

April 27, 2018

PUBLIC REFERENCE COPY

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-A325
Washington, D.C. 20554

**Re: Request of SLIC Network Solutions, Inc., for Review
of a Decision of the Universal Service Administrator
WC Docket No. 06-122, CC Docket No. 96-45**

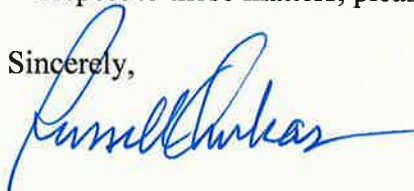
Dear Madam Secretary:

Transmitted herewith on behalf of SLIC Network Solutions, Inc. ("SLIC") is its Request for Review and Consolidated Action" ("Request for Review"), which has been marked **"REDACTED FOR PUBLIC INSPECTION."**

SLIC is also submitting to the Commission, under separate cover, a confidential version of the Request for Review, which has been marked **"CONFIDENTIAL – NOT FOR PUBLIC INSPECTION."**

Should any questions arise with respect to these matters, please contact the undersigned.

Sincerely,



Russell D. Lukas

Redacted for Public Inspection

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Request of SLIC Network Solutions, Inc.)	WC Docket No. 06-122
for Review of a Decision of the Universal)	
Service Administrator)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	

REQUEST FOR REVIEW AND CONSOLIDATED ACTION

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April 27, 2018

TABLE OF CONTENTS

	<u>Page</u>
SUMMARY.....	iii
STANDING.....	2
BACKGROUND.....	2
FACTS.....	6
ARGUMENT.....	8
I. THE COMMISSION SHOULD CONSOLIDATE ITS CONSIDERATION OF THIS REQUEST AND THE PENDING APPLICATIONS FOR REVIEW.....	8
II. THE COMMISSION SHOULD EXPRESSLY DISAVOW THE <i>ONE-YEAR DEADLINE ORDER</i>	9
CONCLUSION.....	10

SUMMARY

SLIC Network Solutions, Inc. (“SLIC”) requests that the Commission review and reverse the decision of the Universal Service Administrative Company (“USAC”) to reject FCC Forms 499-A (Rev-1) worksheets (“Forms 499-A”) that SLIC submitted for the years 2008, 2009, 2010, 2011, 2012, and 2013, and vacate the requirement that “any revised [Form] 499-A that would result in decreased contributions must be submitted by March 31 of the year after the original filing due date.” *Federal-State Joint Board on Universal Service*, 20 FCC Rcd 1012, 1016 (¶ 10) (WCB 2004) (“*One-Year Deadline Order*”). In addition, SLIC requests that the Commission consolidate its consideration of this request with the still-pending applications for review of the *One-Year Deadline Order* that were filed in 2005 by Business Discount Plan, Inc., Qwest Communications International, Inc., and SBC Communications, Inc. (collectively “Applicants”).

SLIC has employed the services of a telecommunications consulting firm to prepare and file Forms 499-A with USAC. In August 2017, SLIC’s consultants discovered an error in a spreadsheet they had been using for years to consolidate SLIC’s financial data and to assign revenue to the Form 499-A line items – and they brought the error to SLIC’s attention for the first time. As a result of the error, non-assessable revenues were incorrectly and unknowingly reported to USAC as assessable revenues in SLIC’s Form 499-A filings for the years 2008 through 2016. The errors caused SLIC to be over-charged a total of \$443,088 by USAC over a nine-year period.

On March 5, 2018, SLIC’s consultants submitted revised Forms 499-A to USAC for the years 2008, 2009, 2010, 2011, 2012, and 2013 that would have decreased SLIC’s contributions by \$214,435. On March 8, 2018, USAC rejected the Form 499-A filings as untimely, citing the *One-Year Deadline Order*. However, USAC represented that the *One-Year Deadline Order* is still subject to applications for review. Research suggested that USAC was correct.

