

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the matter of Request for Review by Franciscan
Skemp Waukon Clinic of Decision of Universal Service
Administrator

WC Docket No. 02-60
~~Docket Nos. 96-45 and 97-21~~

**FRANCISCAN SKEMP WAUKON CLINIC'S REQUEST FOR REVIEW OF A DENIAL
FROM THE RURAL HEALTH CARE DIVISION**

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

Re: Universal Service Fund Appeal FY 2005
Waukon Clinic HCP 12657 FRN 22509

I. INTRODUCTION.

Franciscan Skemp Waukon Clinic ("Waukon") hereby appeals the initial decision of Universal Service Administrative Company ("USAC") denying Waukon's request for Rural Health Care Program universal service support for certain telecommunications services and USAC's denial of Waukon's first appeal. Because USAC erred in its application of 47 C.F.R. § 54.603, Waukon respectfully requests that the Federal Communications Commission ("FCC") overturn USAC's decisions and provide universal service support as more fully set forth below.

II. BACKGROUND.

Waukon is a rural health care provider eligible for Rural Health Care Program universal service fund assistance. Accordingly, in 2005 Waukon issued two Form 465s to solicit competitive bids for the provision of telecommunications services to its facility (see attached

Exhibits A and B). First, for the limited period remaining in Funding Year (“FY”) 2004, Waukon posted a Form 465 on the USAC website on April 14, 2005 (Exhibit A), making the allowable contract signing date no earlier than May 12, 2005. Waukon posted the second Form 465 for FYs 2005, 2006 and 2007 on April 26, 2005 (Exhibit B), making the allowable contract signing date no earlier than May 24, 2005. On April 25, 2005, one day before Waukon posted the second Form 465, Waukon signed a 60 month service agreement with Charter Fiberlink, LLC (“Charter”). On June 29, 2006, Waukon posted Form 466 on the USAC website (Exhibit C).

On September 12, 2007, USAC issued a Commitment Adjustment Letter retroactively denying Waukon’s request for funding FY 2005 on the grounds that Waukon had violated the 28-day posting period requirement (Exhibit D). Waukon Clinic appealed to USAC, arguing that its contract with Charter was signed prior to the 28-day posting period for its second Form 465 for FYs 2005-2007 (Exhibit E). Accordingly, it should have been eligible for funding under the *Kalamazoo* precedent.¹ On March 17, 2008,² USAC denied Waukon’s appeal, holding that it had properly disallowed universal service support for the Charter contract because Waukon had executed the contract during the posting period for the first Form 465 for FY 2004 (Exhibit G).

III. ARGUMENT.

Generally, an entity may not receive universal service funding for a telecommunications contract signed prior to the required 28-day posting period for the relevant Form 465. Under *Kalamazoo* the FCC recognized an exception to that rule for contracts signed prior to the 28-day posting period where (i) the applicant chooses to continue service under an existing contract; (ii) the applicant competitively bids the services for the new funding year; and (iii) the applicant

¹ *Request for Review of the Decision of the Universal Service Administrator by Kalamazoo Public Schools*, Order on Reconsideration, 17 FCC Rcd 22154, DA 02-2975, ¶¶ 5-6 (2002).

² Prior to denying the appeal, a program manager for the Rural Health Care division contacted a representative for Waukon Clinic with a series of questions. The questions and responses to these questions are attached as Exhibit F.

decides, after reviewing the competitive bids, to continue the existing contract.³ Essentially, in the *Kalamazoo* decision, the FCC applied the rule of reason in interpreting 47 C.F.R. § 54.603. So long as the applicant considered the bids it received during the posting period and properly determined to continue service under an existing contract, the purpose of the competitive bid requirement would be achieved.

The *Kalamazoo* exception should apply here. Waukon executed its contract prior to the posting period for the relevant Form 465. During the posting period, it did not receive any other bids. Waukon has posted the service for bids in each of the next two posting periods. In other words, Waukon has adhered to the purpose of the competitive bidding requirement by ensuring that its contract with Charter is competitively priced for the type of service rendered.

USAC errs in insisting Waukon violated 47 C.F.R. § 54.603 because it executed the Charter agreement during the posting period for the first Form 465. First, USAC is ignoring the facts. Waukon issued two distinct Form 465s to receive bids for distinct periods. In effect, USAC has concluded that the two Form 465s constitute one Form 465. This is obviously not the case.

Second, USAC's decision violates the rule of reason as evident in the *Kalamazoo* decision. As a practical matter, Charter—the company selected prior to the second Form 465—could not have provided service during the small period remaining in FY 2004 relevant to the first Form 465. As noted in correspondence with USAC, Charter did not begin providing service to Waukon until August 2005 well after the close of FY 2004. It is unreasonable to deny universal service support for an entity that enters into a contract to provide service in future FYs when the entity has posted an unrelated Form 465 soliciting contracts for an earlier time period

³ *Id.*

and it is subsequently shown that service under the contract was not provided during that earlier time period.

IV. CONCLUSION.

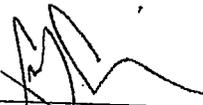
For the reasons stated above, Waukon Clinic requests that the FCC set aside USAC's denial of universal service support for the Charter contract for the Funding Years 2005, 2006 and 2007 and direct USAC to provide universal service support as herein described. Thank you for your consideration of this matter.

Dated this 15th day of May, 2008.

Respectfully submitted,

CULLEN WESTON PINES & BACH LLP

By:


Curt F. Pawlisch, Wisconsin State Bar Number: 1024385
Attorney for Franciscan Skemp Waukon Clinic

122 West Washington Avenue, Suite 900
Madison, WI 53703
(608) 251-0101 phone
(608) 251-2883 fax
E-mail: pawlisch@cwpb.com

CERTIFICATE OF SERVICE

Pursuant to 47 C.F.R. §§ 54.721(c) and 1.47, I hereby certify that I have on this day caused to be served by U.S. mail, first-class, postage prepaid one copy of Franciscan Skemp Waukon Clinic's Request For Review Of A Denial From The Rural Health Care Division on the Universal Service Administrative Company at the following address:

Rural Health Care Division
Universal Service Administrative Company
2000 L Street, NW, Suite 200
Washington, DC 20036

Dated this 15th day of May, 2008.



