



Universal Service Administrative Company

Billing and Collections Department
1-888-641-8722

March 2, 2006

Vycera Communications, Inc.
12750 High Bluff Dr.
Suite 200
San Diego, CA, 92130

RE: Contributor Revenue Audit-Vycera Communications, Inc., Filer ID: 812626

Dear: Thalia Gietzen

On Feb 1, 2006, the Universal Service Company (USAC) sent a letter to Vycera Communications, Inc. regarding the requirement to revise its FCC Form 499-A within 60 days in accordance with USAC's Internal Audit Division (IAD) audit of the contributor revenue filings for the years 2003/2004 (audit). As of the date of this letter, USAC has **not received** a form revision from your company.

The required FCC Form 499-A revisions must be received by USAC no later than 30 days from the date of this letter. Please attach a cover letter to the FCC Form 499-A revision(s) that reference the audit performed by USAC IAD, and mail your forms to:

USAC
Attn: FCC Form 499 Data Collection Agent
2000 L Street, N.W. Suite 200
Washington, DC 20036

USAC will review the submitted Form(s) under the regular FCC Form 499 revision process. In the event that *Carrier* fails to submit revised FCC Form 499 (s) that adhere to the audit findings within 30 days, USAC will prepare FCC Form 499(s) on your behalf. USAC will process *Carrier's* revised Form(s) and apply the appropriate contribution adjustment to the first USF invoice following expiration of the 30 day filing period.

All billed contributions must be paid by the invoice due date to avoid late payment fees and Red Light action.¹ Billed contributions over 90 days delinquent are subject to the Debt

¹ *Amendment of Parts 0 and 1 of the Commission's Rules; Implementation of the Debt Collection and Improvement Act of 1996 and Adoption of Rules Governing Applications or Requests for Benefits by Delinquent Debtors, Report and Order, MD Docket No. 02-339, FCC 04-72, at ¶ 4 (rel. April 13, 2004) (Red Light Rule Order).*

Collection Improvement Act (DCIA),² and will be transferred to the FCC for further collection.

In accordance with 47 C.F.R. Sections 54.719(c) and 54.720(a), *Carrier* may appeal this action and the audit findings on which it is based. You may send your written appeal and supporting documentation to the Federal Communications Commission (FCC) at:

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." To ensure your appeal receives proper consideration by the FCC, we strongly recommend that, before you submit your appeal to the FCC, you carefully review the requirements set forth in 47 C.F.R. § 54.721.

Should you have any questions, please contact USAC at (888) 641-8722.

Sincerely,
USAC Billing and Collections

cc: HOA DUONG

² *Debt Collection Improvement Act of 1996*, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (1996).

ATTACHMENT D



March 22, 2006

Via Overnight Mail & Email (lifilings@hcli.universalservice.org)

Letter of Appeal
High Cost and Low Income Division
Universal Service Administrative Company
2000 L Street, NW, Suite 200
Washington, DC 20036

Re: Letter of Appeal of Vycera Communications, Inc. (Filer ID No. 812626) of USAC Audit No. CR2005CP004

To Whom It May Concern:

Vycera Communications, Inc. (Filer ID No. 812626) ("Vycera"), in response to the final report of the Internal Audit Division ("IAD") of the Universal Service Administrative Company ("USAC") with respect to USAC Audit No. CR2005CP004 ("Audit Report"), and in accordance with Section 54.719(a) of the rules and regulations of the Federal Communications Commission ("Commission"), 47 C.F.R. § 54.719(a), hereby submits this appeal of the Audit Report, a copy of which is appended at Attachment A and was received by Vycera on January 23, 2006.¹ As described below, several of the Audit Report findings are erroneous and contradict or misinterpret Commission rules and related Universal Service Fund ("USF") orders.

For the reasons detailed below, Vycera appeals the Audit Report conclusions concerning (i) jurisdictional allocation of revenues on the 2003 and 2004 Form 499-A, Line 405, (ii) allocation of bad debt on the 2004 Form 499-A, Line 422, and (iii) a Commission rule violation with respect to international traffic reports.

Vycera requests that USAC issue a revised final audit report that (i) excludes the subscriber line charge ("SLC") from reported revenues or, in the alternative, allocates revenues at Line 405 of the 2003 and 2004 Form 499-A between interstate and international in the proportion of interstate and international toll service revenues reported at Line 414 of the applicable Form 499-A, (ii) allocates bad debt expense on the 2004 Form 499-A, Line 422 in the correct proportion and (iii) removes references to the notion that Vycera violated a nonexistent Commission rule.

