stated in connection with FOIA Control No. 2013-118 above, the Commission did not, as Mr. Kirsch claims, “waive its rights” and he was not, in any way, entitled as he claims to having his request “granted without charge.”⁶⁷

19. We also deny the February 22, 2013 AFR request for review of the letter decision denying a fee waiver in FOIA Control No. 2013-152.⁶⁸ Although Mr. Kirsch claims to have offered “substantial and compelling evidence” that the public interest standard was met, his assumptions about the requested documents are wholly speculative and thus fail to meet the public interest standard.⁶⁹ In addition, he fails to demonstrate an ability or intent to disseminate the documents as required by our rules.⁷⁰

20. *April 18, 2013 Application for Review.* The April 18, 2013 AFR from Mr. Kirsch generally requests “review and grant of any and all [of his] FOIA and Privacy Act requests,” generally claiming untimeliness and “nonfeasance, malfeasance, or misfeasance” by the FCC.⁷¹ The April 18, 2013 AFR identifies no particular request at issue.⁷²

⁶⁴ See February 22, 2013 AFR.

⁶⁵ See Freedom of Information and Privacy Act Request, Letter from William J. Kirsch to The Honorable Julius Genachowski, Chairman, FCC (dated Jan. 6, 2013) (requesting, among other things, “any and all written communications concerning problems with the U.S. telecommunications relationship with Mexico”); Freedom of Information (FOIA) and Privacy Act (PA), Letter from William J. Kirsch to The Honorable Julius Genachowski, Chairman, FCC (dated Jan. 6, 2013) (requesting, among other things, “any and all information concerning U.S.-Canada wireless agreements reached after the death of the late Wendell R. Harris Senior”).

⁶⁶ See para. 10 *supra*.

⁶⁷ The FOIA provisions and our regulations providing for a reduction in fees where we miss a response deadline in certain circumstances, 5 U.S.C. § 552(a)(4)(A)(viii), 47 C.F.R. § 0.470(a)(3)(iii), are not applicable here.

⁶⁸ Letter from Joel Kaufman, Associate General Counsel and Chief, Administrative Law Division to William J. Kirsch (dated February 6, 2013). Mr. Kirsch’s request for fee waiver in FOIA Control No. 2013-152 merely requested waiver “in the public interest” and thus was denied for lack of any showing on any of the applicable waiver criteria. *Id.*

⁶⁹ See 5 U.S.C. § 552(a)(4)(A)(iii), 47 C.F.R. § 0.470(e).

⁷⁰ See 47 C.F.R. § 0.470(e)(2); *McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282, 1287 (9th Cir. 1987) (requester who failed to give details about intention to convey information to the public is not eligible for a fee waiver); *Larson v. CIA*, 843 F.2d 1481, 1483 (D.C. Cir. 1988) (absence of specific information regarding ability to disseminate requested information is grounds for denying a fee waiver).

⁷¹ Email from William J. Kirsch to Sean Lev, General Counsel, FCC (sent April 18, 2013 @ 7:36:06 pm) (April 18, 2013 AFR).

⁷² See April 18, 2013 AFR.

21. We dismiss the April 18, 2013 AFR. The failure to specify the decisions for which he seeks review and particular grounds for review constitute sufficient grounds for dismissal.⁷³

22. May 2, 2013 Application for Review of FOIA Control No. 2013-305. In an e-mail dated May 2, 2013, Mr. Kirsch requests review of FOIA Control No. 2013-305, alleging “clear error, an abuse of discretion and arbitrary and capricious reasoning in an apparent denial of [his] request.”⁷⁴ In FOIA Control No. 2013-305, Mr. Kirsch requests “a copy of the reporting cable drafted by the U.S. Embassy Mexico City” following Mr. Kirsch’s trip there to meet with Mexican telecommunications officials, and “any written reaction by [his] then supervisor,” concerning Mr. Kirsch’s trip.⁷⁵

23. We dismiss as prematurely filed Mr. Kirsch’s general request for review of FOIA Control No. 2013-305 in the May 2, 2013 AFR, because it pre-dates the May 10, 2013 fee waiver denial and the May 23, 2013 response to his request.⁷⁶ In addition, we note as a separate and independent ground, the May 2, 2013 AFR merely asserts “clear error, an abuse of discretion and arbitrary and capricious reasoning” and thus fails to present any question for review.”⁷⁷

24. May 28, 2013 Application for Review of FOIA Control Nos. 2013-291, 2013-298 through 2013-311. In an e-mail dated May 28, 2013, Mr. Kirsch generally requests review of fifteen requests for information assigned FOIA Control Nos. 2013-291 and 2013-298 through 2013-311.⁷⁸ These fifteen FOIA requests were made in fifteen separate emails, each requesting international telecommunications-related policy information and requesting a fee waiver.⁷⁹ Mr. Kirsch’s more specific claims, however, only address OGC’s May 10, 2013 letter denying a fee waiver in these fifteen requests,⁸⁰ asking the Commission to “reverse, vacate and remand” the denials and alleging “abuse of discretion, clear error and arbitrary and capricious reasoning.”⁸¹ As to OGC’s finding that the public interest benefits he asserted were “vague and unsubstantiated,” Mr. Kirsch disagrees, arguing that “many U.S. corporations obtain half or more of their revenues and profits from overseas and the FCC non-feasance, misfeasance or malfeasance related to the WTO [B]asic [S]ervices [A]greement resulting in less U.S. competition and higher U.S. prices.”⁸² As to OGC’s finding that Mr. Kirsch’s expressed personal interest in the requested information did not support a fee waiver, Mr. Kirsch states that “[t]he personal interest is related to the damage to [him] personally under the Privacy Act.”⁸³ As to OGC’s finding that Mr. Kirsch failed to

⁷³ See *supra* n.25.

