**THIS IS A PETITION FOR RECONSIDERATION FOR DENIED WC DOCKET NO. 02-60 WAIVER REQUEST**

**Federal Communications Commission**

**Attn: Letter of Appeal**

**445 12th Street SW**

**Washington, DC 20554**

Service Provider Filing the FCC Waiver: Charter Fiberlink CCO, LLC

SPIN: 143027625

Service Provider Primary Contact Information:

David Ventimiglia

13545 Barrett Parkway Dr.

Suite 200

Ballwin, MO, 63021

FRN: 14622131 & 15768411

Applicant:

                BEN: 12707

                Name:  St. Joseph

                Address: 3500 Hoover Rd. Stevens Point, WI 54481

                Contact Name: Jessica F. Hodgkins

                Telephone: 715-342-7799

                E-mail: Jessica.Hodgkins@ascension.org

FCC Form 463 Invoice Number: 1000014490 and 1000032972

Reason for Petition for Reconsideration:

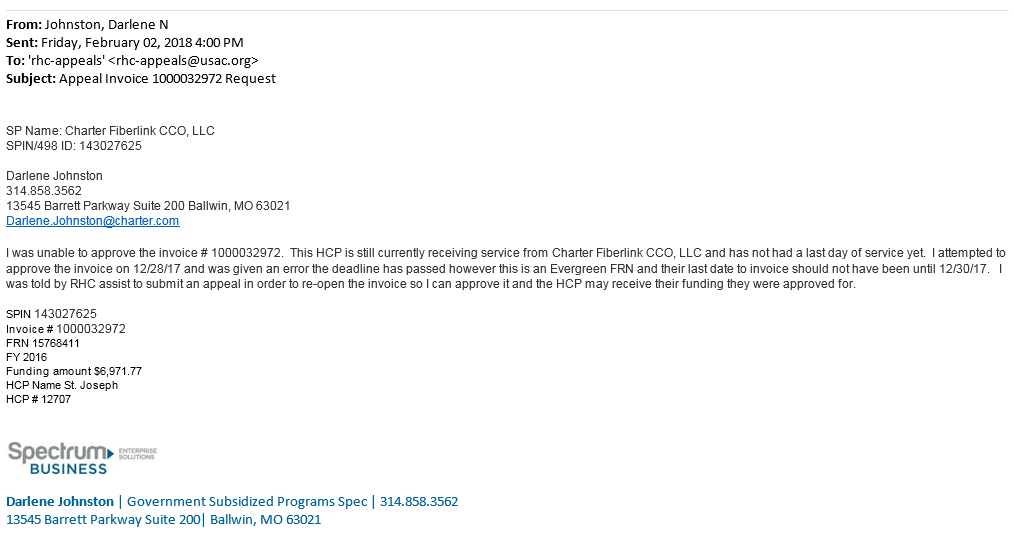
This is in response to the DA No. 18-1284 released on December 20, 2018 regarding the FCC Waiver filed on Oct 12, 2018. We strongly urge the FCC to reconsider the denial of this waiver given the facts listed below. Charter Fiberlink CCO, LCC, and the applicant did everything it could within its means given the undue hardships encountered and should be able to receive all approved funding for FRNs 14622131 and 15768411. In order to do so, we ask that the Commission grant this Petition for Reconsideration to extend the deadline for submitting the invoices for the above FRNs to eliminate the unjust financial impact to the applicant, who was approved for FY2016 funding. The attachments to this letter provide all required supporting documentation for this request. We seek full payment of $8,499.27 on the requested FRNs and an invoice extension so we are able to zero out the balances owed for FY2016. Based on these fact, Charter Fiberlink CCO, LLC, urges the Commission to promptly grant the Waiver below to allow the said Form 463 deadline to be extended and direct USAC to approve payment of the funding amounts.

There is a lack of invoice information available in the USAC RHC Portal regarding the Last Date to Invoice. This makes it impossible to prioritize the Form 463s that were filed following the Funding Commitment Letters (FCL) received. In addition, the deadline is not identified on the Action Required email sent by USAC to the service provider point of contact. Thus it is impossible to prioritize the Last Date to Invoice based on the Form 463s. At the time of the FY2015 commitment approvals, the FCL was not made available on the USAC portal, and we were unable to identify the Last Date to Invoice. To date, there is still no Last Date to Invoice readily available on the USAC portal. We must open each individual Form 462 file to see when the invoice deadline is. Due to the lack of transparency in USAC’s portal, Charter Fiberlink CCO, LLC, was unable to prioritize all pending Form 463s and approve these Form 463s by the Last Date to Invoice.

