

Federal Communications Commission

§0.470

begin only after the agency has received the fee payments described in this section. See §0.461(e)(2)(ii) and §0.467(e)(2).

§0.470 Assessment of fees.

(a)(1) *Commercial use requesters.* (i) When the Commission receives a request for documents for commercial use, it will assess charges that recover the full direct cost of searching for, reviewing and duplicating the records sought pursuant to §0.466 and §0.467.

(ii) Commercial use requesters shall not be assessed search fees if the Commission fails to comply with the time limits under §0.461(g), except as provided in paragraph (a)(1)(iii) of this section.

(iii) Commercial requesters may still be assessed search fees when the Commission fails to comply with the time limits under §0.461(g) if the Commission determines that unusual circumstances apply and more than 5,000 pages are necessary to respond to the request, so long as the Commission has provided a timely written notice to the requester and has discussed with the requester (or made not less than three good-faith attempts to do so) how the requester could effectively limit the scope of the request. Additionally, if a court has determined that exceptional circumstances exist, a failure to comply with a time limit under §0.461(g) will be excused for the length of time provided by the court order.

(2) *Educational and non-commercial scientific institution requesters and requesters who are representatives of the news media.* (i) The Commission shall provide documents to requesters in these categories for the cost of duplication only, pursuant to §0.465 above, excluding duplication charges for the first 100 pages, provided however, that requesters who are representatives of the news media shall be entitled to a reduced assessment of charges only when the request is for the purpose of distributing information.

(ii) Educational requesters or requesters who are representatives of the news media shall not be assessed fees for the cost of duplication if the Commission fails to comply with the time limits under §0.461(g), except as pro-

vided in paragraph (a)(2)(iii) of this section.

(iii) Educational requesters or requesters who are representatives of the news media may still be assessed duplication fees when the Commission fails to comply with the time limits under §0.461(g) if the Commission determines that unusual circumstances apply and more than 5,000 pages are necessary to respond to the request, so long as the Commission has provided a timely written notice to the requester and has discussed with the requester (or made not less than three good-faith attempts to do so) how the requester could effectively limit the scope of the request. Additionally, if a court has determined that exceptional circumstances exist, a failure to comply with a time limit under §0.461(g) will be excused for the length of time provided by the court order.

(3) *All other requesters.* (i) The Commission shall charge requesters who do not fit into any of the categories above fees which cover the full, reasonable direct cost of searching for and duplicating records that are responsive to the request, pursuant to §0.465 and §0.467, except that the first 100 pages of duplication and the first two hours of search time shall be furnished without charge.

(ii) All other requesters shall not be assessed search fees if the Commission fails to comply with the time limits under §0.461(g), except as provided in paragraph (a)(3)(iii) of this section.

(iii) All other requesters may still be assessed search fees when the Commission fails to comply with the time limits under §0.461(g) if the Commission determines that unusual circumstances apply and more than 5,000 pages are necessary to respond to the request, so long as the Commission has provided a timely written notice to the requester and has discussed with the requester (or made not less than three good-faith attempts to do so) how the requester could effectively limit the scope of the request. Additionally, if a court has determined that exceptional circumstances exist, a failure to comply with a time limit under §0.461(g) will be excused for the length of time provided by the court order.

§0.471

(b)(1) The 100 page restriction on assessment of duplication fees in paragraphs (a)(2) and (3) of this section refers to 100 paper copies of a standard size, which will normally be 8½" x 11" or 11" x 14".

(2) When the agency reasonably believes that a requester or group of requesters is attempting to segregate a request into a series of separate individual requests for the purpose of evading the assessment of fees, the agency will aggregate any such requests and assess charges accordingly.

(c) When a requester believes he or she is entitled to a waiver pursuant to paragraph (e) of this section, the requester must include, in his or her original FOIA request, a statement explaining with specificity, the reasons demonstrating that he or she qualifies for a fee waiver. Included in this statement should be a certification that the information will not be used to further the commercial interests of the requester.

(d) If the Commission reasonably believes that a commercial interest exists, based on the information provided pursuant to paragraph (c) of this section, the requester shall be so notified and given an additional ten business days to provide further information to justify receiving a reduced fee. See §0.467(e)(2).

(e)(1) Copying, search and review charges shall be waived or reduced by the General Counsel when "disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." 5 U.S.C. 552(a)(4)(A)(iii). Simply repeating the fee waiver language of section 552(a)(4)(A)(iii) is not a sufficient basis to obtain a fee waiver.

(2) The criteria used to determine whether disclosure is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government include:

(i) Whether the subject of the requested records concerns the operations or activities of the government;

(ii) Whether the disclosure is likely to contribute to an understanding of

47 CFR Ch. I (10-1-24 Edition)

government operations or activities; and

(iii) Whether disclosure of the requested information will contribute to public understanding as opposed to the individual understanding of the requester or a narrow segment of interested persons.

(3) The criteria used to determine whether disclosure is primarily in the commercial interest of the requester include:

(i) Whether the requester has a commercial interest that would be furthered by the requested disclosure; and, if so

(ii) Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requester.

(4) This request for fee reduction or waiver must accompany the initial request for records and will be decided under the same procedures used for record requests.

(5) If no fees or de minimis fees would result from processing a FOIA request and a fee waiver or reduction has been sought, the General Counsel will not reach a determination on the waiver or reduction request.

(f) Whenever Commission staff determines that the total fee calculated under this section likely is less than the cost to collect and process the fee, no fee will be charged.

(g) Review of initial fee determinations under §0.467 through §0.470 and initial fee reduction or waiver determinations under paragraph (e) of this section may be sought under §0.461(j).

[82 FR 4196, Jan. 13, 2017]

PLACES FOR MAKING SUBMITTALS OR REQUESTS, FOR FILING APPLICATIONS, AND FOR TAKING EXAMINATIONS

§0.471 Miscellaneous submittals or requests.

Persons desiring to make submittals or requests of a general nature should communicate with the Secretary of the Commission.

[36 FR 15121, Aug. 13, 1971]