

**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
)	
Requests for Review of Decision of the Universal Service Administrator by Telecom Management, Inc. d/b/a/ Pioneer Telephone)	WC Docket No. 06-122
)	

ORDER

Adopted: June 23, 2010

Released: June 23, 2010

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this order, we consider a request for review filed by Telecom Management, Inc. d/b/a Pioneer Telephone (TMI) regarding its contributions to the universal service fund.¹ Specifically, TMI seeks review of a decision by the Universal Service Administrative Company (USAC) regarding certain true-up adjustments related to its 2003 and 2004 annual Telecommunications Reporting Worksheet (FCC Form 499-A).² TMI challenges USAC's decision to correct certain credit amounts that were applied to TMI's account in February and March 2006, and TMI requests a credit for the amount it paid under protest. For the reasons set forth below, we deny TMI's request for review.

II. BACKGROUND

2. Section 254(d) of the Communications Act of 1934, as amended (the Act), directs that every telecommunications carrier that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service.³ The Commission has determined that any entity that provides interstate telecommunications services to the public for a fee must contribute to the universal service fund,⁴ and that contributions should be based on contributors' interstate and international end-user telecommunications revenues.⁵

¹ See Request for Review by Telecom Management, Inc. d/b/a Pioneer Telephone of Decision of Universal Service Administrator (Filer ID 824332), CC Docket No. 96-45 (filed Nov. 7, 2007) (TMI Request for Review).

² TMI Request for Review, Exh. 1 at 2. Any person aggrieved by an action taken by a division of USAC may seek review from the Commission. 47 C.F.R. § 54.719(c).

³ 47 U.S.C. § 254(d).

⁴ See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 8797, para. 787 (1997) (*Universal Service First Report and Order*) (subsequent history omitted). The Commission also requires certain other providers of interstate telecommunications to contribute to the universal service fund. See, e.g., *Universal Service Contribution Methodology*, WC Docket Nos. 06-122 and 04-36, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, and 98-170, Report and Order and Notice of Proposed Rulemaking, 21 FCC Rcd 7518 (2006) (requiring interconnected voice over Internet protocol (VoIP) providers to contribute to the universal service fund because they are providers of interstate telecommunications). Certain providers, such as *de minimis* providers, however, do not contribute directly to the universal service fund. See, e.g., *Federal-State Joint Board on Universal Service, Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers*,

3. In the *Second Order on Reconsideration*, the Commission set forth the specific methodology for contributors to use in computing their universal service contributions.⁶ The Commission also designated USAC as the entity responsible for administering the universal service support mechanisms.⁷ Pursuant to the Commission's rules, contributors report their revenues by filing Telecommunications Reporting Worksheets (FCC Form 499) with USAC.⁸ Based on these filings, USAC bills contributors for their universal service contributions.⁹ Contributors report historical revenue on the annual Telecommunications Reporting Worksheet (FCC Form 499-A), which is generally filed on April 1 each year.¹⁰ Contributors project future quarters' revenue on the quarterly Telecommunications Reporting Worksheets (FCC Forms 499-Q), which are generally filed on February 1, May 1, August 1, and November 1.¹¹ The projected revenue information provided on the FCC Form 499-Q determines each contributor's obligation to the universal service fund on a quarterly basis and USAC bills carriers each month based on this obligation.¹² After contributors file their annual FCC Forms 499-A in April, USAC conducts a true-up process by determining the actual amount owed by each contributor from the previous year and issuing either an invoice for underpayments or a credit for overpayments.¹³

4. *TMI Request for Review.* TMI filed 2003 and 2004 FCC Forms 499-A in December 2004.¹⁴ USAC processed those forms and began sending quarterly invoices to TMI based on the revenue information contained in TMI's 2003 and 2004 FCC Forms 499-A.¹⁵ In April 2005, TMI asked USAC to review its assessment of prior year true-up amounts that were based on TMI's 2003 and 2004 FCC Forms 499-A, requesting a credit of \$34,593.47 in its 2002 true-up assessment based on the revenue data in the 2003 FCC Form 499-A, and a credit of \$45,179.34 in its 2003 true-up assessment based on the revenue data in the 2004 FCC Form 499-A.¹⁶ In its December 2005 decision, USAC granted TMI's request, although USAC's calculations resulted in slightly different credit amounts than TMI has requested, and

Transport Rate Structure and Pricing, End User Common Line Charge, CC Docket Nos. 96-45, 96-262, 94-1, 91-213, 95-72, Fourth Order on Reconsideration, 13 FCC Rcd 5381, 5482, para. 298.

⁵ *Universal Service First Report and Order*, 12 FCC Rcd at 8797, para. 787; see 47 C.F.R. § 54.706.

⁶ See *Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service*, CC Docket Nos. 97-21, 96-45, Report and Order and Second Order on Reconsideration, 12 FCC Rcd 18400 (1997) (*Second Order on Reconsideration*).

⁷ *Id.* at 18415, para. 25.

⁸ 47 C.F.R. § 54.711(a) (setting forth reporting requirements in accordance with Commission announcements in the Federal Register).

⁹ 47 C.F.R. § 54.702(b).

¹⁰ See Universal Service Administrative Company, Schedule of Filings, at <http://www.universalservice.org/fund-administration/contributors/revenue-reporting/schedule-filings.aspx> (last visited June 23, 2010) (USAC Form 499 Filing Schedule).