Background

In or around the fourth quarter of 2004, IAD began an audit of Vycera's 2003 and 2004 Form 499-A filings. In its Audit Report, IAD determined that Vycera did not comply fully with the Commission's rules and the Form 499-A instructions. For purposes of this appeal letter, Vycera does not summarize all of IAD's findings and instead lets the Audit Report speak for itself; however, Vycera disagrees with the following findings in the Audit Report:

¹ Elizabeth Chou of USAC's IAD forwarded a copy of the final Audit Report to Vycera via email on Saturday, January 21, 2006, and Vycera received the email on Monday, January 23, 2006. Thus, for purposes of calculating the 60-day deadline for appealing a USAC decision, Vycera is within the timeframe prescribed by the rules.

Vycera Communications, Inc.
12750 High Bluff Drive, Suite 200, San Diego, CA 92130
858.792.2400 (tel) • 858.794.0050 (fax)

- Jurisdictional Allocation of Revenues: For subscriber line charges (“SLC”) (referred to by IAD as Interstate Access Fees), IAD found Vycera should have reported all SLC as revenue at Line 405 of the Form 499-A submitted in 2003 (revenue year 2002) and 2004 (revenue year 2003). Also, IAD determined that the SLC should be allocated 100 percent as interstate revenue.
- Bad Debt: With respect to Vycera’s deduction of bad debt on its filed 2004 Form 499-A at Line 422, IAD determined Vycera should reallocate its bad debt expense attributable to interstate revenues based on the percentages resulting from the audit and set forth in the Audit Report.
- International Traffic and Revenue Report: Because Vycera’s international telecommunications traffic report filed pursuant to 47 C.F.R. § 43.61 did not match the figure reported at Line 419(c) of the 2003 Form 499-A, IAD noted an exception in the Audit Report and declared the incongruence to be a violation of the Commission’s rules.
- Request for Revised 2003 and 2004 Form 499-As: Subsequent to issuing the Audit Report, USAC requested that Vycera revise its 2003 and 2004 Form 499-A filings to reflect the findings contained in the Audit Report.

As follows, Vycera addresses the above-listed issues and submits the alternate decision IAD should have reached under the Commission’s rules, regulations and orders.²

Jurisdictional Allocation of Revenues (2003 and 2004 Form 499-A, Line 405)

In the Audit Report, IAD found that Vycera did not report SLC as revenue at Line 405 of the 2003 and 2004 Form 499-As.³ Furthermore, IAD determined that such charges must be reported as 100 percent interstate revenue.⁴ Those decisions misinterpret the Form 499-A instructions and improperly characterize the SLC as revenue where Vycera does not book the SLC as revenue.

A. SLC billed by Vycera should not be regarded as revenue by USAC.

In the Audit Report, Financial Operations Management (“FOM”) cites the Form 499-A instructions at III.C.2: “Gross revenues also should include any surcharges on telecommunications services that are billed to the customer and either retained by the filer or remitted to a non-government third party under contract. Gross revenues should exclude taxes and any surcharges that are not recorded on the company books as revenue but which instead are remitted to government bodies.”⁵

As explained by Vycera in its response to the Audit Report exception, Vycera merely passes through the SLC to its customers and does not retain the SLC.⁶ For the relevant time periods of the audit (*i.e.*,

² In addition to the positions stated in this letter of appeal, Vycera incorporates by reference all of the arguments it made in its response to the exceptions contained in the Audit Report.

³ See Audit Report at 4.

⁴ *Id.* at 4-5.

⁵ *Id.* at 6-7.

⁶ *Id.* at 5-6.

revenue years 2002 and 2003), Pacific Bell assessed the SLC to Vycera with no resale or other discount. Vycera passed that charge, without any markup, directly to its customers. As a result, the SLC provides Vycera with no profit, and Vycera does not record the SLC as revenue on the company books. The fee is netted against an expense account in the same manner in which Vycera handles other government-mandated surcharges. Furthermore, when Vycera calculated the USF surcharge for its customers in the applicable revenue years, it did not include the SLC because the SLC is not booked as revenue.

FOM states further in the Audit Report that "all surcharges on telecommunications services billed to customers and remitted to a non-government third party are considered gross revenues as it pertains to the 499 filings."⁷ That statement is overly broad and exceeds the scope of the Form 499-A instructions by omitting the phrase "under contract." Moreover, if FOM intended to include the phrase "under contract" in their statement, the logic of FOM is flawed in that FOM concludes, without any support whatsoever, that the SLC must be revenue to Vycera as a surcharge "remitted to a non-government third party under contract" merely because the SLC is neither a surcharge billed to the customer and retained by Vycera nor a surcharge remitted to a government body. In other words, FOM mistakenly believes that surcharges fall into only three possible categories, and because two of the potential categories do not apply, Vycera's SLC pass-through must be forced into the remaining category, no matter how awkward the reading or unjust the result.

