

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

In the Matter of)	
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Request for Review by)	
Allegheny Telephone Company of)	
Decision of Universal Service Administrator)	

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 Allegheny Telephone Company's (Allegheny) appeal of the Administrator's Decision on Contributor Appeal by the Universal Service Administrative Company (USAC).¹ In its appeal, Allegheny alleges that it is *de minimis* and, thus, not subject to universal service contributions.² In its decision on appeal, USAC found that, based on the information Allegheny provided, Allegheny is not eligible for the *de minimis* exemption.

2. Pursuant to the Commission's rules, if a contributor's universal service contribution in any given year is less than \$10,000, that contributor is not required to contribute directly to the federal Universal Service Fund (USF or Fund).³ For the period of time at issue (calendar years 2001 and 2002), the Commission required contributors to file revenue information semi-annually (until May 2001) and then quarterly with an annual filing to true-up the quarterly filings.⁴ Also during this time, contributors' assessments were based on historical gross-billed revenues. The Commission modified its contribution methodology to assess contributors based on their projected collected revenues in 2003.⁵

¹ See Letter from Burton J. Nord, Allegheny Telephone Company, to Office of the Secretary, Federal Communications Commission, CC Docket No. 96-45 (filed November 4, 2002) (Allegheny Appeal).

² The appeal that Allegheny filed with the Commission states, in its entirety: "We are appealing the USAC charges for 2001 and 2002 as our revenue dropped precipitously to at least ½ of 2000 revenue. That makes us deminimus [sic] however, USAC is not resigning [sic] the deminimus [sic] status. If you have any questions please call me at [xxx-xxx-xxxx]."

³ See 47 C.F.R. § 54.708.

⁴ See, e.g., *Federal-State Joint Board on Universal Service; Petition for Reconsideration filed by AT&T*, CC Docket No. 96-45, Report and Order and Order on Reconsideration, 16 FCC Rcd 5748, 5750, 5752-53, paras. 6 & 12 (2001).

⁵ See *Federal-State Joint Board on Universal Service, 1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms, Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990, Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery*

3. Allegheny filed an appeal with USAC disputing charges assessed for calendar year 2001 and during the first quarter of 2002.⁶ According to the USAC Decision, Allegheny revised its FCC Form 499-A reporting 2000 revenues several times, which USAC processed in October 2001, November 2001 and January 2002.⁷ After USAC processed Allegheny's revisions, its calendar year 2001 USF contribution obligation was \$13,795.00 – an amount above the *de minimis* exemption.⁸ Since that time, USAC has processed Allegheny's 2002 FCC Form 499-A, and posted several adjustments to Allegheny's account.⁹ Based on the information in the 2002 filing, USAC concluded that Allegheny still did not qualify for the *de minimis* exemption for 2001.¹⁰ Allegheny filed an appeal of USAC's decision with the Commission on November 4, 2002.¹¹

II. DISCUSSION

4. We deny Allegheny's appeal and find that, based on the information that Allegheny provided to USAC, Allegheny did not qualify for the Commission's *de minimis* exemption in 2001. The Commission has delegated authority to the Wireline Competition Bureau (Bureau) to consider petitions for review of decisions by the Administrator.¹² Section 54.723 of the Commission's rules specifies that the Bureau shall conduct a *de novo* review.¹³

5. Allegheny asserts that it qualifies for the *de minimis* exemption based on the amount of its interstate telecommunications services revenues.¹⁴ We determine that it does not and, thus, we must deny its appeal. Although we are required to conduct a new review of the facts, Allegheny fails to present any facts in its appeal. We therefore must rely on information it provided previously to USAC. We have reviewed Allegheny's FCC Forms 499-A and 499-Q and we conclude that it had in excess of \$10,000 in USF obligations for calendar years 2001 and 2002 and is therefore not *de minimis*.