⁷⁴ Email from William J. Kirsch to Sean Lev, General Counsel, FCC (sent May 2, 2013 @1:48 pm) (May 2, 2013 AFR).

⁷⁵ Email from William Kirsch to David Robbins, Managing Director, FCC and Stacy Cheney, Attorney-Advisor, NTIA (sent April 17, 2013 @6:04:10 pm).

⁷⁶ See, e.g., *James A. Kay, Jr. on Request for Inspection of Records*, 11 FCC Rcd 12452, 12452 n.1 (1996) (AFR of “implied denial” that was filed prior to due date for Bureau action on FOIA request dismissed as premature); *Applications of Center for Study and Application of Black Economic Development for Renewal of License of Station KUCB-FM, Des Moines, Iowa, et al.*, 7 FCC Rcd 3101, 3105 para.16 (1992) (AFR of issues pending before the Review Board at time of filing dismissed as premature).

⁷⁷ See *supra* n.25.

⁷⁸ Email from William J. Kirsch to General Counsel, FCC (sent May 28, 2013 @5:05:08 pm) (May 28, 2013 AFR).

⁷⁹ See May 10, 2013 Fee Waiver Decision, Appendix A (listing the records sought and reasons proffered in support of each request for a FOIA fee waiver).

⁸⁰ Letter from Joel Kaufman, Associate General Counsel and Chief, Administrative Law Division, Office of General Counsel, FCC to William J. Kirsch (dated May 10, 2013) (May 10, 2013 Fee Waiver Decision).

⁸¹ May 28, 2013 AFR.

⁸² *Id.*

⁸³ *Id.*

demonstrate how he intended to disseminate documents to the public, as required to support a fee waiver, Mr. Kirsch states that “[he] may disseminate documents to the public after a [P]rivacy [A]ct review.”⁸⁴ Mr. Kirsch also objects to what he characterizes as the “combination” of his fifteen fee waiver requests.⁸⁵ He also suggests that the FOIA fees for each of his fifteen requests should fall below the minimum amount that may be charged, and thus render a fee waiver unnecessary.⁸⁶ Finally, Mr. Kirsch seeks the recusal of any FCC official “with a past or present close relationship with Reed Hundt or Scott Blake Harris in order to avoid even the appearance of impropriety.”⁸⁷

25. We deny the May 28, 2013 Application for Review as to the May 10, 2013 Fee Waiver Decision. Mr. Kirsch’s statements as to the public benefits of his information request and his personal interest in his information request do nothing to call into question any finding in the May 10, 2013 Letter Decision as they do not demonstrate a public interest in the specific information sought.⁸⁸ Furthermore, as separate and independent grounds for our decision, Mr. Kirsch’s speculation that he “may disseminate documents to the public after a [P]rivacy [A]ct review,” is not properly before the Commission on review because none of his initial fee waiver requests addressed the issue of dissemination⁸⁹ and, in any event, would fall below the type of showing that is required for a fee waiver, as indicated in the May 10, 2013 Letter Decision.⁹⁰

26. We also disagree with what Mr. Kirsch characterizes as the “combination” of his fifteen fee waiver requests, because each of his fifteen requests properly was considered individually and on its own merits. Thus, insofar as the May 28, 2013 AFR registers an objection to the May 10, 2013 Fee Waiver Decision on this basis, we deny it. The May 10, 2013 Fee Waiver Decision consisted of a single letter decision on all fifteen fee waiver requests, attaching in an appendix a listing of the FOIA control numbers and the records sought in each of the fifteen requests, and the reasons proffered in support of each fee waiver request. Thus, the May 10, 2013 Fee Waiver Decision was a “combination” only in the sense that the reasons for denial in each case were presented in a single discussion, as applicable to each request. Presented as fifteen individual discussions instead of only one, there would be no change in the substance of the response, but only the length of it.

27. We also disagree with Mr. Kirsch’s suggestion that a fee waiver should be unnecessary because no fees should be charged.⁹¹ We see no error in staff’s actions to consider his fee waiver requests and issue the May 10, 2013 Letter, because it was not immediately apparent in any of the fifteen cases,

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *See supra* n.25.

⁸⁹ *See* 47 C.F.R. § 1.115(c) (“No application for review will be granted if it relies on questions of fact or law upon which the designated authority has been afforded no opportunity to pass”).

⁹⁰ *See* May 10, 2013 Fee Waiver Denial at 2 (denying fee waiver requests for lack of any indication how the requester intends to disseminate the documents to the public).

