In the Matter of Universal Service Contribution Methodology Requests for Waiver of Decisions of the Universal Service Administrator by Ambess Enterprises, Inc., et al. WC Docket No. 06-122

ORDER

Adopted: April 16, 2010 Released: April 16, 2010

By the Acting Chief, Telecommunications Access Policy Division, Wireline Competition Bureau:

I. INTRODUCTION

1. In this order, we dismiss as moot seven requests for waiver of actions taken by the Universal Service Administrative Company (USAC). Specifically, the petitioners request that the Commission waive certain filing deadlines associated with the filing of their FCC Forms 499-Q and allow them to late-file corrected forms. Because the annual true-up process for the FCC Forms 499-Q at issue in these requests has already provided the relief sought by the petitioners, we dismiss as moot the petitioners’ requests.

II. BACKGROUND

2. USAC performs billing and collection functions for the Commission as part of its administration of the universal service support mechanisms. The Commission requires carriers and certain other providers of telecommunications, such as interconnected voice over Internet protocol providers, to file the FCC Form 499-Q each quarter projecting their interstate and international revenue for the upcoming quarter and providing their interstate and international revenues from the previous

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2 See 47 C.F.R. § 54.702(b).
quarter. USAC computes the entities’ quarterly universal service contributions based on the projected revenue information provided on the FCC Form 499-Q bills entities, and USAC bill entities each month based on this obligation. Filers have the opportunity to correct their quarterly filings up to 45 days after the due date of each FCC Form 499-Q filing. In April of each year, contributors file the FCC Form 499-A to report their actual revenues from the previous year. USAC uses the FCC Form 499-A data to conduct a true-up process whereby USAC determines the actual amount owed by each contributor from the previous year and issues either an invoice for underpayment or a credit for overpayment.

3. Petitioners timely submitted their FCC Forms 499-Q, but overstated the amount of revenues that were subject to universal service contributions. The petitioners then requested to refile the FCC Forms 499-Q, but the requests were made after the 45-day window to file corrected forms had passed. Accordingly, USAC determined the petitioners’ contribution obligations based on the reported quarterly information and invoiced them monthly based on this determination.

III. DISCUSSION

4. We dismiss the petitioners’ waiver requests as moot. Pursuant to the Commission’s requirements, USAC uses revenue data provided by contributors in the FCC Form 499-A to perform annual true-ups to the quarterly revenue data submitted by entities during the prior calendar year. The true-up process provides contributors with an accurate reconciliation of their revenue information as well as their universal service contribution obligations.

5. USAC’s annual true-up, based on the FCC Forms 499-A that were filed in April 2008 and 2009 has reconciled the contribution obligation for each of the petitioners. USAC has also

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4 47 C.F.R. § 54.711(a).
6 Id. at 24973, para. 37
7 Id. at 24972, para. 36. USAC will refund or collect from contributors any over-payments or under-payments. If the combined quarterly projected revenues reported by a contributor are greater than those reported on its annual FCC Form 499-A, then a refund will be provided to the contributor based on an average of the two lowest contribution factors for the year. If the combined quarterly revenues reported by a contributor are less than those reported on its FCC Form 499-A, then USAC will collect the difference from the contributor using an average of the two highest contribution factors from that year. See id.
8 See Ambess Request for Review at 4; Aspire Letter at 1; Pelzer Letter at 1; Progress Request for Review at 1; Ready Letter at 1; Spectrotel Letter at 1; Wholesale Request for Review at 1-2.
10 See e.g., Ready Request for Review at 1-2 (Ready reported annual data rather than quarterly data which resulted in an invoice that places an undue hardship on the company).
12 See infra at Appendix.
confirmed that any adjustments resulting from the reconciliation process were posted to the petitioners’ accounts.\textsuperscript{13} We therefore dismiss the petitioners’ requests as moot.

6. We take this opportunity to remind all filers of the importance of timely filing their FCC Forms 499-Q.\textsuperscript{14} We remind filers that filings can be made electronically through USAC’s website, and that FCC Forms 499-Q may be submitted in advance of the filing deadline.\textsuperscript{15} We caution filers that the submission of the form is considered timely based upon USAC’s receipt of the form and not the postmark date.\textsuperscript{16} Finally, we stress the need for USAC to impose penalties when these important filing deadlines are not met, as a means to ensure that FCC Forms 499-Q are timely filed.\textsuperscript{17}

IV. ORDERING CLAUSES

7. ACCORDINGLY, IT IS ORDERED that, pursuant to the authority delegated in sections 0.91, 0.204(b), 0.291, and 54.722(a) of the Commission’s rules, 47 C.F.R. §§ 0.91, 0.204(b), 0.291, and 54.722(a), the requests for waiver of the FCC Form 499-Q revision deadline for filers listed in the Appendix ARE DISMISSED as moot.

8. IT IS FURTHER ORDERED that, pursuant to the authority delegated in section 1.102(b)(1) of the Commission’s rules, 47 C.F.R. § 1.102(b)(1), this order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Jennifer K. McKee
Acting Chief
Telecommunications Access Policy Division
Wireline Competition Bureau

\textsuperscript{13} See E-mail from Michelle Garber, Universal Service Administrative Company, to Erica Myers, FCC (dated May 5, 2009); see E-mail from Stefani Watterson, Universal Service Administrative Company, to Erica Myers, FCC (dated Mar. 4, 2010).


\textsuperscript{15} See http://www.universalservice.org/fund-administration/forms/ (last visited April 16, 2010).


\textsuperscript{17} See 47 C.F.R. § 54.713.
### APPENDIX

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<th>Company Name</th>
<th>Filer ID</th>
<th>Date Request Filed</th>
<th>Late filed FCC Form 499-Q</th>
<th>FCC Form 499-A</th>
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<td>Ambess Enterprises, Inc.</td>
<td>821772</td>
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<td>Aug. 2007</td>
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<td>Aspire Telecom, Inc.</td>
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<td>Pelzer Communications, Corp.</td>
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<td>Feb. 2007</td>
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<td>Progress International, Inc.</td>
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<td>Spectrotel, Inc.</td>
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<td>Wholesale Carrier Services, Inc.</td>
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