This scenario illustrates the need for USAC to clearly identify deadlines for applicants and services providers, as well as the need for reasonable Form 463 deadline extensions, similar to those available in the process for the Schools and Libraries Program (E-Rate). The Commission has sought feedback from stakeholders regarding USAC’s procedures, and in response, Charter Fiberlink CCO, LLC identified this issue several times to the Commission in formal and informal settings, along with other applicants and service providers. This feedback seemed to be favorably considered by the Commission when presented in collaborative group sessions at RHC conferences; however, no progress has transpired since the program’s inception. We ask that the FCC reconsider the denial of our waiver request to allow for an invoice extension for the above FRNs to enable recoupment of these funds from USAC and to eliminate the unjust financial impact to the applicant. In closing, we urge the Commission to consider the strong public interest benefits to rural health care providers, such as the applicant in this case, of granting a waiver of the invoice deadline in these instances.

Please do not hesitate to reach out regarding any additional documentation needed or any questions you may have in reference to this request.

Attachment 1: Appeal Request for Invoice # 1000032972



Attachment 2: Email Correspondence Requesting Updates from USAC

**From:** Johnston, Darlene N   
**Sent:** Wednesday, December 13, 2017 1:13 PM  
**To:** 'Allen, Mark' <Mark.Allen2@ascension.org>; Hodgkins, Jessica F <Jessica.Hodgkins@ascension.org>  
**Cc:** Evans, Marcia A <Marcia.Evans@charter.com>  
**Subject:** RE: Appeal Invoice 1000014490 Request \*\*need status update\*\*

I have been following up with USAC bi-weekly and I have been told they are expecting a decision to be made in the first quarter of 2018.

Thank you

**From:** Allen, Mark [<mailto:Mark.Allen2@ascension.org>]   
**Sent:** Wednesday, December 13, 2017 12:51 PM  
**To:** Hodgkins, Jessica F <[Jessica.Hodgkins@ascension.org](mailto:Jessica.Hodgkins@ascension.org)>; Johnston, Darlene N <[Darlene.Johnston@charter.com](mailto:Darlene.Johnston@charter.com)>  
**Cc:** Evans, Marcia A <[Marcia.Evans@charter.com](mailto:Marcia.Evans@charter.com)>  
**Subject:** RE: Appeal Invoice 1000014490 Request \*\*need status update\*\*  
**Importance:** High

Hi Darlene and Marcia;

How much time would typically pass before expecting a response to an appeal of this nature?

Thanks,

|  |  |
| --- | --- |
| Ascension Information Services | Mark Allen Technology Manager - Business Management/Finance |
|  |
| [www.ascension.org](http://www.ascension.org/) | [mark.allen2@ascension.org](mailto:mark.allen2@ascension.org) |
| ***For Billing/TEMS Issues contact:*** [***aistems@ascension.org***](mailto:aistems@ascension.org) |  |
| **One Mission. One Integrated Ministry. One Ascension.** | |

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**From:** Hodgkins, Jessica F   
**Sent:** Wednesday, December 13, 2017 12:42 PM  
**To:** Johnston, Darlene N <[Darlene.Johnston@charter.com](mailto:Darlene.Johnston@charter.com)>  
**Cc:** Evans, Marcia A <[Marcia.Evans@charter.com](mailto:Marcia.Evans@charter.com)>; Allen, Mark <[Mark.Allen2@ascension.org](mailto:Mark.Allen2@ascension.org)>  
**Subject:** RE: Appeal Invoice 1000014490 Request \*\*need status update\*\*

Hi Darlene-

Just checking in- any update on the status of this request?

Thank you,

Jessica

|  |  |
| --- | --- |
|  | **Jessica Hodgkins** Technical Engineering Analyst 715-342-7799 |
|  |
| [www.ascension.org](http://www.ascension.org/) | [Jessica.Hodgkins@ascension.org](mailto:Jessica.Hodgkins@ascension.org) |
|  |  |
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**From:** Johnston, Darlene N [<mailto:Darlene.Johnston@charter.com>]   
**Sent:** Monday, November 13, 2017 4:44 PM  
**To:** Hodgkins, Jessica F  
**Cc:** Evans, Marcia A; Allen, Mark  
**Subject:** RE: Appeal Invoice 1000014490 Request \*\*need status update\*\*

Jessica,

Unfortunately no update at this time.  I keep following up with USAC and just get the response they are still reviewing and will let me know soon.

