

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

In the Matter of
Amendment of Part 1 of the
Commission's Rules
MD Docket No. 17-123

ORDER

Adopted: May 8, 2017

Released: May 9, 2017

By the Commission:

1. In this Order, we reduce Commission expenditures and modernize our procedures by amending Section 1.1109<sup>1</sup> of our rules, which sets forth the application fee for petitions filed with the Federal Communications Commission (Commission) under Section 109(b) of the Communications Assistance for Law Enforcement Act (CALEA).<sup>2</sup>

2. Enacted in 1994, CALEA was designed to respond to advances in technology and eliminate obstacles faced by law enforcement personnel in conducting electronic surveillance.<sup>3</sup> CALEA imposed certain technical requirements on telecommunications carriers and provided carriers with certain rights to petition the Commission for relief from these requirements.<sup>4</sup> CALEA also amended the Commission's fee schedule under Section 8 of the Communications Act<sup>5</sup> to require payment of an application fee for one type of CALEA filing – petitions filed under Section 109(b) of CALEA.<sup>6</sup> Such Section 109(b) petitions allowed telecommunications carriers to petition the Commission for an order declaring the petitioning carrier's obligation to comply with CALEA's Section 103 capability requirements "not reasonably achievable."<sup>7</sup> The Section 109(b) fee requirement was codified in Section 1.1109 of the Commission's rules<sup>8</sup> providing for payment of the fee to P.O. Box 979092 at U.S. Bank in St. Louis, Missouri.<sup>9</sup> The only current use of Section 1.1109 and P.O. Box 979092 is to collect fees for Section 109(b) petitions. The FCC has not received a Section 109(b) petition since 2002.

<sup>1</sup> 47 CFR § 1.1109.

<sup>2</sup> 47 U.S.C. § 1008(b).

<sup>3</sup> See generally Communications Assistance for Law Enforcement Act, Second Report and Order, 15 FCC Rcd 7105 (1999).

<sup>4</sup> Id. at 7121-33, paras. 30-46; see also Communications Assistance for Law Enforcement Act and Broadband Access and Services, ET Docket No. 04-295, Second Report and Order and Memorandum Opinion and Order, 21 FCC Rcd 5360 (2006).

<sup>5</sup> 47 U.S.C. § 158.

<sup>6</sup> Communications Assistance for Law Enforcement Act, Pub. L. No. 103-414, § 302, 108 Stat. 4279, 4294 (1994). Section 302 of CALEA provided for modification of the Commission's schedule of application fees. In 1994, when CALEA was enacted, that fee was established at \$5,000, which was subsequently adjusted for inflation.

<sup>7</sup> 47 U.S.C. § 1008(b)(1).

<sup>8</sup> 47 CFR § 1.1109.

<sup>9</sup> Id.

3. The Commission has started to migrate away from using P.O. Boxes<sup>10</sup> and toward using an all-electronic payment system for all application and regulatory fees.<sup>11</sup> This change is based on U.S. Treasury guidance and is being implemented to the extent practicable and otherwise permitted by law.<sup>12</sup> Utilizing an all-electronic payment system will increase the agency's financial efficiency by reducing expenditures, including the annual fee for utilizing the bank's services as well as the cost to manually process each transaction, and will have no measurable impact on telecommunications carriers.

4. As part of this effort, we are closing P.O. Box 979092. With this Order, we amend our rules to reflect this change as indicated in the Appendix. Future payments for any Section 109(b) petition filed with the Commission will be made in accordance with the procedures set forth on the Commission's web site, <https://www.fcc.gov/licensing-databases/fees>. For now, such payments will be made through the Fee Filer Online System, accessible at <https://www.fcc.gov/licensing-databases/fees/fee-filer>, but as we assess and implement U.S. Treasury guidance on an all-electronic payment system, we may transition to other secure payment systems with appropriate public notice and guidance. We make this change without notice and comment because it is a rule of agency organization, procedure, or practice exempt from the general notice-and-comment requirements of the Administrative Procedure Act.<sup>13</sup> To file Section 109(b) petitions electronically, parties should utilize the Commission's ECFS filing system, which can be found at <http://apps.fcc.gov/ecfs/upload/display>. Petitions filed in hard copy format should be submitted according to the procedures set forth on the web page of the FCC's Office of the Secretary, <https://www.fcc.gov/secretary>.

5. ACCORDINGLY, IT IS ORDERED, that pursuant to Sections 4(i), 4(j), 201(b), and 229(a) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 201(b), 229(a), 47 CFR Part 1 IS AMENDED as set forth below.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

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<sup>10</sup> The FCC collects fees using a series of P.O. Boxes located at U.S. Bank in St. Louis, Missouri. 47 CFR §§ 1.1101-1.1109 (setting forth the fee schedule for each type of application remittable to the Commission along with the correct lockbox).

<sup>11</sup> In 2015, the Commission revised its payment rules to encourage electronic payment of application fees and require electronic payment of regulatory fees. 47 CFR §§ 1.1112 (application fees) and 1.1158 (regulatory fees). These rules became effective November 30, 2015. 80 FR 66816 (Oct. 30, 2015).

<sup>12</sup> Treasury Financial Manual, Bulletin No. 2014-08, "Agency No-Cash or No-Check Policies," released on August 5, 2014 (Explaining the circumstances under which agencies may decide not to accept payments made in cash or by check and also noting that the U.S. Treasury's move to an all-electronic Treasury as well as the purposes of Federal cash-management statutes.) Available at <https://tfm.fiscal.treasury.gov/v1/bull/14-08.pdf> (last visited March 10, 2017); see also <https://obamawhitehouse.archives.gov/the-press-office/2011/06/13/executive-order-13576-delivering-efficient-effective-and-accountable-gov>.

<sup>13</sup> 5 U.S.C. § 553(b)(A).

**APPENDIX**  
**Final Rules**

Title 47 of the Code of Federal Regulations, Part 1, is amended as follows:

**PART 1 — PRACTICE AND PROCEDURE**

1. The authority citation for Part 1 is revised to read as follows:

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 157, 160, 201, 225, 227, 303, 309, 332, 1403, 1404, 1451, 1452, and 1455.

2. Amend § 1.1109 as follows:

§ 1.1109 Schedule of charges for applications and other filings for the Homeland services.

Remit filings and/or payment for these services electronically using the Commission’s electronic filing and payment system, in accordance with the procedures set forth on the Commission’s web site,

<https://www.fcc.gov/licensing-databases/fees>.

| <b>Service</b>                                                           | <b>FCC Form No.</b> | <b>Fee amount</b> | <b>Payment type code</b> |
|--------------------------------------------------------------------------|---------------------|-------------------|--------------------------|
| <b>1. Communication Assistance for Law Enforcement (CALEA) Petitions</b> | Corres & 159        | \$6,695.00        | CLEA                     |

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