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August 8, 2005

## VIA E-MAIL AND COURIER

RECEIVED

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

AUG - 8 2005

Federal Communications Commission  
Office of Secretary

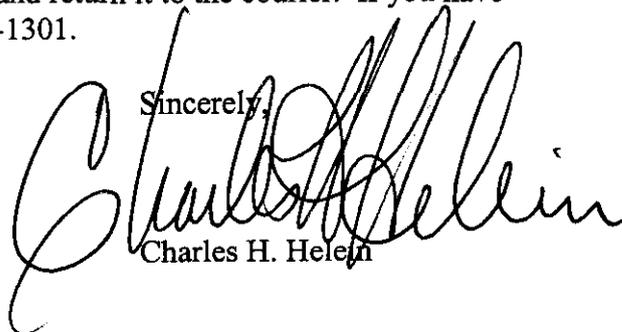
**Re: In the Matter of a Request for Review By World-Link Solutions, Inc.  
of Decision of Universal Service Administrator  
FCC Ref: Docket No. 96-45  
Filer ID #812286**

Dear Ms. Dortch:

Enclosed for filing, in the above-referenced proceeding are an original and four (4) copies of World-Link Solutions, Inc.'s Appeal of Universal Service Administrative Corporation Decision Concerning World-Link Solutions, Inc.'s Revision to FCC Form 499-A.

Please date stamp the enclosed duplicate and return it to the courier. If you have any questions, feel free to contact me at 703-714-1301.

Sincerely,



Charles H. Helein

Enclosures

No. of Copies rec'd 0 + 4  
List ABCDE

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

RECEIVED

AUG - 8 2005

In the Matter of )  
)  
Request for Review by World-Link )  
Solutions, Inc. of Decision of )  
Universal Service Administrator )  
)  
Federal-State Joint Board on )  
Universal Service )  
)  
Filer ID # 812286 )  
\_\_\_\_\_ )

Federal Communications Commission  
Office of Secretary

CC Docket No. 96-45

**APPEAL OF UNIVERSAL SERVICE ADMINISTRATIVE CORPORATION  
DECISION CONCERNING WORLD-LINK SOLUTIONS, INC.'S  
REVISION TO FCC FORM 499-A**

Pursuant to Section 54.713 of the rules of the Federal Communications Commission ("FCC" or "Commission"), 47 C.F.R. § 54.713, World-Link Solutions, Inc. ("WLS" or the "Company") hereby respectfully requests that the Commission grant this request for an appeal of the Universal Service Administrative Corporation's ("USAC") June 8, 2005, decision ("June 8<sup>th</sup> Decision")<sup>1</sup> denying WLS' October 27, 2003, Letter of Appeal ("2003 Appeal").<sup>2</sup>

As described below, USAC's June 8<sup>th</sup> Decision rejects WLS' second attempt to revise its 2002 FCC Form 499-A ("2002 499 Revision") and results in the Company owing a minimum of \$266,864 in Universal Service Fund ("USF") contributions (plus interest, late fees and penalties). Herein, WLS demonstrates that it is not liable for these contributions because they are based entirely on inadvertently misreported non-jurisdictional wholesale revenues. USAC's June 8<sup>th</sup> Decision lacks factual support. USAC's June 8<sup>th</sup> Decision would require WLS to pay

<sup>1</sup> Attached hereto at **Exhibit 1**.

<sup>2</sup> Attached hereto at **Exhibit 2**.

contributions on non-jurisdictional revenue; a result that is inequitable and discriminatory in violation of Section 254(d) of the Communications Act of 1934, as amended, 47 U.S.C. § 254(d) (“every telecommunications carrier that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory basis”). WLS respectfully requests the Commission grant its Appeal and direct USAC to accept WLS’ 2002 499 Revision and remove all USF charges and the interest, penalties and late payment fees associated with misreported non-jurisdictional wholesale revenues.

### **BACKGROUND**

WLS filed its first revised Form 499-A for calendar year 2001, on or about July 9, 2002 (1<sup>st</sup> Revised 2002 499-A). *See Exhibit 3*. WLS erroneously reported \$3,663,208 in wholesale revenue derived from carrier customers of its sister corporation, World-Link Telecom, Inc. (“WLT”). Prior to June 1, 2001, WLT and WLS did not exist as separate entities, but instead operated as one corporation, World-Link, Inc. On June 1, 2001, however, WLT and WLS began separate operations, with WLT providing telecommunications services exclusively on a wholesale basis and WLS providing exclusively retail services. In the midst of this major corporate and operational restructuring, the 1<sup>st</sup> Revised 2002 499-A was hastily prepared and filed by an employee who, in hindsight, clearly lacked sufficient knowledge of the communications regulations to understand and appreciate the nuances of interstate carrier registration rules, Form 499 reporting and, ultimately, the grave consequences of her errors.

