

Bryan Bell
Annette Island Service Unit
PO box 439
Metlakatla AK 99926

September 19, 2014

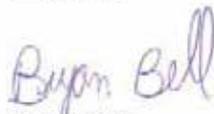
Federal Communications Commission
445 12th Street SW
Washington DC 20554

Dear Federal Communications Commission:

I am writing this letter as recommended by Universal Service Administrative Company to appeal the decision to deny funding for funding year 2012. The attached letter from USAC explains the situation with dates and statements. I submitted all my funding request properly but failed to file a new form 466 when the service was upgraded for faster internet speed. I didn't know and was not informed that I needed to take this action at the time.

I am eager to resolve this in a timely matter in order to pay our service provider (Alaska Communications Inc) the past due money that is owed to them, my fear is they may cut our services soon, which would place healthcare in the small community of Metlakatla in danger given the fact that internet correspondence with Alaska Native Medical Center is vital for our patient care.

Sincerely,

A handwritten signature in blue ink that reads "Bryan Bell". The signature is cursive and fluid.

Bryan Bell
bbell@aisu.org
907 886-5804



Administrator's Decision on Rural Health Care Program Appeal

Via Electronic and Certified Mail

July 24, 2014

Mr. Bryan Bell
Chief Information Officer
Annette Island Service Unit
563 Brendible Street
Metlakatla, Alaska 99926

RE: Appeal of USAC's Funding Decision for Funding Year 2012
Rural Health Care Program – Funding Request Number 1223300

Dear Mr. Bell:

The Universal Service Administrative Company (USAC) has completed its evaluation of the February 17, 2014 appeal you submitted on behalf of Annette Island Service Unit (Annette Island) for Funding Year 2012 (FY 2012).¹ Your appeal requests that USAC permit Annette Island to submit a FY 2012 FCC Form 466² for MPLS service (9 Mbps) for the period January 13, 2013 through June 30, 2013. However, the Federal Communications Commission (FCC or Commission) deadline for filing the FCC Form 466 for FY 2012 was on June 30, 2013.³

Decision on Appeal and Explanation: Denied.

On December 31, 2013, USAC issued a Funding Commitment Letter (FCL) for MPLS (3 Mbps) service for FRN 1223300 for the period July 1, 2012 to January 12, 2013.⁴ FCC rules provide that funding for the RHC Program begins on July 1 and ends on June 30 of each year.⁵ Health care providers (HCPs) submit FCC Form 466 to request support for eligible services for a specific service term for a particular funding year.⁶ HCPs are

¹ Letter from Bryan Bell, Annette Island, to USAC (Feb. 17, 2014).

² Health Care Providers Universal Service Funding Request and Certification Form, FCC Form 466 (OMB 3060-0804) (Nov. 2011) (*FCC Form 466*).

³ FCC Form 466 Instructions (OMB 3060-0804) at 1 (Nov. 2011) (*FCC Form 466 Instructions*) (“[T]he FCC has set the June 30th end of the funding year as the deadline by which all Form 466s must be submitted. RHCD cannot accept Form 466s for a funding year after the June 30th end of that funding year.... The Deadline to submit this Form is the June 30th End of the Funding Year.”); *FCC Form 466* at 1 (“The Deadline to submit this Form is the June 30th End of the Funding Year.”).

⁴ Funding Commitment Letter from USAC to Annette Island (Dec. 31, 2013).

⁵ 47 C.F.R. § 54.623(b) (2011).

⁶ *FCC Form 466 Instructions* at 5.

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required to submit one FCC Form 466 for each service for which the HCP requests RHC Program support.⁷ After USAC completes its review of the HCP's Form 466 and supporting documentation, USAC issues an FCL, which describes the amount and duration of support. The deadline to submit a RHC Program funding request for FY 2012 was June 30, 2013.⁸

On July 18, 2012, Annette Island posted its FCC Form 465 seeking RHC Program support for internet service. On September 28, 2012, Annette Island executed a new three-year contract for MPLS (9 Mbps) service.⁹ On June 25, 2013, Annette Island submitted its FCC Form 466 requesting support for MPLS (3 Mbps) service for FY 2012.¹⁰ On its FY 2012 FCC Form 466, Annette Island provided its prior contract number MA 107040 and indicated that the contract expiration date for the requested service was January 12, 2013 (Line 31).¹¹ During the application review process, Annette Island confirmed that the contract end date for the requested MPLS (3 Mbps) service was January 12, 2013.¹² Annette Island did not request support for MPLS (9 Mbps) service or provide the end date for the new contract on its FCC Form 466 for FY 2012.