Including the SLC as revenue and part of a filer's contribution base in the particular circumstance of a carrier in Vycera's position – *i.e.*, where the SLC is a mere pass-through charge to a customer – improperly shifts the financial burden of USF contributions to the carrier who recognizes no gain from the SLC. IAD would have Vycera pay the full amount of the SLC to Pacific Bell, recognize no revenue or profit from the SLC, and require Vycera to contribute to USF based on revenue that simply does not exist.

While the SLC is a federally-regulated fee assessed directly against customers to recover a portion of loop costs allocated to interexchange access, Vycera pays the full amount of the SLC to Pacific Bell, recovering and retaining nothing. Accordingly, the SLC that is passed through by Vycera to its customers and offset entirely by payments to Pacific Bell should not be included in Vycera's contribution base.

B. If the SLC is treated as revenue by USAC, such charges should be allocated between interstate and international traffic revenues.

If, however, the SLC is categorized as revenue, it should not be allocated 100 percent to interstate revenue. Instead, in the case where the SLC is paid to Pacific Bell and merely passed through without markup to Vycera's customer, the SLC should be treated similar to the former PICC pass-through at Line 41.4, which is allocated in proportion to interstate and international revenues.

As the Commission has observed, "the SLC and PICC were established to recover loop costs for the same service- -interexchange access."⁸ Because the two items were deemed equivalent in purpose and because

⁷ *Id.* at 7.

⁸ *In the Matter of Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Low-Volume Long Distance Users, Federal-State Joint Board on Universal Service*, Sixth Report and Order in CC Docket Nos. 96-292 and 94-1, Report and Order in CC Docket No. 99-249, Eleventh Report and Order in CC Docket No. 96-45, 15 FCC Rcd 12,962, ¶97 (2000).

both items relate to an end user's access to the interexchange network to make both interstate and international calls, Vycera should be permitted to allocate the SLC it passes through to end users in the same manner as it PICC pass-through charges were allocated -- between interstate and international revenues at Lines 405(d) and 405(e), respectively.

FOM's reference to the Form 499-A instructions at III.C.3 (the Audit Report incorrectly refers to III.C.2) -- "Circuits within the United States that connect a customer to an international circuit should be reported as interstate" -- is entirely misplaced. That particular instruction has nothing to do with reporting revenue at Line 405. In fact, the instruction is a note that relates to reporting at Lines 418 and 419.

FOM's reference to the instruction appears to be a misguided attempt to rewrite the Form 499-A instructions to require all international-bound traffic and revenue to be reported as interstate revenue. Moreover, FOM's proposed definition of interstate telecommunication contradicts the Commission's definition at 47 C.F.R. § 54.5. This effort by FOM and IAD is prohibited under 47 C.F.R. § 54.702(e), which states that "the Administrator may not make policy, interpret unclear provisions of the statute or rules, or interpret the intent of Congress."

Accordingly, if SLC is appropriately treated as revenue, it should be allocated in line with PICC pass-through charges, and the allocation of the SLC amount of \$106,670 on the 2003 Form 499-A should be 3.15 percent interstate and 41.81 percent international, resulting in \$3,360 at Line 405(d) and \$44,599 at Line 405(e). For the 2004 Form 499-A, the allocation of the SLC amount of \$58,287 should be 2.45 percent interstate and 73.4 percent international, resulting in \$1,428 at Line 405(d) and \$42,783 at Line 405(e).

Bad Debt Expenses (2004 Form 499-A, Line 422)

Line 422 of the 2004 Form 499-A requires filers to list the portion of uncollectible revenue or bad debt expense of the amount reported at Line 421 associated with universal service contribution base amounts reported at Line 420. Filers that do not maintain records by business type are instructed to allocate the total bad debt reported at Line 422(a) based on the reported interstate and international revenue proportions.⁹

In the Audit Report, IAD noted that Vycera correctly allocated bad debt on Line 422 of the 2004 Form 499-A as 4.3 percent interstate revenue; however, based on its findings in the Audit Report, IAD determined that Vycera should allocate bad debt based on the revised percentages resulting from IAD's recalculations of interstate and international percentages of gross revenue.¹⁰ IAD's findings for the 2004 Form 499-A increase interstate revenue from 4.3 percent to 5 percent of total gross revenue.