Under new management, the Company was first alerted to the reporting error contained in WLS’ 1<sup>st</sup> Revised 2002 499-A in 2003. To correct the error, on or about June 25, 2003, WLS filed a second revised 2002 Form 499-A (hereafter, “Revised 2002 Form 499-A, *see Exhibit 4*)

which reduced WLS' contribution base by \$3,663,208, which is the amount of the wholesale revenue earned, not by WLS, but by WLT in calendar year 2001.

On August 27, 2003, USAC rejected WLS' Revised 2002 Form 499-A, a decision which WLS appealed on October 27, 2003 through a Letter of Appeal ("2003 Appeal"). In summary, the 2003 Appeal was based on the following facts and legal principles:

- Non-jurisdictional wholesale revenues were inadvertently included in WLS' 1<sup>st</sup> Revised 2002 499-A;
- Wholesale revenues are not revenues received from providing telecommunications services to "retail end users" and hence are not subject to USF contributions under the statutory provisions of Section 3(46) of the Communications Act, 47 U.S.C. § 153(46);
- The Commission has no jurisdiction to impose USF contribution obligations on a contributor's wholesale revenues, directly or indirectly through USAC;
- Therefore, the Commission's lack of jurisdiction to impose USF contribution obligations on wholesale revenues cannot be waived, regardless of alleged procedural and other violations giving rise to the inadvertent reporting of wholesale revenues as retail end user revenues;
- As the Commission's agent, USAC is bound by the scope of the Commission's authority and had no authority to ignore the lack of Commission jurisdiction over wholesale revenues and therefore lacked a legal basis for refusing WLS' request to exclude the \$3,663,208 in wholesale revenues from the Company's USF contribution base for calendar year 2001;
- Further, as a matter of law, WLS has the right to have non-jurisdictional revenues excluded from its USF contribution obligation pursuant to Section 254(d) of the Communications Act, 47 U.S.C. § 254(d). In Section 254(d) Congress mandates the Commission to administer and collect USF contributions on an "equitable and non-discriminatory basis"; however,
- USAC's rejection of WLS' Revised 2002 499 results in an inequitable and discriminatory outcome in violation of Section 254(d).

On December 9, 2004, before USAC ruled on WLS' 2003 Appeal, the Commission released its Form 499-A Order,<sup>3</sup> which provided contributors a limited opportunity (until January 10, 2005) to file revisions to Forms 499-A. The Form 499-A Order required contributors to support revised filings with a showing of good cause by (a) providing a satisfactory explanation of the cause for the change and (b) complete documentation showing how the revised figures derive from corporate financial records.

Despite the extremely tight January 10<sup>th</sup> deadline, that provided WLS less than thirty (30) days (due to the intervening Holiday Season) to prepare its filing, on January 10, 2005, WLS submitted a revised 2002 FCC Form 499-A with supporting documentation including a sworn Certification under penalty of perjury, in an attempt to satisfy the Commission's requirements ("January 10<sup>th</sup> Filing," see **Exhibit 5**).

In its June 8<sup>th</sup> Decision, it is unclear whether USAC ruled not only on WLS' 2003 Appeal but its January 10<sup>th</sup> Filing, as well. USAC's June 8<sup>th</sup> Decision rejects both WLS' "appeals" citing the alleged failure to submit supporting documentation (1) that the non-jurisdictional revenues were in fact obtained from other USF contributors and (2) how WLS' revised revenue figures tied to its corporate financial records. USAC's June 8<sup>th</sup> Decision, did not address the facts or legal arguments WLS set forth in its 2003 Appeal.

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<sup>3</sup> See *In the Matter of Federal-State Joint Board on Universal Service; 1998 Biennial Regulatory Review -- Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms; Changes to the Board of Directors of the National Exchange Carrier Associations, Inc.*, CC Docket No. 96-45; CC Docket No. 98-171; CC Docket No. 97-21, 20 FCC Rcd 1012, Order (Rel. Dec. 9, 2004) ("Form 499-A Order").

## ARGUMENT

### I. USAC'S JUNE 8<sup>th</sup> DECISION IS ERRONEOUS AS A MATTER OF LAW

In the Form 499-A Order, the Commission remanded pending appeals of the one-year 499-A revision filing deadline to USAC.<sup>4</sup> The Commission also directed USAC to consider any similarly-situated revised 499-A filings that it received prior to and between the release date of the Form 499-A Order and the effective date and to revise universal service contribution obligations, as appropriate, provided that a Petitioner demonstrated good cause for submitting the revision beyond the one-year revision window; and provided "an explanation of the cause for the change along with complete documentation showing how the revised figures derive from corporate financial records."

USAC's June 8<sup>th</sup> Decision, that refers only to WLS' 2003 Appeal, nonetheless appears to be based on WLS's January 10<sup>th</sup> Filing.<sup>5</sup> In that event, it ignores the facts and legal issues and arguments presented in the 2003 Appeal. USAC's decision appears to be based entirely on WLS' January 10<sup>th</sup> Filing. As a result, critical legal issues are unaddressed.

