

(e) Exceptions**(1) Parties to which fees are not applicable**

The regulatory fees established under this section shall not be applicable to—

(A) a governmental entity or nonprofit entity;

(B) an amateur radio operator licensee under part 97 of the Commission's rules (47 CFR part 97); or

(C) a noncommercial radio station or non-commercial television station.

(2) Cost of collection

If, in the judgment of the Commission, the cost of collecting a regulatory fee established under this section from a party would exceed the amount collected from such party, the Commission may exempt such party from paying such fee.

(f) Deposit of collections**(1) In general**

Amounts received from fees authorized by this section shall be deposited as an offsetting collection in, and credited to, the account through which funds are made available to carry out the activities described in section 156(a) of this title.

(2) Deposit of excess collections

Any regulatory fees collected in excess of the total amount of fees provided for in Appropriations Acts for a fiscal year shall be deposited in the general fund of the Treasury of the United States for the sole purpose of deficit reduction.

(June 19, 1934, ch. 652, title I, § 9, as added Pub. L. 103-66, title VI, § 6003(a)(1), Aug. 10, 1993, 107 Stat. 397; amended Pub. L. 103-121, title I, Oct. 27, 1993, 107 Stat. 1167; Pub. L. 103-414, title III, § 303(a)(5), (6), Oct. 25, 1994, 108 Stat. 4294; Pub. L. 115-141, div. P, title I, § 102(b), Mar. 23, 2018, 132 Stat. 1083.)

Editorial Notes

AMENDMENTS

2018—Pub. L. 115-141 amended section generally. Prior to amendment, section related to regulatory fees.

1994—Subsec. (f). Pub. L. 103-414, § 303(a)(5), designated second sentence of par. (1) as par. (2) and inserted par. (2) heading.

Subsec. (g). Pub. L. 103-414, § 303(a)(6), inserted “95” after “(47 C.F.R. Part” in item pertaining to Interactive Video Data Service under Private Radio Bureau in Schedule of Regulatory Fees.

1993—Subsec. (a). Pub. L. 103-121 designated existing provisions as par. (1), inserted heading, and added par. (2).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-141 effective Oct. 1, 2018, see section 103 of div. P of Pub. L. 115-141, set out as a note under section 156 of this title.

CONTINUED APPLICABILITY OF REGULATORY FEES

Pub. L. 115-141, div. P, title I, § 102(d)(2), Mar. 23, 2018, 132 Stat. 1086, provided that: “A regulatory fee established under section 9 of the Communications Act of 1934 [47 U.S.C. 159], as such section is in effect on the day before the effective date described in section 103 of

this title [Oct. 1, 2018], shall remain in effect under section 9 of the Communications Act of 1934, as amended by subsection (b) of this section, until such time as the Commission [Federal Communications Commission] adjusts or amends such fee under subsection (c) or (d) of such section 9, as so amended.”

RULEMAKING TO AMEND SCHEDULE OF REGULATORY FEES

Pub. L. 115-141, div. P, title I, § 102(e)(1), Mar. 23, 2018, 132 Stat. 1086, provided that: “Not later than 1 year after the effective date described in section 103 of this title [Oct. 1, 2018], the Commission [Federal Communications Commission] shall complete a rulemaking proceeding under subsection (d) of section 9 of the Communications Act of 1934 [47 U.S.C. 159], as amended by subsection (b) of this section.”

§ 159a. Provisions applicable to application and regulatory fees**(a) Judicial review prohibited**

Any adjustment or amendment to a schedule of fees under subsection (b) or (c) of section 158 of this title or subsection (c) or (d) of section 159 of this title is not subject to judicial review.

(b) Notice to Congress

The Commission shall transmit to Congress notification—

(1) of any adjustment under section 158(b) or 159(c) of this title immediately upon the adoption of such adjustment; and

(2) of any amendment under section 158(c) or 159(d) of this title not later than 90 days before the effective date of such amendment.

(c) Enforcement**(1) Penalties for late payment**

The Commission shall by rule prescribe an additional penalty for late payment of fees under section 158 or 159 of this title. Such additional penalty shall be 25 percent of the amount of the fee that was not paid in a timely manner.

(2) Interest on unpaid fees and penalties

The Commission shall charge interest, at a rate determined under section 3717 of title 31, on a fee under section 158 or 159 of this title or an additional penalty under this subsection that is not paid in a timely manner. Such section 3717 shall not otherwise apply with respect to such a fee or penalty.