If the applications for review are still pending, the Commission must decide the issues presented by the Applicants and this case simultaneously. If it agrees with the Applicants that there was an utter failure to comply with the notice-and-comment requirements of the Administrative Procedure Act (“APA”) prior to the establishment of the one-year revision deadline, the Commission must grant the applications for review, overturn the *One-Year Deadline Order*, and vacate the deadline. Once vacated, the one-year revision deadline could not be enforced against SLIC. It follows that the Commission would have to grant this request for review and direct USAC to accept SLIC’s revised 2008, 2009, 2010, 2011, 2012, and 2013 Forms 499-A and to provide the appropriate refund to SLIC.

If it turns out that the applications for review were either withdrawn by the Applicants or dismissed by the Commission, the *One-Year Deadline Order* would represent a final action of the Wireline Competition Bureau (“WCB”). Because the Commission has not endorsed the *One-Year Deadline Order*, the WCB’s action is not binding on the Commission, and the agency is free to disavow the *One-Year Deadline Order*. And the Commission should expressly disavow the WCB’s one-year revision deadline, because it: (1) was imposed in violation of § 553 of the APA; (2) is inconsistent with the requirement of 47 U.S.C. § 254(d) that carriers contribute to the USF on an equitable and non-discriminatory basis; (3) affords disparate treatment to revised Forms 499-A depending on whether they increase or decrease a carrier’s contribution; (4) is inconsistent with § 54.713(a) of the Rules, which provides that USAC may refund any overpayments made by the contributor once the contributor complies with the Form 499-A filing requirements; (5) will result in significant over-payments of USF contributions over time; and (6) is not necessary to the sound and efficient administration of the universal service support mechanisms.

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REQUEST FOR REVIEW AND CONSOLIDATED ACTION

SLIC Network Solutions, Inc. (“SLIC”), by its attorneys and pursuant to §§ 54.719(c), 54.720(a), and 54.722(a) of the Commission’s Rules (“Rules”), hereby requests that the Commission review and reverse the decision of the Universal Service Administrative Company (“USAC”) to officially reject FCC Forms 499-A (Rev-1) worksheets (“Forms 499-A”) that SLIC submitted for the years 2008, 2009, 2010, 2011, 2012, and 2013,¹ and vacate the requirement that “any revised [Form] 499-A that would result in decreased contributions must be submitted by March 31 of the year after the original filing due date.” *Federal-State Joint Board on Universal Service*, 20 FCC Rcd 1012, 1016 (¶ 10) (WCB 2004) (“*One-Year Deadline Order*”). In addition, SLIC requests that the Commission consolidate its consideration of this request with the still-pending applications for review of the *One-Year Deadline Order*.²

¹ See Email from USAC to David Waters (Mar. 8, 2018) (“USAC Decision”). A copy of the USAC Decision is provided as Exhibit 1 hereto.

² See SBC Communications Inc., Application for Review of Action taken Pursuant to Delegated Authority, CC Docket No. 96-45 (Jan. 10, 2005) (“SBC App.”); Business Discount Plan, Inc., CC Docket No. 96-45 (Jan. 10, 2005) (“BDP App.”); Qwest Communications International Inc., CC Docket No. 96-45 (Jan. 10, 2005) (“Qwest App.”). See also *Parties Are Invited to Comment of Applications for Review and Petition for Reconsideration of Order Revising Instructions for Form 499-A*, 20 FCC Rcd 5929, 5929 (WCB 2005) (“WCB Public Notice”). The SBC, BDP, and Qwest applications for review are incorporated herein by this reference.

STANDING

Headquartered in Nicholville, New York, SLIC is a competitive local exchange carrier and an Internet service provider. SLIC offers high-speed broadband, Voice over Internet Protocol telephony, and Internet protocol-based television services to residential and commercial customers. For commercial customers, SLIC also offers virtual private networking, web hosting, and hosted private branch exchange telephony services.

On March 8, 2018, USAC rejected revised Forms 499-A for the years 2008 through 2013 that would have decreased SLIC's contributions by \$214,435. USAC offered the following explanation for its action:

USAC is not authorized to accept any revised ... Form 499-A worksheet that would result in decreased contributions after the one year revision deadline has closed, nor is USAC permitted to waive the one year revision deadline established by the FCC.