USAC's conclusion that WLS failed to show "good cause" is based on its review of the evidence submitted in the short period of time allowed - less than thirty days before January 10<sup>th</sup>. But its decision is wholly conclusionary and fails to address the evidence that was submitted by WLS. The evidence that approximately \$3,663,208 in non-jurisdictional wholesale revenue was inadvertently reported as retail end-user revenue in WLS' 1<sup>st</sup> Revised 2002 499-A, was based on the sworn Certification of WLS' officer. That Certification is in no way addressed, much less

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<sup>4</sup> See *Id.*, Form 499-A Order at 1018.

<sup>5</sup> See Exhibit 1, June 8<sup>th</sup> Decision at Page 2 ("Because World-Link submitted the appeal concerning the revised Form 499-A on October 27, 2003 and USAC had not yet acted on the appeal when the Form 499-A Order was released, USAC considered World-Link's filing pursuant to the Form 499-A Order.").

refuted by USAC. By law, unrefuted facts in a party's affidavits must be accepted as true. See e.g., NeoMedia Technologies, Inc. v. AirClic, Inc., 2004 WL 848181 (D.C. Ill. 2004); RAR, Inc. v. Turner Diesel, Ltd. 107 F.3d 1272, 1275 (7<sup>th</sup> Cir.); (court accepts as true unrefuted facts in affidavit); Allman v. McGann, 2003 WL 1011531 (N.D. Ill. 2003 (accord)).

USAC cannot act in a vacuum. Nor can the FCC delegate its authority without standards.<sup>6</sup> Under the Commission directive relied on by USAC, the unrefuted facts provided by World-Link provide both accuracy (the amount of the non-jurisdictional revenues, the time frames they were included in error) and legitimate reasons for both filing late and for revising the obligation (software failures and employee error causing miscalculations). Moreover, there is nothing in any record before the Commission and no rulemaking on which USAC could rely that these standards are not met by the showings made by World-Link. USAC's refusal to accept and/or its disregard of the unrefuted Certification and other evidence submitted is reversible error.

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<sup>6</sup> "Congress and other legislatures may delegate authority to an administrative agency to carry out legislative policy when the 'boundaries' of the delegation are clearly defined (see AA Oilfield Service, Inc. v. New Mexico State Corp. Com'n, 881 P2d 18 (1994), and when the delegation is accompanied by proper standards and guidelines. 16A Am. Jur. 2d Constitutional Law § 297 (full citations omitted); Florida Gas Transmission Co. v. Public Service Com'n, 635 So. 2d 941 \*1994); State ex. Rel. Utilities Com'n v. Carolina Utility Customers Ass'n, Inc., 446 SE2d 332 (1994).

The legislature has the "power to authorize an administrative department to make rules and regulations to carry out an express legislative purpose, or for the complete operation and enforcement of a law within designated limitations; however, the standards by which the granted powers are to be administered must be clearly and definitely stated in the authorizing act and may not rest on indefinite, obscure, or vague generalities, or upon extrinsic evidence not readily available." 16A Am. Jur. 2d Constitutional Law § 297, citing, Ponderosa Ridge LLC v. Banner County, 554 NW 2d 151 (Neb. 1996).

The conferring of discretionary authority without properly defining the terms under which the discretion is to be exercised is void as unlawful delegation of legislative authority. 16A Am. Jur. 2d Constitutional Law § 297 (citations omitted).

Next, USAC did not even attempt to address WLS' legal arguments that neither USAC nor the Commission has authority to mandate USF contributions on wholesale revenues. As WLS argued in its 2003 Appeal, this is true regardless that such revenues were mistakenly reported by WLS as retail.<sup>7</sup>

In short, the Commission should overturn and remand USAC's June 8<sup>th</sup> Decision for further consideration, with instructions to include the additional evidence submitted in this appeal, because USAC's decision:

- Either exceeds the authority delegated to it by the Commission, as governed by rules of evidence or;
- The Commission's delegation of authority was devoid of clearly defined standards, thus making USAC's ability to comport with Commission directives and otherwise applicable rules of evidence an insurmountable task; and
- In either event, USAC's decision ignores the fundamental legal principle of jurisdiction and the "equitable" and "non-discrimination" requirements of Section 254(d) of the Communications Act, all of which must be considered and addressed before WLS' 2003 Appeal can be expired.

## **II. ADDITIONAL SUPPORT**

It has been shown that USAC's decision must be overturned as a matter of law. To insure however that there is no lessening of required USF contributions, the following is submitted.

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<sup>7</sup> Aggravating the situation, this mistake could not be corrected due to a procedural "rule," one which did not even exist at the time WLS sought to initially correct the mistake. If such a 12-month revision deadline existed as a lawfully promulgated FCC "rule" in or around the period from 2001 through December 2004, then there indeed was no need for the Commission to render its Form 499-A Order.

## Corporate Financial Statements

Set forth hereinafter is a showing how the revised revenue figures in the Revised 2002 Form 499-A tie to the corporate financial statements.<sup>8</sup>

As background, the specific reporting errors are not reflected in the corporate statements nor should they be, nor can they be. This is due to the fact that only a portion of the wholesale revenues were improperly included in the Revised 2002 Form 499-A. Because the corporate financial records properly recorded the revenues for both categories, there is no bright trail that identifies the portion of wholesale revenues included in the erroneous USF report.