Vycera disagrees with IAD's final percentage for interstate revenue. As indicated above with respect to the SLC, if the SLC is considered revenue, then it should be allocated between interstate and international revenue based on the proportion of long distance revenue at Line 414. After that appropriate adjustment is made, Vycera's percentage of interstate revenue for the 2004 Form 499-A, as seen at Line 420, should be 4.3 percent of gross revenue. The percentage of international revenue reflected at Line 420 should be 32.2 percent of gross revenue. And the bad debt expenses should be allocated accordingly (*i.e.*, 4.3

⁹ See 2004 Form 499-A Instructions at 18.

¹⁰ Audit Report at 8.

percent interstate and 32.2 percent international). Such a revision would result in a decrease in Vycera's "Interstate Amount Audited" in the amount of \$ 46,800 (as opposed to IAD's decrease of \$54,419) and a decrease in Vycera's "International Amount Audited" in the amount of \$350,456 (as opposed to IAD's decrease of \$349,018).

International Traffic and Revenue Report (2003 Form 499-A, Line 419(e))

IAD noted in the Audit Report that Vycera's reported revenue at Line 419(e) of the 2003 Form 499-A did not correspond to Vycera's international telecommunications traffic and revenue reported pursuant to 47 C.F.R. § 43.61.¹¹ Although IAD stated correctly that the discrepancy had no monetary effect on Vycera's contribution base for that filing period, IAD declared the discrepancy to be a violation of Commission rules.

Vycera noted in its response to the exception that there is no Commission requirement that the revenue figures match, and indeed, the Form 499-A instructions anticipate discrepancies.¹² In the final Audit Report, IAD and Financial Operations Management did not address the points raised by Vycera in its response to the exception.¹³ Vycera believes it is imperative that USAC review and respond to Vycera's points concerning this issue, and Vycera directs USAC to Vycera's response previously submitted and set forth in the Audit Report.

Vycera respectfully requests that USAC review the determination that Vycera has violated Commission rules and issue a revised audit report that eliminates any such reference to a rules violation.

Request for Submission of Revised 2003 and 2004 Form 499-As

In January 31 and March 2, 2006 letters, USAC requested that Vycera submit revised 2003 and 2004 Form 499-As reflecting the figures, percentages and conclusions of the Audit Report. Because Vycera is appealing certain conclusions in the Audit Report, it should not be required to comply with the request until the appeals process is completed and a final determination concerning the validity of IAD's findings has been reached. Vycera disagrees with aspects of the Audit Report, and thus it cannot revise the forms and certify the authenticity and truth of the information if that information is based IAD's reported findings.¹⁴ Accordingly, Vycera respectfully requests that USAC withhold its request for revised Form 499-As until these issues on appeal have been resolved.

For the above-described reasons, Vycera requests that USAC immediately issue a revised audit report that (i) eliminates the SLC from reported revenues or, in the alternative, allocates revenues at Line 405 of the 2003 and 2004 Form 499-A between interstate and international revenues based on the proportion of interstate and international revenues listed at Line 414 of the respective Form 499-A (*i.e.*, 3.15 percent for the 2003 Form 499-A and 2.45 percent for the 2004 Form 499-A), (ii) allocates bad debt expense on the 2004 Form 499-A, Line 422 in the correct proportion (*i.e.*, 4.3 percent interstate and 32.2 percent

¹¹ *Id.* at 12-13.

¹² *Id.* at 13-14.

¹³ *Id.* at 14 (FOM response providing no additional comments).

¹⁴ *See, e.g.*, 47 C.F.R. § 54.711(a) (detailing certification requirements for submission of USF filings, including Form 499-A).

international); and (iii) removes references to the notion that Vycera violated a Commission rule for a discrepancy in international revenue.

Lastly, as Vycera has timely appealed a decision of USAC, application of the Commission's Red Light Rule and related consequences, such as the withholding of any USF disbursements due Vycera, must be immediately suspended.

If you have questions concerning this letter of appeal, please contact the undersigned via telephone at 858.792.2400, via email at ddixon@vycera.com, or via fax at 858.793.0141.

Respectfully submitted,

/s/

R. Dale Dixon, Jr.
Vice President & General Counsel

cc: Thalia R. Gietzen
Chris Bacquet

ATTACHMENT E



Universal Service Administrative Company

Billing and Collections Department
1-888-641-8722

April 7, 2006

Vycera Communications, Inc.
12750 High Bluff Dr.
Suite 200
San Diego, CA, 92130

RE: Contributor Revenue Audit- Vycera Communications, Inc. (812626)

Dear Thalia Gietzen:

On 01/31/2006, the Universal Service Company (USAC) sent a letter to Vycera Communications, Inc. regarding the requirement to revise its FCC Form 499-A within 60 days in accordance with USAC's Internal Audit Division (IAD) audit of the contributor revenue filings for the years 2003/2004. As of due date of revision, USAC has **not received** a form revision from your company.

