

**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 a Decision of the Universal Service Administrator by Bestel USA, Inc.)	

ORDER

Adopted: October 16, 2012

Released: October 16, 2012

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

1. In this order, we address a request for review filed by Bestel USA, Inc. (Bestel).¹ Bestel seeks review of a decision of the Universal Service Administrative Company (USAC) upholding late fees assessed for Bestel’s failure to make timely payment of Universal Service Fund (USF or Fund) contribution obligations.² For the reasons stated below, we deny Bestel’s request for review.

2. Section 254(d) of the Communications Act of 1934, as amended, requires, among other things, that “[e]very telecommunications carrier [providing] interstate telecommunications services...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 In implementing this Congressional mandate, the Commission directed all telecommunications carriers providing interstate telecommunications services and certain other providers of interstate telecommunications to register with the Commission, comply with annual and quarterly filing requirements, and contribute to the USF based on their interstate and international end-user telecommunications revenues.⁴ USAC currently administers the USF.⁵ USAC uses contributors’ revenue projections, as reported on the quarterly Telecommunications Reporting Worksheet (FCC Form 499-Q), to determine each contributor’s monthly universal service contribution obligation and bills the carrier accordingly each month.⁶ Pursuant to section 54.713 of the Commission’s rules, contributors that fail to make full payment on or before the date due of a monthly USF assessment are subject to late fees, penalties and interest.⁷

¹ Request for Review of Decision of the Universal Service Administrator by Bestel USA, Inc., WC Docket No. 06-122 (filed Oct. 31, 2011) (Bestel Petition).

² Bestel Petition at Exhibit A, USAC Letter Decision dated Aug. 31, 2011 (USAC Letter Decision).

³ 47 U.S.C. § 254(d).

⁴ 47 C.F.R. §§ 54.706(b), 54.711, 64.1195; *see also* 47 U.S.C. § 254(d) (“Any other provider of interstate telecommunications may be required to contribute to the preservation and advancement of universal service if the public interest so requires.”).

⁵ 47 C.F.R. § 54.701(a).

⁶ *See id.* §§ 54.709(a), 54.711. The monthly bills are subject to an annual true-up based on the actual revenues that contributors report on the annual Telecommunications Reporting Worksheet (FCC Form 499-A). *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, 5755, para. 19 (2001).

⁷ 47 C.F.R. § 54.713.

3. We deny Bestel's request for reversal of late charges and interest assessed for its failure to timely pay USF obligations. We find that USAC correctly assessed late charges and interest in accordance with Commission rules and requirements.⁸ USAC first invoiced Bestel for monthly USF contributions in July 2010 and, relying on the latest billing information on file, mailed invoices to Bestel's registered billing address in Mexico City, Mexico.⁹ Bestel asserts that it did not receive the initial invoices until months after the due date because it had relocated its company headquarters in 2009 and no longer received mail at the billing address on file with USAC.¹⁰ Bestel representatives subsequently contacted USAC customer service to request that USAC revise the company's billing information, and USAC staff instructed Bestel to update its registration information on the FCC Form 499-A.¹¹

4. Businesses have a responsibility to familiarize themselves with the rules and regulations that are relevant to their industry.¹² Section 64.1195(g) of the Commission's rules requires carriers to notify the Commission of any changes to registration information "within no more than one week of the change" and states that carriers may satisfy this requirement "by filing the relevant portions of FCC Form 499-A in accordance with the Instructions to [the] form."¹³ The Commission has consistently stated that carriers must pay their USF obligations even if they do not receive a USAC invoice.¹⁴ Bestel's late receipt of the USAC invoices does not excuse its USF contribution obligations. Moreover, Bestel failed to follow the established procedures for changing its billing contact information. Consistent with section 64.1195, the FCC Form 499-A Instructions require filers to notify USAC of any changes to registration information, including corporate headquarters address (Line 109) and billing contact information (Line 208), by filing a revised FCC Form 499-A.¹⁵ Bestel updated its headquarters address on Line 107 of its May 2010 FCC Form 499-Q and Line 109 of its 2010 FCC Form 499-A.¹⁶ Bestel filed a revised FCC Form 499-A in April 2011 that listed a San Antonio, Texas address as its corporate headquarters address

⁸ *Id.*

⁹ USAC Letter Decision at 1. Contributors report their billing address and billing contact person on Line 208 of FCC Form 499-A and Line 112 of FCC Form 499-Q. *See* 2012 FCC Form 499-A Instructions at 11; FCC Form 499-Q Instructions at 11. Bestel last reported its billing address to USAC on its 2005 FCC Form 499-A and left the billing address information line blank on all subsequent filings. USAC Letter Decision at 1.

¹⁰ Bestel Petition at 1, 2.

¹¹ *Id.*; USAC Letter Decision at 1. While Bestel asserts that USAC customer service staff advised company representatives that Bestel should change its billing address to a U.S. address, that issue is not relevant to our determination here.

¹² *See* 47 C.F.R. § 0.406.

¹³ *Id.* § 64.1195(g).

¹⁴ *In the Matter of Telseven, LLC*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 6636, 6644, para. 15 n. 67 (2012) (*citing Telrite Corp.*, Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 7231, 7239, para. 15, n. 53 (2008); *Globcom, Inc. d/b/a Globcom Global Communications*, Order of Forfeiture, 21 FCC Rcd 4710, 4712, para. 5 (2006) (*Globcom*); *BCE Nexxia Corp.*, Notice of Apparent Liability for Forfeiture, 20 FCC Rcd 15131, 15124, 15126, paras. 10, 15 (2005)).

¹⁵ *See* 2012 FCC Form 499-A Instructions at 6 (requiring filers to submit a revised FCC Form 499-A, revising the appropriate blocks and signing the certification on page 8 of the Form, in the event there is any change in the registration information contained in the most recently filed Form). Contributors may file FCC Form 499 electronically or by mail. *See* 2012 FCC Form 499-A Instructions at 5; USAC E-File Application User Manual, available at <https://efile.universalservice.org/form498/visitor/E-File%20User%20Guide.pdf> (last visited Sept. 12, 2012).

¹⁶ USAC Letter Decision at 1.

on Line 207, but did not update the billing information on Line 208.¹⁷ As of the date of the invoices in question, Bestel failed to update the billing contact information on Line 208 of FCC Form 499-A.¹⁸ USAC properly mailed invoices to the most recently-updated billing address available.

5. ACCORDINGLY, IT IS ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act, 47 U.S.C. §§ 151-154 and 254, and pursuant to sections 0.91, 0.291, 1.3 and 54.722 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3 and 54.722, the request filed by Bestel USA, Inc. IS DENIED.

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

7. 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

¹⁷ Bestel Petition at 4.

¹⁸ *Id.*