* * * * *

Because USAC received these ... Form 499-A worksheets submitted by SLIC ... on 3/5/2018, outside of the one year revision window, these forms were late and USAC officially rejects these filings.³

USAC's action barred SLIC from obtaining refunds for its significant overpayments to the USF for the years 2008 through 2013. The resulting economic injury makes SLIC an aggrieved party with standing to seek *de novo* review of USAC's decision. *See* 47 C.F.R. §§ 54.719, 54.723.

BACKGROUND

The Wireline Competition Bureau ("WCB") released its *One-Year Deadline Order* on December 9, 2004. The WCB adopted USAC's "processing guidelines" under which USAC had allowed "contributors to file new or revised Form 499-As after the original due date for a period of up to twelve months," but would not "accept a revised Form 499-A beyond one year after the

³ Ex. 1 at 1 (footnote omitted) (citing *One-Year Deadline Order*, 20 FCC Rcd at 1013 (¶ 2)). All of SLIC's original Forms 499-A were timely filed with USAC.

original filing deadline if the revision would reduce a contributor's universal service obligation.”⁴

The WCB declared:

Form 499-As that are filed after the effective date of [the *One-Year Deadline Order*] will be subject to the twelve-month deadline. Thus, contributors will be required to submit revisions to the Form 499-A within twelve months of the original filing deadline, *i.e.*, March 31 of the subsequent year. Revised Form 499-As that are submitted after the revision deadline will be rejected by USAC as untimely.⁵

The WCB claimed that the adoption of its “one-year revision deadline”⁶ was a “procedural, non-substantive” change to the administrative aspects of the USF reporting requirements, and that establishment of this deadline was a “rule of agency organization, procedure or practice.”⁷ Therefore, the WCB asserted that it was not required to follow the notice-and-comment rulemaking procedures set out in § 553 of the Administrative Procedure Act (“APA”), 5 U.S.C. § 553, before imposing a first-time limitation on the ability of a contributor to correct a Form 499-A.⁸

On January 10, 2005, Sprint Corporation (“Sprint”) sought reconsideration of the *One-Year Deadline Order*,⁹ while Business Discount Plan, Inc. (“BDP”), Qwest Communications International, Inc. (“Qwest”), and SBC Communications, Inc. (“SBC”) filed applications for

⁴ *One-Year Deadline Order*, 20 FCC Rcd at 1015 (¶ 7). The WCB claimed that it was empowered to adopt USAC’s processing guidelines by the authority delegated to it “to waive, reduce or eliminate the contributory reporting requirements associated with universal service support mechanisms.” *Id.* at 2016 (¶ 9) (citing *Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, 12 FCC Rcd 18400, 18442 (¶ 81) (1997)). We note that USAC could not have been delegated any authority to adopt “contributory reporting requirements.” *See* 47 U.S.C. § 155(c)(1) (the Commission can only delegate authority to a “panel of commissioners, an individual commissioner, an employee board, or an individual employee”).

⁵ *One-Year Deadline Order*, 20 FCC Rcd at 1017 (¶ 12) (footnote omitted).

⁶ *Universal Service Contribution Methodology*, 31 FCC Rcd 10773, 10774 (¶ 1) (WCB 2016).

⁷ *One-Year Deadline Order*, 20 FCC Rcd at 1016 n.31.

⁸ *See id.* For the same reason, the WCB stated that it would not send a copy of the *One-Year Deadline Order* to Congress and the General Accounting Office pursuant to the Congressional Review Act. *See id.*

⁹ *See* Sprint Corp., Petition for Reconsideration, CC Docket No. 96-45 (Jan. 10, 2005).

Commission review of the order.¹⁰ In addition, Qwest filed a request that the Commission stay the effectiveness of the *One-Year Deadline Order*,¹¹ which was promptly denied by the WCB.¹² And AT&T Corp. (“AT&T”) subsequently filed comments in support of the applications for review.¹³

SBC, BDP, and Qwest (collectively “Applicants”) challenged several aspects of the *One-Year Deadline Order*, but their primary argument was that the WCB had established a substantive rule that could only be promulgated by the Commission after complying with the notice-and-comment requirements of § 553 of the APA.¹⁴ BDP correctly argued that the WCB’s 12-month deadline for filing revised Forms 499-A was “equivalent to a statute of limitations that bars carriers from seeking refunds for overpayments after 12 months.”¹⁵ As such, the one-year revision deadline affected the substantive rights of contributors to the USF and could not be considered a procedural rule that was exempt from the APA’s notice-and-comment rulemaking requirements.¹⁶ The Applicants agreed that the adoption of the one-year revision deadline violated the APA, and exceeded the scope of WCB’s authority.¹⁷

Qwest also showed that the *One-Year Deadline Order* was inconsistent with the fundamental requirement of § 254(d) of the Communications Act of 1934 (“Act”) that carriers

¹⁰ See *supra* note 2.