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.

All billed contributions must be paid by the invoice due date to avoid late payment fees and Red Light action.¹ Billed contributions over 90 days delinquent are subject to the Debt Collection Improvement Act (DCIA),² and will be transferred to the FCC for further collection.

In accordance with 47 C.F.R. Sections 54.719(c) and 54.720(a), Vycera Communications, Inc. may appeal this action and the audit findings on which it is based. You may send your written appeal and supporting documentation to the Federal Communications Commission (FCC) at:

¹ *Amendment of Parts 0 and 1 of the Commission's Rules; Implementation of the Debt Collection and Improvement Act of 1996 and Adoption of Rules Governing Applications or Requests for Benefits by Delinquent Debtors, Report and Order*, MD Docket No. 02-339, FCC 04-72, at ¶ 4 (rel. April 13, 2004) (*Red Light Rule Order*).

² *Debt Collection Improvement Act of 1996*, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (1996).

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." To ensure your appeal receives proper consideration by the FCC, we strongly recommend that, before you submit your appeal to the FCC, you carefully review the requirements set forth in 47 C.F.R. § 54.721.

Should you have any questions, please contact USAC at (888) 641-8722.

Sincerely,
USAC Billing and Collections
Financial Analyst
Chang-Hua Chen



cc: HOA DUONG

ATTACHMENT F



May 4, 2006

Via Overnight Mail

Chang-Hua Chen
Universal Service Administrative Company
2000 L Street, NW, Suite 200
Washington, DC 20036

Re: Vycera Communications, Inc. (Filer ID No. 812626); USAC Audit No. CR2005CP004

Dear Ms. Chen:

Vycera Communications, Inc. (Filer ID No. 812626) ("Vycera") received your letter dated April 7, 2006, in which you informed Vycera that USAC has prepared revised FCC Form 499-As on Vycera's behalf.

Please note that on March 22, 2006, in accordance with Section 54.719(a) of the rules and regulations of the Federal Communications Commission, 47 C.F.R. § 54.719(a), Vycera appealed the final report of the Internal Audit Division ("IAD") of USAC with respect to Audit No. CR2005CP004 ("Audit Report").

In its appeal, Vycera disputed various USAC findings, including USAC's demand that Vycera submit revised FCC Form 499-As reflecting the figures, percentages and conclusions of the Audit Report. Because Vycera is appealing the Audit Report, it cannot comply with the request until the appeals process is completed and a final determination concerning the validity of IAD's findings has been reached. Vycera disagrees with aspects of the Audit Report, and thus it cannot revise the forms and certify the authenticity and truth of the information if that information is based IAD's reported findings.¹

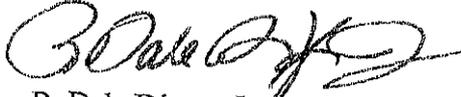
USAC's demand for revised FCC Form 499-As while an appeal is pending creates administrative and judicial inefficiencies for USAC, the FCC and Vycera. In addition, USAC's demand for revised FCC Form 499-As in the case of a pending appeal requires a second and unauthorized layer of appeal for Vycera, creating an undue, unjust and unreasonable burden for Vycera. The single appeal of the Audit Report should suffice to stay USAC's attempts to collect disputed amounts or its efforts to withhold payments due Vycera. USAC's imposition of late payment fees, Red Light action and DCIA transfers is unlawful while the Vycera appeal is pending, and Vycera demands that USAC cease immediately from taking such steps.

¹ See, e.g., 47 C.F.R. § 54.711(a) (detailing certification requirements for submission of USF filings, including Form 499-A).

Chang-Hua Chen
May 4, 2006
Page 2 of 2

If you have questions concerning this letter of appeal, please contact the undersigned via telephone at 858.792.2400, via email at ddixon@vycera.com, or via fax at 858.793.0141.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R. Dale Dixon, Jr.", with a stylized flourish at the end.