(...continued from previous page)

Contribution Factor and Fund Size, Number Resource Optimization, Telephone Number Portability, Truth-in-Billing and Billing Format, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170, Report and Order and Second Further Notice of Proposed Rulemaking, 17 FCC Rcd 24952, 24970, para. 29 (2002).

⁶ See USAC Decision at 1.

⁷ See USAC Decision at 2.

⁸ 47 C.F.R. § 54.708.

⁹ See Letter from USAC to Belinda Nixon, Federal Communications Commission (March 13, 2007), attached hereto at App. A.

¹⁰ *Id.* at 1-2.

¹¹ See note 1, *supra*.

¹² 47 C.F.R. § 54.722(a).

¹³ 47 C.F.R. § 54.723.

¹⁴ Allegheny Appeal. As mentioned above, Allegheny's "appeal" consists of three sentences. Allegheny's appeal is also procedurally defective on several counts. Specifically, Allegheny failed to provide: a "full statement of relevant, material facts with supporting affidavits and documentation"; the question presented for review with reference, where appropriate, to the relevant rule, order or statutory provision; and a "statement of the relief sought and the relevant statutory or regulatory provision to which such relief is sought." See 47 C.F.R. §§ 1.49, 54.721(b). In addition, there is no indication that Allegheny served the Administrator with a copy of its appeal, as required by the Commission's rules. See 47 C.F.R. § 54.721(c). Moreover, this appeal failed to comply with section 54.721(a) of the Commission's rules, requiring a particular format for captions for requests for review. See 47 C.F.R. § 54.721(a). Although we deny Allegheny's request on its merits, denial on procedural grounds would also be justified, and contributors should be on notice that we may deny future appeals based on procedural defects in their pleadings before the Commission.

III. ORDERING CLAUSE

6. 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, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a) that the Requests for Review as filed by Allegheny Telephone Company IS DENIED.

7. 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

APPENDIX A



Universal Service Administrative Company

March 13, 2007

VIA Electronic Mail

Belinda Nixon, Esquire
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: Status of 2001 Annual Revenue Reconciliation for Allegheny Telephone (Filer ID 807177)

Dear Ms. Nixon:

This letter is in response to your request for confirmation of whether USAC performed the annual reconciliation process, as referenced in its June 13, 2002 *Administrator's Decision on Contributor Appeal* (Appeal Decision), for Allegheny Telephone (Allegheny). USAC has completed this process. Following is a summary of the events related to this matter.

The annual reconciliation process compares and reconciles annual revenue reported on Form 499-A, with quarterly revenue reported on previously filed Form 499Qs. The original and any revised 2002 Form 499-As reporting annual 2001 revenue reconciled the billings based on quarterly revenue reported on Form 499Qs.

Universal service charges for the period January 1 – December 31, 2001 were required to be based on revenue as reported on FCC Form 499Qs, which had due dates of May 11, 2001, August 1, 2001, November 1, 2001 and February 1, 2002. On April 3, 2002, Allegheny filed its 2002 FCC Form 499-A. Allegheny filed a 2002 Form 499-A reporting 2001 annual revenue on April 3, 2002, which reflected a lower revenue base than the Form 499Qs the company previously filed for 2001. As a result, credits resulting from the annual reconciliation process were posted to Allegheny's account during the months of July, August, and September 2002 to reconcile the difference. USAC has completed the 2001 annual revenue reconciliation for the Filer ID listed above.

In April 2002, the company alleged it was entitled to de minimis status. However, based on a comparison of revenue reported on Allegheny's April 3, 2002 Form 499-A and the revenue reported on the Form 499Qs, USAC determined Allegheny to be non-de minimis during the 2001 annual revenue reporting period. On April 15, 2002, Allegheny appealed

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USAC's non-de minimis finding, and, on June 13, 2002, USAC issued an *Administrator's Decision on Contributor Appeal* denying Allegheny's appeal.

Sincerely,

USAC

cc: Erika Olsen, FCC Wireline Competition Bureau