On December 31, 2013, USAC issued the FCL for MPLS (3 Mbps) service (FRN 1223300) for the period July 1, 2012 to January 12, 2013 based on the information Annette Island reported on its FY 2012 FCC Form 466 application.¹³

Annette Island submitted its appeal on February 17, 2014. In its appeal, Annette Island does not assert that the information on its original FY 2012 FCC Form 466 was incorrect. Annette Island explains that on January 13, 2013, it upgraded from 3 Mbps to 9 Mbps MPLS service. Annette Island further explains, "I did not know that I needed to file the second 466 so that was not done for the 2012-2013 year" and that "we should have filed a new 466 to register and document the change with USAC."¹⁴ Annette Island provided a copy of its September 28, 2012 contract for MPLS service (9 Mbps), and requested that USAC permit Annette Island to "submit the 466 form to cover January, 13 2013 [sic] through June, 30 2013 [sic] to reflect the rate for 9 mcg," based on this additional information.¹⁵

⁷ *Id.* at 1 ("The applicant must submit one Form 466 for each service (i.e., circuit) for which the HCP is seeking a reduced rate."); *Id.* at 3 ("Line 17 requires identifying the services for which the HCP is seeking reduced rates, and the circuit bandwidth if applicable.")

⁸ *FCC Form 466 Instructions* at 1; *FCC Form 466* at 1.

⁹ Alaska Communications Enterprise Services Agreement at 1 (Sept. 28, 2012). Because this was a new contract, it did not extend the term for the contract that expired on January 12, 2013.

¹⁰ Annette Island FCC Form 466 (Jun. 25, 2013).

¹¹ *Id.*

¹² Annette Island response to USAC Information Request (Dec. 18, 2013) ("Yes, I confirm that the evergreen contract expired on 01/12/13 is for the 3M[bps] service.")

¹³ Funding Commitment Letter from USAC to Annette Island (Dec. 31, 2013).

¹⁴ Letter from Bryan Bell, Annette Island, to USAC (Feb. 17, 2014).

¹⁵ *Id.*

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As explained above, on its FY 2012 FCC Form 466, Annette Island requested funding for MPLS (3 Mbps) service from July 1, 2012 to January 12, 2013 based on the earlier contract with its service provider. USAC has determined, based on a review of Annette Island's appeal and supporting documentation, that Annette Island did not request funding for any service for the period January 13, 2013 to June 30, 2013 on its FY 2012 FCC Form 466. As explained above, on its FY 2012 FCC Form 466 and during USAC's application review process, Annette Island indicated that the contract for the requested MPLS (3 Mbps) service expired on January 12, 2013 and only sought funding for July 1, 2012 through January 12, 2013. Based on this information, USAC issued an FCL for FRN 1223300 from July 1, 2012 to January 12, 2013. Because the June 30, 2013 deadline for filing FCC Form 466 for FY 2012 has passed, Annette Island cannot file a new FCC Form 466 to request funding for MPLS (9 Mbps) service for the period January 13, 2013 through June 30, 2013. Further, USAC is not authorized to waive the FCC's June 30, 2013 deadline for filing the FY 2012 FCC Form 466.¹⁶ Therefore, USAC hereby denies Annette Island's appeal.

If you wish to appeal this decision, you may file an appeal pursuant to 47 C.F.R. Part 54, Subpart I. Detailed instructions for filing appeals are available at:

www.usac.org/rhc/about/program-integrity/appeals.aspx

Sincerely,

/s/ USAC

¹⁶ See FCC Form 466 Instructions at 1 ("RHCD cannot accept Form 466s for a funding year after the June 30th end of that funding year."). See also generally, 47 C.F.R. §§ 54.702(c) (2011) ("[USAC] may not make policy, interpret unclear provisions of the statute or rules, or interpret the intent of Congress."), 1.3 ("The provisions of this chapter may be suspended, revoked, amended, or waived for good cause shown, in whole or in part, at any time by the Commission, subject to the provisions of the Administrative Procedures Act and the provisions of this chapter."). See also, *In the Matter of Request for Review Tuba City Regional Health Care Corporation*, WC Docket No. 02-60, Order, DA 10-724, 25 FCC Red 4561, 4563 ¶ 5 (2010) (upholding USAC's denial of funding where the HCP failed to file an additional FCC Form 466 to request service from a new service provider by the June 30th deadline for filing FCC Form 466).