⁹¹ On May 17, 2013, OMD issued a final response in FOIA Control No. 2013-303, providing no responsive records and charging no FOIA fees. On May 23, 2013, IB issued a final response in FOIA Control Nos. 2013-298 through 2013-301, 2013-305 through 2013-308, and 2013-311, advising Mr. Kirsch that there were no records responsive to each of these requests due to the passage of time and pursuant to the Commission’s records retention schedules. As of the AFR filing date of May 28, 2013, final responses were still pending in the remainder of the fifteen initial requests, FOIA Control Nos. 2013-291, 2013-302, 2013-304, 2013-309, and 2013-310.

prior to undertaking the searches for responsive documents that were conducted in each case, that no fees would be charged.⁹²

28. June 5, 2013 Application for Review of FOIA Control Nos. 2013-291, 2013-298 through 2013-311, and 2013-019, 2013-073, and 2013-118. In a memorandum dated June 5, 2013, Mr. Kirsch again appeals the denial of his fifteen requests for information assigned FOIA Control Nos. 2013-291 and 2013-298 through 2013-311.⁹³ He repeats nearly verbatim the arguments he made in his May 28, 2013 AFR as to the May 10, 2013 Fee Waiver Decision.⁹⁴ In addition, Mr. Kirsch claims that the FCC has failed to provide timely responses to the fifteen requests.⁹⁵ In support of his claim of “clear error, an abuse of discretion and arbitrary and capricious reasoning,” Mr. Kirsch alleges that the FCC: i) “did not invoke any FOIA [e]xemptions and the requests involve documents normally available in the context of civil discovery;” and ii) “did not show that this information was already in the public domain or involves a ‘deliberative process privilege,’ if any, so any such exemption or privilege has been waived.”⁹⁶ Mr. Kirsch objects, again, to the FCC’s decision in FOIA Control No. 2013-118 to consolidate his sixteen letters into one FOIA request for processing under section 0.470(b)(2).⁹⁷ Mr. Kirsch also requests “consolidation and grant” of his January 14, 2013 AFR in FOIA Control Nos. 2013-019, 2013-073, and 2013-118.⁹⁸

29. We deny the June 5, 2013 Application for Review insofar as it for a second time requests review of the denial of Mr. Kirsch’s fifteen requests for fee waiver in FOIA Control Nos. 2013-291 and 2013-298 through 2013-311 and relies on the same reasons presented in the May 28, 2013 Application for Review as to them, for the reasons stated above.⁹⁹

30. We also deny Mr. Kirsch’s request for review of the final responses issued in these cases as to which the June 5, 2013 Application for Review is timely filed.¹⁰⁰ While Mr. Kirsch’s objections all

⁹² See 47 C.F.R. § 0.470(e)(5) (“If no fees or de minimis fees would result from processing a FOIA request and a fee waiver or reduction has been sought, the General Counsel will not reach a determination on the waiver or reduction request”). We note that as an “all other” requester, Mr. Kirsch generally would be charged for searches that are more than two hours even if no responsive documents are found or provided to the requester, except under limited circumstances not applicable here. See generally 47 C.F.R. § 0.470.

With respect to Mr. Kirsch’s recusal request, we conclude that it is wholly unsubstantiated and without merit. We note, however, that General Counsel Sean Lev did not participate substantively on the merits of this order.

⁹³ Email from William Kirsch to Mignon Clyburn, Acting Chairwoman, FCC (sent June 5, 2013 @4:30 pm) (attaching Freedom of Information Act and Privacy Act Appeal, Memorandum from William J. Kirsch to General Counsel, FCC (dated June 5, 2013)) (June 5, 2013 Application for Review).

⁹⁴ *Id.*, Attachment at 2-3.

⁹⁵ *Id.*, Attachment at 3.

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Id.*, Attachment at 4.

⁹⁹ The June 5, 2013 AFR is timely filed as to the same decisions covered by the May 28, 2013 AFR, *i.e.*, the May 10, 2013 Fee Waiver Decision, the May 17, 2013 final response in FOIA Control No. 2013-303, and the May 23, 2013 final response in FOIA Control Nos. 2013-298 through 2013-301, 2013-305 through 2013-308, and 2013-311. There were no additional responses issued in any of these cases subsequent to the May 28, 2013 AFR to be considered timely filed as to the June 5, 2013 AFR.

¹⁰⁰ As indicated above, on May 17, 2013, OMD issued a final response in FOIA Control No. 2013-303, providing no responsive records and charging no FOIA fees. On May 23, 2013, IB issued a final response in FOIA Control Nos. 2013-298 through 2013-301, 2013-305 through 2013-308, and 2013-311, advising Mr. Kirsch that there were no records responsive to each of these requests due to the passage of time and pursuant to the Commission’s records

(continued....)

would concern reasons for withholding responsive documents from disclosure, in each of the cases at issue, no responsive documents were found. As indicated previously, OMD's May 17, 2013 response in FOIA Control No. 2013-303, and IB's May 23, 2013 response in FOIA Control Nos. 2013-298 through 2013-301, 2013-305 through 2013-308, and 2013-311, advised Mr. Kirsch that there were no records responsive to each of these requests.¹⁰¹

31. As to Mr. Kirsch's claim of untimeliness as to the referenced fifteen requests, we note that the May 10, 2013 decision denying all fifteen fee waiver requests was issued before the applicable FOIA response deadline, and therefore was timely. In addition, the deadline for the Commission's responses on the merits of the fifteen requests was tolled by the fee waiver requests.¹⁰²

32. Because our rules require FOIA AFRs to be filed within 30 days of a decision by staff,¹⁰³ we dismiss as untimely, by a number of months, Mr. Kirsch's general request for review of FOIA Control No. 2013-118; his repeated objection to the FCC's decision in FOIA Control No. 2013-118 to consolidate his sixteen letters into one FOIA request for processing under section 0.470(b)(2), and his demand that the request be separated into sixteen individual requests.¹⁰⁴ We also dismiss as untimely his bare request for "consolidation and grant" of his January 14, 2013 AFR in FOIA Control Nos. 2013-019, 2013-073, and 2013-118.¹⁰⁵ Finally, Mr. Kirsch also indicates that the Commission has not responded to two other FOIA requests he filed on April 29, 2013 and April 30, 2013 and requests "grant" of these "upon receipt" of his

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retention schedules. As of the AFR filing date of June 5, 2013, final responses were still pending in the remainder of the fifteen initial requests, FOIA Control Nos. 2013-291, 2013-302, 2013-304, 2013-309, and 2013-310.

