

RECEIVED

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

JUN - 5 2006

Federal Communications Commission
Office of Secretary

In the Matter of)	
)	
Request for Review by)	CC Docket Nos. 96-45 and 97-21
ILD Telecommunications, Inc. and)	
Intellicall Operator Services, Inc.)	
)	
of Decision of the)	
Universal Service Administrator)	
)	

REQUEST TO WITHHOLD INFORMATION
FROM PUBLIC INSPECTION

ILD Telecommunications, Inc. ("ILD") and Intellicall Operator Services, Inc. ("Intellicall"), by counsel and pursuant to Section 0.459 of the Commission's rules, 47 C.F.R. §0.459, hereby request that certain materials and information contained in the above-captioned Request for Review of Decision of the Universal Service Administrator ("Request for Review") be treated as proprietary and confidential information not available for public inspection. In accordance with Section 0.459(b) of the Commission's Rules, 47 C.F.R. §0.459(b), ILD and Intellicall provide the following information in support of their request for confidential treatment.

1. ILD and Intellicall are today filing a request for review of: (a) a decision of the Universal Service Administrative Company ("USAC") to revise and submit Intellicall's FCC Form 499-A submissions for 2003 and 2004 based on audit findings which are the subject of a pending appeal before the Federal Communications Commission ("FCC"); (b) USAC's assessment of Universal Service Fund ("USF") program contributions and similar assessments regarding contributions to the Telecommunications Relay Service ("TRS") and the North

No. of Copies rec'd 0 + 4
List A B C D E

American Numbering Plan ("NANP") based upon the revised and refiled FCC Form 499-As; and (c) USAC's issuance of a red light status alert to Intellicall regarding Intellicall's alleged failure to pay the "adjusted" contribution amounts billed.

2. Certain of the Exhibits attached to the Request for Review include proposed USF, TRS and NANP assessments for Intellicall. These assessments enable third parties to determine Intellicall's revenues from the provision of different telecommunications and other services. Such sensitive commercial and proprietary information is protected pursuant to Section 0.457(d) of the Commission's Rules, 47 C.F.R. §0.457(d). ILD and Intellicall are privately owned companies, and this information is not available to the public. However, ILD and Intellicall provide telecommunications and other services in competition with numerous other providers of these services. Disclosure of the financial and operational information contained in the Request for Review and the related Exhibits would result in substantial competitive harm to ILD and Intellicall.

3. The specific Exhibits for which ILD and Intellicall seek confidential treatment are: (1) April 24, 2004 USAC invoice at Exhibit 2; (2) May 4, 2006 NECA invoice to Intellicall at Exhibit 3; and (3) May 11, 2006 NANP invoice to Intellicall at Exhibit 4.

4. For the reasons discussed above, Intellicall respectfully requests that the Exhibits and other information identified in paragraphs 2 and 3 above be withheld from public inspection in accordance with Section 0.459 of the Commission's Rules, 47 C.F.R. §0.459.

5. In the event the Commission denies confidential treatment of that information, ILD and Intellicall respectfully request that the materials be returned to the undersigned counsel pursuant to Section 0.459(e) of the rules and not disclosed to the public. Any questions regarding this request should be addressed to the undersigned.

American Numbering Plan ("NANP") based upon the revised and refiled FCC Form 499-As; and (c) USAC's issuance of a red light status alert to Intellicall regarding Intellicall's alleged *failure to pay the "adjusted" contribution amounts billed.*

2. Certain of the Exhibits attached to the Request for Review include proposed USF, TRS and NANP assessments for Intellicall. In addition, the text of the Request for Review contains these additional assessments. These assessments enable third parties to determine Intellicall's revenues from the provision of different telecommunications and other services. Such sensitive commercial and proprietary information is protected pursuant to Section 0.457(d) of the Commission's Rules, 47 C.F.R. §0.457(d). ILD and Intellicall are privately owned companies, and this information is not available to the public. However, ILD and Intellicall provide telecommunications and other services in competition with numerous other providers of these services. Disclosure of the financial and operational information contained in the Request for Review and the related Exhibits would result in substantial competitive harm to ILD and Intellicall.