Further, WL Holding, Inc.<sup>9</sup> ("World-Link") and its operating subsidiaries, WLS and WLT, do not keep their books on a calendar year basis, but on a fiscal year basis that ends May 31, 2005. In consequence, there's no bright trail to show calendar year wholesale versus retail revenues for calendar year 2001, the reporting period for USF 2001.

What is shown by the attached summary for year 2002 (FY End May 31, 2002) includes seven months of 2001. **Exhibit 6.** The important figures are those shown for net sales for WLS (retail) and WLT (wholesale). For 2001, wholesale revenues were \$31,637,895. Retail revenues were \$8,028,048. Wholesale revenues therefore exceed retail by factor of nearly 4.

In the summary sheet for 2002 through 2005, **Exhibit 7**, it will be noted that retail revenues varied slightly between these years.

### WLS Retail Revenue

|             |             |             |             |
|-------------|-------------|-------------|-------------|
| 2005        | 2004        | 2003        | 2002        |
| \$9,946,963 | \$9,936,398 | \$8,235,755 | \$8,028,048 |

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<sup>8</sup> There is no rule, policy or decision that provides any guidance on what type or form of showing is required. The showing herein is consistent however with GAAP.

<sup>9</sup> On November 1, 2001, World-Link Solutions, Inc. ("WLS") and World-Link Telecom, Inc. ("WLT") became 100% owned subsidiaries of WL Holding, Inc.

Importantly then, at no time did retail revenues reach \$10,000,00 in spite of modest increases in total revenues over these years. The obvious conclusion is that a report of over \$10,000,000 in revenues for 2001 had to be inflated. As certified by World-Link, a total of \$10,891,925 was reported in error as retail for 2001-2002. Actual jurisdictional revenues were determined to be \$7,228,717, an overage in reporting of \$3,663,208. The numbers \$8,028,048 and \$7,228,717 do not match because the larger amount (\$8,028,048) represents Fiscal Year End figures that must be included in the corporate financial statements versus the special calculation amount (\$7,228,717) that represents the retail revenues for the calendar year 2001.

In addition, 2001 was the year of the tragic terrorist attacks in New York. World-Link's operations were directly affected by the attacks and had to draw on its business interruption insurance to steady its operations in the face of such unanticipated disruption of its operations. Obviously, such interruption would affect its revenues adversely. It is even possible that some part of the insurance proceeds may have also been erroneously included in the correct \$7,228,717 revenue figures certified to by World-Link.

USAC's rejection of World-Link's appeal on its finding that no documentation was submitted showing that the wholesale revenues were obtained from other contributors to USF is erroneous as a matter of fact and law. First, the Commission's requirement for this showing did not take effect in time to affect World-Link's 2001 operations. The ruling came down well into 2001 and effective sometime thereafter. Hence, World-Link was not required to comply retroactively, but only prospectively.

But even if there were some obligation in 2001 in this regard, World-Link's rights are not based on such a showing. World-Link's rights are based on the lack of jurisdiction and its rights

under Section 254(d). The Commission's insistence on such a showing cannot be applied in such a way as to override World-Link's statutory rights as set forth herein.

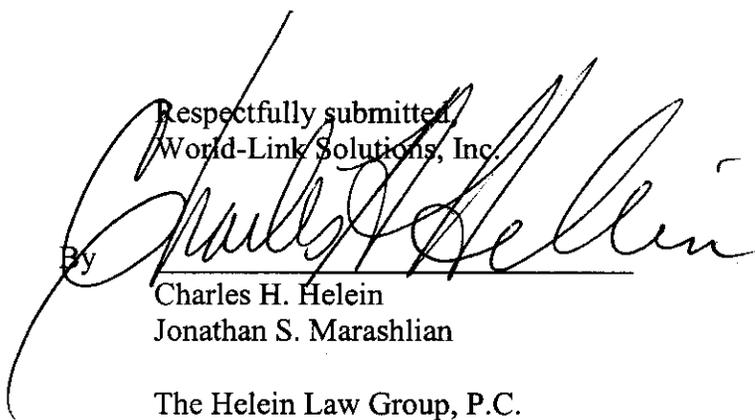
The showing on other contributors is irrelevant also because World-Link's wholesale operations occurred in a tiered sales channel that did not include sales to other contributors. That is, World-Link sold wholesale to other wholesalers. Its customers were therefore not contributors either. Rather, World-Link's customers' customers would be the first level of contributors reached. Hence, this requirement cannot be relied on by USAC as a basis for rejecting World-Link's appeal.<sup>10</sup>

### CONCLUSION

In conclusion, it is respectfully requested that the revisions to WLS's 2002 Form 499-A be made as requested (*see Exhibit 2*, attached Certification of Evan Ioannou, dated January 6, 2005) and that late payment penalties and interest be adjusted accordingly.

Respectfully submitted,  
World-Link Solutions, Inc.