Curt F. Pawlisch, Wisconsin State Bar Number: 1024385
Attorney for Franciscan Skemp Waukon Clinic

HCP Application Status

• Information for HCP # 12657, Year is 2004

- HCP Name: Waukon Clinic
- Mail Contact Name: Mike O'Connor
- Mail Contact Phone Number: 608-268-2565
- Mail Contact Email: mike@usfnw.com
- E-Cert Status: Enabled for E-signature by Michael P O'Connor on 4/14/2005 - **Disable**

• Form Status

The table below lists each form submitted and its status.
 If you have any questions concerning your application status,
 please call our Customer Service Support Center at 1-800-229-5476.

Form 465 Status Info			
Form 465 Status		Date Complete or Action	
Form 465 Approved		4/14/2005 11:40:56 AM View Form 465	

Form 466 Status Info			
Packet ID	Service Type	Form 466 Status	Date Complete or Action
Existing 466s...			
62359	T1 or DS1	Form 466 Submitted On-Line	6/23/2005 View Form 466 (E)
Create NEW 466s...			
2004 Form 466/466A filing window is currently closed.			

Form 467 Status Info		
Packet ID / PRN	Service Type / BW	Action
62359 / 17272	T1 or DS1 / 1544	10/13/2005 View this completed 467

• Documents Received in Mail

The table below lists all the mailed documents received by RHCD.

Received?	Date Received
Pending Receipt of Form 465	

• [Change My HCP Login Password](#)



Exhibit A

FCC Form

Health Care Providers Universal Service

465

Description of Services Requested & Certification Form

OMB Approval
3060-0804

To be completed by Health Care Provider

Estimated Average Burden Hours Per Response: 1 hour

Read all instructions thoroughly before completing form. Failure to comply may cause delayed or denied funding

Form 465 Application Number (assigned by RHCD): 12853	
Block 1: HCP Location Information	
Information required in this block applies to the physical location of the HCP. Do not enter a "PO Box" or "Rural Route" address.	
1 HCP Number: 12657	2 Consortium Name:
3 HCP Name: Waukon Clinic	4 Applicant's Form ID:
5 Contact Name Chris Dobbs	6 Contact Phone Number 608-791-9718 Ext. 4525
7 Address Line 1 105 East Main Street	
8 Address Line 2	
9 City: Waukon	10 State: IA 11 Zip Code: 52172
12 E-Mail Address mike@usfnw.com	13 Fax Number 608-791-9712
14 County: IA-Allamakee	
Block 2: HCP Mailing Information	
15 Is the HCP's mailing address (i.e., where correspondence should be sent) different from its physical location as described in Block 1? YES	
16 Send correspondence to: USF Consultants	
17 Contact Name Mike O'Connor	18 Contact Phone Number 608-268-2565 Ext.
19 Address Line 1 P. O. Box 6641	
20 Address Line 2	
21 City: Monona	22 State: WI 23 Zip Code: 53716-0641
24 E-Mail Address mike@usfnw.com	25 Fax Number 608-268-2566
Block 3: Funding Year Information	
26 Funding Year X Year 2004 (7/1/2004-6/30/2005) Year 2005 (7/1/2005-6/30/2006) Year 2006 (7/1/2006-6/30/2007)	
Block 4: Eligibility	
27 Only the following types of HCPs are eligible. Indicate which category describes the applicant (check only one). Post-secondary educational institution offering health care instruction, teaching hospital or medical school Community health center or health center providing health care to migrants	

Exhibit A

Local health department or agency
 Community mental health center
 Not-for-profit hospital
XXX Rural health clinic
 Consortium of the above
 Dedicated emergency department of rural, for-profit hospital
 Part-time eligible entity

Block 4: Eligibility (Continued)

28 If Consortium, Dedicated emergency department, or Part-time eligible entity was selected in Line 27, please describe the entity.

Not Applicable

29 Please describe the eligible health care provider's telecommunications and/or Internet service needs, so that service providers may bid to provide the services. The description should describe whether video or store and forward consultations will be used, whether large image files or X-rays will be transmitted, the quality of connection needed, or other relevant considerations.

Provider to provider and Provider to Patient information transfer including Voice, data, image, and video.

Block 5: Request for Services

30 Is the HCP requesting reduced rates for:
 Both Telecommunications & Internet Services

Block 6: Certification

31 I certify that I am authorized to submit this request on behalf of the above-named entity or entities, that I have examined this request, and that to the best of my knowledge, information, and belief, all statements of fact contained herein are true.

32 I certify that the health care provider has followed any applicable State or local procurement rules.

33 I certify that the telecommunications services that the HCP receives at reduced rates as a result of the HCP's participation in this program, pursuant to 47 U.S.C. Sec. 254 as implemented by the Federal Communications Commission, will be used solely for purposes reasonably related to the provision of health care service or instruction that the HCP is legally authorized to provide under the law of the state in which the services are provided and will not be sold, resold, or transferred in consideration for money or any other thing of value.

34 I certify that the health care provider is a non-profit or public entity.

35 I certify that the health care provider is located in a rural area. Visit the RHCD web site (www.rhc.universalservice.org/eligibility/ruralareas.asp) or contact RHCD at 1-800-229-5476 for a listing of the rural areas.

36 Pursuant to 47 C.F.R. Secs. 54.601 and 54.603, I certify that the HCP or consortium that I am representing satisfies all of the requirements herein and will abide by all of the relevant requirements, including all applicable FCC rules, with respect to funding provided under 47 U.S.C. Sec. 254.

37 Signature

38 Date

39 Printed name of authorized person
 (First name, MI, Last name)
 Michael P O'Connor

40 Title or position of authorized person
 Consulting Engineer

Persons willfully making false statements on this form can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. Secs. 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. Sec. 1001.

NOTICE: Section 54.615(c) of the Federal Communications Commission's rules requires

Exhibit A

all health care providers requesting benefits from this support mechanism to certify to their eligibility to receive them. 47 C.F.R. § 54.615(c). In addition, Section 54.603 Commission's rules requires eligible health care providers to participate in a competitive bidding of the Federal Communications process prior to receiving telecommunications services at reduced rates. 47 C.F.R. § 54.603. The collection of information stems from the Commission's authority under Section 254 of the Communication's Act of 1934, as amended, 47 U.S.C. § 254. The data in the report will be used to certify an applicant's eligibility to receive support pursuant to 47 C.F.R. § 54.615(c) and to ensure compliance with the competitive bidding requirements of 47 C.F.R. § 54.603. All health care providers requesting services eligible for universal service support must file this Description of Services Requested & Certification Form (FCC Form 465).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The foregoing Notice is required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 44 U.S.C. § 3501, et seq.

