

**Before the**  
**FEDERAL COMMUNICATIONS COMMISSION**  
**Washington, D.C. 20554**

In the Matter of )  
 )  
Lynk Global, Inc. ) IBFS File No.: SAT-LOA-  
 ) Call Sign:  
Petition for Waiver of )  
Application Fees Pursuant to Section )  
1.1119 of the Commission's Rules )

**PETITION FOR PARTIAL FEE WAIVER**

Lynk Global, Inc. (“Lynk”) respectfully requests that, pursuant to Sections 1.3 and 1.1119 of the Federal Communication Commission’s (“Commission”) rules,<sup>1</sup> and the Communications Act of 1934, as amended (the “Act”),<sup>2</sup> the Commission partially waive the application fee in connection with its contemporaneously filed application<sup>3</sup> seeking authority to launch and operate ten small satellites in non-geostationary orbit pursuant to the Commission’s streamlined small satellite application process.<sup>4</sup> In December 2020, the Commission adopted a Report and Order reducing application fees pursuant to a Congressional mandate that the Commission align its application fees with the amount of FCC resources used to process satellite application filings.<sup>5</sup> As a result, the Commission

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<sup>1</sup> 47 CFR §§ 1.3, 1.1119.

<sup>2</sup> 47 U.S.C. § 158(d)(2).

<sup>3</sup> See Lynk Global, Inc., Application for Authority to Launch and Operate a Non-Geostationary Low Earth Orbit Satellite System in the Mobile-Satellite Service, File No. SAT-LOA\_\_\_\_-\_\_\_\_ (filed May xx, 2021) (“Application”).

<sup>4</sup> 47 CFR § 25.122; *Streamlining Licensing Procedures for Small Satellites*, Report and Order, 34 FCC Rcd 13077 (2019) (“Smallsat Order”).

<sup>5</sup> Consolidated Appropriations Act, 2018, Pub. L. No. 115-141, 132 Stat. 1084, Division P – RAY BAUM’S Act of 2018, Title I, § 103 (2018), codified at 47 U.S.C. § 158(a); *see Amendment of the Schedule of Application Fees Set Forth in Sections 1.1102 through 1.1109 of*

lowered the application fee applicable to small satellites from \$30,000 to \$2,175.<sup>6</sup> Although the Application Fee R&O was adopted five months ago and published in the Federal Register, the fees adopted therein are still not in effect.<sup>7</sup>

The Commission may grant requests for fee waivers and the Act and the Commission's rules specifically provide that application fees may be waived for good cause shown and when the public interest would be served.<sup>8</sup> As demonstrated below, the public interest would be served by waiver because the existing application fee is higher than the Commission's actual costs of processing the Lynk's application. Grant of a partial waiver to Lynk to allow it to file its Application with the \$2,175 fee would therefore be consistent with both with Congressional intent and the Commission's new cost-based application fees.

## **I. BACKGROUND**

As described in greater detail in the Application, Lynk seeks authority to launch and operate an innovative constellation of ten (10) non-geostationary orbit small satellites to provide mobile-satellite service.<sup>9</sup> Lynk's satellite system is designed to extend the use of the terrestrial spectrum used by mobile network operators ("MNOs") to remote areas where MNOs cannot profitably provide coverage using typical cell tower technologies. The satellites for which Lynk seeks authorization in the Application will enable Lynk's initial commercial service and will

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*the Commission's Rules, Report and Order, 35 FCC Rcd 15089 (2020) ("Application Fee R&O").*

<sup>6</sup> *Application Fee R&O*, 35 FCC Rcd at 15146, ¶ 174.

<sup>7</sup> *Schedule of Application Fees of the Commission's Rules*, Final Rule, 86 FR 15026, 15062 (2021); *Office Of Managing Director Announces Effective Date of FY 2021 Application Fees Order*, Public Notice, DA-21-442 (rel. Apr. 19, 2021).

<sup>8</sup> 47 U.S.C. § 158(d)(2); *see also* 47 C.F.R. §§ 1.3, 1.1119.

<sup>9</sup> *See Application, Legal Narrative.*

pave the way for Lynk’s goal of providing a last-mile ubiquitous communications solution that will provide satellite connectivity to off-the-shelf mobile devices throughout the world.

## **II. GOOD CAUSE EXISTS FOR, AND THE PUBLIC INTEREST WOULD BE SERVED BY, PARTIAL WAIVER OF THE SMALL SATELLITE APPLICATION FEE**

The Commission has the authority to waive application fees where good cause is shown and the public interest would be served<sup>10</sup> and good cause may be found where “particular facts would make strict compliance inconsistent with the public interest.”<sup>11</sup> To satisfy the public interest requirement, “the waiver cannot undermine the purposes of the rule, and there must be a stronger public interest benefit in granting the waiver than in applying the rule.”<sup>12</sup> As demonstrated below, Lynk’s request for waiver satisfies these criteria.

### **A. The Existing Application Fee is Not Commensurate with the Cost of Processing Lynk’s Application**

The Commission’s schedule of application fees is intended to reimburse the government for the work involved in providing certain regulatory services associated with processing applications. The Commission has noted that the application fees “represent a rough approximation of the Commission’s actual cost of providing the regulatory actions

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<sup>10</sup> See *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969), *aff’d*, 459 F.2d 1203 (D.C. Cir. 1972), *cert. denied*, 409 U.S. 1027 (1972).

<sup>11</sup> *Northeast Cellular*, 897 F.2d at 1166; see also *ICO Global Communications v. FCC*, 428 F.3d 264, 269 (quoting *Northeast Cellular*); *WAIT Radio*, 418 F.2d at 1157-59; *Deere & Company Request for Limited Waiver of Part 15 Rules for Fixed White Space Device*, Order, 31 FCC Rcd 2131, 2134, ¶ 8 (OET 2016) (“*Deere Order*”) (quoting *Northeast Cellular*).

<sup>12</sup> *Deere Order*, 31 FCC Rcd at 2134, ¶ 8; see also *WAIT Radio*, 418 F.2d at 1157 (stating that even though the overall objectives of a general rule have been adjudged to be in the public interest, it is possible that application of the rule to a specific case may not serve the public interest if an applicant’s proposal does not undermine the public interest policy served by the rule); *Kyma Medical Technologies Ltd.*, Order, 31 FCC Rcd 9705, 9707, ¶ 5 (OET 2016).

listed” and that “the very core of this effort is to reimburse the government—and the general public—for the services provided to certain members of the public.”<sup>13</sup> More recently, the *Application Fee R&O* implemented the requirement in RAY BAUM’S Act of 2018 that the Commission adopt fees commensurate with the costs of the Commission to process applications.<sup>14</sup> Pursuant to this Congressional mandate, the Commission reviewed the “anticipated costs involved with the processing of all space station filing fees” and adopted a new cost-based application fee of \$2,175 for satellites that are able to be licensed under the small satellite rules.”<sup>15</sup>

A partial waiver of the application fee is warranted in the present case. The Commission has already determined that the cost to process a small satellite application is \$2,175, and the only reason this fee is not currently in effect for all small satellites is due to ministerial actions that must occur to fully implement this rule. Lynk had planned to file its Application after the Commission announced the effective date of the new fees, but launch of Lynk’s first commercial satellite is planned for December 2021 and Lynk wishes to provide the Commission with sufficient time for review the Application prior to its planned launch. Burdening Lynk with an outdated application fee that the Commission has determined is not commensurate with the work necessary to process its Application serves no valid public interest objective, particularly where, as here, the new fees may take effect while Lynk’s Application is under review. The Commission should grant this partial waiver and allow Lynk to file its application with the \$2,175 application fee.

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<sup>13</sup> *Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985*, Report and Order, 2 FCC Rcd 947, 948 (1987).

<sup>14</sup> *Application Fee R&O*, 35 FCC Rcd at 15090-91, ¶¶ 2,5.

<sup>15</sup> *Id.* at 15146, ¶ 174.

## **B. The Public Interest Would Be Served by Granting the Partial Fee Waiver**

There is good cause to grant Lynk’s request for a partial waiver of application fees.

The Commission has previously applied newly-adopted rules to applications filed prior to the effective date of those rules based either on the post-application effectiveness of an updated rule or simply on the fact that a not yet-effective rule expresses current Commission policy.<sup>16</sup>

The Commission has also previously granted partial relief from application fees where doing so would serve the public interest.<sup>17</sup> The Commission should find the same here and determine that the \$2,175 application fee is appropriate for Lynk’s Application.

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<sup>16</sup> See, e.g., Telesat Canada, 33 FCC Rcd 11469, 11477-78, ¶¶ 16, 18, & 20 (2018) and Space Exploration Holdings, LLC, 33 FCC Rcd 3391, 3394 & 3400-3402, ¶¶ 6, 21, 24, & 27 (2018) (both dismissing as moot several frequency use waiver requests in light of the post-application effectiveness of revised spectrum use rules); Iridium Constellation LLC, 31 FCC Rcd 8675, 8679-80 & 8686-87, ¶¶ 12 & 36 (IB/OET 2016) (waiving an existing rule prior to the effective date of a revision to the rule permitting mid-band TT&C operations based on the revised rule’s expression of current Commission policy); R2 Space, Inc., IBFS File No. SAT-LOA-20200511-00042, Condition 2 (Grant Stamp Dec. 18, 2020) (granting request for application to be processed under the Commission’s small satellite licensing process even though rules were not in effect at the time the application was filed).

<sup>17</sup> See, e.g., *PanAmSat Corporation, Application for PAS-8B Satellite; Request for Waiver and Refund of Filing Fees for the PAS-8B Satellite*, 19 FCC Rcd 18495, 18499-500, ¶ 9 (2004) (finding “good cause that overrides the public interest in the Commission’s recovering the full costs apportioned to processing authorizations” and that a modest waiver of the Commission’s application fees “will promote the public interest”).

### **III. CONCLUSION**

For the aforementioned reasons, Lynk respectfully requests that the Commission grant the requested partial fee waiver and apply the \$2,175 application fee to Lynk's concurrently filed Application.

Respectfully submitted,

*/s/ Shawn Marcum*

Shawn Marcum  
Director of Regulatory Affairs  
Lynk Global, Inc.

Dated: May 10, 2021