¹¹ See Qwest, Petition of Qwest Communications International Inc. for Stay Pending Action on Application for Review, CC Docket No. 96-45, at 1 (Jan. 10, 2005).

¹² See *Federal-State Joint Board on Universal Service*, 20 FCC Rcd 5167, 5170 (¶ 8) (WCB 2005).

¹³ See AT&T, Comments of AT&T Corp., CC Docket No. 96-45, at 1 (Jan. 25, 2005) (“AT&T Comments”).

¹⁴ See SBC App. at 7-10; BPD App. at 12-20; Qwest App. at 3-7.

¹⁵ BDP App. at 12.

¹⁶ See *id.* at 20 (“the WCB’s change in the deadline alters the rights and interests of contributors to the USF, and is therefore substantive, and not within the exception to the APA that allows rules of agency procedure, organization or practice to be adopted without prior notice and comment”).

¹⁷ See SBC App. at 7-10; BDP App. at 12-21; Qwest App. at 3-7.

contribute to universal service on an “equitable and nondiscriminatory basis.”¹⁸ Qwest noted that the WCB had created a “one-way ratchet” whereby Form 499-A revisions outside the 12-month limitation period were required if they would increase the contribution obligation for the contributor, but were prohibited if they would reduce the contributor’s contribution obligation.¹⁹ As SBC argued, such disparate treatment is “patently unfair.”²⁰ Moreover, by prohibiting carriers from correcting Forms 499-A outside the 12-month window, the WCB created a situation that will result in deliberately requiring over-contribution by some carriers. Qwest persuasively argued that “prohibiting a carrier from correcting its revenues reported on a worksheet, so that the carrier contributes ‘an erroneous amount to support universal service . . . [was] inconsistent with the [§ 254(d)] requirement that contributions be equitable.’”²¹

The Applicants correctly argued that the *One-Year Deadline Order* was both procedurally and substantively flawed, and that its flaws compelled its *vacatur*.²² AT&T essentially agreed.²³

A little more than two months after the Applicants showed that the WCB violated § 553 of the APA by not affording prior notice and the opportunity to comment on its one-year revision deadline, the WCB attempted to remedy its § 553 violation by issuing a public notice that invited interested parties to comment on Sprint’s petition for reconsideration of the *One-Year Deadline Order*, as well as the three applications for Commission review.²⁴ BDP and four other parties

¹⁸ Qwest App. at 8 (quoting 47 U.S.C. § 254(d)).

¹⁹ *Id.* at 8.

²⁰ SBC App. at 11. *See* AT&T Comments at 3.

²¹ Qwest App. at 8 (quoting *ABC Cellular Corporation Page Now, Inc./ABC Paging*, 17 FCC Rcd 25192, 25196 (¶ 10) (WCB 2002)).

²² *See* SBC App. at 7-13; BDP App. at 5-22; Qwest App. at 3-19.

²³ *See* AT&T Comments at 3-5.

²⁴ *See WCB Public Notice*, 20 FCC Rcd at 5929.

accepted the WCB's invitation and filed comments supporting the Applicants.²⁵

FACTS

SLIC has employed the services of a telecommunications consulting firm to prepare and file Forms 499-A with USAC. In August 2017, SLIC's consultants discovered an error in a spreadsheet that they had been using for years to consolidate SLIC's financial data and to assign revenue to the Form 499-A line items – and they brought the error to SLIC's attention for the first time.