R. Dale Dixon, Jr.
Vice President & General Counsel

cc: USAC Appeals, HC & LI Division

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:

Mail Payment To:

Universal Service Administrative Company
 1259 Paysphere Circle
 Chicago, IL 60674

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

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	\$364,375.36	
05/15/2006	Schools & Libraries Support Mechanism Charges	\$3,973.64	<div style="border: 1px solid black; border-radius: 50%; width: 100px; height: 100px; display: flex; align-items: center; justify-content: center;"> 13,889.36 </div> <i>CMB</i> <i>6/7</i>
05/15/2006	Rural Health Care Support Mechanism Charges	\$112.77	
05/15/2006	High Cost Support Mechanism Charges	\$8,126.38	
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						
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: <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%;"><u>February 2006 499Q</u></td> <td></td> </tr> <tr> <td>120b</td> <td style="text-align: right;">\$123,000.00</td> </tr> <tr> <td>120c</td> <td style="text-align: right;">\$303,000.00</td> </tr> </table> If the figures do not correspond with your records, please contact the 499 Data Collection Agent.		<u>February 2006 499Q</u>		120b	\$123,000.00	120c	\$303,000.00	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.	
<u>February 2006 499Q</u>									
120b	\$123,000.00								
120c	\$303,000.00								

USAC

Universal Service Administrative Company

Statement Date: 05/22/2006
 Invoice Number: UBDI000019460
 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
	Previous Balance	\$364,375.36	
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)
	BALANCE DUE USAC ON 06/15/2006	\$441,115.30	

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
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 \$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.	

ATTACHMENT H

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.¹ Moreover,

¹ 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

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Vycera Communications, Inc.
June 6, 2006
Page 2

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.² 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.³

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"

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).

² *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).

³ 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.

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Vycera Communications, Inc.
June 6, 2006
Page 3

Timely filing of a dispute suspends imposition of DCIA⁴ and Red Light Rule⁵ penalties for non-payment of charges arising from the disputed action.⁶ 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

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

⁵ 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 Rcd 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.").

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

ATTACHMENT I



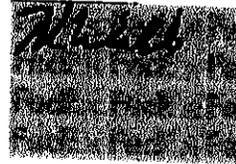
Close Window

Track Shipments Detailed Results



Tracking number	791034256364	Destination	Captiol Heights, MD
Signed for by	M.WEBB	Delivered to	Shipping/Receiving
Ship date	Jun 28, 2006	Service type	Standard Envelope
Delivery date	Jun 29, 2006 9:26 AM	Weight	1.0 lbs.
Status	Delivered		

Signature Proof of Delivery
Click **Request copy of signature** to view delivery information for this shipment.



Request copy of signature

Date/Time	Activity	Location	Details
Jun 29, 2006	9:26 AM	Delivered	
	8:15 AM	On FedEx vehicle for delivery	Captiol Heights, MD
	7:42 AM	At dest sort facility	CROFTON, MD
	7:15 AM	At local FedEx facility	BALTIMORE, MD
	5:07 AM	Departed FedEx location	CROFTON, MD
Jun 28, 2006	2:03 AM	Arrived at FedEx location	INDIANAPOLIS, IN
	7:19 PM	Left origin	INDIANAPOLIS, IN
	5:16 PM	Package data transmitted to FedEx	SAN DIEGO, CA
	3:33 PM	Picked up	SAN DIEGO, CA
			SAN DIEGO, CA

[Email results](#)

[Track more shipments](#)

Subscribe to tracking updates (optional)

Your Name:

Your Email Address:

Email address	Language	Exception updates	Delivery updates
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	English	<input type="checkbox"/>	<input type="checkbox"/>
	English	<input type="checkbox"/>	<input type="checkbox"/>
	English	<input type="checkbox"/>	<input type="checkbox"/>

Select format: HTML Text Wireless

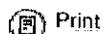
Add personal message:

Not available for Wireless or non-English characters.



[Close Window](#)

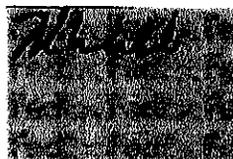
Track Shipments
Detailed Results



Tracking number	792782766414	Destination	Capitol Heights, MD
Signed for by	M.WEBB	Delivered to	Shipping/Receiving
Ship date	Jun 28, 2006	Service type	Standard Box
Delivery date	Jun 29, 2006 9:26 AM	Weight	3.0 lbs.
Status	Delivered		

Signature Proof of Delivery

Click **Request copy of signature** to view delivery information for this shipment.



[Request copy of signature](#)

Date/Time	Activity	Location	Details
Jun 29, 2006	9:26 AM	Delivered	Capitol Heights, MD
	7:51 AM	On FedEx vehicle for delivery	CROFTON, MD
	7:45 AM	At local FedEx facility	CROFTON, MD
	7:36 AM	At dest sort facility	BALTIMORE, MD
	5:07 AM	Departed FedEx location	INDIANAPOLIS, IN
	2:03 AM	Arrived at FedEx location	INDIANAPOLIS, IN
Jun 28, 2006	7:19 PM	Left origin	SAN DIEGO, CA
	5:13 PM	Package data transmitted to FedEx	
	3:33 PM	Picked up	SAN DIEGO, CA

[Email results](#)

[Track more shipments](#)