(3) Dismissal of applications or filings

The Commission may dismiss any application or other filing for failure to pay in a timely manner any fee under section 158 or 159 of this title or any interest or additional penalty under this subsection.

(4) Revocations**(A) In general**

In addition to or in lieu of the penalties and dismissals authorized by this subsection, the Commission may revoke any instrument of authorization held by any licensee that has not paid in a timely manner a regulatory fee assessed under section 159 of this title or any related interest or penalty.

(B) Notice

Revocation action may be taken by the Commission under this paragraph after no-

tice of the Commission's intent to take such action is sent to the licensee by registered mail, return receipt requested, at the licensee's last known address. The notice shall provide the licensee at least 30 days to either pay the fee, interest, and any penalty or show cause why the fee, interest, or penalty does not apply to the licensee or should otherwise be waived or payment deferred.

(C) Hearing

(i) Generally not required

A hearing is not required under this paragraph unless the licensee's response presents a substantial and material question of fact.

(ii) Evidence and burdens

In any case where a hearing is conducted under this paragraph, the hearing shall be based on written evidence only, and the burden of proceeding with the introduction of evidence and the burden of proof shall be on the licensee.

(iii) Costs

Unless the licensee substantially prevails in the hearing, the Commission may assess the licensee for the costs of such hearing.

(D) Opportunity to pay prior to revocation

Any Commission order adopted under this paragraph shall determine the amount due, if any, and provide the licensee with at least 30 days to pay that amount or have its authorization revoked.

(E) Finality

No order of revocation under this paragraph shall become final until the licensee has exhausted its right to judicial review of such order under section 402(b)(5) of this title.

(d) Waiver, reduction, and deferment

The Commission may waive, reduce, or defer payment of a fee under section 158 or 159 of this title or an interest charge or penalty under this section in any specific instance for good cause shown, where such action would promote the public interest.

(e) Payment rules

The Commission shall by rule permit payment—

(1) in the case of fees under section 158 or 159 of this title in large amounts, by installments; and

(2) in the case of fees under section 158 or 159 of this title in small amounts, in advance for a number of years not to exceed the term of the license held by the payor.

(f) Accounting system

The Commission shall develop accounting systems necessary to make the amendments authorized by sections 158(c) and 159(d) of this title.

(June 19, 1934, ch. 652, title I, §9A, as added Pub. L. 115-141, div. P, title I, §102(c), Mar. 23, 2018, 132 Stat. 1084.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Oct. 1, 2018, see section 103 of div. P of Pub. L. 115-141, set out as an Effective Date of 2018 Amendment note under section 156 of this title.

§ 160. Competition in provision of telecommunications service

(a) Regulatory flexibility

Notwithstanding section 332(c)(1)(A) of this title, the Commission shall forbear from applying any regulation or any provision of this chapter to a telecommunications carrier or telecommunications service, or class of telecommunications carriers or telecommunications services, in any or some of its or their geographic markets, if the Commission determines that—

(1) enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory;

(2) enforcement of such regulation or provision is not necessary for the protection of consumers; and

(3) forbearance from applying such provision or regulation is consistent with the public interest.

(b) Competitive effect to be weighed

In making the determination under subsection (a)(3), the Commission shall consider whether forbearance from enforcing the provision or regulation will promote competitive market conditions, including the extent to which such forbearance will enhance competition among providers of telecommunications services. If the Commission determines that such forbearance will promote competition among providers of telecommunications services, that determination may be the basis for a Commission finding that forbearance is in the public interest.

(c) Petition for forbearance

Any telecommunications carrier, or class of telecommunications carriers, may submit a petition to the Commission requesting that the Commission exercise the authority granted under this section with respect to that carrier or those carriers, or any service offered by that carrier or carriers. Any such petition shall be deemed granted if the Commission does not deny the petition for failure to meet the requirements for forbearance under subsection (a) within one year after the Commission receives it, unless the one-year period is extended by the Commission. The Commission may extend the initial one-year period by an additional 90 days if the Commission finds that an extension is necessary to meet the requirements of subsection (a). The Commission may grant or deny a petition in whole or in part and shall explain its decision in writing.

(d) Limitation

Except as provided in section 251(f) of this title, the Commission may not forbear from applying the requirements of section 251(c) or 271