As a result of the error, non-assessable revenues were incorrectly and unknowingly reported to USAC as assessable revenues in SLIC's Form 499-A filings for the years 2008 through 2016. In specific, the consultants reported SLIC's retail broadband revenues on Lines 414.1 of the Forms 499-A, when the revenues should have been reported as non-assessable on Lines 418.3. The consultants also reported SLIC's non-assessable interstate carrier access revenues on Lines 414.1 of the Forms 499-A, when they should have been reported at Lines 304.1. These reporting errors caused SLIC to be over-charged a total of \$443,088 by USAC over a nine-year period.

Recognizing that they had been negligent in preparing the Forms 499-A for SLIC, the consultants explored the possibility of compensating SLIC for its damages with the proceeds of a claim under their so-called "errors and omissions" professional liability insurance policy. When their claim was denied in January 2018, the consultant began preparing revised Forms 499-A so

²⁵ See Eureka Broadband Corp., Comments of Eureka Broadband Corporation in Support of Reconsideration or Review, CC Docket No. 96-45, at 1 (Mar. 30, 2005) ("Eureka Comments"); BDP, Comments of Business Discount Plan, Inc., CC Docket No. 96-45, at 3-9 (Mar. 30, 2005); Cingular Wireless LCC, Comments of Cingular Wireless LCC, CC Docket No. 96-45, at 3-5 (Mar. 30, 2005); Verizon, Comments of Verizon In Support of Applications for Review by Qwest, Business Discount Plan, and SBC, and Petition for Reconsideration by Sprint, CC Docket No. 96-45, at 2-6 (Jan. 21, 2005) ("Verizon Comments"); Alliance Group Services, Inc., Comments of Alliance Group Services, Inc. in Support of Reconsideration or Review, CC Docket No. 96-45, at 3-5 (Mar. 30, 2005). See also Letter from Edward Shakin to Marlene H. Dortch, CC Docket No. 96-45 (Mar. 30, 2005) (refiling the Verizon Comments pursuant to the *WCB Public Notice*).

that SLIC could recover its over-payments to the USF.

On March 5, 2018, SLIC's consultants electronically submitted revised Forms 499-A to USAC for the years 2008, 2009, 2010, 2011, 2012, and 2013 that would have decreased SLIC's contributions by \$214,435.²⁶ On March 8, 2018, USAC rejected the Form 499-A filings out of hand as untimely, citing the *One-Year Deadline Order*.²⁷ However, USAC represented that the *One-Year Deadline Order* is still subject to a petition for reconsideration and applications for review.²⁸ Research suggested that USAC was correct.²⁹

On April 6, 2018, SLIC requested that the Commission review and reverse USAC's decision on February 5, 2018, to reject the revised Forms 499-A that SLIC submitted for the years 2014, 2015, and 2016, and that it vacate the *One-Year Deadline Order*.³⁰ It could have included the instant request in its First Appeal. It chose not to in order to allow counsel to make a further inquiry as to the status of the appeals that were filed with respect to the *One-Year Deadline Order*. That inquiry did not shed any further light on the appeals.³¹ Accordingly, this request effectively

²⁶ Copies of the revised 2008, 2009, 2010, 2011, 2012, and 2013 Forms 499-A are attached as Exhibits 2, 3, 4, 5, 6, and 7, respectively.

²⁷ See *supra* note 3 and accompanying text.

²⁸ See Ex. 1 at 1 n.2. The WCB currently refers to its *One-Year Deadline Order* as "*Federal-State Joint Board on Universal Service et al.*, CC Docket No. 96-45 *et al.*, Order, 20 FCC Rcd 1012, 1013, para. 2 (Wireline Comp. Bur. 2004), *pet. for recon. and applications for review pending.*" *Wireline Competition Bureau Releases the 2018 Telecommunications Reporting Worksheets and Accompanying Instructions*, 2018 WL 923263, at *11 n.30 (WTB Feb. 15, 2018).

²⁹ Undersigned counsel conducted numerous Westlaw searches and did not find any Commission decision that disposed of the Sprint petition for reconsideration or the applications for review filed by SBC, BDP, or Qwest. Nor did he discover any document that indicated that Sprint had withdrawn its petition or that SBC, BDP, or Qwest had withdrawn its application. On March 29, 2018, counsel sent an email to the WCB's Telecommunications Access Policy Division asking whether USAC erred when it suggested that the appeals from the *One-Year Deadline Order* were still pending. To date, counsel has not received a response to his inquiry.

