

# ATTACHMENT G

# USAC

Universal Service Administrative Company

Statement Date: 05/22/2006  
 Invoice Number: UBDI0000194603  
 Filer 499 ID: 812626  
 Balance Due USAC: \$ 441,115.30  
 Amount Enclosed:

Vycera Communications, Inc.  
 Attention: Hoa Duong  
 12750 High Bluff Dr., Suite 200  
 San Diego, CA, 92130

**Mail Payment To:**

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
	<b>Previous Balance</b>	<b>\$364,375.36</b>	
05/15/2006	Schools & Libraries Support Mechanism Charges	\$3,973.64	- 13,889.38
05/15/2006	Rural Health Care Support Mechanism Charges	\$112.77	
05/15/2006	High Cost Support Mechanism Charges	\$8,126.38	CMB 6/7
05/15/2006	Low Income Support Mechanism Adjustment	\$22.45	
05/15/2006	Low Income Support Mechanism Adjustment	\$922.20	
05/15/2006	Low Income Support Mechanism Adjustment	\$922.20	
05/15/2006	Low Income Support Mechanism Adjustment	\$6,053.98	
05/15/2006	Low Income Support Mechanism Adjustment	\$13,212.42	
05/15/2006	Rural Health Care Support Mechanism Adjustment	\$44.10	
05/15/2006	Rural Health Care Support Mechanism Adjustment	\$44.10	
05/15/2006	Rural Health Care Support Mechanism Adjustment	\$71.89	
05/15/2006	Rural Health Care Support Mechanism Adjustment	\$289.51	
05/15/2006	Rural Health Care Support Mechanism Adjustment	\$899.71	
05/15/2006	Schools & Libraries Support Mechanism Adjustment	\$1.07	
05/15/2006	Schools & Libraries Support Mechanism Adjustment	\$2,953.10	
05/15/2006	Schools & Libraries Support Mechanism Adjustment	\$2,953.10	
05/15/2006	Schools & Libraries Support Mechanism Adjustment	\$19,386.34	
05/15/2006	Schools & Libraries Support Mechanism Adjustment	\$23,891.12	

Transactions occurring after 05/15/2006 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
05/22/2006	UBDI0000194603	812626	\$ 441,115.30
<b>FORM 499Q DATA</b>		<b>PAYMENT INFORMATION</b>	
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 \$123,000.00 120c \$303,000.00  If the figures do not correspond with your records, please contact the 499 Data Collection Agent.		Payment must be received by 06/15/2006 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.	

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

**STATEMENT OF ACCOUNT**

Date	Description	Charges	Credits
	<b>Previous Balance</b>	<b>\$364,375.36</b>	
05/15/2006	Low Income Support Mechanism Charges	\$1,676.59	
05/08/2006	Payment		(\$13,356.33)
05/15/2006	Late Payment Fee	\$1,677.81	
05/15/2006	High Cost Support Mechanism Adjustment	\$111.76	
05/15/2006	High Cost Support Mechanism Adjustment	\$4,590.85	
05/15/2006	High Cost Support Mechanism Adjustment	\$4,590.85	
05/15/2006	High Cost Support Mechanism Adjustment	\$30,137.77	
05/15/2006	High Cost Support Mechanism Adjustment	\$60,573.33	
05/15/2006	High Cost Support Mechanism Credit		(\$59,692.29)
05/15/2006	Rural Health Care Support Mechanism Credit		(\$886.62)
05/15/2006	Schools & Libraries Support Mechanism Credit		(\$23,543.62)
05/15/2006	Low Income Support Mechanism Credit		(\$13,020.24)
	<b>BALANCE DUE USAC ON 06/15/2006</b>	<b>\$441,115.30</b>	

Transactions occurring after 05/15/2006 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.

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# ATTACHMENT H



Jeffrey A. Mitchell  
Associate General Counsel

Office of General Counsel

BY ELECTRONIC AND CERTIFIED MAIL

June 6, 2006

R. Dale Dixon, Jr.  
Vice-President and General Counsel  
Vycera Communications, Inc.  
12750 High Bluff Drive  
Suite 200  
San Diego, CA 92130

Re: Vycera Communications, Inc. (Filer ID: 812626)

Dear Mr. Dixon:

I am responding to your letters of March 22, 2006, and May 4, 2006, concerning the Universal Service Administrative Company (USAC) federal Universal Service Fund (USF) contributor revenue audit of Vycera Communications, Inc. (Vycera) for the 2003 and 2004 filing years (Audit Report). The Audit Report concluded Vycera was not compliant with certain Federal Communications Commission (FCC or Commission) rules for the 2003 and 2004 filing years and that Vycera did not state carrier revenues in accordance with the FCC Form 499-A Telecommunications Reporting Worksheet (Worksheet) and Instructions. Among other things, Vycera contests certain findings of the Audit Report as well as USAC's process for implementing those findings.

