**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 Communications (143005817)

SPIN: 143005817

Service Provider Primary Contact Information:

David Ventimiglia

13545 Barrett Parkway Dr.

Suite 200

Ballwin, MO, 63021

FRN: 15775081

Applicant:

                BEN: 16336

                Name:  Spooner Health System

                Address: 819 Ash St Ste 2W01, Spooner, WI 54801-1201

                Contact Name: Michael O’Connor

                Telephone: 608-268-2565

                E-mail: michael@usfnow.com

FCC Form 463 Invoice Number: 1000021958

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 March 9, 2018. We strongly urge the FCC to reconsider the denial of this waiver given the facts listed below. Charter Communications, 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 FRN 15775081. 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 FRN to eliminate the unjust financial impact to the applicant, who was approved for FY2015 funding. The attachments to this letter provide all required supporting documentation for this request. We seek full payment of $983.74 on the requested FRN and an invoice extension so we are able to zero out the balances owed for FY2015. Based on these fact, Charter Communications, 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 Communications, was unable to prioritize all pending Form 463s and approve this Form 463 by the Last Date to Invoice.

This scenario illustrates the need for USAC to clearly identify deadlines for applicants and service 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 Communications 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 FRN 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 questions you have in reference to this request.

Attachment 1: Appeal Invoice Request email sent to USAC on 1/06/17

**From:** Johnston, Darlene N   
**Sent:** Friday, January 06, 2017 9:47 AM  
**To:** 'RHC-appeals@usac.org' <RHC-appeals@usac.org>  
**Subject:** Appeal Invoice 1000021958 Request  
**Importance:** High

SP Name: Charter Communications

SPIN/498 ID: 143005817

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 10/16/2016.  I was unable to approve the invoice #1000021958 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 143005817

Invoice # 1000021958

FRN 15775081

FY 2015

Funding amount $983.74

HCP Name Spooner Health System

4076_Spect_Business_Email_Signature_EntSol_JC

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

13545 Barrett Parkway Suite 200| Ballwin, MO 63021

Attachment 2: 1/10/18 Invoice Deadline Extension Request Dismissals

**From:** rhc-appeals [mailto:rhc-appeals@usac.org]   
**Sent:** Wednesday, January 10, 2018 10:46 AM  
**To:** Johnston, Darlene N <Darlene.Johnston@charter.com>  
**Cc:** jmasterjohn@spoonerhealthsystem.com  
**Subject:** Rural Health Care Division's Appeal Decision - Spooner Health System

Ms. Johnston,

Please see that attached letter outlining the Rural Health Care Division’s decision on the appeal for Spooner Health System. A hard copy of this letter will be mailed to you via certified mail.

Please let me know if you have any questions.

Sincerely,

**Lisa Pilgrim**

Sr. Program Analyst of Program Risk & Reform │ Rural Health Care Program

Universal Service Administrative Company (USAC)

[lpilgrim@usac.org](mailto:lpilgrim@usac.org) │ [www.usac.org](http://www.usac.org/)

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Attachment 3: Attached Letter from USAC referenced in 1/10/18 response

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*

January 10, 2018

Ms. Darlene Johnston

Charter Communications

13545 Barrett Parkway, Suite 200

Ballwin, MO 63021

Re: Charter Communications’ Appeal of USAC Decision for Funding Year (FY) 2015 for the Healthcare Connect Fund Program

Dear Ms. Johnston:

The Universal Service Administrative Company (USAC) has completed its evaluation of the January 6, 2017 letter of appeal submitted by Charter Communications (Charter) on behalf of Spooner Health System (Spooner Health), health care provider (HCP) number 16336.1 The Appeal requests that USAC “re-open” the FCC Form 463 (Invoice and Request Disbursement Form) for FY 2015 funding request number (FRN) 15775081 in the federal Universal Service Rural Health Care (RHC) Healthcare Connect Fund Program (HCF Program) after the invoicing deadline, which would require a waiver of the Federal Communications Commission’s (FCC or Commission) rules.2

USAC has reviewed the Appeal and the facts related to this matter and determined that Charter failed to submit the FCC Form 463 for FY 2015 FRN 15775081 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.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.4 FCC rules require parties seeking waivers of the Commission’s rules to seek relief directly from the Commission.5

1 Email from Darlene Johnston, Charter Communications, on behalf of Spooner Health, to Rural Health Care Division, USAC (Jan. 6, 2017) (Appeal).