³⁰ See SLIC, Request for Review and Consolidated Action, WC Docket No. 06-122, at 10-11 (Apr. 6, 2018) ("First Appeal").

³¹ On April 4, 2018, undersigned counsel sent an email to Jonathan Canis, who filed the Eureka Comments in March 2005, asking whether the Commission ever acted on the applications for review or on Sprint's

updates SLIC's First Appeal.

ARGUMENT

I. THE COMMISSION SHOULD CONSOLIDATE ITS CONSIDERATION OF THIS REQUEST AND THE PENDING APPLICATIONS FOR REVIEW

SLIC is proceeding with the understanding that the Commission has neglected to act on the applications for review that SBC, BDP, and Qwest filed with respect to the *One-Year Deadline Order*. If that understanding is correct, the Commission must decide the issues presented by the Applicants and this case simultaneously, because its decision on the effectiveness of the *One-Year Deadline Order* could be outcome determinative here.

If it agrees with the Applicants that there was an utter failure to comply with the APA's notice-and-comment requirements prior to the establishment of the one-year revision deadline, the Commission must grant the applications for review, overturn the *One-Year Deadline Order*, and vacate the deadline. *Cf., Sprint Corp. v. FCC*, 315 F.3d 369, 377 (D.C. Cir. 2003) ("Because the Commission failed to issue a new NPRM to afford proper notice and opportunity for comment, we grant the petitions, vacate the rule, and remand the case to the Commission"). Having been vacated, the one-year revision deadline could not be enforced against SLIC. It follows that the Commission would have to grant this request for review and direct USAC to accept SLIC's revised 2008, 2009, 2010, 2011, 2012, and 2013 Forms 499-A and to provide the appropriate refund to SLIC. *Cf., Universal Service Methodology*, 31 FCC Rcd 10773, 10774 (¶ 1) (WCB 2016) (USAC directed to accept a revised Form 499-A "as if timely filed and [to] adjust invoices and provide

petition for reconsideration. On April 7, 2018, Mr. Canis stated that he had no recollection of the matter and that a search of his electronic files did not uncover anything relevant. We note that, on August 13, 2013, the WCB finally granted Eureka Broadband Corporation ("Eureka") a waiver of the revision deadline with respect to revised Forms 499-A that Eureka had filed for the years 2001 and 2002. *See Universal Service Contribution Methodology*, 25 FCC Rcd 10855, 10858 (¶ 8), 10860 (App.) (WCB 2010). By its *One-Year Deadline Order*, the WCB had remanded Eureka's revised Forms 499-A to USAC. *See* 20 FCC Rcd at 1017-18 (¶ 13).

any refund as appropriate”).

Because the applications for review of the *One-Year Deadline Order* and this request for review of the USAC Decision raise the same issue, the Commission should consolidate its consideration of them. *See, e.g., Complaints Involving the Political Files of WCNC-TV, Inc.*, 32 FCC Rcd 74, 75 (¶ 1) (Media Bur. 2017). Moreover, the Commission should act on the consolidated matters within 90 days, because they obviously involve the novel question of whether the Commission can disturb a staff action that has been under appeal more than 13 years. *See* 47 C.F.R. § 54.724(b) (the Commission shall issue a decision in response to a request for review of a USAC decision that involves “novel questions of fact, law, or policy” within 90 days). Such expedited consideration would be particularly appropriate given that the Commission had the duty under the APA to decide the applications for review of the *One-Year Deadline Order* “within a reasonable time.” 5 U.S.C. § 555(b).

II. THE COMMISSION SHOULD EXPRESSLY DISAVOW THE ONE-YEAR DEADLINE ORDER

If it turns out that the applications for review were either withdrawn by the Applicants or dismissed by the Commission, the *One-Year Deadline Order* represents a final staff action and the one-year revision deadline constitutes an “additional reporting requirement[]” that the WCB “deem[ed] necessary to the sound and efficient administration of the universal service support mechanisms.” 47 C.F.R. § 54.711(c). However, the reasoning behind the WCB’s action cannot be attributed to the Commission unless and until the Commission has endorsed the action. *See SNR Wireless LicenseCo, LLC v. FCC*, 868 F.3d 1021, 1037 (D.C. Cir. 2017). And the Commission has not endorsed the *One-Year Deadline Order* in any document that has been published in the Federal Register, the FCC Record, or Pike and Fischer Communications Regulation. Consequently, the WCB’s action is not binding on the Commission, and the agency

is free to “disavow” the *One-Year Deadline Order*. See *id.* at 1038-39.