As explained below, further review of Audit Report is available only from the FCC. With respect to USAC's process for implementing the Audit Report findings, any asserted harm to Vycera will be mitigated if Vycera's objections to the Audit Report findings are ultimately decided in its favor by the FCC. In the meantime, Vycera must remit to USAC any USF obligations arising from audit-conforming revenue information recently processed by USAC.

Vycera's Appeal of the Audit Report

The contested Audit Report was approved by the USAC Board of Directors (Board) on January 23, 2006, and represents a formal decision of the USAC Board. FCC regulations provide for Commission review of contested USAC Board decisions.<sup>1</sup> Moreover,

<sup>1</sup> See 47 C.F.R. § 54.719(c) ("Any person aggrieved by an action taken by . . . the Board of Directors of the [USAC], may seek review from the Federal Communications Commission . . ."). Vycera's March 22, 2006, seeks review of the Audit Report pursuant to 47 C.F.R. § 54.719(a) which provides for review of Administrator decisions by respective Committees of the Board established pursuant to 47 C.F.R. § 54.705. Not only would it be inappropriate for a USAC Board Committee to review a decision of the full USAC

approval of the Audit Report by the USAC Board effectively constituted USAC Board review of the USAC Internal Audit Division (IAD) decisions and conclusions related to the Audit Report.<sup>2</sup> Therefore, not only is further appeal to the Board not provided for under FCC rules, but such further appeal would serve no purpose.

For these reasons, direct appeal to the Commission pursuant to 47 C.F.R. § 54.719(c) is the appropriate avenue for Vycera to obtain review of the Audit Report.<sup>3</sup>

#### USAC Audit Implementation Process

On or about January 31, 2006, Vycera received a letter from USAC formally notifying Vycera of USAC's process for implementing the Audit Report findings. Among other things, the January 31, 2006, letter directed Vycera to file revised audit-conforming Worksheets for the audited years. On or about March 2, 2006, and April 7, 2006, respectively, Vycera received further letters from USAC indicating USAC had not received the required revised audit-conforming Worksheets. These letters informed Vycera that, among other things, failure to file audit-conforming Worksheets would cause USAC to process audit-conforming revenue information on Vycera's behalf.

As you are aware, Vycera did not file audit-conforming Worksheets for 2003 and 2004 filing years and so, effective on the April 2006 USF invoices, USAC processed revised audit-conforming 2002 and 2003 revenue for Vycera.

Vycera's March 22 and May 4, 2006 letters challenge new USF charges associated with the Audit Report and resulting from USAC's processing of the audit-conforming revenue information. In particular, Vycera asserts "USAC's imposition of late payment fees, Red Light action and DCIA transfers is unlawful while the Vycera appeal [of the underlying Audit Report] is pending . . . ."

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Board, but none of the Committees established in § 54.705 (Schools, Rural Health Care, High Cost, and Low Income) have jurisdiction over contributor revenue audits. *See* 47 C.F.R. § 54.720(c) (providing for USAC Board review of Administrator decisions relating to billing or collections outside the jurisdiction of the § 54.705 Committees).

<sup>2</sup> *See* 47 C.F.R. § 54.720(c) (providing for USAC Board review of Administrator decisions relating to billing or collections outside the jurisdiction of the § 54.705 Committees).

<sup>3</sup> The 60-day period to request such review appears to have been tolled, thus providing Vycera 60 days from the date of this letter to seek review from the Commission. *See* 47 C.F.R. § 54.720(d) ("The filing of a request for review . . . under Sec. 54.719(a) . . . shall toll the time period for seeking review from the [FCC]. Where the time for filing an appeal has been tolled, the party that filed the request for review from a Committee of the Board or the full Board shall have sixty (60) days . . . to file an appeal with the Commission."). Pursuant to 47 C.F.R. § 54.719(c), Vycera also appears to have 60 days from the date of the first "action taken" related to USAC Board-approved Audit Report, i.e., the date of April 2006 invoice containing the first USF charges associated with USAC's processing of the audit-conforming revenue information.

