

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

March 12, 1998

OFFICE OF
MANAGING DIRECTOR

101/102-SAT-P/LA-98

Stephen E. Coran, Esquire
Rini, Coran, & Lancellotta, P.C.
1350 Connecticut Avenue, N.W.
Suite 900
Washington, D.C. 20036

Dear Mr. Coran:

This is in response to your letter, filed on behalf of KaStarcom. World Satellite, LLC (KaStarcom.), requesting reinstatement nunc pro tunc of its application for Geostationary Orbit Satellite Service (GSO-FSS) facilities in the Ka-band.

You state that KaStarcom., through an inadvertent error, overpaid its total fee due with its application and placed the incorrect fee amount on its Remittance Advice Form 159, resulting in the return of its application by the Fee Section. You contend that the application was returned in error because the Commission's practice is to accept applications submitted with an overpayment. Further, you state that it is the Commission's practice to accept for fee processing applications that are accompanied by filing fee packages that contain minor errors, such as the entry of an incorrect fee payment amount. In sum, you request reinstatement of KaStarcom.'s application nunc pro tunc, thus permitting consideration of the application with those filed in the processing round that closed on December 22, 1997.

We agree that overpayment of an application fee does not constitute sufficient cause for dismissal or return of an application. Unlike the case of an insufficient payment, we can find no Commission directive providing for the return or dismissal of an application accompanied by an overpayment. Rather, the Note accompanying Section 1.1113(a)(1) of the Commission's rules related to overpayment of application fees provides for refund of overpayment in excess of eight dollars of a required fee. See 47 C.F.R. § 1.1113(a)(1). Thus, we view Section 1.1113(a)(1)'s provision for refunds as an implicit recognition that applications accompanied by overages will be accepted for fee processing.

Further, we recognize that applicants will make occasional minor, inadvertent errors when entering information on Form 159 and have previously concluded that minor errors on a fee form do not warrant dismissal of the underlying application. See letter to Peter A. Casciato, Esquire from Marilyn J. McDermott, Associate Managing Director for Operations, dated October 8, 1991. In the


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instant case, we conclude that KaStarcom.'s mistaken entry of an excessive amount on its Form 159 does not warrant dismissal of its application because its fee payment was sufficient to cover the required fee and the correct fee payment was readily ascertainable from other information on its Form 159 and from the face of its application. You should note, however, that any application package containing informational errors that cannot be readily resolved from other entries on the Remittance Advice (Form 159 or, in some cases, page 1 of the application form) will be returned as defective.

Accordingly, your request for reinstatement is granted. Further, a check made payable to the maker of the original check and drawn in the amount of \$2,940.00, the difference between the \$170,090.00 fee payment properly due and \$173,030.00, the amount KaStarcom. submitted, will be sent to you at the earliest practicable time. If you have any questions concerning this matter, please contact the Chief, Fee Section at (202) 418-1995.

Sincerely,


Thomas M. Holleran
Acting Associate Managing
Director for Operations