We respectfully request that the Commission expressly disavow the WCB’s one-year revision deadline, because it: (1) was imposed in violation of § 553 of the APA;³² (2) is inconsistent with the requirement of § 254(d) of the Act that carriers contribute to the USF on an equitable and non-discriminatory basis;³³ (3) affords disparate treatment to revised Forms 499-A depending on whether they increase or decrease a carrier’s contribution;³⁴ (4) is inconsistent with § 54.713(a) of the Rules, which provides that USAC “may refund any overpayments made by the contributor” once the contributor complies with the Form 499-A filing requirements;³⁵ (5) will result in significant over-payments of USF contributions over time;³⁶ and (6) is not “necessary to the sound and efficient administration of the universal service support mechanisms.”³⁷

CONCLUSION

We have shown that the Commission should disavow the *One-Year Deadline Order* and the WCB’s one-year revision deadline.³⁸ Once the Commission does so, no properly-promulgated rule will prohibit USAC from accepting and processing the revisions to SLIC’s 2008, 2009, 2010, 2011, 2012, and 2013 Forms 499-A. The Commission should ensure that SLIC has not contributed

³² See *supra* notes 14, 15, 16 & 17 and accompanying text.

³³ See 47 U.S.C. § 254(d); BDP App. at 21-22; Qwest App. at 8.

³⁴ See SBC App. at 1

³⁵ 47 C.F.R. § 54.713(a). See SBC App. at 10. The WCB’s one-year revision deadline prohibits USAC from refunding overpayments to a contributor that complied with the Form 499-A filing requirements but filed a revised Form 499-A more than a year after its original filing date.

³⁶ See SBC App. at 12.

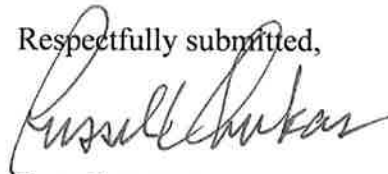
³⁷ 47 C.F.R. § 54.711(a). See Qwest App. at 12-17. See also SBC App. at 11 (“If a firm deadline is necessary to promote efficiency and ensure the stability of federal support mechanisms, it should apply to all [Form 499-A] revisions – irrespective of whether the revisions would increase or decrease a carrier’s contributions”).

³⁸ SLIC did not seek review by USAC, because USAC is without authority either to accept SLIC’s revised Forms 499-A, or to waive the WCB’s one year revision deadline. See Ex. 1 at 1. Hence, USAC could not grant SLIC any relief.

an “erroneous amount to support universal service,” which would be consistent with § 254(d) of the Act,³⁹ by granting this request for *de novo* review and directing USAC to process SLIC’s revised Forms 499-A and determine whether SLIC is entitled to refunds.

For all the foregoing reasons, the Commission should: (1) consolidate this request with the pending applications for review of the *One-Year Deadline Order* and the First Appeal; (2) disavow the order and the WCB’s one-year revision deadline; and (3) direct USAC to process SLIC’s revised Forms 499-A for 2008, 2009, 2010, 2011, 2012, and 2013 and to determine whether SLIC is entitled to refunds.

Respectfully submitted,



Russell D. Lukas
Todd B. Lantor

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Counsel to SLIC Network Solutions, Inc.

April 27, 2018

³⁹ *ABC Cellular*, 17 FCC Rcd at 25196 (¶ 10).

DECLARATION

I, Jeffrey S. McGrath, do hereby declare as follows:

1. I am Vice President of SLIC Network Solutions, Inc. ("SLIC").
2. I have read the foregoing REQUEST FOR REVIEW AND CONSOLIDATED ACTION. Except for the facts in footnotes 29 and 31, the facts set forth in the document are based either on my personal knowledge or what SLIC's telecommunications consultants represented to me. I believe all such facts are true and correct.