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing, and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the reporting burden to the Federal Communications Commission, Performance Evaluation and Records Management Branch, Washington, D.C. 20554.

This form should be submitted to: Rural Health Care Division 80 S. Jefferson Rd. Whippany, NJ 07981

Please remember:

- ▶ Form 465 is the **FIRST** step a health care provider must take in order to receive the benefit of reduced rates resulting from participation in this universal service support program
- ▶ After the HCP submits a complete and accurate Form 465, the RHCD will post it on the RHCD web site for 28 days
- ▶ HCPs may not enter into agreements to purchase eligible services from service providers before the 28 days expire
- ▶ Entering into any agreement during the 28 day posting period is prohibited
- ▶ After the HCP selects a carrier, the HCP must initiate the next step in the application process, the filing of Forms 466 & 468.

FCC Form 465

January 2004

[Back to the HCP Information Page](#)

Exhibit A

HCP Application Status

◆ Information for HCP # 12657, Year is 2005

- HCP Name: Waukon Clinic
- Mail Contact Name: Milke O'Connor
- Mail Contact Phone Number: 608-268-2565
- Mail Contact Email: mike@usfnw.com
- E-Cert Status: Enabled for E-signature by Michael P O'Connor on 4/14/2005 - Disable

◆ Form Status

The table below lists each form submitted and its status.
If you have any questions concerning your application status,
please call our Customer Service Support Center at 1-800-229-5476.

Form 465 Status Info			
Form 465 Status	Date Complete or Action		
Form 465 Approved	4/26/2005 6:16:44 PM View Form 465		

Form 466 Status Info			
Packet ID	Service Type	Form 466 Status	Date Complete or Action
Existing 466s...			
67625	T1 or DS1	Form 466 Submitted On-Line	6/22/2006 View Form 466 (E)
67628	Voice Grade	Form 466 Submitted On-Line	6/22/2006 View Form 466 (E)
68716	Unspecified	Form 466 Submitted On-Line	6/29/2006 View Form 466 (E)
Create NEW 466s...			
2005 Form 466/466A filing window is currently closed.			

Form 467 Status Info		
Packet ID / FRN	Service Type / BW	Action
67625 / 22594	T1 or DS1 / 1544	12/22/2006 View this completed 467
68716 / 22509	Unspecified / 10000	12/22/2006 View this completed 467

◆ Documents Received in Mail

The table below lists all the mailed documents received by RHCD.

Received?	Date Received
Pending Receipt of Form 465	

◆ [Change My HCP Login Password](#)



Exhibit B

FCC Form

Health Care Providers Universal Service

465

Description of Services Requested & Certification Form

OMB Approval
3060-0804

To be completed by Health Care Provider

Estimated Average Burden Hours Per Response: 1 hour

Read all instructions thoroughly before completing form. Failure to comply may cause delayed or denied funding

Form 465 Application Number (assigned by RHCD): 13490	
Block 1: HCP Location Information	
Information required in this block applies to the physical location of the HCP. Do not enter a "PO Box" or "Rural Route" address.	
1 HCP Number: 12657	2 Consortium Name:
3 HCP Name: Waukon Clinic	4 HCP FCC Registration Number (FCC RN): 0002714715
5 Contact Name: Chris Dobbs	
6 Address Line 1: 105 East Main Street	
7 Address Line 2:	8 County: IA-Allamakee
9 City: Waukon	10 State: IA 11 Zip Code: 52172
12 Phone #: 608-791-9718 Ext. 4525	13 Fax #: 608-791-9712
14 E-mail: mike@usfnow.com	
MAD: 165	
Block 2: HCP Mailing Contact Information	
15 Is the HCP's mailing address (where correspondence should be sent) different from its physical location as described in Block 1? Yes, complete Block 2.	
16 Contact Name: Mike O'Connor	17 Organization: USF Consultants
18 Address Line 1: P. O. Box 6641	
19 Address Line 2:	
20 City: Monona	21 State: WI 22 Zip Code: 53716-0641
23 Phone #: 608-268-2565 Ext.	24 Fax #: 608-268-2566
25 E-mail: mike@usfnow.com	
Block 3: Funding Year Information	
26 Funding Year <input checked="" type="checkbox"/> Year 2005 (7/1/2005-6/30/2006) <input type="checkbox"/> Year 2006 (7/1/2006-6/30/2007) <input type="checkbox"/> Year 2007 (7/1/2007-6/30/2008)	
Block 4: Eligibility	
27 Only the following types of HCPs are eligible. Indicate which category describes the applicant (check only one). <ul style="list-style-type: none"> <input type="checkbox"/> Post-secondary educational institution offering health care instruction, teaching hospital or medical school <input type="checkbox"/> Community health center or health center providing health care to migrants <input type="checkbox"/> Local health department or agency <input type="checkbox"/> Community mental health center <input type="checkbox"/> Not-for-profit hospital 	

Exhibit B

XXX Rural health clinic

Consortium of the above

Dedicated emergency department of rural, for-profit hospital

Part-time eligible entity

28 If Consortium, Dedicated emergency department, or Part-time eligible entity was selected in Line 27, please describe the entity.

Not Applicable

29 Please describe the eligible health care provider's telecommunications and/or Internet service needs, so that service providers may bid to provide the services. The description should describe whether video or store and forward consultations will be used, whether large image files or X-rays will be transmitted, the quality of connection needed, or other relevant considerations.

Provider to provider and Provider to Patient information transfer including Voice, data, Image, and video.

Block 5: Request for Services

30 Is the HCP requesting reduced rates for:

Both Telecommunications & Internet Services

Block 6: Certification

31 I certify that I am authorized to submit this request on behalf of the above-named entity or entities, that I have examined this request, and that to the best of my knowledge, information, and belief, all statements of fact contained herein are true.

32 I certify that the health care provider has followed any applicable State or local procurement rules.

33 I certify that the telecommunications services that the HCP receives at reduced rates as a result of the HCP's participation in this program, pursuant to 47 U.S.C. Sec. 254 as implemented by the Federal Communications Commission, will be used solely for purposes reasonably related to the provision of health care service or instruction that the HCP is legally authorized to provide under the law of the state in which the services are provided and will not be sold, resold, or transferred in consideration for money or any other thing of value.