3. The specific Exhibits for which ILD and Intellicall seek confidential treatment are: (1) April 24, 2004 USAC invoice at Exhibit 2; (2) May 4, 2006 NECA invoice to Intellicall at Exhibit 3; and (3) May 11, 2006 NANP invoice to Intellicall at Exhibit 4.

4. For the reasons discussed above, Intellicall respectfully requests that the Exhibits and other information identified in paragraphs 2 and 3 above be withheld from public inspection in accordance with Section 0.459 of the Commission's Rules, 47 C.F.R. §0.459.

5. In the event the Commission denies confidential treatment of that information, ILD and Intellicall respectfully request that the materials be returned to the undersigned

counsel pursuant to Section 0.459(e) of the rules and not disclosed to the public. Any questions regarding this request should be addressed to the undersigned.

Respectfully submitted,

June 5, 2006

ILD TELECOMMUNICATIONS, INC.
INTELLICALL OPERATOR SERVICES, INC.

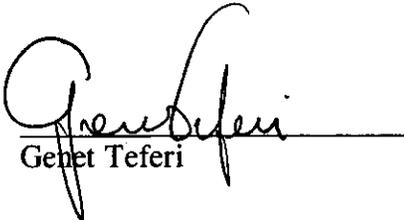
By: Thomas Bardo
Thomas F. Bardo
Timothy J. Fitzgibbon
NELSON MULLINS RILEY & SCARBOROUGH LLP
101 Constitution Avenue, N.W.
Suite 900
Washington, D.C. 20001
(202) 712-2800
Their Attorneys

5754599

CERTIFICATE OF SERVICE

The undersigned Administrative Assistant of the law firm of Nelson Mullins Riley & Scarborough LLP, attorneys for the Plaintiffs, hereby certifies that a copy of the "Request to Withhold Information From Public Inspection" was mailed to the following party via first class mail, postage prepaid, on June 5, 2006:

David Capozzi, Esquire
Acting General Counsel
Universal Service Administrative Company
2000 L Street, N.W.
Suite 200
Washington, D.C. 20036


Genet Teferi

5754599

EXHIBIT 2



COPY

Statement Date: 04/21/2006
 Invoice Number: UBDI0000190086
 Filer 499 ID: 807204
 Balance Due USAC: \$ 1,895,220.17
 Amount Enclosed:

Mail Payment To:

Intellicall Operator Services, Inc.
 Attention: Tracy Langley
 5000 Sawgrass Village Cir., Suite 30
 Ponte Vedra Beach, FL, 32082

Universal Service Administrative Company
 1259 Paysphere Circle
 Chicago, IL 60674

Address Change? See reverse side for instructions.

If paying for multiple Filer 499 IDs, please check here and complete form on back.

Send top portion of statement with payment in enclosed envelope. Keep bottom portion for your records.

STATEMENT OF ACCOUNT

Date	Description	Charges	Credits
	Previous Balance	\$182,188.11	
04/14/2006	Low Income Support Mechanism Charges	\$21,040.69	
04/14/2006	High Cost Support Mechanism Charges	\$101,983.83	
04/14/2006	Payment		(\$182,188.11)
04/14/2006	High Cost Support Mechanism Adjustment	\$428,627.83	
04/14/2006	High Cost Support Mechanism Adjustment	\$547,346.92	
04/14/2006	High Cost Support Mechanism Adjustment	\$21,875.30	
04/14/2006	Low Income Support Mechanism Adjustment	\$86,101.40	
04/14/2006	Low Income Support Mechanism Adjustment	\$119,388.76	
04/14/2006	Low Income Support Mechanism Adjustment	\$4,771.50	
04/14/2006	Rural Health Care Support Mechanism Adjustment	\$8,129.86	
04/14/2006	Rural Health Care Support Mechanism Adjustment	\$324.92	
04/14/2006	Rural Health Care Support Mechanism Adjustment	\$4,117.43	
04/14/2006	Rural Health Care Support Mechanism Charges	\$1,415.21	
04/14/2006	Schools & Libraries Support Mechanism Adjustment	\$275,717.86	
04/14/2006	Schools & Libraries Support Mechanism Adjustment	\$215,882.61	
04/14/2006	Schools & Libraries Support Mechanism Adjustment	\$8,627.98	
04/14/2006	Schools & Libraries Support Mechanism Charges	\$49,868.07	

Transactions occurring after 04/14/2006 are not reflected on this statement.

