

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

In the Matter of)	
)	
MONI T. LAW)	FOIA Control No. 2014-427
)	
On Request for Inspection of Records)	

MEMORANDUM OPINION AND ORDER

Adopted: March 25, 2015

Released: March 27, 2015

By the Commission: Commissioner Clyburn concurring and issuing a statement.

1. By this order we dismiss as untimely an application for review (AFR) filed on June 24, 2014, by Moni T. Law.¹ Ms. Law's AFR of the Enforcement Bureau's May 16, 2014 decision denying her Freedom of Information Act (FOIA) request was filed eight days after the AFR was due.²

2. The Commission's rules provide that an AFR of a FOIA decision must be filed within 30 calendar days of the date of the written ruling by the custodian of the records.³ The Enforcement Bureau's decision is dated May 16, 2014, which means that Ms. Law was required to file her AFR by June 16, 2014.⁴ A document is considered to be filed on the day the Commission receives it.⁵ Ms. Law's AFR is dated June 15, 2014, but, per the Commission mail room date stamp on the AFR, it was not received until June 24, 2014. The AFR was therefore untimely, and we dismiss it for that reason.⁶

¹ Letter from Moni T. Law, to Office of General Counsel, Federal Communications Commission (filed June 24, 2014).

² Letter from G. Michael Moffitt, Regional Director – Northeast Region, Enforcement Bureau, Federal Communications Commission, to Moni T. Law (rel. May 16, 2014).

³ 47 C.F.R. §§ 0.461(j); *see* 47 C.F.R. § 1.115(d) (generally applicable 30-day deadline for filing an AFR).

⁴ 30 days from May 16, 2014, is Sunday, June 15, 2014. Under the Commission's rules for the computation of time, when the original filing date falls on a Sunday, the filing date is moved to the next business day, and thus Ms. Law's AFR was due on Monday, June 16, 2014. 47 C.F.R. § 1.4(j).

⁵ *See* 47 C.F.R. § 1.7.

⁶ *Hamilton Securities Group, Inc. v. Dep't of Housing & Urban Dev.*, 106 F. Supp. 2d 23, 28 (D.D.C. 2003) (FOIA administrative appeal filed one day after 30-day filing deadline is late-filed, *citing U.S. v. Locke*, 471 U.S. 84, 100 (1985)), *aff'd* 2001 WL 238162 (D.C. Cir. 2001). *See BDPSCS, Inc. v. FCC*, 351 F.3d 1177, 1184 (D.C. Cir. 2003); *21st Century Telesis Joint Venture v. FCC*, 318 F.3d 192, 199-200 (D.C. Cir. 2003). *See, e.g., The Consumer Law Group*, 28 FCC Rcd 684, 685-86, para. 5 (2013) (dismissing AFR of a FOIA decision filed three days late); *Michael C. Olson*, 13 FCC Rcd 20593, 20593, para. 1 (1998) (dismissing AFR filed one day late).

3. ACCORDINGLY, IT IS ORDERED that the Application for Review filed by Moni T. Law IS DISMISSED as untimely. Ms. Law may seek judicial review of this action pursuant to 5 U.S.C. § 552(a)(4)(B).⁷

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

⁷ 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 Ms. Law's right to pursue litigation. Ms. Law may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
Room 2510
8601 Adelphi Road
College Park, MD 20740-6001
E-mail: ogis@nara.gov
Telephone: 301-837-1996
Facsimile: 301-837-0348
Toll-free: 1-877-684-6448.

**CONCURRING STATEMENT OF
COMMISSIONER MIGNON L. CLYBURN**

Re: MONI T. Law, On Request for Inspection of Records, FOIA Control No. 2014-427

I can only concur with this Order dismissing Ms. Moni T. Law's Application for Review of the letter that denied her request for records under the Freedom of Information Act (FOIA). We are dismissing her Application as untimely because it was not received at the Commission until after the due date of June 16, 2014. This Order acknowledges, however, that her Application was dated June 15, 2014. Ms. Law may have believed her Application was timely since it was dated before June 16. That is understandable for two reasons. First, most citizens' direct interaction with the federal government involves the filing of annual individual income tax returns. Those returns are considered timely filed so long as they are post marked by the relevant due date. Second, although the Regional Office denial letter informed her of the right to file an Application for Review, it failed to inform her that, for the purposes of meeting the filing deadline, timely means when the Application is actually received by the Commission. That letter cited Commission Rules 0.461(j) and 1.115, but those rules do not explain that pleadings are considered filed when the Commission receives them. That explanation is set forth in Commission Rule 1.7. Unfortunately, the denial letter did not refer Ms. Law to that rule. In the future, I hope the Commission staff will send FOIA denial letters that clearly inform consumers that an Application for Review is not timely filed until it is received at the agency by the due date. For the foregoing reasons, I respectfully concur.