

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of

Voice Spring, LLC  
Request For Review of Decision  
of USAC and Request for Waiver  
of Filing Deadlines and Waiver, or  
in the Alternative, for Reduction of  
of Late Filing Sanction

499 Filer ID: 832991

WC Docket No. 06-122

**REQUEST FOR REVIEW OF DECISION OF USAC  
AND REQUEST FOR WAIVER OF FILING DEADLINES  
AND FOR WAIVER OR REDUCTION OF LATE FILING FEE SANCTION**

This is an appeal from and request for a waiver of filing deadlines and for the waiver, or reduction, of a late filing sanction in the amount of \$81,400.00 imposed by the Universal Service Administrative Company (hereafter “USAC”) against Voice Spring, LLC (hereafter “Voice Spring”). The sanction was imposed as a result of Voice Spring’s failure to timely file eleven 499-A Worksheets for the time period April 1, 2008 through April 18, 2018. The Account Status statement, dated June 21, 2019 and issued to Voice Spring by USAC, which reflects the assessment of the sanction is attached hereto as Exhibit A.

This appeal is made directly with the FCC pursuant to Commission Rule §54.719(c), which requires a party to seeking a waiver of a Commission rule to seek relief directly from the Commission. Attached hereto is an Affidavit of Douglas H. Oberlander, the managing member and CEO of Voice Spring. This affidavit is submitted in support of the facts and matters set forth in this appeal.

**Background**

Voice Spring is a provider of telephone service offered over a third-party hosted Voice over Internet Protocol (VoIP) platform. The third-party provider bills Voice Spring for the VoIP services provided to Voice Spring. Those third-party bills include taxes, fees and surcharges, including Universal Service Fund (“USF”) surcharges. The third-party is then responsible for remitting to the appropriate entity the USF contributions paid by Voice Spring.

Voice Spring was formed in late 2005 and later began providing VoIP hosted telephone services. At the time, Voice Spring was represented by experienced and reputable legal counsel who advised

Voice Spring that it was not required to submit 499-A filings for two reasons: Voice Spring was a provider of VoIP services and its USF fund contribution assessment was expected to be de minimis. The advice Voice Spring received from its legal counsel was correct at the time. Not until later was the applicable regulation, 54 CFR §54.708, amended to require all interconnected VoIP providers, including those whose USF contributions are de minimis, to submit 499-A Worksheet filings.

In late fall of 2018, Voice Spring retained RTC Associates, LLC (“RTC”), a telecom tax and regulatory compliance firm, to assist Voice Spring with its billing processes. As part of its review of Voice Spring’s processes RTC determined Voice Spring lacked a FCC 499 Filer ID number. After an application was made by RTC, Voice Spring was issued Filer ID number 832991.

### **Late Filings Submitted**

The issuance of the Filer ID number apparently triggered a review by USAC of Voice Spring’s history of 499-A Worksheet filings. A letter dated January 7, 2019 was sent to Voice Spring by USAC outlining reporting requirements for entities that are required to contribute toward USF support mechanisms and inquiring as to any exemption claimed by Voice Spring to the filing requirements. The letter required Voice Spring to provide a written response to the inquiry by February 7, 2019. A copy of the letter is attached hereto as Exhibit B

In response to the letter, and on January 23, 2019, Voice Spring contacted USAC by telephone to discuss the matter. The conversation was followed by Voice Spring’s response letter to USAC dated January 23, 2019. In the letter, Voice Spring sets forth its prior belief that it was not required to submit 499-A Worksheet filings and promising a prompt resolution. A copy of the response letter is attached hereto as Exhibit C. In short order the matter was resolved. By May 6, 2019, Voice Spring filed all eleven 499-A delinquent Worksheets covering the time period April 1, 2008 through April 18, 2018.

### **Sanction Assessed**

Following the filing of the Worksheets, the USAC calculated and determined the sanction for the late filings. On June 21, 2019, USAC issued to Voice Spring an Account Status statement which reflects the assessment of a late filing fee in the amount of \$81,400.00 on account of the delinquent 499-A Worksheet filings.

### **Relief Requested**

47 C.F.R. §54.709 requires 499-A Worksheets to be filed by April 1 of each year. Voice Spring respectfully requests waiver of the April 1 filing deadline for each the eleven late filed 499-A Worksheets. Voice Spring also requests waiver, or reduction, of the \$81,400.00 late filing sanction. Voice Spring relied on legal advice that was valid at the time the advice was given in that Voice Spring was exempt from filing. Voice Spring was unaware that the applicable regulation had been amended. Voice Spring was unaware that it had an obligation to file 499-A Worksheets even though its USF assessment contributions were di minimus. Once Voice Spring became aware, in January, 2019, that it was required to file 499-A Worksheets, Voice Spring acted promptly and with diligence. By May 6, 2019 all past due filings had been submitted to USAC. Voice Spring’s failure to timely file the 499-A Worksheets was not intentional but was based on a

mistaken belief of what the regulations required. Voice Spring demonstrated its good faith by quickly rectifying its mistake.

Voice Spring is a small provider of hosted VoIP telephone service with just eight employees. A sanction of \$81,400.00 for belatedly filing 499-A Worksheets feels punitive, especially since Voice Spring paid its VoIP host provider all assessed USF contributions. Additionally, as the filings reflect, Voice Spring is a di minimis filer. Voice Spring's annual USF contribution has never exceeded \$10,000.00. For all the reasons set forth herein, Voice Spring requests the Commission to waive the filing deadlines for the eleven belatedly filed 499-A Worksheets, and further, to waive the \$81,400.00 sanction imposed on Voice Spring by the USAC.

In the event the Commission declines to waive the filing deadline and believes a sanction is nonetheless warranted under the circumstances of this case, Voice Spring requests, in the alternative, that the sanction be reduced. In that regard, Voice Spring suggests that a sanction of \$40,000.00 would be appropriate. A sanction of \$40,000.00 is sufficiently high to serve the public interest and would encourage timely filings and deter small providers from intentionally failing to file 499-A Worksheets.

### **Conclusion**

For the reasons set forth herein, Voice Spring respectfully requests the Commission to waive the filing deadlines for the eleven 499-A Worksheets belatedly filed by Voice Spring with the USAC and for waiver of the sanction of \$81,400.00 imposed against Voice Spring by the USAC on account of the belatedly filed 499-A Worksheets. In the event the Commission declines to waive the filing deadlines for the eleven late filed 499-A Worksheets and declines to waive the sanction, Voice Spring requests, in the alternative, for a reduction of the sanction to an amount that will serve the public interest.

Respectfully submitted,

VOICE SPRING, LLC

By: 

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S. LINN PERKINS, Attorney

Counsel to Voice Spring, LLC

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**CERTIFICATE OF SERVICE**

I, S. Linn Perkins, hereby certify that on this 16<sup>th</sup> day of August, 2019, a copy of the foregoing appeal entitled, REQUEST FOR WAIVER OF FILING DEADLINES AND FOR WAIVER OR REDUCTION OF LATE FILING FEE SANCTION, was filed with the FCC by submission through the online Electronic Comment Filing System, and was sent via First Class, U.S. Mail, postage prepaid, and by email, to the following:

Universal Service Administrative Co.  
Billing, Collections and Disbursements  
Attn: Letter of Appeal  
700 12<sup>th</sup> Street, NW, Suite 900  
Washington, DC 20005

Email: Contributor Appeals@usac.org

Date: August 16, 2019



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