34 I certify that the health care provider is a non-profit or public entity.

35 I certify that the health care provider is located in a rural area. Visit the RHCD web site (www.usac.org/rhc/tools/rhcd/Rural/2005/search.asp) or contact RHCD at 1-800-229-5476 for a listing of the rural areas.

36 Pursuant to 47 C.F.R. Secs. 54.601 and 54.603, I certify that the HCP or consortium that I am representing satisfies all of the requirements herein and will abide by all of the relevant requirements, including all applicable FCC rules, with respect to funding provided under 47 U.S.C. Sec. 254.

37 Signature **E-SIGNATURE ACCEPTED**

38 Date **E-SIGNATURE ON 4/26/2005**

39 Printed name of authorized person
(First name, MI, Last name)
Michael P O'Connor

40 Title or position of authorized person
Consulting Engineer

41 Employer of authorized person
USP Consultants

42 Employer's FCC RN
0011633955

Please remember:

- Form 465 is the first step a health care provider must take in order to receive the benefit of reduced rates resulting from participation in this universal service support program.
- After the HCP submits a complete and accurate Form 465, the RHCD will post it on the RHCD web site for 28 days.
- HCPs may not enter into agreements to purchase eligible services from service providers before the 28

Exhibit B

days expire.

• After the HCP selects a service provider, the HCP must initiate the next step in the application process, the filing of Form 466 and/or 466A.

Persons willfully making false statements on this form can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. Secs. 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. Sec. 1001.

FCC NOTICE FOR INDIVIDUALS REQUIRED BY THE PRIVACY ACT AND THE PAPERWORK REDUCTION ACT

Part 3 of the Commission's Rules authorize the FCC to request the information on this form. The purpose of the information is to determine your eligibility for certification as a health care provider. The information will be used by the Universal Service Administrative Company and/or the staff of the Federal Communications Commission, to evaluate this form, to provide information for enforcement and rulemaking proceedings and to maintain a current inventory of applicants, health care providers, billed entities, and service providers. No authorization can be granted unless all information requested is provided. Failure to provide all requested information will delay the processing of the application or result in the application being returned without action. Information requested by this form will be available for public inspection. Your response is required to obtain the requested authorization.

The public reporting for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the required data, and completing and reviewing the collection of information. If you have any comments on this burden estimate, or how we can improve the collection and reduce the burden it causes you, please write to the Federal Communications Commission, AMD-PERM, Paperwork Reduction Act Project (3060-0804), Washington, DC 20554. We will also accept your comments regarding the Paperwork Reduction Act aspects of this collection via the Internet if you send them to pra@fcc.gov. PLEASE DO NOT SEND YOUR RESPONSE TO THIS ADDRESS.

Remember - You are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number or if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-0804.

THE FOREGOING NOTICE IS REQUIRED BY THE PRIVACY ACT OF 1974, PUBLIC LAW 93-579, DECEMBER 31, 1974, 5 U.S.C. 552a(e)(3) AND THE PAPERWORK REDUCTION ACT OF 1995, PUBLIC LAW 104-13, OCTOBER 1, 1995, 44 U.S.C. SECTION 3507.

This form should be submitted to: Rural Health Care Division 100 S. Jefferson Rd. Whippany, NJ 07981

FCC Form 465
January 2005

[Back to the HCP Information Page](#)

Exhibit B

FCC Form

Health Care Providers Universal Service

466

Funding Request and Certification Form

Approval by OMB
3060-0804

The Deadline to submit this Form is the June 30th End of the Funding Year.

Estimated time per response: 3 hours

Read instructions thoroughly before completing this form. Failure to comply may cause delayed or denied funding.

Block 1: HCP Information				
1 HCP Name Waukon Clinic		2 HCP Number 12657		
3 Form 465 Application # 13490		4 Consortium Name (If any)		
Block 2: Bill Payee Information				
5 Billed Entity Name Waukon Clinic		6 Billed Entity FCC RN 0002714715		
7 Contact Name Chris Dohbs				
8 Address Line 1 105 East Main Street				
9 Address Line 2				
10 City Waukon		11 State [A	12 Zip 52172	
13 Contact Phone # 608-791-9718		14 Fax # 608-791-9712	15 E-Mail mike@usfnw.com	
Block 3: Funding Year Information				
16 Funding Year - Check only one box <input checked="" type="checkbox"/> Year 2005 (7/1/2005-6/30/2006) <input type="checkbox"/> Year 2006 (7/1/2006-6/30/2007) <input type="checkbox"/> Year 2007 (7/1/2007-6/30/2008)				
Block 4: Service Information				
17 Type of Service Unspecified				
Circuit Bandwidth Other - specify on line 20				
18 Total Billed Miles 60		19 Maximum Allowable Distance (From Form 465) 165		
20 Percentage of HCP's service used for the provision of health care. 100% (If less than 100%, please explain.)				
If the HCP indicated it is a part-time eligible entity (on Form 465), describe method of allocating prorated support.				
10M				
Connection Information				
	Carrier A	Carrier B	Carrier C	Carrier D
21 Service Provider Name	Charter Fiberlink, LLC			
22 Service Provider Identification Number (SPIN)	143005761			
23 Service Provider Contact Person Name	tamra chancellor			
24 Service Provider Contact Person's Phone #	314 534 2430			

Exhibit C

25 Service Provider Contact Person Email
tamra.chancellor@chartercom.com

26 Circuit Start Location
Waukon, IA

27 Circuit Termination Location
La Cross, WI

28 Billing Account Number
501345

29 Tariff, Contract, or other document reference number
con 5y

30 Date Contract Signed or Date HCP Selected Carrier
8/15/2005

31 Contract Expiration Date (mm/dd/yyyy or "Month to Month")
8/15/2010

32 Service Installation Date
8/15/2005

33 Actual Rural Rate per Month
3600

34 If you are a consortia member OR have multiple carriers, please attach a Circuit Diagram to show how the sites interconnect and which carrier(s) provide each circuit segment.

Circuit Diagram Attached? No

35 Are you a mobile rural health care provider? No
If yes, see instructions and attach a list of all sites to be served.

Block 5: Mileage-based Charge Discount Request

Complete this block if you are seeking support for mileage (distance-based) charges only. Do not enter any other charges in this block. You may need to ask your service provider representative to provide this information.