The Balance Due on this Statement represents your mandatory contributions to universal service support and constitutes a Debt owed to the United States as defined by 31 U.S.C § 3701, the Debt Collection Act of 1982 (Public Law 97-365), and the Debt Collection Improvement Act of 1996 (Public Law 104-134), as amended (the DCIA) and any amendments thereto. This Statement constitutes a demand for payment of the Balance Due in accordance with and pursuant to Federal Communications Regulations (47 C.F.R. § 1.1911) and the DCIA. Please refer to the reverse side of this Statement for important information and a description of your legal rights, obligations, and opportunities under the DCIA.

Statement Date	Invoice Number	Filer 499 ID	Balance Due USAC
04/21/2006	UBDI0000190086	807204	\$ 1,895,220.17
FORM 499Q DATA		PAYMENT INFORMATION	
This month's support mechanism charges were calculated using an FCC contribution factor of 0.109000 and the following revenue data: <u>February 2006 499Q</u> 120b \$4,589,738.00 120c \$756,440.00 If the figures do not correspond with your records, please contact the 499 Data Collection Agent.		Payment must be received by 05/15/2006 to avoid late payment charges. Please remit ACH payments in a CCD+ format to ABA #071000505, Account #5590045653. Payments must include your Company Name, Filer 499 ID, and Invoice Number to ensure timely posting.	



Statement Date: 04/21/2006
Invoice Number: UBD10000190086
Filer 499 ID: 807204
Balance Due USAC: \$ 1,895,220.17
Amount Enclosed:

Intellicall Operator Services, Inc.
Attention: Tracy Langley
5000 Sawgrass Village Cir., Suite 30
Ponte Vedra Beach, FL, 32082

Mail Payment To:

Universal Service Administrative Company
1259 Payscale Circle
Chicago, IL 60674

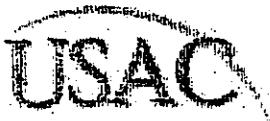
Address Change? See reverse side for instructions.

If paying for multiple Filer 499 IDs, please check here and complete form on back.

Send top portion of statement with payment in enclosed envelope. Keep bottom portion for your records.

STATEMENT OF ACCOUNT

Date	Description	Charges	Credits
	Previous Balance	\$182,188.11	
	BALANCE DUE USAC ON 05/15/2006	\$1,895,220.17	



Statement Date: 04/21/2006
Invoice Number: UBDI0000190086
Filer 499 ID: 807204

DETAILED SUMMARY OF CHARGES AND CREDITS

SUPPORT MECHANISM CHARGES

Your monthly support mechanism charges were calculated according to the following formulas:

Quarterly Contribution Base

The quarterly contribution base is a portion of your quarterly revenue that USAC considers when determining your quarterly Universal Service Fund contribution. The quarterly contribution base equals your interstate plus international revenue. Your current quarterly contribution base equals:

$$\frac{\$ 4,589,738.00}{\text{Interstate Revenue (Line 120B)}} + \frac{\$ 756,440.00}{\text{International Revenue (Line 120C)}} = \frac{\$ 5,346,178.00}{\text{Quarterly Contribution Base}}$$

Adjusted Quarterly Contribution

USAC adjusts carriers' quarterly contribution bases by the amount that they are expected to contribute in that quarter. The calculation for an adjusted contribution amount is as follows, and takes into account the circularity deduction:

$$\begin{array}{rcl} \frac{\$ 5,346,178.00}{\text{Quarterly Contribution Base}} & - & \frac{0.109000}{\text{FCC Contribution Factor}} \\ \hline & & \frac{\$ 582,733.40}{\text{Unadjusted Contribution}} \\ \\ \frac{\$ 582,733.40}{\text{Unadjusted Contribution}} & - & \frac{0.102637}{\text{FCC Circularity Factor}} \\ \hline & & \frac{\$ 522,923.39}{\text{Adjusted Contribution}} \end{array}$$



Statement Date: 04/21/2006
 Invoice Number: UBD10000190086
 Filer 499 ID: 807204

De Minimis Eligibility

Carriers whose expected annual contribution is less than \$10,000 are considered de minimis and are exempted from paying into the Universal Service Fund. To be exempt, a carrier must meet the de minimis criteria on both the current 499A and 499Q forms. You meet the de minimis criteria on neither the 499A or the current 499Q. Therefore, you are not eligible for the de minimis exemption during the current quarter.