By

  
Charles H. Helein  
Jonathan S. Marashlian

The Helein Law Group, P.C.  
8180 Greensboro Drive, Suite 700  
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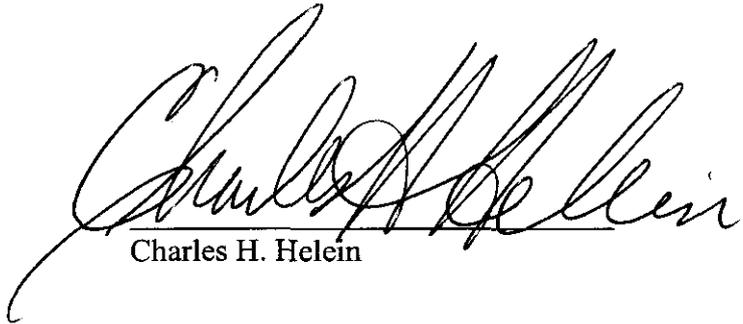
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<sup>10</sup> In support of the foregoing, a list of World-Link's wholesale customers is attached (**Exhibit 8**). Given the identify of these carriers it is clear that they were not reselling World-Link's wholesale services to end users, but using those for their own network operations for which no USF contributions were required.

**CERTIFICATE OF SERVICE**

I hereby certify that on this 8<sup>th</sup> day of August 2005, I served a true and correct copy of the foregoing Appeal of Universal Service Administrative Corporation Decision Concerning World-Link Solutions, Inc.'s Revision to FCC Form 499-A upon the following via First Class Mail, postage prepaid:

Universal Service Administrative Company  
2000 L Street, N.W.  
Suite 200  
Washington, DC 20036



Charles H. Helein

# **EXHIBIT**

**1**



Universal Service Administrative Company

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Administrator's Decision on Contributor Appeal

June 8, 2005

BY REGISTERED MAIL

Jonathan S. Marashlian  
World-Link Solutions, Inc.  
c/o The Helein Law Group, P.C.  
8180 Greensboro Drive, Suite 800  
McLean, VA 22102

Re: World-Link Solutions, Inc. (Filer ID # 812286)

Dear Mr. Marashlian:

On March 1, 2004, World-Link Solutions, Inc. (World-Link) filed new and revised revenue reporting information with the Universal Service Administrative Company (USAC), including a revision to its annual Telecommunications Reporting Worksheet (Worksheet or Form 499-A), reporting revenue for 2001 and originally due to USAC on April 1, 2002 (Revised 2002 499-A). Pursuant to an order issued by the Wireline Competition Bureau of the Federal Communications Commission (FCC) on December 9, 2004,<sup>1</sup> USAC has carefully reviewed World-Link's March 1, 2004 filing and supporting documentation.

The *Form 499-A Order*, among other things, adopted a one-year deadline for revisions to FCC Form 499-A filings.<sup>2</sup> The *Form 499-A Order* also directed USAC to accept revised Form 499-A filings from prior years, provided USAC received those revisions between the release date of the *Form 499-A Order*, December 9, 2004, and its effective date, January 10, 2005 (the Open Period), or prior to the release date of the *Form 499-A Order* where USAC had not yet acted on the filing. USAC can accept revenue revisions, however, only if a filer demonstrates "good cause" for submitting the revision beyond the

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<sup>1</sup> See *Federal-State Joint Board on Universal Service; 1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms; Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, Order, DA 04-3669 (WCB rel. December 9, 2004) (*Form 499-A Order*).

<sup>2</sup> FCC Forms 499-A and 457.

one-year revision window and permitted companies with pending revisions to supplement the record during the Open Period.

To establish good cause, for each Worksheet revision submitted, the *Form 499-A Order* requires that a company provide:

- A satisfactory explanation of the cause for any changes; and
- Supporting documentation reasonably sufficient to establish accuracy by showing how the revised information derives from corporate financial records.<sup>3</sup>

With respect to cases pending at the FCC that presented the Worksheet filing deadline issue, the FCC remanded those cases to USAC for limited re-consideration. As the FCC explained:

To the extent that a request for review encompasses issues in addition to revised 499-A issues, we remand to USAC only the portion of the request that deals with revised 499-A filings, and retain the remainder of the request for disposition by the Bureau or Commission.<sup>4</sup>

World-Link filed a revised 2002 Form 499-A on June 27, 2003, which USAC rejected. On October 27, 2003, World-Link filed an appeal with USAC and requested review of USAC's decision to reject the form. Because World-Link submitted the appeal concerning the revised Form 499-A on October 27, 2003 and USAC had not yet acted on the appeal when the *Form 499-A Order* was released, USAC considered World-Link's filing pursuant to the *Form 499-A Order*. For reasons explained below, USAC rejects the revised 2002 Form 499-A because World-link failed to establish good cause for submission of the late-filed revision.