¹⁰¹ See *supra* n.91.

¹⁰² See 47 C.F.R. §§ 0.461(e)(2)(i), 0.467(e)(2). Thus, applying a final response deadline of 20 business days and a permitted extension of 10 business days, the FOIA decisions were due on July 2. The June 5, 2013 AFR was thus premature with respect to those FOIAs for which no responses were issued by that date.

¹⁰³ See 47 C.F.R. § 1.115(d).

¹⁰⁴ FOIA processing staff consolidated the sixteen letters on February 3, 2013. Letter from Stephanie D. Kost, FOIA Public Liaison, OMD to William J. Kirsch (dated January 3, 2013). In addition, as indicated previously, on January 9, 2013, Mr. Kirsch's request for a fee waiver in FOIA Control No. 2013-118 was denied. Letter from Joel Kaufman, Associate General Counsel and Chief, Administrative Law Division, OGC to William J. Kirsch (dated January 9, 2013).

¹⁰⁵ See 47 C.F.R. § 1.115(d) (30-day deadline for filing application for review and any supplement).

Subsequently, Mr. Kirsch requested amendment of his June 5, 2013 Application for Review to include a number of his other requests for information, some under FOIA to other federal agencies, generally concerning fire safety of certain construction materials used in residential buildings. Email from William Kirsch to Mignon Clyburn, Acting Chairwoman, FCC (sent June 9, 2013 @4:23 am) (National Telecommunications and Information Administration (NTIA) FOIA 013-064); Email from William Kirsch to Mignon Clyburn, Acting Chairwoman, FCC (sent June 12, 2013 @5:23 am) (questions for Arlington County Fire Department related to National Institute of Standards and Technology (NIST) FOIA 2013-000428); Email from William Kirsch to Sean Lev, General Counsel, FCC (sent June 26, 2013 @3:08 am) (email exchanges with Underwriters Laboratories Inc.); Email from William Kirsch to Sean Lev, General Counsel, FCC (sent June 26, 2013 @3:14 am) (email exchanges with Worcester Polytechnic Institute); Email from William J. Kirsch to Sean Lev, General Counsel, FCC (sent June 28, 2013 @12:20 pm) (Emergency Petition for Permanent Injunction filed in Arlington County Circuit Court); Email from William Kirsch to Sean Lev, General Counsel, FCC (sent July 29, 2013 @12:20 am) (NIST FOIA 2013-001110); (Email from William Kirsch to Sean Lev, General Counsel, FCC (sent July 29, 2013 @1:16 am) (National Science Foundation Grant 0840601). Although Mr. Kirsch apparently is attempting to link his concerns for fire safety at his Arlington, Virginia residence, with his appeal of FOIA Control No. 2013-310, requesting information related to Arlington County and Next Generation 911, such a request is not properly combined with an AFR. We note, however, that the FCC is extremely unlikely to have records on these issues, given that they have nothing to do with the FCC's mission.

AFR.¹⁰⁶ We are unable to locate any record of these requests, whether or not properly filed. We remind Mr. Kirsch of the appropriate procedures for filing a FOIA request,¹⁰⁷ and take no further action on his AFR references to these requests.¹⁰⁸

33. June 19, 2013 Application for Review of FOIA Control Nos. 2013-302, 2013-309, and 2013-358. In a memorandum dated June 19, 2013, Mr. Kirsch generally requests review of FOIA Control Nos. 2013-302 and 2013-309.¹⁰⁹ In FOIA Control No. 2013-302, Mr. Kirsch seeks information sent to or from Ambassador Vonya McCann concerning the proposed AT&T – T Mobile transaction, and any other Sprint filings concerning Sprint’s relationship with foreign-owned companies.¹¹⁰ Commission staff found no responsive documents that were not publicly available.¹¹¹ In FOIA Control No. 2013-309, Mr. Kirsch requests “a copy of the request by Irving Williamson, Deputy General Counsel, [U.S. Trade Representative], for an extension of [Mr. Kirsch’s] detail or transfer to the Office of General Counsel, [U.S. Trade Representative,] and the denial of that request by the FCC.”¹¹² Commission staff conducted a search and found no responsive records.¹¹³ In addition, the June 19, 2013 AFR asserts that the FCC failed to acknowledge his June 10, 2013 request for information concerning the World Trade Organization Basic Telecommunications Agreement and proposals for the Trans Pacific Partnership and the proposed United States-European Union Free Trade Agreement, which was assigned FOIA Control No. 2013-358.¹¹⁴

34. We dismiss Mr. Kirsch’s general requests for review of FOIA Control Nos. 2013-302 and 2013-309 in his June 19, 2013 AFR, for failure to present any question for review or any support for his requests.¹¹⁵ The only remaining claim in the June 19, 2013 AFR is that the FCC “fail[ed] ... to acknowledge [Mr. Kirsch’s] June 10, 2013 request for information concerning the World Trade Organization Basic Telecommunications Agreement (BTA) and proposals for the Trans Pacific Partnership and the proposed United States-European Union Free Trade Agreement.”¹¹⁶ We believe this statement is a reference to FOIA Control No. 2013-358, and we deny Mr. Kirsch’s claim because OMD

¹⁰⁶ June 5, 2013 Application for Review, Attachment at 2.