2 *Id*.

3 *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*).

4 47 C.F.R. § 54.645(b).

5 47 C.F.R. § 54.719(c) (“Parties seeking waivers of the Commission’s rules shall seek relief directly from the Commission.”).

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On April 5, 2016, Spooner Health submitted its FY 2015 FCC Form 462 (Funding Request Form) requesting Internet services from Charter on a month-to-month basis.6 The funding start date on the Funding Request Form was listed as July 1, 2015, and the funding end date was listed as February 28, 2016.7 On April 19, 2016, USAC issued a funding commitment letter (FCL) for FRN 15775081 for the same period listed on the Funding Request Form.8 The invoicing deadline for FRN 15775081 was August 31, 2016 (six months after the end date of the funding commitment).9

On July 8, 2016, Spooner Health initiated the FCC Form 463 process by submitting the form in the My Portal system. On that same day, USAC sent a notice to Charter indicating that the form was ready for review and approval. Charter did not review, certify, and submit the form before the August 31, 2016 deadline; instead, it attempted to submit the form after the deadline.10 On December 15, 2016, Charter contacted the RHC division to inquire how it might get its invoice approved and noting that it had received an error message when it attempted to approve the form in the system.11 On December 16, 2016, USAC notified Charter that the invoicing deadline for FRN 15775081 had passed.12 On January 6, 2017, Charter submitted the subject Appeal on behalf of Spooner Health, requesting that RHC “re-open the invoice” so that it might approve the invoice.13

In the Appeal, Charter states that it “was unable to approve the invoice #1000021958 by the deadline,” but does not provide an explanation or justification as to why.14 Charter requests that the invoice be re-opened so Charter can approve it “and the HCP may receive their funding they were approved for”.15 Pursuant to FCC rules, USAC cannot process and pay an invoice until both the HCP and the service provider certify that they have reviewed the invoice and that it is accurate, and the invoice must be submitted within six months of the end date of the funding commitment.16 Charter failed to review, certify, and submit the FCC Form 463 for FRN 15775081 before the August 31, 2016 invoicing deadline. When Charter attempted to submit the form after the deadline, the system prevented Charter from doing so. In response to an email from Charter inquiring as to how to

6 FY 2015 FCC Form 462 for FRN 15775081 (Apr. 5, 2016).

7 *Id*.

8 FY 2015 FCL for FRN 15775081 (Apr. 19, 2016) (noting that Spooner Health System is eligible for funding for the period between July 1, 2015 and February 28, 2016).

9 *Id*. The FCL incorrectly specified an invoicing deadline of October 16, 2016, rather than August 31, 2016, six months after the end date of the funding commitment (i.e., February 28, 2016). Although the FCL specified the incorrect invoicing deadline, USAC notes that this error has no impact on USAC’s decision herein as Charter did not submit the FCC Form 463 for FRN 15775081 before either the incorrect October 16, 2016 invoicing deadline noted on the FCL or the correct invoicing deadline of August 31, 2016.

10 Email from Darlene Johnston, Charter Communications, to Rural Health Care Division, USAC (Dec. 15, 2016).

11 *Id.*

12 Email from Jennifer Contreras, Rural Health Care Division, USAC, to Darlene Johnston, Charter Communications (Dec. 16, 2016).

13 Appeal at 1.

14 *Id.*

15 *Id.*

16 47 C.F.R. § 54.645(b).

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get the invoice approved, RHC responded that it could not “make that form available again because it has exceeded the invoice deadline” and indicated that the service provider or HCP could file an appeal by following the instructions on USAC’s website.17Because the relief Charter requests requires waiver of the FCC’s rules, Charter must seek relief directly from the Commission, not USAC.18Therefore, USAC hereby dismisses the Appeal.

USAC will consider this matter closed unless you notify us within 30 days from the date of this email and provide a detailed explanation of any issues you believe remain outstanding. If you wish to appeal this decision or request a waiver, you can follow the instructions pursuant to 47 C.F.R. Part 54, SubpartI (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:Jeremy Masterjohn, Spooner Health System

17Email from Darlene Johnston, Charter Communications, to Rural HealthCare Division, USAC (Dec. 15, 2016);Email from JenniferContreras, Rural Health Care Division,USAC, to Darlene Johnston, Charter Communications(Dec.16, 2016).1847 C.F.R. § 54.719(c)(“Parties seeking waivers of the Commission’s rules shall seek relief directly from the Commission.”).

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