¹¹ *Id.*

¹² 47 C.F.R. § 54.711(a).

¹³ *Id.* 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.*

¹⁴ TMI Request for Review, Exh. 1 at 1.

¹⁵ *Id.*

¹⁶ See *id.* at 2.

issued the necessary adjustments to TMI's account on the February and March 2006 contributor invoices.¹⁷

5. Although the adjustments related to USAC's December 2005 decision were fully implemented in TMI's February and March 2006 invoices, an additional assessment of \$3,093.12 based on the 2004 FCC Form 499-A true-up appeared on TMI's July 2006 invoice. TMI's July 2006 invoice also contained a corresponding credit of \$3,093.12, which netted the adjustments to zero.¹⁸ This adjustment/credit cycle continued to appear on TMI's invoices for a year.¹⁹ In July 2007, however, TMI's universal service contribution invoice contained the additional \$3,093.12 assessment without the corresponding credit.²⁰ TMI filed a dispute letter with USAC in August 2007.²¹ USAC responded on October 8, 2007, explaining that the adjustment amount contained in its December 2005 decision had been arrived at by manual calculation.²² USAC explained further that, in April 2006, the billing system performed an automated calculation and found a discrepancy in the manual calculation.²³ At that time USAC staff could not account for the discrepancy and continued to offset the adjustment manually.²⁴ In July 2007, however, USAC identified the error in its manual calculations, confirmed the accuracy of the billing system, and allowed the adjustment to post to the invoice without a corresponding credit.²⁵ The corrected amount was invoiced to TMI in installments over three months: July, August, and September 2007.²⁶ TMI states that it paid the resulting invoices under protest.²⁷

6. On November 7, 2007, TMI filed the instant petition. In its petition, TMI challenges USAC's decision to correct certain credit amounts that were applied to TMI's account in February and March 2006. TMI also requests a credit for the amount it paid under protest.

III. DISCUSSION

7. We deny TMI's request for review. 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 carriers during the prior calendar year.²⁸ The true-up process ensures that contributions to the universal service support mechanisms reflect contributors' actual obligations, vis-

¹⁷ See *id.*, Exh. 2 at 2. USAC issued credits of \$30,200.88 for the 2002 true-up and \$53,816.15 for the 2003 true-up, based on the 2003 and 2004 FCC Forms 499-A, respectively. *Id.*

¹⁸ See TMI Request for Review at 1-2.

¹⁹ See *id.* at 1.

²⁰ See *id.* at 2.

²¹ See *id.*, Exh.4.

²² See *id.*, Exh. 5 at 1.

²³ See *id.*

²⁴ See *id.*

²⁵ See *id.* at 2.

²⁶ See *id.*

²⁷ See TMI Request for Review at 2.

²⁸ See *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, 5752-53, para. 12 (2001) (*True-Up Report and Order*); see also 2007 FCC Form 499-A Instructions at 11-12, at http://www.usac.org/_res/documents/fund-administration/pdf/499/form-499a-FY2007-instructions.pdf (last visited June 23, 2010). Contributors are also allowed to file a revised FCC Form 499-Q prior to the filing date of the next FCC Form 499-Q. See *True-Up Report and Order*, 16 FCC Rcd at 5753, para. 12, n.22; see also 2007 FCC Form 499-Q Instructions at 11, at http://www.usac.org/_res/documents/fund-administration/pdf/form-499Q-fy2007-instructions.pdf (last visited June 23, 2010).

à-vis projected contributions, based on the reporting of actual revenue subject to universal service assessment under the Commission's rules and requirements.²⁹ Consistent with the process for true-up universal service assessments, USAC issued invoices for universal service contributions, with corresponding credits, based on its ability to calculate TMI's contribution obligations as derived from the company's FCC Forms 499-A for 2003 and 2004.

8. We find that USAC properly adjusted the credits that were applied to TMI's account in February and March 2006. USAC processes thousands of FCC Form 499 filings, and when errors are made USAC must subsequently correct those errors. When investigating the discrepancy between its manual calculation and the billing system calculation, USAC found that it had used an incorrect revenue amount for one quarter of TMI's contribution assessments related to the 2004 FCC Form 499-A true-up.³⁰ As a result, TMI received more credits than it was entitled to receive in its February and March 2006 invoices. USAC has confirmed that the credit amounts included in USAC's December 30, 2005 decision were overstated. USAC's error does not change TMI's actual obligation to pay universal service assessments based on the company's FCC Form 499-A filings. Accordingly, we uphold USAC's decision to correct and reverse the erroneous credits applied to TMI's account.³¹

IV. ORDERING CLAUSES

9. ACCORDINGLY, IT IS ORDERED, 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 the 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 request for review of the decision by the Universal Service Administrative Company filed by Telecom Management Inc., d/b/a Pioneer Telephone IS DENIED.

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

FEDERAL COMMUNICATIONS COMMISSION

Sharon E. Gillett
Chief
Wireline Competition Bureau

²⁹ See *True-Up Report and Order*, 16 FCC Rcd at 5753, para. 13.

³⁰ See TMI Request for Review, Exh. 5 at 2.

³¹ Although USAC acted properly in adjusting TMI's contribution assessments to reflect accurately TMI's reported revenue, USAC should have explained the reason for the adjustment to TMI prior to or at the time it issued TMI's July 2007 invoice, consistent with its obligation to administer universal service support in "an efficient, effective, and competitively neutral manner." 47 C.F.R. § 54.701(a).