¹⁰⁷ See 47 C.F.R. § 0.461(d)(1).

¹⁰⁸ See *Brown v. F.B.I.*, 675 F.Supp.2d 122, 126 (D.D.C. 2009) (request for information sent to agency location other than filing location specified in agency’s rules did not comply with FOIA command that FOIA requests be made in accordance with published agency rules and thus did not constitute a proper FOIA request and did not trigger an agency’s obligation to respond).

¹⁰⁹ Email from William Kirsch to Mignon Clyburn, Acting Chairwoman, FCC (sent June 19, 2013 @5:17 am) (attaching Freedom of Information Act and Privacy Act Appeal, Memorandum from William Kirsch to General Counsel, FCC (dated June 19, 2013) (June 19, 2013 Application for Review).

¹¹⁰ The request for information in FOIA Control No. 2013-302 is contained within the same email containing the February 19, 2013 AFR. See February 19, 2013 AFR.

¹¹¹ Letter from Jessica Almond, Chief of Staff, Wireless Telecommunications Bureau, FCC to William J. Kirsch (dated June 13, 2013).

¹¹² Email from William Kirsch to David Robbins, Managing Director, FCC and Carmen Suro-Bredie, AUSTR (sent April 11, 2013 @4:14:38 pm) (FOIA Control No. 2013-309).

¹¹³ Letter from Bonita Tingley, Chief Human Capital Officer, Office of Managing Director, FCC to William J. Kirsch (dated June 12, 2013).

¹¹⁴ June 19, 2013 Application for Review.

¹¹⁵ See *supra* n.25.

¹¹⁶ See June 19, 2013 Application for Review.

sent Mr. Kirsch an email acknowledging receipt of his request on June 11, 2013, more than a week prior to his filing his application for review.¹¹⁷

35. July 14, 2013 Application for Review of FOIA Control Nos. 2013-310, 2013-356, 2013-357, and 2013-358. In an e-mail sent on July 14, 2013, Mr. Kirsch requests review of the denial of his fee waiver requests in FOIA Control Nos. 2013-356, 2013-357, and 2013-358.¹¹⁸ FOIA Control Nos. 2013-356 and 2013-357 seek written communications to or from two senior FCC officials concerning telecommunications policy matters, and FOIA Control No. 2013-358 seeks written proposals under various international agreements to provide U.S. common carriers the same privileges as certain other national carriers.¹¹⁹ In the July 14, 2013 AFR, Mr. Kirsch asserts that the Fee Waiver Decision, which denied a fee waiver because his public interest showing was speculative and conclusory and did not indicate how he intended to disseminate the requested information, “fails to consider [Mr. Kirsch’s] combined fee waiver showings.”¹²⁰ Mr. Kirsch asserts that his initial fee waiver requests meet the public interest standard for a fee waiver.¹²¹ Mr. Kirsch also asserts that the FCC “bears the burden of demonstrating” a number of propositions related to his FOIA fee waiver requests.¹²²

36. The July 14, 2013 AFR also requests review of FOIA Control No. 2013-310, in which Mr. Kirsch requested written information “to or from the FCC and Arlington County, Virginia, including the Arlington County Fire Department, concerning next generation 911.”¹²³ Mr. Kirsch seeks review of the Public Safety and Homeland Security Bureau’s (PSHSB) determination that there were no records responsive to his request,¹²⁴ stating that “the FCC fails to provide [him] with more recent documents associated with preparations for former Chairman Genachowski’s ‘press event’ a[t] the Arlington County[,] Virginia Emergency Center on November 23, 2010.”¹²⁵ The AFR also asserts that “[t]here is no

¹¹⁷ Email from Stephanie Kost, OMD to William Kirsch (sent June 11, 2013 @1:42 pm to private email address) (acknowledging receipt of his June 10, 2013 FOIA request, assigning FOIA Control No. 2013-358, and setting a deadline for response). As to the remaining statements in the memorandum containing the June 19, 2013 Application for Review, we address his Privacy Act-related statement in n.11 *supra*. We find nothing to address in Mr. Kirsch’s vague “request [for] review of the phone call from Mr. Williamson to Reed Hundt or Scott Blake Harris and of any Ambassador McCann filings” or in his other statements complaining about U.S. and FCC actions in international telecommunications policy. See June 19, 2013 Application for Review.

¹¹⁸ Email from William J. Kirsch to Mignon Clyburn, Acting Chairwoman, Jessica Rosenworcel and Ajit Pai, Commissioners, and Sean Lev, General Counsel, FCC (sent July 14, 2013 @3:32 pm) (July 14, 2013 Application for Review).

¹¹⁹ See Email from William Kirsch to Stephanie Kost (sent June 9, 2013 @9:46 am) (assigned FOIA Control No. 2013-356; Email from William Kirsch to Stephanie Kost (sent June 9, 2013 @10:44 am) (assigned FOIA Control No. 2013-357); Email from William Kirsch to Stephanie Kost (sent June 10, 2013 @12:01 pm) (assigned FOIA Control No. 2013-358).

¹²⁰ July 14, 2013 AFR.