	Carrier A	Carrier B	Carrier C	Carrier D
36 Billed Circuit Miles				
37 Monthly Milcage Charges (exclude Channel Termination chgs, etc.)	\$	\$	\$	\$
38 Cost per Mile per Month				

If Line 33 equals Line 37, please ensure that ONLY mileage-related charges are included in Line 37.

Block 6: Comprehensive Rate Comparison Request

Complete Block 6 if you have not completed Block 5 and are requesting support for all elements of your telecommunications service necessary for the provision of health care. The information in this block will establish the difference between the urban and rural rates for your requested service. Please call RHCID at 1-800-229-5476 if you need assistance.

	Carrier A	Carrier B	Carrier C	Carrier D
39 One-time Urban Rate	\$	\$	\$	\$

Exhibit C

Charge
(in selected large city)

40 One-time Rural Rate	\$	\$	\$	\$
------------------------	----	----	----	----

Charge
(in city where HCP is located)

41 Monthly Urban Rate	\$ 697	\$	\$	\$
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Other rate documentation attached.

If your circuit includes charges for mileage over the Maximum Allowable Dist., (Line 19), please complete Lines 42 to 44. Otherwise, skip to Block 7 (next page).

42 Billed Circuit Miles

43 Monthly Milcage	\$	\$	\$	\$
--------------------	----	----	----	----

Based Charges

44 Cost per Mile per Month	\$	\$	\$	\$
----------------------------	----	----	----	----

Block 7: Bid Documentation

45 Did you receive any bids in response to the Form 466 Request for Services posted on the RHCD web site? If you check yes, copies of the bids MUST be mailed to RHCD.
No

Block 8: Certification

46 YES: I certify that the above named entity has considered all bids received and selected the most cost effective method of providing the requested service or services. The "most cost-effective service" is defined in the Universal Service Order as the service available at the lowest cost after consideration of the features, quality of transmission, reliability, and other factors that the health care provider deems necessary for the service to adequately transmit the health care services required by the health care provider.

47 YES: Pursuant to 47 C.F.R. Secs. 54.601 and 54.603, I certify that the HCP or consortium that I am representing satisfies all of the requirements herein and will abide by all of the relevant requirements, including all applicable FCC rules, with respect to universal service benefits provided under 47 U.S.C. Sec. 254. I understand that any letter from RHCD that erroneously states that funds will be made available for the benefit of the applicant may be subject to rescission.

48 YES: I hereby certify that the billed entity will maintain complete billing records for the service for five years.

49 YES: I certify that I am authorized to submit this request on behalf of the above-named Billed Entity and HCP, and that I have examined this form and attachments and that to the best of my knowledge, information, and belief, all statements of fact contained herein are true.

50 Signature
ECERT-6/29/2006

51 Date

52 Printed name
Michael P O'Connor

53 Title or position
Consulting Engineer

54 Employer of authorized person
USF Consultants

55 Employer's FCC RN
0011633955

Please remember:
 * You must submit one Form 466 for each service (i.e., circuit) for which you request reduced rates. For example:
 --If you are requesting reduced rates for two T1 lines, you must submit two Forms 466.

Exhibit C

--If you are requesting reduced rates for two ISDN lines & one Frame Relay line, you must submit three Forms 466.

- If the service described on this form is subject to the 28-day competitive bidding requirement, do not select a carrier or complete the Form 466 before or during the 28-day posting period.
- You must provide evidence of the urban rate if you have completed Block 6 and have not used the urban rates from the website.
- This form, attachments, and supporting documents should be combined in one envelope and sent to the RHCD.
- If the service described on this form changes (e.g., rate change) during the funding year, you must notify RHCD immediately and submit a revised Form 466.
- If you have any questions, call RHCD at 1-800-229-5476.

Persons willfully making false statements on this form can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. Secs. 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. Sec. 1001.

FCC NOTICE FOR INDIVIDUALS REQUIRED BY THE PRIVACY ACT AND THE PAPERWORK REDUCTION ACT

Part 3 of the Commission's Rules authorize the FCC to request the information on this form. The data reported will be used to ensure that health care providers have selected the most cost-effective method of providing the requested services as set forth in 47 C.F.R. § 54.603(b)(4). The information will be used by the Universal Service Administrative Company and/or the staff of the Federal Communications Commission, to evaluate this form, to provide information for enforcement and rulemaking proceedings and to maintain a current inventory of applicants, health care providers, billed entities, and service providers. No authorization can be granted unless all information requested is provided. Failure to provide all requested information will delay the processing of the application or result in the application being returned without action. Information requested by this form will be available for public inspection. Your response is required to obtain the requested authorization.

The public reporting for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the required data, and completing and reviewing the collection of information. If you have any comments on this burden estimate, or how we can improve the collection and reduce the burden it causes you, please write to the Federal Communications Commission, AMD-PERM, Paperwork Reduction Act Project (3060-0804), Washington, DC 20554. We will also accept your comments regarding the Paperwork Reduction Act aspects of this collection via the Internet if you send them to pra@fcc.gov. PLEASE DO NOT SEND YOUR RESPONSE TO THIS ADDRESS.

Remember - You are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number or if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-0804.

THE FOREGOING NOTICE IS REQUIRED BY THE PRIVACY ACT OF 1974, PUBLIC LAW 93-579, DECEMBER 31, 1974, 5 U.S.C. 552a(e)(3) AND THE PAPERWORK REDUCTION ACT OF 1995, PUBLIC LAW 104-13, OCTOBER 1, 1995, 44 U.S.C. SECTION 3507.

This form should be submitted to: Rural Health Care Division 100 S. Jefferson Rd. Whippany, NJ 07981

FCC Form 466

Exhibit C



Universal Service Administrative Company

Rural Health Care Division

2000 L Street, Northwest, Suite 200
Washington, DC 20036
Phone: 1-800-229-5476

COMMITMENT ADJUSTMENT LETTER

Wednesday, September 12, 2007

Tamara Chancellor
Charter Fiberlink, LLC
12405 Powerscourt Drive
St. Louis, MO 63131

12657

RE: Commitment Adjustment
Funding Year: July 1, 2005 - June 30, 2006
Applicant: Waukon Clinic
HCP Contact Person: Chris Dobbs
HCP Contact Phone: 608-791-9718

Dear Tamara:

Our routine review of Universal Service Administrative Company (USAC) Health Care Division (RHCD) Program funding commitments revealed certain applications where funds were committed in violation of program rules. In order to be sure that no funds are used in violation of program rules, RHCD must now adjust these funding commitments. This letter is to inform you of these adjustments.