Thank you

Darlene

**From:** Hodgkins, Jessica F [<mailto:Jessica.Hodgkins@ascension.org>]   
**Sent:** Monday, November 13, 2017 4:42 PM  
**To:** Johnston, Darlene N <[Darlene.Johnston@charter.com](mailto:Darlene.Johnston@charter.com)>  
**Cc:** Evans, Marcia A <[Marcia.Evans@charter.com](mailto:Marcia.Evans@charter.com)>; Allen, Mark <[Mark.Allen2@ascension.org](mailto:Mark.Allen2@ascension.org)>  
**Subject:** RE: Appeal Invoice 1000014490 Request \*\*need status update\*\*

Hi Darlene-

Any updates on this Appeal?

Thank you,

Jessica

|  |  |
| --- | --- |
|  | **Jessica Hodgkins** Technical Engineering Analyst 715-342-7799 |
|  |
| [www.ascension.org](http://www.ascension.org/) | [Jessica.Hodgkins@ascension.org](mailto:Jessica.Hodgkins@ascension.org) |
|  |  |
| **One Mission. One Integrated Ministry. One Ascension.** | |

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**From:** Johnston, Darlene N [<mailto:Darlene.Johnston@charter.com>]   
**Sent:** Friday, September 29, 2017 2:00 PM  
**To:** rhc-appeals  
**Cc:** Hodgkins, Jessica F  
**Subject:** Appeal Invoice 1000014490 Request

SP Name: Charter Fiberlink CCO, LLC

SPIN/498 ID: 143027625

Darlene Johnston

314.858.3562

13545 Barrett Parkway Suite 200 Ballwin, MO 63021

[Darlene.Johnston@charter.com](mailto:Darlene.Johnston@charter.com)

Based on the form 462 the deadline to invoice was on 2/1/2016.  I was unable to approve the invoice #1000014490 by the deadline.  I was told by RHC assist to submit an appeal in order to re-open the invoice so I can approve it and the HCP may receive their funding they were approved for.

SPIN 143027625

Invoice # 1000014490

FRN 14622131

FY 2014

Funding amount $1,527.50

HCP Name St Joseph

HCP # 12707

**Darlene Johnston** | Government Subsidized Programs Spec | 314.858.3562

13545 Barrett Parkway Suite 200| Ballwin, MO 63021

Attachment 3: RHC Appeal Decision Letter - Invoice Deadline Extension Request Denial from USAC on 8/30/18

700 12th Street NW, Suite 900, Washington, DC 20005 -- Phone: (202) 776-0200 Fax: (202) 776-0080

Rural Health Care Division

***Notice of Dismissal***

*Via Electronic Mail*

August 30, 2018

Ms. Darlene Johnston

Charter Fiberlink CCO, LLC

13545 Barrett Parkway Suite 200

Ballwin, MO 63021

Re: Charter Fiberlink CCO, LLC – Appeal of USAC’s Decision for

Funding Request Number (FRN) 14622131

Dear Ms. Johnston:

The Universal Service Administrative Company (USAC) has completed its evaluation of the September 29, 2017 letter of appeal (Appeal) submitted by Charter Fiberlink CCO, LLC (Charter) on behalf of St. Joseph, health care provider (HCP) number 12707.1 On September 29, 2017, USAC notified St. Joseph that USAC could not approve the invoice for FRN 14622131 under the Healthcare Connect Fund (HCF) program for funding year (FY) 2014.2 Charter failed to certify the FCC Form 463 (Invoice and Request Disbursement Form) by the invoicing deadline under the rules for the HCF program.3 The Appeal requests that USAC permit Charter to certify the invoice after the invoicing deadline, which would require a waiver of the Federal Communications Commission’s (FCC or Commission) rules.4

USAC has reviewed the Appeal and the facts related to this matter and has determined that Charter failed to certify the FY 2014 FCC Form 463 for FRN 14622131 within six months of the end date of the funding commitment, as required by FCC rules. Specifically, FCC rules require that HCPs submit all FCC Forms 463 within six months of the end date of the funding commitment.5

1 Email from Darlene Johnston, Charter Fiberlink CCO, LLC on behalf of St. Joseph, to the Rural Health Care Division, USAC (Sep. 29, 2017) (Appeal).

2 Email from the Rural Health Care Division, USAC, to Jessica Hodgkins, Ascension Information Services (Sep. 29, 2017).

3 When the applicant or service provider attempts to submit the FCC Form 463 after the invoicing deadline, My Portal will not permit the applicant or service provider to submit the form. Instead, the system notifies the applicant or service provider that the commitment is past the invoice deadline.