Your eligibility was calculated using the contribution factors established by the FCC for determining de minimis status on each form:

499A:

$$\frac{\$ 20,342,448.00}{499A \text{ Contribution Base}} \times \frac{0.100000}{FCC \text{ Estimated Annual Factor}} = \frac{\$ 2,034,244.80}{\text{Estimated 499A Contribution}}$$

499Q:

$$\frac{\$ 522,923.39}{\text{Adjusted Contribution}} \times 4 = \frac{\$ 2,091,693.57}{\text{Estimated 499Q Contribution}}$$

For more information on the FCC estimated annual factor, please see the Form 499A Instructions. For more information on the current FCC contribution factor, visit the FCC website at www.fcc.gov.

Support Mechanism Charges

Your total monthly contribution is determined by multiplying one-third of your adjusted quarterly contribution base by the current quarter's FCC contribution factor. Your contribution is then allocated among the four support mechanisms according to the established allocation percentages for the current quarter.

$\frac{1}{3}$	*	$\frac{\$ 522,923.39}{\text{Adjusted Quarterly Contribution}}$	=	$\frac{\$ 174,307.80}{\text{Total Monthly Contribution}}$
$\frac{\$ 174,307.80}{\text{Total Monthly Contribution}}$	*	$\frac{0.585079}{\text{High Cost Allocation Percentage}}$	=	$\frac{\$ 101,983.83}{\text{High Cost Support Mechanism Charge}}$
$\frac{\$ 174,307.80}{\text{Total Monthly Contribution}}$	*	$\frac{0.120710}{\text{Low Income Allocation Percentage}}$	=	$\frac{\$ 21,040.69}{\text{Low Income Support Mechanism Charge}}$
$\frac{\$ 174,307.80}{\text{Total Monthly Contribution}}$	*	$\frac{0.008119}{\text{Rural Health Care Allocation Percentage}}$	=	$\frac{\$ 1,415.21}{\text{Rural Health Care Support Mechanism Charge}}$
$\frac{\$ 174,307.80}{\text{Total Monthly Contribution}}$	*	$\frac{0.286092}{\text{Schools \& Libraries Allocation Percentage}}$	=	$\frac{\$ 49,868.07}{\text{Schools \& Libraries Support Mechanism Charge}}$

EXHIBIT 3



INVOICE

Invoice:

TRS0031379

Invoice Date:

May 04, 2006

Page:

1 of 1

Bill To:

Please Remit To:

INTERSTATE TRS FUND
P.O. BOX 360090
PITTSBURGH PA 15251-6090

Intellicall Operator Services, Inc.
Marsha A. Pokorny
1049 NE Macedonia Church Ave.
Lee FL 32059

Customer No: 807204
Payment Terms: 22 DAYS
Due Date: May 26, 2006

AMOUNT DUE: 206,791.66 USD

Amount Remitted

Original

INTERSTATE TELECOMMUNICATIONS RELAY SERVICE FUND

For billing questions, please call: 973-884-8073

Line	Description	Unit Amt	Net Amount
1	May invoice	10,495.05	10,495.05
2	2003 Adjustment	72,029.75	72,029.75
3	2004 Adjustment	124,266.86	124,266.86
		Subtotal:	206,791.66
		AMOUNT DUE:	206,791.66 USD

Payment must be received by 5/26/2006

EXHIBIT 4



Welch & Company
 1270 Stone St.
 Oviedo, FL 32765
 USA

North American Numbering Plan (NANP)

c/o Welch & Company LLP
 Billing and Collection Agent
 P.O. Box 223231
 Pittsburgh, PA 15251-2231
 www.nanpfund.com

Invoice

Bill To: Intellicall Operator Services, Inc.
 1270 Stone St.
 Oviedo, FL 32765
 USA
 Attn: Marsha Pokorny

FCC Filer ID	Invoice No.	Invoice Date	Date Due
807204	IN005072	5/11/2006	6/12/2006