FUNDING COMMITMENT REPORT

On the page following this letter, we have provided a Funding Commitment Report for the application cited above. The enclosed report includes a list of the Funding Request Number(s) (FRNs) from the application for which adjustment(s) are necessary. RHCD is also sending this information to the applicant, so you may work with them to implement this decision. Immediately preceding the Funding Commitment Report, you will find a guide that defines each line of the Report.

Please note that if the Funds Disbursed to Date amount exceeds your Adjusted Funding Commitment amount, USAC will have to recover some or all of the funds disbursed. This amount is shown as Funds to be Recovered. We will soon send a letter describing the process for recovering these funds, and will send a copy of the letter to the applicant. If the Funds Disbursed to Date amount is less than the Adjusted Funding Commitment amount, USAC will continue to process properly filed invoices up to the Adjusted Funding Commitment amount.

Exhibit D

TO APPEAL THESE FUNDING COMMITMENT ADJUSTMENTS

If you wish to appeal the Funding Commitment Adjustment Decision(s) indicated in this letter, your appeal must be made in writing and **MUST BE RECEIVED NO LATER THAN 60 CALENDAR DAYS OF THE DATE AT THE TOP OF THIS LETTER**. Failure to meet this requirement will result in automatic dismissal of your appeal.

There are two appeal options:

- A. Write a letter to RHCD explaining why you disagree with this Funding Commitment Adjustment **OR**;
- B. Write an appeal directly to the Federal Communications Commission (FCC) — skipping Option A— explaining why you disagree with this Funding Commitment Adjustment. The FCC rules governing appeals (Part 54 of Title 47 of the Code of Federal Regulations 54.719 – 54.725, as amended January 24, 2002 by FCC Order 01-376) are available on the RHCD web site (www.rhc.universalservice.org).

Please follow these guidelines when submitting a letter of appeal to the RHCD:

1. Write and mail your letter to:

Letter of Appeal
Rural Health Care Division / USAC
2000 L Street N. W., Suite 200
Washington, D.C. 20037
Phone: (800) 229-5476

2. Appeals may be submitted to the RHCD electronically, by fax or by e-mail. E-mail submissions must be submitted to: rhc-admin@universalservice.org. The RHCD will automatically reply to incoming e-mails to confirm receipt. E-mails can be submitted in any commonly used word processing format. Appeals to the RHCD filed by fax must be faxed to 202-776-0080. Appeals submitted by e-mail will be considered filed on a business day if they are received at any time before 12:00 a.m. (midnight), Eastern Standard Time. Similarly, fax transmissions will be considered filed on a business day if the complete transmission is received at any time before 12:00 a.m.
3. Please provide necessary contact information. List the name, address, telephone number, fax number, and e-mail address (if available) of the person who can most readily discuss this appeal with the RHCD.
4. Identify the rural HCP Name, HCP Number, and Funding Request Number(s) from this letter.

5. Explain the appeal to the RHCD. Please keep your letter brief and to the point and provide documentation to support your appeal. When explaining your appeal, include the precise language or text from this Commitment Adjustment Letter that is at the heart of your appeal. Be sure to keep copies of your correspondence and documentation.
6. Unless you are filing the appeal via e-mail, you must attach a photocopy of this Commitment Adjustment Letter you are appealing.
7. The RHCD will review all letters of appeal and respond in writing within 45 days of receipt of the appeal. The response will either grant the appeal or will explain why the appeal was not granted.
8. If you disagree with the RHCD's response, you may file an appeal with the FCC within 60 days of the date the RHCD issued its decision in response to the appeal. The FCC address to which you may direct an appeal is:

Via US Mail

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

Via Express Mail Service

Federal Communications Commission
Office of the Secretary
9300 East Hampton Drive
Capitol Heights, MD 20743

Hand-delivered or messenger-delivered paper filings will only be accepted at:

Federal Communications Commission
Office of the Secretary
236 Massachusetts Avenue, NE, Suite 110
Washington, DC 20002

For security purposes, hand-delivered or messenger-delivered filings will not be accepted if they are enclosed in an envelope.

Appeals may also be submitted to the FCC electronically, by fax or e-mail. E-mail submissions must be submitted to CCBSecretary@fcc.gov. The FCC will automatically reply to incoming e-mails to confirm receipt. E-mails can be submitted in any commonly used word processing format. Appeals to the FCC filed by fax must be faxed to 202-418-0187. Appeals submitted by e-mail will be considered filed on a business day if they are received at any time before 12:00 a.m. (midnight), Eastern Standard Time. Similarly, fax transmissions will be considered filed on a business day if the complete transmission is received at any time before 12:00 a.m.

Please be sure to indicate Docket Nos. 96-45 and 97-21 on all communications with the FCC. The appeal transmission must also provide the rural HCP name and number from the letter(s) being appealed, plus necessary contact information, including the name, address, telephone number, fax number, and e-mail address (if available) of the person filing the appeal. Unless the appeal is by e-mail, please include a copy of the letter being appealed.

If you have questions or need help, please call the Customer Service Support Center at 1-800-229-5476.

Sincerely,

USAC – RHCD

Attachments

CC: Mike O'Connor

Exhibit D

A GUIDE TO THE FUNDING COMMITMENT REPORT

Attached to this letter is a report for each support schedule for this HCP for which a commitment adjustment is required. Below are definitions for terms used in the report.

- ◆ Funding Request Number (FRN): A Funding Request Number is assigned by the RHCD to each Funding Commitment Letter. This number is used to report to applicants and service providers the status of individual discount funding requests submitted on a Form 466/468.
- ◆ SPIN (Service Provider Identification Number): A unique number assigned by the Universal Service Administrative Company to service providers seeking payment from the Universal Service Fund for participating in universal service support programs.
- ◆ SERVICE PROVIDER: The legal name of the service provider.
- ◆ SERVICES ORDERED: The type of telecommunications service ordered from the service provider, as shown on the Form 466/468.
- ◆ BILLING ACCOUNT NUMBER: The account number your service provider has established with you for billing purposes. This will be present only if a Billing Account Number was provided on your Form 466/468 or Form 467.
- ◆ ADJUSTED FUNDING COMMITMENT: This represents the adjusted total amount of funding that RHCD has committed to this FRN. If this amount exceeds the Funds Disbursed to Date, the RHCD will continue to process properly filed Invoices up to the new commitment amount.
- ◆ FUNDS DISBURSED TO DATE: This represents the total funds which have been paid up to now to the identified service provider for this FRN.
- ◆ FUNDS TO BE RECOVERED: This represents the amount of Funds Disbursed to Date that exceeds the Adjusted Funding Commitment amount. These funds will have to be recovered. If the Funds Disbursed to Date do not exceed the Adjusted Funding Commitment amount, this entry will be \$0.
- ◆ FUNDING COMMITMENT ADJUSTMENT EXPLANATION: This is a description of the reason the adjustment was made.