¹²¹ *Id.*

¹²² *Id.* Specifically, Mr. Kirsch asserts that the FCC has the burden of demonstrating: i) “[the FCC’s] due diligence in determining that ‘re-employed’ senior officials who may have been involved in the flawed [World Trade Organization (WTO) Basic Telecommunications Agreement (BTA)] did not have a conflict of interest . . .;” ii) “why the FCC assertion of the success of the WTO BTA is correct given the absence of substantial U.S. market presence in China, India, Japan and the European Union; and iii) “the reason for the failure of the FCC to retain international records or to participate in the annual [U.S. Trade Representative’s] telecommunications review despite the clear fact that the public interest trumps the FCC’s administrative convenience in keeping the FCC’s desk clean under its flawed documents retention policy that permits but does not require the FCC to archive critical documents.”

¹²³ See July 14, 2013 Application for Review; Email from William Kirsch to Stephanie Kost, FCC (sent May 2, 2013 @1:18 pm) (FOIA Control No. 2013-310).

¹²⁴ Letter from Thomas J. Beers, Chief, Policy and Licensing Division, PSHSB (dated June 12, 2013).

¹²⁵ July 14, 2013 Application for Review.

indication that there was any review of Chairman Genachowski's records or why Arlington County was chosen for the 'press event.'"¹²⁶

37. We deny Mr. Kirsch's request for review of the July 1, 2013 decision denying his fee waiver requests in FOIA Control Nos. 2013-356, 2013-357, and 2013-358. Mr. Kirsch provides no support for his assertion that his initial fee waiver requests meet the public interest standard.¹²⁷ Among other things, he fails to show how he would publicly disseminate any documents he received.¹²⁸ In addition, we note that his fee waiver requests in these cases, as required of waiver requests generally,¹²⁹ properly were considered on their individual merits, and not as "combined fee waiver showings," as he seems to prefer.¹³⁰ We also dismiss Mr. Kirsch's general requests for review of the International Bureau's July 10, 2013 responses in FOIA Control Nos. 2013-356 and 2013-357, because he fails to present any discernable question for review.¹³¹

38. We dismiss as untimely Mr. Kirsch's general request for review of the PSHSB June 12, 2013 response in FOIA Control No. 2013-310.¹³²

39. July 20, 2013 Application for Review of FOIA Control No. 2013-304 and 2013-393. In an e-mail sent on July 20, 2013, Mr. Kirsch requests "review and grant" of his requests assigned FOIA Control No. 2013-304 and 2013-393, concerning the U.S. Trade Representative review of telecommunications trade agreements, and the WTO Basic Telecommunications Agreement, respectively. With respect to FOIA Control No. 2013-304, Mr. Kirsch complains, as to the FCC's response indicating no responsive records were located,¹³³ of the "FCC failure to act in the public interest in participating in the annual [U.S. Trade Representative] telecommunications trade review."¹³⁴ With respect to FOIA

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ *See supra* n.70.

¹²⁹ *See Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1167 (D.C. Cir. 1990) ("The FCC may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest," citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969)).

¹³⁰ *See* July 14, 2013 Application for Review ("Please note that the [July 1, 2013 Fee Waiver Decision] seeks to consolidate several requests into one as a basis for denial but fails to consider combined petitioner requests providing the basis for a grant ...").

¹³¹ *See supra* n.25.

¹³² Letter from Thomas J. Beers, Chief, Policy and Licensing Division, Public Safety and Homeland Security Bureau to William J. Kirsch (dated June 12, 2013) (finding no records responsive to Mr. Kirsch's FOIA request for "any and all written information to or from the FCC and Arlington County, Virginia, including the Arlington County Fire Department, concerning next generation 911"). The deadline for filing an application for review of the June 12, 2013 letter fell on July 12, 2013, but Mr. Kirsch filed his application for review on July 14, 2013. *See* 47 C.F.R. § 1.115(d); *Board of Education of the City of Atlanta*, 11 FCC Rcd 7763, 7765-66 (1996) (application for review filed one day late dismissed as untimely).

¹³³ Letter from Sarah VanValzah, Assistant Bureau Chief for Management, IB to William J. Kirsch (dated July 9, 2013).

¹³⁴ July 20, 2013 Application for Review. We also note that in both the July 14, 2013 and July 20, 2013 Applications for Review, Mr. Kirsch criticizes the FCC's documents retention policy, which was cited in the IB's responses to him in FOIA Control Nos. 2013-356 and 2013-357. *See* Letter from James L. Ball, Chief, Policy Division, IB to Mr. William Kirsch (dated July 10, 2013) (FOIA Control No. 2013-356); Letter from James L. Ball, Chief, Policy Division, IB to Mr. William Kirsch (dated July 10, 2013) (FOIA Control No. 2013-357). The FCC, like every other Federal agency, is required to manage its records in accordance with federal law, and not, as Mr. Kirsch alleges, according to the agency's "own administrative convenience" in keeping its "desk clean" at the expense of the public interest. *See* 44 U.S.C. § 3314.

Control No. 2013-393, apparently in reference to the denial of his fee waiver request,¹³⁵ Mr. Kirsch makes a number of assertions to show that a fee waiver is warranted, generally relating to FCC decisions and Congressional activities relating to international telecommunications policy, and his previous employment at the ITU.¹³⁶ Mr. Kirsch also requests “consolidation” of his requests for review of FOIA Control No. 2013-304 and 2013-393 “with FOIA [Control Nos.] 2013-310, 2013-3[56], 2013-357 and 2013-358 upon receipt as based on clear error, an abuse of discretion and arbitrary and capricious reasoning,”¹³⁷ evidently a reference to the July 14 Application for Review, which requested review of these four cases.