Description	Amount
Adjustment of 2003 annual share of cost for Numbering Administration in North America	1,709.69 USD
Adjustment of 2004 annual share of cost for Numbering Administration in North America	991.43 USD
<p>To avoid interest charges payment must be received by 6/12/2006 Please include your FCC Filer ID on your payment</p>	

For billing enquiries, questions or concerns, please call Deborah Canniff (613-236-9191 ext. 212)

Payable To: Welch & Company LLP
 P.O. Box 223231
 Pittsburgh, PA 15251-2231

Balance	2,701.12 USD
----------------	--------------

NORTH AMERICAN NUMBERING PLAN (NANP) PAYMENT GUIDELINES
Welch & Company LLP – Billing and Collection Agent

TO AVOID LOST OR MISAPPLIED PAYMENTS, DO NOT SEND PAYMENTS FOR OTHER FEDERAL COMMUNICATIONS FUNDS WITH YOUR NANP CONTRIBUTION

There are many telecommunications companies that have similar or identical company names. It is **IMPERATIVE** that your payments include your **FCC FILER ID** (six digit code beginning with an 8) and the **INVOICE NUMBER**, both of which appear on your invoice.

Checks or wire transfers should be made payable to Welch & Company LLP. Welch's taxpayer identification number is 98-0191285.

If your payment is for **one company only**, write the Filer ID and invoice number on the face of the check.

If your payment is for **multiple companies** using one check, attach the NANP Payment Identification Form (on reverse) and list the Filer ID number and the amount for each company.

If your payment is **made electronically via EFT**, identify the transmittal as a NANP Payment and include the Filer ID and invoice number.

If you are **unable to submit the Filer ID with the EFT**, fax the NANP Payment Identification Form (on reverse) associated with the EFT to Welch & Company LLP at 613-236-8258, Attention: Deborah Canniff, to ensure correct posting of your payment.

PAYMENTS SHOULD BE TRANSMITTED AS FOLLOWS:

For regular payments by check:

**WELCH & COMPANY LLP
P.O. BOX 223231
PITTSBURGH, PA 15251-2231**

For overnight payments:

**WELCH & COMPANY LLP
ATTN: LOCKBOX NUMBER 223231
500 ROSS STREET 154-0455
PITTSBURGH, PA 15251
TEL: 412-234-4381
Note inside the Express Envelope:
"DEPOSIT IN P.O. BOX 223231"**

For electronic funds transfer (EFT):

**ABA #: 043000261
ACCOUNT #: 019-6058
MELLON BANK: PITTSBURGH, PA
Note: Identify the transmittal as
"NANP PAYMENT"**

Telecommunications service providers who qualify for the Universal Service Fund *de minimis* exemption are **NOT EXEMPT** from contributing to the North American Numbering Plan Administration Fund.

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

In the Matter of)	
)	
Request for Review by)	CC Docket Nos. 96-45 and 97-21
ILD Telecommunications, Inc. and)	
Intellicall Operator Services, Inc.)	
)	
of Decision of the)	
Universal Service Administrator)	
)	

REQUEST FOR REVIEW

ILD Telecommunications, Inc. (“ILD”) and Intellicall Operator Services, Inc. (“Intellicall”), by counsel and pursuant to Sections 54.719 and 54.721 of the Commission’s Rules, hereby request review of the Universal Service Administrative Company’s (“USAC”) unilateral and unlawful decisions to: (a) revise and refile FCC Form 499-A on behalf of Intellicall for 2003 and 2004, based on the outcome of an audit conducted by USAC’s Internal Audit Division (“USAC-IAD”) which is the subject of an appeal currently pending before the Commission; (b) bill Intellicall for “adjustments” to its Universal Service Fund (“USF”) program contributions based upon the revised and refiled FCC Form 499-As; (c) issue a red light status alert to Intellicall for failure to pay the “adjusted” contribution amounts billed; and (d) forward the revised 499-A forms to NECA and to Welch & Company LLP (“Welch”), which led those entities to issue invoices to Intellicall seeking “adjustments” to Intellicall’s contributions for the Interstate Telecommunications Relay Service (“TRS”) Fund and the North American Numbering Plan (“NANP”) Fund, respectively. The Commission should

grant this request for review because there is no authority for any of these unilateral actions by USAC, each of which seriously and adversely affects ILD.