Funding Commitment Report
12657, Waukon Clinic

Funding Request Number(s): 22509
SPIN: 143005761
Service Provider Name: Charter Fiberlink, LLC
Services Ordered: 10 Mbps Circuit
Billing Account Number: 501345

Adjusted Funding Commitment: \$0.00
Funds Disbursed to Date: \$30626.65
Funds to be Recovered: \$30626.65

Funding Commitment Adjustment Explanation:

During the FY 2006 review process Waukon Clinic submitted a contract for a 10 MBPS circuit. The contract was not submitted in FY2005, and this same circuit was processed as a tariff in FY 2005.

Franciscan Skemp consortium signed the 60-month Charter Fiberlink contract that included Waukon Clinic on 4/18/05. It was counter signed by Charter on 4/25/05. The 465 for FY 2004 was posted on 4/14/05, and for FY2005 on 4/26/05. Both of these signatures occurred during the FY2004 and 2005 28-day posting period. This FRN is now under COMAD for violating the 28-day bidding requirement.

4/18/05 4/26/05

4/14/05
4/26/05

Exhibit D

USF Consultants

Universal Service Fund - Rural Health Care Specialists
PO Box 6641 Monona, Wisconsin 53716-0641 (608) 268-2565

Letter of Appeal
Rural Health care Division of USAC
2000 L Street Northwest, Suite 200
Washington, DC 20036

October 31, 2007

Re: Universal Service Fund Appeal – Violation of 28 day Waiting Requirement
Waukon Clinic HCP 12657

Dear Appeals Committee,

This letter is to appeal the initial decision a violation of the 28 day waiting requirement occurred in regard to the Waukon Clinic. There was no violation as the waiting period as two funding years overlapped for a period of 16 days.

The only service posted for support for FY 2004 was an existing point to point dedicated T-1 circuit from Waukon, Iowa to La Crosse, Wisconsin. The T-1 circuit was an existing service billed by CenturyTel at \$1694 per month. The only packet submitted was for support of this service from 5/12/2005 to 6/30/2005.

Prior to posting Funding Year 2005, the Waukon Clinic did sign a contract with Charter FiberLink for a 10M point to point circuit for \$3600 per month. This contract was executed on 4/25/2005. The posting of Funding Year 2005 occurred the next day. This was not in violation of the waiting requirement for FY 2005 because the contract was not signed during this time period. On 4/26/2005 the service was open to competitive bid.

FUNDING YEAR 2004

April 14, 2005

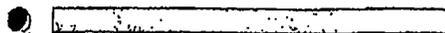
May 12, 2005



FUNDING YEAR 2005

April 26, 2005

May 24, 2005



April 25, 2005



USF Consultants: Dedicated, knowledgeable, Experienced

EXHIBIT E

Oct 31, 2007
Re: Universal Service Fund Appeal

During the 28 day waiting period, from 4/26/2005 to 5/24/2005, any bid for a 10M point to point service would have been received and evaluated. No other bids were received during his period and the Charter Service was declared the lowest best bid as no other bids were received.

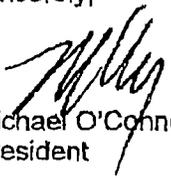
The Funding Commitment Letter for Funding Year 2005 specified the service was month to month verses a contract and has been open for bids each of the next 2 posting periods.

All proper precautions were followed to provide a fair and open bidding process in FY 2005, 2006 and 2007. The bottom line; the service is a great value for the price and did stand-up to the open bidding process then and would again today.

I am requesting the COMAD for 2005 be set aside and the funding packet for FY2006 be processed.

Thank you for your assistance on this issue.

Sincerely,



Michael O'Connor
President

Exhibit E

USF Consultants

Universal Service Fund - Rural Health Care Specialists
PO Box 6641 Monona, Wisconsin 53716-0641 (608) 268-2565

Ms. Camelia Rogers/Letter of Appeal
Rural Health Care Division
2000 L Street Northwest, Suite 200
Washington, DC 20036

March 4, 2008

Re: HCP 12657 follow-up information

Dear Ms. Rogers,

You had 3 questions;

1....*please indicate the information contained on the form that "specifically" sought to solicit bids for the 10MB service.* There was no specific mention of a 10MB service. The request was general to allow any carrier to call and at that point we could have reviewed the possible options the carrier might be able to provide [a minimum of 10MB service.] The options could have included a DS-3, multiplexed DS-1, Fractional DS-3 with the formats being Ethernet IP or TDM.

2.....*was there any consideration to signing a new contract with Charter so that the HCP would be in compliance with the 28 day waiting period.* No never. The contract was valid. There is no fudging dates or redoing contracts after the facts. The clients are aware that prior to posting a 465 and requesting support every existing service they have including local voice services, data services, and internet may not be funded. If a better deal is presented the service they have is not supported.

Normally, the Hospital or Clinic has done their homework because they will be paying 100% of the service for the entire contract term. In this case, Franciscan Skemp had an interstate T-1 at about \$1500 per month. Bandwidth was the issue as the T-1 was not cutting it. A 10M service was priced at \$3600 per month. No complete bids were provided.

The service was installed well into the funding period August of 2005.

3....*describe in length the competitive bid process that this HCP undertook prior to signing the contract with Charter.* The hospital has services from CenturyTel, Charter, and AT&T. All 3 were contacted. CT would be rebilling an AT&T circuit. AT&T could provide a T-1 at \$1000 per month [10Mb would be \$7000 a DS-3 was \$15k+] and Charter was in at \$3600.

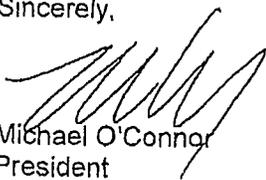
All 3 carriers had services in place with the hospital and all 3 were viewed as extremely reliable. The lowest price was selected.