Explanation of Decision:

In the documentation supporting its requested revenue revision, World-Link provided an explanation asserting that the revision was necessary because its original Form 499-A had inadvertently reported non-jurisdictional (wholesale) revenue. However, World-Link did not submit supporting documentation to show:

1. That the inadvertently reported non-jurisdictional revenue was in fact from revenues obtained from other contributors to the Universal Service Fund.
2. Whether, and if so how, the revised revenue figures tie to World-Link's corporate financial records.

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<sup>3</sup> See *Form 499-A Order* at ¶ 13 ("USAC shall only revise contribution obligations to the extent that the carrier has provided accurate and legitimate reasons for filing late and for revising the obligation.").

<sup>4</sup> See *id.*

World-Link Solutions, Inc.

June 8, 2005

Page 3

The only information provided in the appeal that addressed World-Link's 2001 annual revenue was a certification detailing the revised revenue. Because this explanation does not meet the requirements of the *Form 499-A Order*, World-Link's documentation does not support the World-Link's proposed revenue revisions. Therefore, pursuant to the *Form 499-A Order*, USAC cannot accept World-Link's Revised 2002 499-A.

Decision of the Administrator: Denied.

If you disagree with USAC's Decision, you may file an appeal with the FCC. Detailed instructions for filing appeals are available at:

<http://www.universalservice.org/serviceprovider/contributorappeals.asp>

Sincerely,

USAC

Universal Service Administrative Company

cc: Regina Dorsey, FCC Office of Managing Director  
Warren Firschein, FCC Wireline Competition Bureau  
Hillary DeNigro, FCC Enforcement Bureau

# **EXHIBIT**

**2**

# The Helein Law Group, P.C.

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Telecommunications  
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October 27, 2003

VIA OVERNIGHT DELIVERY

Letter of Appeal  
USAC  
2120 L Street, N.W.  
Suite 600  
Washington, D.C. 20037

Re: Letter of Appeal to USAC - World-Link Solutions, Inc.

Ladies and Gentlemen:

World-Link Solutions, Inc. (World-Link), by its attorneys, submits this Letter of Appeal in response to USAC's "2002 Form 499-A Revision Rejection" dated August 27, 2003.

World-Link disagrees with USAC's decision refusing to adjust the company's Universal Service Fund (USF) contributions for the period January 1 – December 31, 2001 (herein referred to as "Year 2001"). The basis for World-Link's disagreement is that the contribution obligation for Year 2001 is based on the inadvertent inclusion of non-jurisdictional revenues on World-Link's 2002 Form 499-A.

World-Link inadvertently included revenues generated by its wholesale carrier operations. Attached hereto are the calculations that show what World-Link's jurisdictional revenues were for Year 2001; what World-Link has paid toward Year 2001 and the following year's contributions; what World-Link recognizes as unpaid contributions and the proper amount of late payment assessments being owed thereon; and what World-Link owes to day after the Year 2001 revenues are properly adjusted by restating its revenues less the non-jurisdictional revenues.

Pursuant to Section 254(d) of the Communications Act of 1934, as amended, (the "Act") (47 U.S.C. § 254(d)), "every telecommunications carrier that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory

basis ... to preserve and advance universal service.” (Emphasis added.) Section 3 (46) of the Act (47 U.S.C. § 153 (46) defines “telecommunications service” as “the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.” (Emphasis added.)

World-Link inadvertently included in the revenues reported in its 2002 499-A Form revenues that were not received by reason of its providing telecommunications services. By statutory definition, such revenues are not subject to the requirements of Section 254 of the Act. To rectify the inadvertent error, World-Link’s revenues for Year 2001 must be restated; its contributions recalculated based on the correct amount of revenues for this period; and the late payment assessments recalculated based on the correct revenue figure and the late paid or unpaid contributions amounts adjusted to reflect the corrected restatement of revenues.

Since no agency may act outside the scope of its jurisdiction as delegated by Congress, the Commission’s rules promulgated in accordance with the authority delegated to it in Section 254 are necessarily limited to assessing USF contributions based on revenues derived from carriers’ that provide telecommunications services. The non-jurisdictional revenues erroneously reported on the 2002 499-A Form were not derived from telecommunications services as defined in the Act.

Jurisdiction is fundamental to the exercise of authority. Its lack may never be waived and an objection to the exercise of authority based on the lack of jurisdiction is never untimely. The lack of jurisdiction may be raised at any point in a regulatory process. For these reasons, the application of a rule purporting to limit the time within which a carrier may correct errors in its 499-A Forms is not properly applied when the basis for the correction is the lack of jurisdiction.

Hence, World-Link has a right to have its 2002 499-A Form revised and its obligations for contributions adjusted so that they are based only on jurisdictional revenues. Fully supporting this conclusion is other express language of Section 254. As quoted above, carriers are required to contribute only on an equitable and non-discriminatory basis. A carrier required to contribute based on revenues no other carriers are required to make their contributions is clearly not being treated equitably or in a non-discriminatory manner.

Based on these considerations, World-Link seeks to have its USF contribution obligations and its late payment assessments reviewed and adjusted as indicated in Attachment A.