R. Dale Dixon, Esq.  
Vycera Communications, Inc.  
June 6, 2006  
Page 3

Timely filing of a dispute suspends imposition of DCIA<sup>4</sup> and Red Light Rule<sup>5</sup> penalties for non-payment of charges arising from the disputed action.<sup>6</sup> Thus, USAC has not taken Red Light action or made DCIA transfers and will not do so for 60 days following issuance of this letter. If Vycera timely files a request for FCC review of the Audit Report, USAC will continue to suspend Red Light actions and DCIA transfers related to the disputed debt until the FCC issues a decision. With respect to the imposition of late payment fees, as with any dispute regarding USF obligations, USAC will assess late payment fees if the disputed charges are not paid in full. In the event the FCC ultimately determines certain USF charges were assessed in error, any late payment fees associated with those charges would be reversed.

Sincerely,

/s/

Jeffrey Mitchell  
Associate General Counsel

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<sup>4</sup> Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (1996).

<sup>5</sup> 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 Applications or Request for Benefits by Delinquent Debtors*, MD Docket No. 02-339, Report and Order, 19 FCC Red 6540, ¶ 4 (2004) (*Red Light Rule Order*) (implementing the DCIA by requiring, among other things, USAC to "withhold action on applications or other requests for benefits by [delinquent] debtors.").

<sup>6</sup> See 47 C.F.R. § 1.1910(a)(3)(i) (suspending Red Light Rule penalties where timely challenge of debt filed).

# ATTACHMENT I

## DECLARATION

STATE OF CALIFORNIA    )  
  ) ss  
COUNTY OF SAN DIEGO    )

1. My name is Thalia R. Gietzen, and I am Chief Financial Officer (“CFO”) of Vycera Communications, Inc. (“Vycera”).

2. As CFO, I am familiar with Vycera’s accounting practices and its practices related to assessing, paying, and reporting surcharges and charges related to the Universal Service Fund (“USF”).

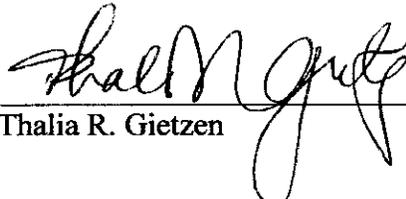
3. During revenue years 2002 and 2003, which were the subject of the USAC Audit Report, Pacific Bell assessed the subscriber line charge (“SLC”) to Vycera for each end user account. Vycera received no discount, resale or otherwise, from Pacific Bell on the SLC.

4. During revenue years 2002 and 2003, Vycera merely passed through the Pacific Bell-imposed SLC charge directly to its end user customers. Vycera did not markup or otherwise increase the SLC when the amount was passed through to its end users.

5. During revenue years 2002 and 2003, the SLC provided Vycera with no profit, and it does not record the SLC as revenue on company books. The SLC is netted against an expense account in the same manner in which Vycera nets other government-mandated surcharges. Accordingly, during revenue years 2002 and 2003, Vycera’s calculation of the USF surcharge for its end user customers did not include the SLC.

6. I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 16, 2006.

  
\_\_\_\_\_  
Thalia R. Gietzen

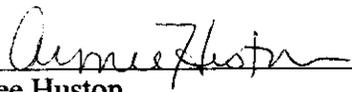
**CERTIFICATE OF SERVICE**

I, Aimee Huston, certify that I have this day caused a true and correct copy of the original attached **REQUEST FOR REVIEW OF DECISION OF THE UNIVERSAL SERVICE ADMINISTRATOR BY VYCERA COMMUNICATIONS, INC.** to be served by overnight mail delivery on the following:

Thomas Navin, Bureau Chief  
Wireline Competition Bureau  
Federal Communications Commission  
9300 East Hampton Drive  
Capitol Heights, MD 20743

Jeffrey A. Mitchell, Associate GC  
Universal Service Administrative Company  
Office of General Counsel  
2000 L Street, Suite 200  
Washington, D.C. 20036

Dated this 16<sup>th</sup> day of August 2006 at San Diego, California 92130.

  
\_\_\_\_\_  
Aimee Huston  
Vycera Communications, Inc.  
12750 High Bluff Drive, Suite 200  
San Diego, California 92130