40. We dismiss as untimely the July 20, 2013 Application for Review as to the May 10, 2013 letter denying Mr. Kirsch’s request for a waiver of the FOIA processing fees in FOIA Control No. 2013-304.¹³⁸ We dismiss the July 20, 2013 Application for Review as to Mr. Kirsch’s complaint, apparently as to IB’s response in FOIA Control No. 2013-304 indicating no responsive records were located, of the “FCC failure to act in the public interest in participating in the annual [U.S. Trade Representative] telecommunications trade review,” because it amounts to a complaint about the FCC’s policy decisions and does not present any FOIA-related issue for review.¹³⁹

41. Mr. Kirsch’s request for review of FOIA Control No. 2013-393 is timely filed as to the letter dated July 5, 2013 denying his request for waiver of FOIA fees.¹⁴⁰ His statements claiming that the fee waiver standard is met,¹⁴¹ however, are either repetitive with the initial showing he made that was

¹³⁵ We believe that Mr. Kirsch’s reference to “a *prima facie* case for FOIA disclosure” applies to the fee waiver denial in FOIA Control No. 2013-393, which was issued on July 5, 2013, because no other decision had been issued regarding “FOIA disclosure” in this case when the July 20, 2013 Application for Review was filed.

¹³⁶ Mr. Kirsch asserts that “the FCC decisions implementing the World Trade Organization (WTO) Agreement on Basic Telecommunications (ABT) and FCC decisions permitting foreign ownership or control above the limits in Section 310 of the Communications Act of 1934 or not applying the foreign market tests of the Cable Landing Act provide a *prima facie* case for FOIA disclosure contributing ‘significantly to the public understanding of the operations or activities of government’ in the context of [FOIA Control No.] 2013-393.” July 20, 2013 Application for Review. Mr. Kirsch also asserts that “[t]here is nothing ‘unsubstantiated, conclusory, speculative and thus insufficient to make the necessary showing’ about the House Commerce Committee hearing(s) on the problems associated with the adoption of the new International Telecommunications Regulations (Dubai, 2012).” *Id.* Mr. Kirsch claims that, “[t]o the contrary, [his] treatment as Head, External Affairs, International Telecommunication Union, particularly in the context of [his] correspondence with the Under Secretary Legal Affairs, United Nations concerning [his] review of the 1998 ITU Global Directory listings demonstrates a *prima facie* case of retaliation.” *Id.* Mr. Kirsch argues that “[u]nder no circumstance could the FCC reasonably deny [his fee waiver] request as ‘unsubstantiated, conclusory,’ or ‘speculative’ and defend its own decisions concerning AT&T-Mobile and Softbank-Sprint.” Following a critique of the FCC’s “foreign ownership decisions,” Mr. Kirsch asserts that “[t]he FCC [FOIA Control No. 2013-393] denial proves too much and should be reversed, vacated and remanded and my request should be granted upon receipt.”

¹³⁷ July 20, 2013 Application for Review.

¹³⁸ *See supra* n.25. In addition, the July 20, 2013 Application for Review makes no more than a general request for review and thus would also be dismissed under Section 1.115(b) as to the fee waiver denial.

¹³⁹ *See supra* n.25.

¹⁴⁰ Letter from Joel Kaufman, Associate General Counsel and Chief, Administrative Law Division to William J. Kirsch (dated July 5, 2013).

¹⁴¹ In his initial fee waiver request in FOIA Control No. 2013-393, Mr. Kirsch cited in support “the public interest in correcting the historic mistake associated with the U.S. WTO basic telecommunications services commitment and the potential that [Basic Telecommunications Agreement] commitments may soon become obsolete in the context of broadband, Title II regulation of data and/or for tablet broadcasting services.” *See* FOIA Control No. 2013-393. In the July 20, 2013 AFR, he claims that “the FCC decisions implementing the World Trade Organization (WTO) Agreement on Basic Telecommunications (ABT) and FCC decisions permitting foreign ownership or control above the limits in Section 310 of the Communications Act of 1934 or not applying the foreign market tests of the Cable

(continued....)

determined insufficient, or would supplement his initial showing with new reasons in support of a fee waiver that were not previously presented.¹⁴² None of his statements presents, or supports, any question or issue for review of the fee waiver denial or alleges any specific error in the decision. We therefore dismiss as procedurally defective the July 20, 2014 Application for Review as to FOIA Control No. 2013-393.¹⁴³

42. *Compliance with FOIA Procedures.* In numerous instances as indicated above, Mr. Kirsch's requests for review of FOIA decisions do not raise discernable allegations of error under FOIA law in those decisions, but rather contain general complaints about his employment at the FCC during the 1990s, his transfer to the ITU, and various international telecommunications policies. In addition, we spent much time trying to discern the FOIA decisions to which Mr. Kirsch's generalized arguments applied. Given Mr. Kirsch's propensity for filing numerous and repetitive FOIA AFRs and his repeated failure to follow the Commission's rules for specifying particular errors in AFRs, we remind him that any future AFRs must comply with the Commission's rules, including section 1.115(b), which provides that an AFR "shall concisely and plainly state the questions presented for review with reference, where appropriate, to the findings of fact or conclusions of law, ... [and] shall specify with particularity, from among [factors listed in the rule], the factor(s) which warrant Commission consideration of the questions presented."¹⁴⁴ Further, consistent with section 1.115(b), any future AFR must specify which Bureau or Office decision or decisions each argument pertains to. Failure to comply with these rules will lead to summary dismissal.

