

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

In the Matter of)
)
Universal Service Contribution Methodology) WC Docket No. 06-122
)
Request for Review of Decision of the Universal)
Service Administrator by deltathree, Inc.)

ORDER

Adopted: January 14, 2011

Released: January 14, 2011

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

1. In this order, we grant a request for review by deltathree, Inc. (deltathree).¹ On October 27, 2009, deltathree filed revised versions of several quarterly Telecommunications Reporting Worksheet (FCC Form 499-Q) with the Universal Service Administrative Company (USAC).² Although deltathree filed these revisions more than 45 days after the original deadline for each FCC Form 499-Q, USAC accepted the revisions. In its request, deltathree states that USAC accepted the revisions because they were upward revisions (i.e., they increased deltathree’s contribution obligation). We conclude that USAC erred in accepting these late-filed revisions, and accordingly USAC should not have re-calculated deltathree’s universal service contribution obligations based on these late-filed revisions. We note that deltathree was obligated to report accurate historical revenue information for the periods in questions on its annual Telecommunications Reporting Worksheet.

2. In the *2002 Interim Contribution Methodology Order*, the Commission established a 45-day deadline for revisions to a contributor’s FCC Form 499-Q.³ In so doing, the Commission gave contributors an “opportunity to correct their projections up to 45 days after the due date of each Form 499-Q filing” and did not distinguish between filings that would increase or decrease the contribution obligations of the filer.⁴ Similarly, the instructions to the quarterly Telecommunications Reporting Worksheet do not distinguish between upward and downward revisions when it states that “revised filings must be made within 45 calendar days of the original filing date.”⁵ If a telecommunications provider

¹ Request for Review of Decision of the Universal Service Administrator by deltathree, Inc., WC Docket No. 06-122 (filed May 27, 2010).

² USAC had originally estimated deltathree’s contribution obligations for each of the quarterly reporting periods at issue because deltathree had failed to timely file its FCC Forms 499-Q. *See id.* at 1–2; 47 C.F.R. § 54.709(d).

³ *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 Contribution Factor and Fund Size; Number Resource Optimization; Telephone Number Portability; Truth-in-Billing and Billing Format*, CC Docket Nos. 90-571, 92-237, 95-116, 96-45, 98-170, 98-171, 99-200, NSD File No. L-OO-72, Report and Order and Second Further Notice of Proposed Rulemaking, 17 FCC Rcd 24952, 24972, para. 36 (2002) (*2002 Interim Contribution Methodology Order*).

⁴ *Id.*

⁵ Telecommunications Reporting Worksheet, FCC Form 499-Q (2010) Instructions, *available at* http://www.usac.org/_res/documents/fund-administration/pdf/forms/form-499Q-fy2010-instructions.pdf.

determines that it over- or underprojected its quarterly revenues after the 45-day revision window has closed, its proper recourse is the annual true-up process where the provider must accurately report its historical revenues for the period in question.⁶

3. Given the blanket prohibition on filing revisions outside the 45-day window, absent a waiver,⁷ we conclude that USAC erred in accepting and processing any filings from deltathree that would have revised its quarterly contribution obligations after the revision window closed. As such, we direct USAC to cancel the late-filed revisions and adjust deltathree's contribution obligation for the relevant time period based on the original estimates and deltathree's actual revenues as reported in its annual Telecommunications Reporting Worksheets.⁸

4. IT IS ORDERED that, pursuant to the authority contained in sections 4(i) and 254(d) of the Communications Act, 47 U.S.C. §§ 4(i), 254(d), and the authority delegated by section 54.722 of the Commission's rules, 47 C.F.R. § 54.722, the request filed by deltathree, Inc. on May 27, 2010 IS GRANTED to the extent discussed herein.

5. IT IS FURTHER ORDERED that this order SHALL BE transmitted to the Universal Service Administrative Company.

6. IT IS FURTHER ORDERED that, pursuant to 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

Vickie S. Robinson
Deputy Chief
Telecommunications Access Policy Division
Wireline Competition Bureau

⁶ See *2002 Interim Contribution Methodology Order*, 17 FCC Rcd at 24972, para. 36.

⁷ See 47 C.F.R. § 1.3.

⁸ See *supra* note 2.