[Subscribe to tracking updates \(optional\)](#)

Your Name:

Your Email Address:

Email address	Language	Exception updates	Delivery updates
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[Close Window](#)

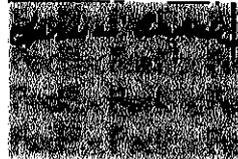
Track Shipments Detailed Results



Tracking number	790482337780	Destination	Washington, DC
Signed for by	LAUBAR	Delivered to	Receptionist/Front Desk
Ship date	Jun 28, 2006	Service type	Standard Envelope
Delivery date	Jun 29, 2006 9:57 AM	Weight	1.0 lbs.
Status	Delivered		

Signature Proof of Delivery

Click **Request copy of signature** to view delivery information for this shipment.



[Request copy of signature](#)

Date/Time	Activity	Location	Details
Jun 29, 2006	9:57 AM	Delivered	Washington, DC
	8:58 AM	On FedEx vehicle for delivery	WASHINGTON, DC
	7:50 AM	At local FedEx facility	WASHINGTON, DC
	7:25 AM	At dest sort facility	DULLES, VA
	4:56 AM	Departed FedEx location	INDIANAPOLIS, IN
Jun 28, 2006	2:03 AM	Arrived at FedEx location	INDIANAPOLIS, IN
	7:19 PM	Left origin	SAN DIEGO, CA
	5:17 PM	Package data transmitted to FedEx	
	3:33 PM	Picked up	SAN DIEGO, CA

[Email results](#)

[Track more shipments](#)

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Your Name:

Your Email Address:

Email address	Language	Exception updates	Delivery updates
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Select format: [HTML](#) [Text](#) [Wireless](#)

Add personal message:

Not available for Wireless or non-English characters.



Invoice Number 1-117-39637	Invoice Date Jul 14, 2006	Account Number 1876-7469-7	Page 10 of 19
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Tracking ID 792778056374 continued

Packages	1		
Rated Weight	1.0 lbs, 0.5 kgs	Transportation Charge	28.05
Delivered	Jun 26, 2006 09:15	Fuel Surcharge	4.04
Svc Area	A3	Discount	-2.81
Signed By	S.ENFINGER	Courier Pickup Charge	0.00
FedEx Use	00000000/0001393/_	Total Charge	USD \$29.28

- Fuel Surcharge - FedEx has applied a fuel surcharge of 16.00% to this shipment.
- Distance Based Pricing, Zone 8
- FedEx has audited this shipment for correct packages, weight, and service. Any changes made are reflected in the invoice amount.
- The package weight exceeds the maximum for the packaging type, therefore, FedEx Envelope was rated as FedEx Pak.

INET		Sender	Recipient
Tracking ID	792778083869	Aimee Huston	William Rooney, Jr.
Service Type	FedEx Standard Overnight	Vycera Communications, Inc.	Global Naps, Inc.
Package Type	FedEx Pak	12750 High Bluff Drive, Suite	VP & General Counsel
Zone	08	SAN DIEGO CA 92130 US	NORWOOD MA 02062 US
Packages	1		
Rated Weight	1.0 lbs, 0.5 kgs	Transportation Charge	28.85
Delivered	Jun 26, 2006 10:36	Courier Pickup Charge	0.00
Svc Area	A2	Fuel Surcharge	4.15
Signed By	L.CROSS	Discount	-2.89
FedEx Use	00000000/0001415/_	Total Charge	USD \$30.11

- Fuel Surcharge - FedEx has applied a fuel surcharge of 16.00% to this shipment.
- Distance Based Pricing, Zone 7
- Package Delivered to Recipient Address - Release Authorized

INET		Sender	Recipient
Tracking ID	790478781123	Tom Arnos	William Adams
Service Type	FedEx Standard Overnight	Vycera Communications	AT&T Accounts Receivable Cente
Package Type	FedEx Envelope	12750 High Bluff Drive	722 N Broadway Ave Floor 11
Zone	07	SAN DIEGO CA 92130 US	MILWAUKEE WI 53202 US
Packages	1		
Rated Weight	N/A		
Delivered	Jun 27, 2006 11:33	Transportation Charge	17.45
Svc Area	A1	Fuel Surcharge	2.35
Signed By	AMERITECH	Discount	-2.79
FedEx Use	00000000/0000255/02	Total Charge	USD \$17.01

- Fuel Surcharge - FedEx has applied a fuel surcharge of 16.00% to this shipment.
- Distance Based Pricing, Zone 8
- FedEx has audited this shipment for correct packages, weight, and service. Any changes made are reflected in the invoice amount.
- The package weight exceeds the maximum for the packaging type, therefore, FedEx Envelope was rated as FedEx Pak.