FACTUAL BACKGROUND

ILD is a privately-owned provider of telecommunications, information and billing services. ILD provides local exchange carrier billing, direct billing, corporate calling cards, conferencing services, operator-assisted services, and long distance and international calling services. Intellicall is a wholly-owned subsidiary of ILD and holds various authorizations to provide telecommunications services. For convenience, Intellicall and ILD will be referred to collectively as "ILD" except when referencing a particular communication from or to one of those entities.

In connection with its provision of such telecommunications services, Intellicall prepared and submitted FCC Form 499-A filings. In late 2004, USAC-IAD initiated an audit of Intellicall's FCC Form 499-A filings. By letter dated January 31, 2006, the USAC Billing and Collections Department advised Intellicall that USAC-IAD had completed its audit of Intellicall and that Intellicall had incorrectly reported its revenues on FCC Form 499-A for the years 2003 and 2004. The January 31 letter stated that Intellicall "must revise its FCC 499-A revenue reports for these years" within 60 days of the date of the letter. Finally, the January 31 letter also stated that Intellicall "may appeal this action and the audit findings on which it is based" pursuant to 47 C.F.R. Section 54.719(c).

On March 31, 2006, ILD timely submitted a Request for Review of: (a) USAC's decision to require Intellicall to refile its FCC Form 499-A submissions for 2003 and 2004; and (b) the USAC-IAD audit report which formed the basis for USAC's decision to require refiling by Intellicall. Consistent with the Commission's rules, a copy of ILD's March 31,

2006 Request for Review was served upon USAC. Despite ILD's March 31, 2006 appeal, the USAC Billing and Collections Department issued a letter, dated April 7, 2006, informing Intellicall that USAC had not received revised FCC Form 499-A submissions from Intellicall in accordance with USAC's January 31 letter and that as a result:

USAC has prepared the FCC Form 499(s) on behalf of Carrier. The form(s) will be processed and contribution adjustments applied to the April/2006 USF invoice.

See April 7, 2006 Letter from Chang-Hua Chen, USAC Billing and Collections, to Jeffrey L. Smith of Intellicall (attached as Exhibit 1). The April 7 letter further stated that "[a]ll billed contributions must be paid by the invoice date to avoid late payment fees and Red Light Action." Id.

Notwithstanding the fact that ILD had filed a timely appeal of the USAC-IAD audit findings that formed the basis for USAC's decision to require revision of Intellicall's Form 499-A submissions, USAC unilaterally revised and refiled FCC Form 499-As for Intellicall, and then proceeded to bill Intellicall for numerous "adjustments" to its previous USF contributions based on the revised Form 499-As. On April 21, 2006, USAC issued an invoice that included "adjustments" totaling over \$1.7 million in addition to the normal monthly invoice amount. A copy of the invoice is attached as Exhibit 2.

USAC also apparently provided the revised and refiled Form 499-A submissions to the administrators of other federal telecommunications funds. In addition to the "adjusted" invoice from USAC seeking additional USF contribution amounts, Intellicall also received an invoice dated May 4, 2006 from NECA seeking additional contributions to the Interstate TRS Fund based on the revised 499-A submissions. In addition to Intellicall's normal TRS invoice amount, the May 4 invoice included a "2003 Adjustment" in the amount of \$72,029.75 and a

“2004 Adjustment” in the amount of \$124,266.86. A copy of the NECA invoice is attached as Exhibit 3. Intellicall also recently received an invoice from Welch, seeking payment of “adjustments” to Intellicall’s contributions to the North American Numbering Plan for 2003 and 2004. See Exhibit 4 hereto.

Finally, by electronic mail dated May 17, 2006, the USAC Billing and Collections Department issued a Red Light Status Alert (“Alert”) to Intellicall. The Alert informed Intellicall that it was “delinquent by at least one day on the payment of its monthly invoice to...USAC.” A copy of the Alert is attached as Exhibit 5. As set forth below, there is no support in the Communications Act or the Commission’s rules or policies for any of these actions by USAC, which have had serious adverse effects upon ILD.

ARGUMENT

I. USAC’s Unilateral Revision And Refiling of Intellicall’s Form 499-As Exceeds the Scope of USAC’s Authority and Is Inconsistent with FCC Rules and Policies.