4 *See* Appeal.

5 *See* 47 C.F.R. § 54.645(b) (“All invoices must be received by the Administrator within six months of the end date of the funding commitment.”); *see also Rural Health Care Support Mechanism*, WC Docket No. 02-60, Report and Order, 27 FCC Rcd 16778, 16804, para. 305 (2012) (*HCF Order*) (stating the same); FCC Form 463 Instructions, Rural Health Care Universal Service, Healthcare Connect Fund, Invoice and Request for Disbursement Form, OMB 3060-0804, at 3 (Aug. 2013) (*FCC Form 463 Instructions*).

Page 2 of 3

In addition, before USAC can process and pay an invoice, both the HCP and the service provider must certify that they have reviewed the invoice and that it is accurate.6 FCC rules also require parties seeking waivers of the Commission’s rules to seek relief directly from the Commission.7

On May 22, 2015, St. Joseph submitted an FY 2014 FCC Form 462 (Funding Request Form) requesting support for Ethernet service from Charter.8 On September 24, 2015, USAC issued a funding commitment letter (FCL) for FRN 14622131 which listed July 1, 2014 and August 1, 2015 as the funding start and end dates, respectively.9 The invoicing deadline for FRN 14622131 was February 1, 2016 (six months after the end date of the funding commitment).10

On January 13, 2016, St. Joseph initiated the FCC Form 463 process by submitting the form in the My Portal system.11 On that same day, USAC sent a notice to Charter indicating that the form was ready for review and approval. 12 However, Charter did not review and certify the form before the February 1, 2016 deadline. As a result, Charter was unable to submit the FCC Form 463 for FRN 14622131 before the invoicing deadline. On September 29, 2017, St. Joseph emailed USAC inquiring as to whether the FCC Form 463 had been approved.13 USAC informed St. Joseph that since the service provider did not certify and submit the FCC Form 463 by the invoicing deadline, the FCC Form 463 could not be approved.14 On September 29, 2017, Charter submitted an appeal on behalf of St. Joseph that sought a waiver of the invoicing deadline.15

In the Appeal, Charter states that it was unable to certify the FCC Form 463 for FRN 14622131 before the invoicing deadline.16 Charter requests that USAC “re-open the invoice” so that Charter may review and approve the invoice.17 As noted above, USAC cannot remit payment until both the HCP and the service provider have reviewed and attested to the accuracy of the invoice, and the invoice must be submitted within six months of the end date of the funding commitment.18 Charter failed to review and certify the FCC Form 463 for FRN 14622131 before the

6 47 C.F.R. § 54.645(b).

7 47 C.F.R. § 54.719(c) (“Parties seeking waivers of the Commission’s rules shall seek relief directly from the Commission.”).

8 FY 2014 FCC Form 462 for FRN 14622131 (May 22, 2015).

9 FY 2014 FCL for FRN 14622131 (Sep. 24, 2015) (noting that St. Joseph is eligible for funding for the period between July 1, 2014 and Aug. 1, 2015).

10 *Id*.

11 FY 2014 FCC Form 463 for FRN 14622131 (Jan. 13, 2016).

12 Email from the Rural Health Care Division, USAC, to Marcia Evans, Charter Fiberlink CCO, LLC (Jan. 13, 2016).

13 Email from Jessica Hodgkins, Ascension Information Services, to the Rural Health Care Division, USAC (Sep. 29, 2017).

14 Email from the Rural Health Care Division, USAC, to Jessica Hodgkins, Ascension Information Services (Sep. 29, 2017).

15 *See* Appeal.

16 *Id.*

17 *Id.*

18 47 C.F.R. § 54.645(b).

Page 3 of 3

February 1, 2016 invoicing deadline, and, as a result, the invoice was not submitted by the invoicing deadline. Because the Appeal seeks a waiver of the invoicing deadline, Charter must seek relief directly from the Commission, not USAC.19Therefore, USAC hereby dismisses the Appeal.

If you wish to appeal this decision or request a waiver, you can follow the instructions pursuant to 47

C.F.R. Part 54, Subpart I(47 C.F.R. §§ 54.719 to 725). Further instructions for filing appeals or requesting waivers are also available at:

http://www.usac.org/about/about/program-integrity/appeals.aspx

Sincerely,

/s/ Universal Service Administrative Company

cc:Jessica F. Hodgkins, Ascension Information Services

1947 C.F.R. § 54.719(c).

700 12th Street NW, Suite 900, Washington, DC 20005 --Phone: (202) 776-0200 Fax: (202) 776-0080