World-Link’s contact information is as follows:

For the legal issues on which this appeal is based, the contact is:  
Jonathan S. Marashlian  
The Helein Law Group, P.C.

8180 Greensboro Drive, Suite 800  
McLean, VA 22102  
703-714-1313  
703-714-1330 (fax)  
[jsm@thlglaw.com](mailto:jsm@thlglaw.com)

Mr. Marashlian will be assisted in presenting the factual aspects underlying this appeal by:

Evan Ioannou  
Managing Director  
World-Link Solutions, Inc.  
One Wall Street Court  
5<sup>th</sup> Floor  
New York, NY 10005  
212-444-3000 x3035  
212-430-7055 (fax)  
[evan@world-link.com](mailto:evan@world-link.com)

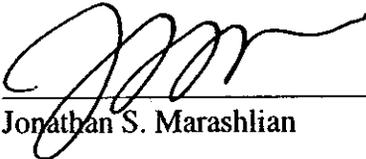
Legal Reporting Name: World-Link Solutions, Inc.  
Filer 499 ID: 812286

In addition to Attachment A, additional documentation supporting this appeal is attached.

A photocopy of USAC's Revised Form 499-A Rejection decision that is being appealed is attached.

Appeal submitted,

By

  
Jonathan S. Marashlian

The Helein Law Group, P.C.  
8180 Greensboro Drive, Suite 700  
McLean, VA 22102  
703-714-1300  
703-714-1330 (fax)  
[mail@thlglaw.com](mailto:mail@thlglaw.com)

Attachment A  
Exempt From Public Disclosure  
Pursuant to FCC Rule 0.459  
47 C.F.R. § 0.459

World-Link Solutions, Inc.  
Letter of Appeal

Adjusted 2002 499-A Form Calculations

Incorrect total revenues reported for Year 2001 and 2002 Form 499-A are:  
\$10,891,925.

Actual jurisdictional revenues for Year 2001 and 2002 Form 499-A are:  
\$7,228.717

Total non-jurisdictional revenues to be excluded on adjustment: \$3,663,208

Gross contributions on erroneous total revenues: \$793,476.74

Correct USF contributions based on jurisdictional revenues are: \$526,612.08

Excessive amount of contributions: \$266,864.66.

USF Contributions Paid Year 2001: \$145,478.63

USF Contributions Shortfall on Correct Revenues: \$381,133.45

|   |                  |
|---|------------------|
| Late Fees Paid for Year 2001:           | \$13,879.30      |
| Late Fees Billed by USAC for Year 2001: | <u>13,622.13</u> |
| Overpayment:                            | \$ 257.17        |

|                                    |                 |
|------------------------------------|-----------------|
| Total USF Shortfall for Year 2001: | \$381,133.45    |
| Less Late Fee Overpayment:         | <u>- 257.17</u> |
| Correct Total Overdue:             | \$380,876.28    |

*Special Note:* World-Link has calculated its USF obligations through October 2003, including late payment assessments. In a separate filing to be made shortly, World-Link will provide a consolidated statement of its USF obligations in order to provide a current amount it will recognize as being owed. World-Link will also propose a plan for retiring this obligation based on the adjusted amounts due for Year 2001 as set forth above subject to a grant of this appeal.



Universal Service Administrative Company

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August 27, 2003

World-Link Solutions, Inc.  
One Wall St. Court  
5<sup>th</sup> Floor  
New York, NY 10005

Filer 499 ID: 812286

Attn: Ann-Marie DiGiennaro

RE: 2002 Form 499-A Revision Rejection

The Universal Service Administrative Company (USAC) has completed a review of the Revised FCC Form 499-A that you submitted for the purpose of revising revenue reported by World-Link Solutions, Inc. for the period January 1 – December 31, 2001. Based on the information provided, we are unable to accept the revision because it was not filed within one year of the original submission.

USAC recognizes that you may disagree with our decision. **If you wish to file an appeal, your appeal must be postmarked no later than 60 days after the date of this letter.**

In the event that you choose to appeal the decision, you should follow these guidelines:

- Write a "Letter of Appeal to USAC" explaining why you disagree with this Revised Form 499-A Rejection letter and identify the outcome that you request;
- Mail your letter to:  
Letter of Appeal  
USAC  
2120 L Street, NW, Suite 600  
Washington, DC 20037
- Appeals submitted by fax, telephone call, and e-mail **will not** be processed.
- Provide necessary contact information. Please list the name, address, telephone number, fax number, and e-mail address (if available) of the person who can most readily discuss this appeal with USAC.
- Identify the "Legal Reporting Name" and "Filer 499 ID."

- Explain the appeal to the USAC. Please provide documentation to support your appeal.
- Attach a photocopy of this Revised Form 499-A Rejection decision that you are appealing.

USAC will review all "letters of appeal" and respond in writing within 90 days of receipt thereof.

*The response will indicate whether USAC:*

- (1) agrees with your letter of appeal, and approves an outcome that is different from the Revised Form 499-A Rejection Letter; or
- (2) disagrees with your letter of appeal, and the reasons therefor.