One week after ILD timely filed and served USAC with its Request for Review of USAC’s decision to require refiling of Intellicall’s FCC Form 499-As and the audit report upon which USAC based its decision, USAC notified Intellicall by letter that it: (a) had prepared revised FCC Form 499-As “on behalf of” Intellicall; (b) would process the revised forms; and (c) would apply “contribution adjustments” to Intellicall’s April 2006 USF invoice. USAC never provided Intellicall with an opportunity to review USAC’s unilateral revisions to Intellicall’s FCC Form 499-A submissions. Based on USAC’s unilateral revisions to the 499-A forms, USAC then billed Intellicall for USF contribution “adjustments” totaling more than \$1.7 million; NECA billed Intellicall for TRS contribution “adjustments” totaling approximately \$196,000; and Welch billed Intellicall for \$2,701.12 in “adjustments” for

contributions to the North American Numbering Plan. See Exhibits 2-4. USAC then issued a “red light” when Intellicall paid only its current USF charges and did not pay the “adjustment” amounts that are the subject of its pending appeal.

USAC’s April 7 letter, its subsequent invoice, its provision of the revised 499-A filings to NECA and Welch and its issuance of the “red light” all plainly exceed the scope of USAC’s authority regarding the administration of the federal universal service programs. The Commission has described USAC’s role in the administration of USF programs as “exclusively administrative.” See Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service, Third Report and Order, 13 FCC Rcd. 25058 (1998) (“Third Report and Order”), at ¶16. Therefore, USAC “may not make policy, interpret unclear provisions of the statute or rules or create the equivalent of new guidelines, or interpret the intent of Congress,” and that if “the Act or the Commission’s rules are unclear, or do not address a particular situation, USAC must seek guidance from the Commission on how to proceed.” See 47 C.F.R. § 54.702(c). Nothing in the Communications Act or the FCC’s rules permits USAC unilaterally to revise and refile the FCC Form 499-A submissions of a USF contributor, particularly when the revisions are based on a USAC-IAD audit report which is the subject of a timely-filed and pending appeal.¹

Moreover, USAC’s unilateral decision to revise and refile the Form 499-As on behalf of Intellicall renders ILD’s right to appeal the USAC-IAD audit findings virtually meaningless. The Commission’s USF regulations plainly grant to “[a]ny person aggrieved by an action”

¹ To the contrary, the Commission’s rules, the FCC Form 499-A, and the instructions to that form all establish that the contributor is required to review the relevant data and to certify to its accuracy. See 47 C.F.R. §54.711(a); FCC Form 499-A, Block 6, Line 606; Instructions to the Telecommunications Reporting Worksheet, Form 499-A, at 28. USAC never provided an opportunity for Intellicall to review the revised Form 499-As before USAC refiled them.

taken by USAC the right to seek review of such action by the Commission. See 47 C.F.R. §54.719(c). *Such review, whether conducted by the Wireline Competition Bureau pursuant to delegated authority or by the Commission in matters involving “novel questions of fact, law or policy,” shall be on a de novo basis. See 47 C.F.R. § 54.723. When the Commission adopted rules regarding review of USAC actions, it determined that “affected parties should have the right to appeal USAC division, committee and Board decisions directly to the Commission.” See Third Report and Order at ¶66 (emphasis added). The Commission further noted that “Commission oversight” of USAC “will be strengthened by an appeals process that ensures that matters are brought promptly to the Commission.” Id. By revising and refiling ILD’s FCC Form 499-As, assessing contribution adjustments based on the revised refilings, and then threatening red light treatment based on ILD’s failure to make full payment on all “adjustments,” USAC violated Commission regulations and essentially circumvented ILD’s right to de novo review of the USAC-IAD audit findings by denying the relief sought by ILD.*

II. USAC’s Threat of “Red Light Action” and its Issuance of the Red Light Status Alert to ILD During the Pendency of ILD’s Appeal Violated FCC Regulations.