INET		Sender	Recipient
Tracking ID	790482337780	Aimee Huston	Jeffrey Mitchell, Associate GC
Service Type	FedEx Standard Overnight	Vycera Communications, Inc.	Universal Service Admin Co
Package Type	FedEx Pak	12750 High Bluff Drive, Suite	Office of General Counsel
Zone	08	SAN DIEGO CA 92130 US	WASHINGTON DC 20036 US



Invoice Number 1-117-39637	Invoice Date Jul 14, 2006	Account Number 1876-7469-7	Page 11 of 19
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Tracking ID 790482337780 continued

Packages	1		
Rated Weight	1.0 lbs, 0.5 kgs	Transportation Charge	28.85
Delivered	Jun 29, 2006 09:57	Fuel Surcharge	4.15
Svc Area	A1	Courier Pickup Charge	0.00
Signed By	LAUBAR	Discount	-2.89
FedEx Use	00000000/0001415/_	Total Charge	USD \$30.11

Picked up: Jun 29, 2006 09:57 AM
 Picked up by: LAUBAR

- Fuel Surcharge - FedEx has applied a fuel surcharge of 16.00% to this shipment.
- Distance Based Pricing, Zone 8
- FedEx has audited this shipment for correct packages, weight, and service. Any changes made are reflected in the invoice amount.
- The package weight exceeds the maximum for the packaging type, therefore, FedEx Envelope was rated as FedEx Pak.

INET	Sender	Recipient
Tracking ID 790482341577	Aimee Huston	Div of Comp Markets & Enforcem
Service Type FedEx Standard Overnight	Vycera Communications, Inc.	Florida Public Service Comm
Package Type FedEx Pak	12750 High Bluff Drive, Suite	2540 Shumard Oak Boulevard
Zone 08	SAN DIEGO CA 92130 US	TALLAHASSEE FL 32399 US
Packages 1		
Rated Weight 1.0 lbs, 0.5 kgs	Transportation Charge	28.85
Delivered Jun 29, 2006 08:53	Courier Pickup Charge	0.00
Svc Area A2	Fuel Surcharge	4.15
Signed By S.CALHOUN	Discount	-2.89
FedEx Use 00000000/0001415/_	Total Charge	USD \$30.11

Picked up: Jun 29, 2006 08:53 AM
 Picked up by: S.CALHOUN

- Fuel Surcharge - FedEx has applied a fuel surcharge of 16.00% to this shipment.
- Distance Based Pricing, Zone 8
- FedEx has audited this shipment for correct packages, weight, and service. Any changes made are reflected in the invoice amount.
- The package weight exceeds the maximum for the packaging type, therefore, FedEx Envelope was rated as FedEx Pak.

INET	Sender	Recipient
Tracking ID 791034256364	Aimee Huston	Thomas Navin, Bureau Chief
Service Type FedEx Standard Overnight	Vycera Communications, Inc.	Wireline Competition Bureau
Package Type FedEx Pak	12750 High Bluff Drive, Suite	Federal Communications Commiss
Zone 08	SAN DIEGO CA 92130 US	CAPITOL HEIGHTS MD 20743 US
Packages 1		
Rated Weight 1.0 lbs, 0.5 kgs	Transportation Charge	28.85
Delivered Jun 29, 2006 09:28	Discount	-2.89
Svc Area A2	Fuel Surcharge	4.15
Signed By M.WEBB	Courier Pickup Charge	0.00
FedEx Use 00000000/0001415/_	Total Charge	USD \$30.11

Picked up: Jun 29, 2006 09:28 AM
 Picked up by: M.WEBB

- Fuel Surcharge - FedEx has applied a fuel surcharge of 16.00% to this shipment.
- Distance Based Pricing, Zone 8
- FedEx has audited this shipment for correct packages, weight, and service. Any changes made are reflected in the invoice amount.

INET	Sender	Recipient
Tracking ID 792782766414	Aimee Huston	Marlene H. Dortch, Secretary
Service Type FedEx Standard Overnight	Vycera Communications, Inc.	Federal Communications Comm
Package Type FedEx Box	12750 High Bluff Drive, Suite	Office of the Secretary
Zone 08	SAN DIEGO CA 92130 US	CAPITOL HEIGHTS MD 20743 US



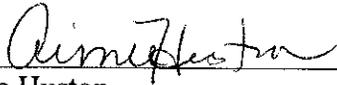
CERTIFICATE OF SERVICE

I, Aimee Huston, certify that I have this day caused a true and correct copy of the original attached **PETITION FOR WAIVER 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 16th day of August 2006 at San Diego, California 92130.



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