I declare under penalty of perjury that the foregoing is true and correct. Executed on April 25, 2018.

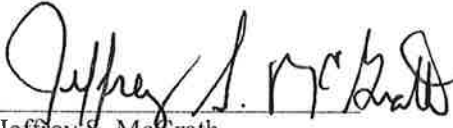

Jeffrey S. McGrath

EXHIBIT 1

REDACTED

From: Form499 [mailto:form499@usac.org]
Sent: Thursday, March 08, 2018 3:14 PM
To: davew@latitude-LLC.com
Subject: 825122 FCC Form 499A - April 20008 - 2013 Rejection

Dear David Waters,

On 3/05/2018, the Universal Service Administrative Company (USAC) received a 2008, 2009 2010, 2012, 2013 and 2014 FCC Form 499-A (Rev-1), worksheets for SLIC Network Solutions, Inc., Filer ID 825122. This email provides an update of the submitted form as well as the next steps.

Federal Communications Commission (FCC) regulations require telecommunications carriers to file an FCC Form 499-A annually. The rules also require USAC to bill contributors based on reported revenues in the filings.[1] USAC is not authorized to accept any revised FCC Form 499-A worksheet that would result in decreased contributions after the one year revision deadline has closed, nor is USAC permitted to waive the one year revision deadline established by the FCC.[2] However, if a carrier fails to submit an FCC Form 499 by the applicable due date, USAC is required to bill the carrier based on “whatever relevant data” is available to USAC.[3]

The schedule of submitting the respective worksheet was as follows:

FCC Form 499A	
Form Due Date	Revision Deadline
4/1/2008	3/31/2009
4/1/2009	3/31/2010
4/1/2010	3/31/2011

4/1/2011	3/31/2012
4/1/2012	3/31/2013
4/1/2013	3/31/2014

Because USAC received these FCC Form 499-A worksheets submitted by SLIC Network Solutions, Inc. on 3/05/2018, outside of the one year revision window, these forms were late and USAC officially rejects these filings.

USAC will note that these forms were received and the company has now fulfilled its obligation to submit the 2008, 2009, 2010, 2012, and 2013 FCC Form 499-A worksheets. Late fees, if any, will no longer be applied.

If you have questions or concerns regarding this letter, please contact USAC Customer Service at (888) 641-8722 or reply back to this email.

Sincerely,

USAC

[1] See 47 C.F.R. § 54.706.

[2] See *Federal-State Joint Board on Universal Service et al.*, CC Docket No. 96-45 *et al.*, Order, 20 FCC Rcd 1012, 1013, para. 2 (Wireline Comp. Bur. 2004), *pet. for recon. and applications for review pending*.

[3] 47 C.F.R. § 54.709(d).

* * * *

EXHIBIT 2

REDACTED FOR PUBLIC INSPECTION

EXHIBIT 3

REDACTED FOR PUBLIC INSPECTION

EXHIBIT 4

REDACTED FOR PUBLIC INSPECTION

EXHIBIT 5

REDACTED FOR PUBLIC INSPECTION

EXHIBIT 6

REDACTED FOR PUBLIC INSPECTION

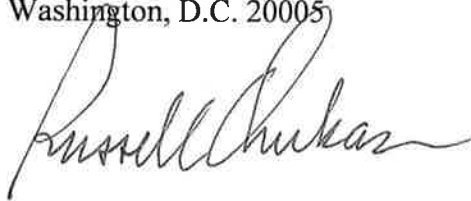
EXHIBIT 7

REDACTED FOR PUBLIC INSPECTION

CERTIFICATE OF SERVICE

I, Russell D. Lukas, hereby certify that on April 27, 2018, I caused a copy of the foregoing REQUEST FOR RELIEF AND CONSOLIDATED ACTION to be served via first-class mail upon the following:

Universal Service Administrative Co.
Billing, Collections, and Disbursements
Attn: Letter of Appeal
700 12th Street, N.W., Suite 900
Washington, D.C. 20005

A handwritten signature in black ink, appearing to read "Russell Lukas", written over a horizontal line.

Russell D. Lukas