IV. ORDERING CLAUSES

43. ACCORDINGLY, IT IS ORDERED that the November 27, 2012 Petition for Reconsideration filed by William J. Kirsch in FOIA Control Nos. 2011-552, 2012-176, and 2012-241 IS DENIED.

44. IT IS ALSO ORDERED that the January 14, 2013 Application for Review filed by William J. Kirsch in FOIA Control Nos. 2013-019, 2013-073, and 2013-118 IS DISMISSED IN PART and DENIED IN PART, as set forth herein. Mr. Kirsch may seek judicial review of this action pursuant to 5 U.S.C. § 552(a)(4)(B).¹⁴⁵

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Landing Act provide a *prima facie* case" in favor of a fee waiver in FOIA Control No. 2013-393. Mr. Kirsch also cites "the House Commerce Committee hearing(s) on the problems associated with the adoption of the new International Telecommunications Regulations (Dubai, 2012)," and makes reference to a number of his previous work experiences at the ITU, as support for his request for a fee waiver. Mr. Kirsch also offers a critique of a number of FCC "foreign ownership decisions" in support of his fee waiver request. See July 20, 2013 Application for Review.

¹⁴² See 47 C.F.R. § 1.115(b), (c).

¹⁴³ See *supra* n.25. As to Mr. Kirsch's request for "consolidation" of his request for review of FOIA Control Nos. 2013-304 and -393 "with FOIA [Control Nos.] 2013-310, 2103-3[56], 2013-357 and 2013-358," nothing from the July 14, 2013 Application for Review of those four cases, if "consolidate[d]" with, or applied, here, would lead to a different result. See *supra* para.37. In addition, Mr. Kirsch's request for review of FOIA Control No. 2013-310 is too fact-specific to be consolidated with any request for review of FOIA Control Nos. 2013-304 or 2012-393.

¹⁴⁴ 47 C.F.R. § 1.115(b).

¹⁴⁵ We note that as part of the Open Government Act of 2007, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect Mr. Kirsch's right to pursue litigation. Mr. Kirsch may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
Room 2510

(continued....)

45. IT IS ALSO ORDERED that the February 6, 2013 Application for Review filed by William J. Kirsch in FOIA Control Nos. 2013-118 and 2012-294 IS DISMISSED IN PART and DENIED IN PART, as set forth herein. Mr. Kirsch may seek judicial review of this action pursuant to 5 U.S.C. § 552(a)(4)(B).

46. IT IS ALSO ORDERED that the February 19, 2013 Application for Review filed by William J. Kirsch in FOIA Control No. 2013-019 IS DISMISSED IN PART and DENIED IN PART, as set forth herein. Mr. Kirsch may seek judicial review of this action pursuant to 5 U.S.C. § 552(a)(4)(B).

47. IT IS ALSO ORDERED that the February 22, 2013 Application for Review filed by William J. Kirsch in FOIA Control Nos. 2013-151 and 2013-152 IS DISMISSED IN PART and DENIED IN PART, as set forth herein. Mr. Kirsch may seek judicial review of this action pursuant to 5 U.S.C. § 552(a)(4)(B).

48. IT IS ALSO ORDERED that the April 18, 2013 Application for Review filed by William J. Kirsch IS DISMISSED, as set forth herein. Mr. Kirsch may seek judicial review of this action pursuant to 5 U.S.C. § 552(a)(4)(B).

49. IT IS ALSO ORDERED that the May 2, 2013 Application for Review filed by William J. Kirsch in FOIA Control No. 2013-305 IS DISMISSED, as set forth herein. Mr. Kirsch may seek judicial review of this action pursuant to 5 U.S.C. § 552(a)(4)(B).

50. IT IS ALSO ORDERED that the May 28, 2013 Application for Review filed by William J. Kirsch in FOIA Control Nos. 2013-291, and 2013-298 through 2013-311 IS DISMISSED IN PART and DENIED IN PART, as set forth herein. Mr. Kirsch may seek judicial review of this action pursuant to 5 U.S.C. § 552(a)(4)(B).

51. IT IS ALSO ORDERED that the June 5, 2013 Application for Review filed by William J. Kirsch in FOIA Control Nos. 2013-291, 2013-298 through 2013-311, and 2013-019, 2013-073, and 2013-118 IS DISMISSED IN PART and DENIED IN PART, as set forth herein. Mr. Kirsch may seek judicial review of this action pursuant to 5 U.S.C. § 552(a)(4)(B).

52. IT IS ALSO ORDERED that the June 19, 2013 Application for Review filed by William J. Kirsch in FOIA Control Nos. 2013-302, 2013-309, and 2013-358 IS DISMISSED IN PART and DENIED IN PART, as set forth herein. Mr. Kirsch may seek judicial review of this action pursuant to 5 U.S.C. § 552(a)(4)(B).

53. IT IS ALSO ORDERED that the July 14, 2013 Application for Review filed by William J. Kirsch in FOIA Control Nos. 2013-310, and 2013-356 through 2013-358 IS DISMISSED IN PART and DENIED IN PART, as set forth herein. Mr. Kirsch may seek judicial review of this action pursuant to 5 U.S.C. § 552(a)(4)(B).

54. IT IS ALSO ORDERED that the July 20, 2013 Application for Review filed by William J. Kirsch in FOIA Control Nos. 2013-304 and 2013-393 IS DISMISSED, as set forth herein. Mr. Kirsch may seek judicial review of this action pursuant to 5 U.S.C. § 552(a)(4)(B).

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55. The officials responsible for this action are the following: Acting Chairwoman Clyburn and Commissioners Rosenworcel and Pai.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary