



6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[MD Docket No. 17-123; FCC 17-53]

Procedures for Paper Filings and Collecting Application and Regulatory Fees

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission commences the process of migrating away from using P.O. Boxes (“Lockboxes”) to collect application and regulatory fees, as well as paper filings. As the Commission gravitates toward an all-electronic payment and filing system, the P.O. Boxes once established to collect filings and fees via check or money order will be gradually closed, and the Commission’s rules changed accordingly. In this, the first step of this process, the Commission amends its rules to close P.O. Box 979092, used to collect petitions filed under of the Communications Assistance for Law Enforcement Act (CALEA), as well as associated fee payments. Permittees wishing to file future petitions will need to do so electronically through the Commission’s electronic filing system and pay the pertinent fees through the Fee Filer Online System, or through another electronic payment mechanism designated by the Commission.

DATES: Effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Warren Firschein, Office of Managing Director at (202) 418-0844.

SUPPLEMENTARY INFORMATION:

1. In this Order, we reduce Commission expenditures and modernize our procedures by amending section 1.1109¹ 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).²

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.³ CALEA imposed certain technical requirements on telecommunications carriers and provided carriers with certain rights to petition the Commission for relief from these requirements.⁴ CALEA also amended the Commission's fee schedule under section 8 of the Communications Act⁵ to require payment of an application fee for one type of CALEA filing – petitions filed under section 109(b) of CALEA.⁶ 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."⁷ The section 109(b) fee requirement was codified in section 1.1109 of the Commission's rules⁸ providing for payment of the fee to P.O. Box 979092 at U.S. Bank in St. Louis,

¹ 47 CFR 1.1109.

² 47 U.S.C. 1008(b).

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

⁴ 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).

⁵ 47 U.S.C. 158.

⁶ Communications Assistance for Law Enforcement Act, Public Law 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.

⁷ 47 U.S.C. 1008(b)(1).

⁸ 47 CFR 1.1109.

Missouri.⁹ 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.

3. The Commission has started to migrate away from using P.O. Boxes¹⁰ and toward using an all-electronic payment system for all application and regulatory fees.¹¹ This change is based on U.S. Treasury guidance and is being implemented to the extent practicable and otherwise permitted by law.¹² 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 Final Rules section of this Order. 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

⁹ Id.

¹⁰ 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).

¹¹ 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).

¹² Treasury Financial Manual, Bulletin Number 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>.

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.¹³ 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. This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4).

6. **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.

7. **IT IS FURTHER ORDERED**, that the Commission **SHALL SEND** a copy of this Order to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

¹³ 5 U.S.C. 553(b)(A).

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch,

Secretary.

FINAL RULES

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 1 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. Revise § 1.1109 to read 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>.

Service	FCC Form No.	Fee amount	Payment type code
1. Communication Assistance for Law Enforcement (CALEA) Petitions	Correspondence & 159	\$6,695.00	CLEA

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