As set forth above, USAC’s April 7 letter to Intellicall required Intellicall to pay all “billed contributions...by the invoice due date to avoid late payment fees and Red Light action.” See Exhibit 1. USAC, NECA and Welch then billed Intellicall for “adjustments” to Intellicall’s contributions to the USF, TRS and NANP funds, respectively, based on the FCC Form 499-A filings unilaterally revised by USAC. When Intellicall did not pay the portion of the invoice that is the subject of its pending appeal, USAC then issued a Red Light Alert to Intellicall on May 17 based upon Intellicall’s alleged delinquency “on the payment of its monthly invoice to...USAC.” See Exhibit 5.

However, USAC not only exceeded its authority in issuing the red light alert, it also directly contravened Commissions policy by doing so. When the Commission promulgated the Red Light rule in 2004, it determined that debts subject to timely-filed appeals would not be considered delinquent under the red light rule:

We believe that a timely written challenge to a debt should preclude consideration of the debt for purposes of the red light rule. Accordingly, where an applicant has filed a timely administrative appeal, or a contested judicial proceeding, challenging either the existence of, or the amount of, a debt, such debt shall not be considered delinquent for purpose of the red light rule.

See Amendment of Parts 0 and 1 of the Commission's Rules, Implementation of the Debt Collection Improvement Act of 1996 and Adoption of Rules Governing Requests for Benefits by Delinquent Debtors, 19 FCC Rcd. 6540 (2004) (notes omitted), at ¶ 6. The Commission's debt collection rules expressly exempt from application of the red light rule any debts that are subject to timely-filed appeals. See 47 C.F.R. §1.1910(b)(3)(i). There is no question that ILD has a timely-filed and pending appeal of USAC-IAD's audit findings and USAC's decision to require refileing of Intellicall's FCC Form 499-As.

In the Commission's Fifth Report and Order regarding the schools and libraries program, the Commission emphasized that a timely appeal of a delinquency determination will toll the application of the red light rule:

Applications will not be dismissed pursuant to our red light rule if the applicant has timely filed a challenge through administrative appeal or a contested judicial proceeding to either the existence or amount of the debt owed to the Commission.

* * *

Our rules thus provide the opportunity to contest any finding that monies are owed to the fund, and thereby toll the potentially harsh consequences of the red light rule.

See Schools Service Support Mechanism, Fifth Report and Order, 19 FCC Rcd. 15808 (2004),
at ¶43. USAC's threat of red light action and the issuance of the Alert violate FCC regulations prohibiting the application of the red light rule when a USF contributor has appealed an alleged debt.

CONCLUSION

ILD and Intellicall respectfully request that the Commission grant review of USAC's unilateral and unlawful decision to revise and refile Intellicall's FCC Form 499-A submissions for 2003 and 2004, the subsequent assessment of substantial contribution "adjustments" by USAC, NECA and Welch, and USAC's issuance of a red light status alert based upon ILD's allegedly delinquent USF payments. These actions by USAC violated Commission rules and policies, exceeded USAC's authority, and effectively nullified ILD's timely filed appeal, which currently is pending before the Commission.

Respectfully submitted,

ILD TELECOMMUNICATIONS, INC.
INTELLICAL OPERATOR SERVICES, INC.

By: Thomas Bardo
Thomas F. Bardo
Timothy J. Fitzgibbon
NELSON MULLINS RILEY & SCARBOROUGH
101 Constitution Avenue, N.W.
Suite 900
Washington, D.C. 20001
(202) 712-2800
Their Attorneys

June 5, 2006

EXHIBITS

1. April 7, 2006 USAC Billing and Collections
Department Letter
2. April 21, 2006 USAC invoice
3. May 4, 2006 NECA invoice
4. May 11, 2006 Welch invoice
5. May 17, 2006 Red Light Status Alert from USAC Billing
Collections & Disbursement Department

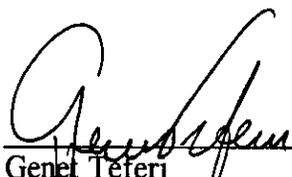
5753185

CERTIFICATE OF SERVICE

The undersigned Administrative Assistant of the law firm of Nelson Mullins Riley & Scarborough LLP, attorneys for the Plaintiffs, hereby certifies that a copy of the "Request for Review" was mailed to the following party via first class mail, postage prepaid, on June 5, 2006:

David Capozzi, Esquire
Acting General Counsel
Universal Service Administrative Company
2000 L Street, N.W.
Suite 200
Washington, D.C. 20036

5753185


Genet Teferi