

Before the
Federal Communications Commission
Washington, D.C. 20554

In the matter of
Federal-State Joint Board on Universal Service
Request for Review by
Telco Group Inc. of
Action by Universal Service Administrator
CC Docket No. 96-45

ORDER

Adopted: March 16, 2007

Released: March 16, 2007

By the Acting Deputy Chief, Wireline Competition Bureau:

I. INTRODUCTION AND BACKGROUND

1. In this Order, we deny the request for review of action taken by the Universal Service Administrative Company (USAC) filed by Telco Group Inc. (Telco).1 Telco requests that the Commission waive a late filing fee associated with a late filed FCC Form 499-Q.

2. Telco filed the August 2004 FCC Form 499-Q on August 11, 2004 - ten days late.2 USAC assessed a late filing fee of \$5,000.3 Telco argues that it has historically paid its USF contribution obligation and other regulatory fees timely.4 Telco also states that it could not obtain accurate revenue figures in time for the filing deadline because its reporting database was undergoing functional enhancements.5

II. DISCUSSION

3. We deny Telco's request for review. In accordance with Commission instruction and rules, USAC correctly assessed Telco for a late filing fee.

4. A contributor's timely filing of FCC Forms 499-Q is an essential administrative requirement that serves the public interest.6 Using the filed data, USAC determines the projected collected interstate and international revenues for the industry. The Commission then calculates the

1 Letter from Thomas D'Aurio, Telco Group Inc., to Marlene H. Dortch, Federal Communications Commission, CC Docket No. 96-45 (filed Nov. 23, 2004) (Telco Petition).

2 See letter from USAC to Carol Pomponio, Federal Communications Commission (Mar. 8, 2007) (attached as App. A).

3 Id.

4 Telco Petition at 1.

5 Id. at 1.

6 See 47 C.F.R. § 54.709(a)(3).

contribution factor each quarter based on the projected collected revenue. Thus, late filed forms may hinder USAC's ability to determine accurately projected collected revenues, which in turn are necessary to calculate the quarterly contribution factor. In particular, the FCC Forms 499-Q and 499-A must be filed timely for USAC to meet its filing deadline with the Commission.⁷

5. Late filing fees, appropriately set, encourage carriers to file on a timely basis.⁸ USAC assesses a late filing fee based on the carrier's annual revenue with a maximum fee of \$5,000.⁹ Based on Telco's annual revenue, the late payment fee is proper.

6. Further, Telco's request for review is procedurally defective. Specifically, Telco failed to support its factual assertions with an affidavit signed by an officer of the company or other knowledgeable individual.¹⁰ In addition, Telco did not indicate whether it had served USAC with a copy of its appeal, as required by Commission's rules.¹¹ Although we deny Telco's request on its merits, we could also deny it on procedural grounds. Contributors are on notice that we may deny future appeals for procedural defects.

III. ORDERING CLAUSES

7. Accordingly, IT IS ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and pursuant to authority delegated in sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, that Telco Group Inc.'s Request for Review IS DENIED.

8. IT IS FURTHER ORDERED that, pursuant to authority delegated under sections 0.91, 0.291 and 1.102 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.102, this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Renée R. Crittendon
Acting Deputy Chief
Wireline Competition Bureau

⁷ See 47 C.F.R. § 54.709(a)(3).

⁸ See 47 C.F.R. § 54.713 (providing USAC with the authority to assess late filing fees).

⁹ See App. A. USAC assesses a late filing penalty equal to .005% (or .00005) of the actual revenue for a company that files any Telecommunications Reporting Worksheet (Form 499) late. The minimum late filing fee is \$100 and the maximum is \$5,000. See <http://www.universalservice.org/fund-administration/contributors/revenue-reporting/late-filing-fees.aspx>.

¹⁰ See 47 C.F.R. § 54.721(c). By letter, we advised Telco that its request was procedurally defective and requested that it file an amended appeal. See letter from Cathy Carpino, Federal Communications Commission, to Thomas D'Aurio, Telco (Jan. 27, 2006). The letter also advised that the request for review was not formatted properly. *Id.*; see 47 C.F.R. § 54.721(a). Telco did not respond to our request.

¹¹ See 47 C.F.R. §§ 1.49, 54.721(b)(2).

APPENDIX A



Universal Service Administrative Company

March 8, 2007

Via Electronic Mail

Carol Pomponio, Esquire
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: Explanation of Late Filing Fee calculation for Telco Group, Inc. (Filer ID 823006)

Dear Ms. Pomponio:

This letter is in response to your questions regarding Telco Group, Inc.'s (Telco) filing of its Telecommunications Revenue Reporting Worksheet due August 1, 2004 and USAC's application of an associated late filing fee. Following is a summary of the events related to this matter.

On August 11, 2004 Telco filed an original August 2004 FCC Form 499-Q projecting fourth quarter 2004 revenue (Worksheet). The Worksheet had a due date of August 1, 2004. Because USAC received Telco's Worksheet on August 11, 2004, after the August 1, 2004 due date, USAC assessed Telco a late filing fee and posted the late filing fee to Telco's October 2004 invoice. The late filing fee was calculated based on revenue reported by Telco.

Telco submitted its Worksheet after the due date and USAC appropriately assessed the late filing fee.

Sincerely,

USAC