

vi. Commercial Mobile Radio Service (CMRS) Messaging

20. Arch Wireless; Allied National Paging Association; American Association of Paging Carriers; Metrocall Holdings, Inc.; and WebLink Wireless I, L.P. ("Joint Commenters"), as joint commenters, urge the Commission to reduce the regulatory fee amount per subscriber, contending that because the messaging industry is not expanding, the Commission is probably expending fewer resources in the messaging industry than in other wireless services.²⁶ Joint Commenters note that the Commission is required to relate its regulatory fee assessments to the cost of regulating each industry segment. American Mobile Telecommunications Association, Inc. ("AMTA" or "Association") also argues that a declining CMRS messaging services base should result in a decrease in the cost of regulation, and adds that spectrum-limited and geographically localized services such as CMRS messaging are very fee sensitive and therefore not able to pass on increases in costs very easily.²⁷ In their reply comments, Blooston, Mordkofsky, Dickens, Duffy & Prendergast ("BMDD&P") concurs that over the past several years, the Commission's level of regulatory and enforcement activity has probably decreased, and as a result, there should be a corresponding decrease in regulatory fees.²⁸ Finally, the Industrial Telecommunications Association, Inc. ("ITA") asks whether small SMR operators are still categorized in the CMRS Messaging Service fee category.²⁹

21. First, we confirm that with respect to SMR operators under the 10 MHz bandwidth, the Commission continues to classify these operators as part of the CMRS Messaging fee category. Turning to the issue pertaining to the CMRS fee, a cogent argument has been presented that there has been a significant decline in CMRS Messaging units—from 40.8 million in FY 1997 to 19.7 million in FY 2003—a decline of 51.7 percent. Commenters have persuasively argued that this decline in subscribership may not be just a temporary phenomenon, but a more long-lasting one, and because the messaging industry is spectrum-

limited, geographically localized, and very cost sensitive, it is very difficult for this industry to pass on increases in costs to its subscribers.³⁰ In these unique circumstances, we believe it is appropriate to provide a measure of relief.³¹

22. For the reasons stated above, we will not increase the regulatory fee of CMRS messaging services to \$0.11, but will maintain it at its FY 2002 level of \$.08 per subscriber unit.

vii. Broadcast Television Stations With Single Channel Allotments

23. Sky Television, L.L.C. ("WSKY-TV") urges the Commission to create an additional regulatory fee service category for single-channel National Television System Committee (NTSC) full-service broadcast television stations and to assess a fee for this category that is 50 percent of the fee assessed against stations that have paired NTSC/DTV allotments. WSKY-TV states that because much of the Commission's current regulatory activities concerning the broadcast industry benefits only television stations with paired NTSC/DTV allotments, the costs of these activities should not be allocated to single-channel NTSC stations.

24. For background, WSKY-TV is a relatively new broadcast station, having been licensed by the Commission on December 26, 2001 to operate on a single NTSC channel. This license condition is congruent with Commission policy in that initial DTV licenses were limited to full service broadcast television station permittees and licensees as of April 3, 1997,³² and that new NTSC permittees are not to be awarded a second channel to convert to DTV, but may convert to DTV on their single 6 MHz channel.³³

25. The Commission's broadcast television regulatory fees are already designed to only capture the costs of analog broadcast activities. Although DTV licensees are subject to Section 8

application fees, the Commission does not yet assess Section 9 regulatory fees to recover the costs of the agency's DTV-related activities. Therefore, there is no need for the Commission to take action on this matter, because the analog-only regulatory fee category that WSKY-TV requests is already in effect.

viii. Amateur Radio Vanity Call Signs

26. Several amateur radio licensees commented concerning the Commission's practice of assessing regulatory fees for amateur vanity call signs. Some commenters assert that no regulatory fees should be assessed for vanity call signs. Other commenters support the payment of a regulatory fee for the administrative costs incurred by the Commission when it initially issues a vanity call sign, but question why a regulatory fee is assessed when renewing the amateur vanity call sign. Of these commenters, some assert that the fee assessed for vanity call signs at the license renewal process should simply be eliminated; others propose that the fee should be eliminated and offset by a higher upfront fee assessed at the time of initial application. Finally, Keven Hemsley states that in instances where the Commission denies an applicant's request for a vanity call sign, the Commission should refund the money automatically rather than requiring the applicant to request a refund.³⁴

27. First, we address the issue of requests for refunds of regulatory fees. Our rules state that the Commission will not process refunds of regulatory fees without a written request from the applicant, permittee, licensee or agent in question.³⁵ We uphold the requirement for a written request for a refund of regulatory fees. The written request serves as documentation when cross-referencing each unique file number that may be entitled to a refund. This documentation is essential for all applications, and particularly so for amateur radio vanity call sign applications, because filing trends indicate that some applicants file several vanity call sign applications per day, for several days on end. When one particular vanity call sign is granted to a filer, all of that filer's other applications are thereby dismissed. Certifying which fees are to be refunded for which dismissed applications would be much more labor intensive without the aid of any refund request documentation from prospective payees—thereby increasing the

³⁰ Comments from American Mobile Telecommunications Association, Inc., pages 2 and 5; comments from Arch Wireless Operating Company, Inc., Allied National Paging Association, American Association of Paging Carriers, Metrocall Holdings, Inc., and WebLink Wireless I, L.P. (collectively known as, "Joint Commenters"), page 6.

³¹ The Commission is completing design work on a new cost accounting system. As part of this process, we are evaluating methodologies for capturing data relevant to the regulatory fee setting process.

³² *Advanced Television Systems and Their Impact Upon Existing Television Broadcast Service*, Fifth Report and Order, 12 FCC Rcd 12809, 12816 (1997).

³³ *Memorandum Opinion and Order on Reconsideration of the Fifth Report and Order*, 13 FCC Rcd 6860, 6865 (1998).

²⁶ Comments provided by Arch Wireless; Allied National Paging Association; American Association of Paging Carriers; Metrocall Holdings, Inc.; and WebLink Wireless I, L.P., pages 4–6.

²⁷ Comments by the American Mobile Telecommunications Association, Inc., pages 2 and 5.

²⁸ Comments by Blooston, Mordkofsky, Dickens, Duffy & Prendergast, page 4.

²⁹ Comments by the Industrial Telecommunications Association, Inc., page 4.

³⁴ Comments of Kevin Hemsley, page 1.

³⁵ See 47 CFR 1.1160(d) Refunds of regulatory fees.