Exhibit F

Page 2
March 4, 2008
Re: HCP 12657 follow-up information

As the consultant, I have the pleasure of certifying the rules have been followed. The intent of the program is not to waste money. In the case of this 10MB service; the hospital needed additional bandwidth, they selected the lowest cost option to them, and this was confirmed during the 28 days as no carrier submitted bids.

Sincerely,



Michael O'Connor
President

Attachment e-mail

Exhibit F

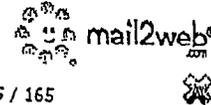
Your Logo Designed for \$1

Then pay a low fee only if you love it! Unlimited Designs. Start now. www.LogoCare.com/

Ads by Google

mike@usfnw.com

English



Reply - Reply All - Forward - View Source - Previous - Next - Message: 15 / 165

From: Camella Rogers <crogers@usac.org>
To: mike oconnor <mike@usfnw.com>
Subject: PW: Appeal for Waukon Clinic HCP 12657
Date: Tue, 19 Feb 2008 16:41:41 -0500

[View as HTML](#)

Mike,

Just checking in to see if you have a response. Please advise. Thank you.

Camella Rogers

(202) 772-5258

From: Camella Rogers
Sent: Monday, February 11, 2008 3:27 PM
To: 'mike oconnor'
Subject: Appeal for Waukon Clinic HCP 12657
Importance: High

Mike,

Good afternoon. I am following up on the letter that you faxed to me for the above-mentioned appeal, dated November 28, 2007. I have a few questions regarding the contents of the letter:

1. You state that you "the next day posted the FY2005 Form 465 specifically to solicit bids from carriers for the service." (emphasis added). In reviewing the FCC Form 465 which was posted on the USAC website, please indicate the information contained on the form that "specifically" sought to solicit bids for the 10MB service.

2. You state that the 10MB service provided by Charter was not installed until August of 2005. Since the service was not installed for months after the contract was signed, was there any consideration to signing a new contract with Charter so that the HCP would be in compliance with the 28 day waiting period?

3. It is our understanding that sometime during FY2004, this HCP became one of your clients. After hiring you, the HCP signed a contract with Charter for 10MB service. If you and your company were not involved in the process of soliciting the 10MB service, please describe in length the competitive bid process that this HCP undertook prior to signing the contract with Charter.

Exhibit F

USAC needs responses prior to the appeals team issuing a decision for this appeal.

Please let me know if you have questions or concerns. We look forward to receiving your response. Thank you.

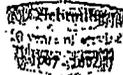
Camelia L. Rogors, MPP

Program Manager Rural Health Care

Universal Service Administrative Company

Phone (202) 772-5258 -- Fax (202)-776-0080

crogors@usac.org www.usac.org



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* Returns as of 11/12/2007



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Exhibit F



Rural Health Care Division

Administrator's Decision on Rural Health Care Program Appeal

Via Electronic and Certified Mail

March 17, 2008

Mr. Michael O'Connor, PE
USF Consultants
P.O. Box 6641
Monona, WI 53716-0641

Re: Request for Reconsideration of Denial
Waukon Clinic, HCP 12657, FRN 22509 and Packet 73716

Dear Mr. O'Connor:

The Universal Service Administrative Company (USAC) completed its evaluation of the appeal, dated November 5, 2007, submitted on behalf of Waukon Clinic (Waukon). Waukon requests that USAC reconsider the USAC Rural Health Care Division's (RHCD) denial of funding for Funding Year 2005 for Funding Request Number (FRN) 22509 and Funding Year 2006 for Packet 73716. USAC's funding denial was based on a violation of the competitive bidding requirements under Section 54.603 of the Federal Communications Commission's (FCC) rules.¹

Decision on Appeal and Explanation: Denied

Pursuant to the FCC's competitive bidding requirements, a health care provider (HCP) seeking to receive telecommunications services eligible for universal service support must submit to USAC a properly completed FCC Form 465.² After USAC posts the Form 465 on its website, the HCP must wait 28 days before contracting with a selected telecommunications carrier.³ Telecommunications services rendered based on contracts signed before the close of the 28-day waiting period are ineligible for universal service support.

USAC correctly processed the funding request for Waukon Clinic by denying the request due to a violation of the competitive bidding requirements. The FCC Form 465 for Funding Year 2004 was posted to the USAC website on April 14, 2005, making the allowable contract signing date no earlier than May 12, 2005. The FCC Form 465 for

¹ 47 C.F.R. § 54.603.

² 47 C.F.R. § 54.603(b)(1).

³ 47 C.F.R. § 54.603(b)(3).

Mr. Michael O'Connor
March 17, 2008
Page 2

Funding Year 2005 was filed on April 26, 2005, making the allowable contract signing date no earlier than May 24, 2005. Waukon signed a 60-month service agreement with Charter Fiberlink on April 25, 2005, approximately 16 days before the close of the 28-day waiting period for Funding Year 2004 and one day before FCC Form 465 was posted for Funding Year 2005.⁴ The service agreement was signed in violation of the FCC's competitive bidding requirements.

Waukon should have been undertaking the competitive bid process required under program rules and regulations when it signed the 60-month contract with Charter Fiberlink. No contracts or commitments should have been signed during the Funding Year 2004 posting period. RHCD correctly denied funding for services procured from the service agreement. RHCD's denial of funding is in accordance with the 28-day competitive bidding period set forth in 47 C.F.R. § 54.603.

If you wish to further appeal this decision, you may file an appeal with the FCC. Detailed instructions for filing appeals are available at:

<http://www.usac.org/rhc/about/filing-appeals.aspx>

Sincerely,

USAC

⁴ The FCC has permitted applicants to meet the competitive bidding requirements for contracts signed before the 28-day posting period where (i) the applicant is choosing to continue service under an existing contract; (ii) the applicant competitively bids the services for the new funding year; and (iii) the applicant decides, after reviewing the competitive bids, to continue with the existing contract. After the 28-day posting period, the applicant memorializes its decision to continue under the existing contract and enters the date of the memorialization as the contract award date. *Request for Review of the Decision of the Universal Service Administrator by Kalamazoo Public Schools*, Order on Reconsideration, 17 FCC Rod 22154, DA 02-2975, ¶¶ 5-6 (2002). Because the Charter Fiberlink services agreement was signed during the 28-day posting period, the exception provided in *Kalamazoo* is not applicable.