If you disagree with the USAC response to your "letter of appeal," you may file an appeal with the FCC within 60 days of the date USAC issued its decision in response to your "Letter of Appeal." The FCC address where you may direct your appeal is:

Federal Communications Commission  
Office of the Secretary  
445 12th Street, SW  
Room TW-A325  
Washington, DC 20554

Please be sure to indicate the following information on all communications with the FCC:  
"Docket Nos. 96-45 and 97-21."

**In the alternative, you may write and send an appeal letter directly to the Federal Communications Commission (FCC), and bypass USAC. Your letter of appeal to the FCC must explain why you disagree with the USAC decision. You are also encouraged to submit any documentation that supports your appeal. The FCC rules governing the appeals process (Part 54 of Title 47 of the Code of Federal Regulations 54.719 – 54.725) are available on the FCC web site ([www.fcc.gov](http://www.fcc.gov)).**

If you have questions or concerns regarding this letter, please contact Lisa Tubbs at (973) 884-8116 or Christy Doleshal at (973) 560-4428.

Sincerely,

**USAC**

# **EXHIBIT**

**3**

1st Revision L.H. 10/15/02

2002 FCC Form 499-A Telecommunications Reporting Worksheet

Approval by OMB  
3080-0855

>>> Please read instructions before completing. <<<  
Annual Filing -- due April 1.

Block 1: Contributor Identification Information

During the year, enter appropriate Blocks 1, 2 and 6 if there are any changes in Lines 104 or 105. See instructions.

|   |  |
|---|--|
| 101 Filer 499 ID (If you don't know your number, contact the administrator at (973)-680-4880. If you are a new filer, leave blank and a Filer 499 ID will be assigned to you.)  | 812 286  |
| 102 Legal name of reporting entity  | WORLD-LINK SOLUTIONS, INC.                             |
| 103 IRS employer identification number  | 13-4164619   |
| 104 Name telecommunications service provider is doing business as   | WORLD-LINK SOLUTIONS, INC.                             |
| 105 Principal communications business (Check the one that best describes the reporting entity - see directions. Check one box only.)  |  |
| <input type="checkbox"/> CAP/LEC<br><input type="checkbox"/> Local Reseller<br><input type="checkbox"/> Prepaid Card<br><input type="checkbox"/> Shared-Tenant Service Provider / Building LEC<br><input type="checkbox"/> Cellular/PCS/BMR (wireless telephony incl. by resale)<br><input type="checkbox"/> Operator Service Provider (OSP)<br><input type="checkbox"/> Private Service Provider<br><input type="checkbox"/> SMR (dispatch)<br><input type="checkbox"/> Other Local<br><input type="checkbox"/> Incumbent LEC<br><input type="checkbox"/> Paging & Messaging<br><input type="checkbox"/> Satellite Service Provider<br><input type="checkbox"/> Toll Reseller<br><input type="checkbox"/> Other Mobile<br><input checked="" type="checkbox"/> Interexchange Carrier (IXC)<br><input type="checkbox"/> Payphone Service Provider<br><input type="checkbox"/> Wireless Data<br><input type="checkbox"/> Other Toll |  |
| If Other Local, Other Mobile or Other Toll is checked, describe center type / services provided:  |  |
| 106 Holding company (All affiliated companies must show the same name on this line.)  | N/A  |
| 107 FCC Registration Number (FRN) ( <a href="https://svartfoss2.fcc.gov/cores/CoresHome.html">https://svartfoss2.fcc.gov/cores/CoresHome.html</a> ) (For assistance, contact the CORES help desk at 877-480-3201 or CORES@fcc.gov)  | N/A  |
| 108 Management company (If center is managed by another entity)   | N/A  |
| 109 Complete mailing address of reporting entity corporate headquarters   | 1 WALL STREET COURT, 5TH FLOOR<br>NEW YORK, N.Y. 10005 |
| 110 Complete business address for customer inquiries and complaints (if different from address entered on Line 109)   |  |
| 111 Telephone number for customer complaints and inquiries (Toll-free number if available)  | (N.Y.) 444-3000  |
| 112 All trade names that you have used in the past 3 years in providing telecommunications services. This should include all names by which you are identified on customer bills.   |  |
| a   | WORLD-LINK SOLUTIONS, INC.                             |
| b   | WORLD-LINK INC.  |
| c   |  |
| d   |  |
| e   |  |
| f   |  |

RECEIVED  
 2002 FEB 15 PM 4:30

Use an additional sheet (if necessary). Each reporting entity must provide all names used for carrier activities.

PERSONS MAKING WILLFUL FALSE STATEMENTS ON THIS WORKSHEET CAN BE PUNISHED BY FINE OR IMPRISONMENT UNDER TITLE 18 OF THE UNITED STATES CODE, 18 U.S.C. §1001

FCC Form 499-A  
February 2002

10/15/02  
 Per Ann Marie World-Link had end user only! The corrected/revision filing B104 revenue is the same as the original filing. CD

F-033  
 T-764 P.002  
 May-06-2003 04:19pm From-