



CONFIDENTIAL PER FCC 47 CFR 1.48

August 14, 2009

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

Re: Appeal of Universal Service Administrative Company's ("USAC") Administrator's
Decision on Contributor Appeal dated June 24, 2009 (the "Decision")
Legal Reporting Name: Via Talk, LLC (the "Company")
FCC Form 499 Filer ID - 827048
CC Docket No. 96-45

Dear Sir or Madam:

We are in receipt of the Decision, a copy of which is attached as Exhibit "A," denying the Company's Appeal dated January 27, 2009 and supplemented April 22, 2009 (collectively, the "Appeal"), copies of which are attached as Exhibits "B" and "C," respectively. For all the reasons set forth in the Appeal, the Company hereby requests that the Decision be reconsidered and overturned by the Federal Communications Commission.

The following may be contacted to discuss the Appeal and any other matter related to the Company:

Richard E. Honen, Esq.
Phillips Lytle LLP
Omni Plaza
30 South Pearl Street
Albany, New York 12207
Tel. No. (518) 472-1224
Fax No. (518) 472-1227
Email: Rhonen@phillipslytle.com.

We appreciate your time and attention to this matter and look forward to hearing from you at your earliest convenience. We are available to meet at a mutually convenient time to discuss this matter.

This is forwarded without waiver or prejudice and with full reservation of all the Company's rights.

Respectfully,

Brendan A. Brader
Enclosures

No. of Copies rec'd 0
List: ABCDE

CC: USAC
2000 L Street, N.W., Suite 200
Washington, D.C. 20036
ATTN: Billing Department

USAC
2000 L Street, N.W., Suite 200
Washington, D.C. 20036
ATTN: Michael Lawrence, Collections Manager

USAC
2000 L Street, N.W., Suite 200
Washington, D.C. 20036
ATTN: Theron Dawson, Senior Financial Analyst

USAC
2000 L Street, N.W., Suite 200
Washington, D.C. 20036
ATTN: Michele Garber, Director of Financial Operations

Federal Communications Commission
P.O. Box 979088
St. Louis, Missouri 63197-9000

JUL-01-2009 11:14 From:



Administrator's Decision on Contributor Appeal

By Certified Mail

June 24, 2009

Mr. Brendan A. Brader
Via Talk, LLC
5 Corporate Drive
Clifton Park, NY 12065

Re: Via Talk, LLC (Filer ID # 827048)
Letter of Appeal dated January 27, 2009

Dear Mr. Brader:

The Universal Service Administrative Company (USAC) has completed its evaluation of the appeal submitted on behalf of Via Talk, LLC dated January 27, 2009 and supplemented on April 22, 2009. The appeal concerns rejection of Via Talk's revised November 2007, February 2008 and May 2008 Form 499-Qs and associated late fees and penalties. All three Form 499-Qs were downward revisions submitted outside the 45-day downward revision period. Via Talk requests that USAC accept the revised forms and credit to the company any associated late fees or penalties. As discussed in more detail below, USAC hereby denies Via Talk's appeal.

Decision on Appeal: Denied

Federal Communications Commission (FCC or Commission) regulations require telecommunications carriers to file an annual FCC Form 499-A. In addition, carriers are also required to file quarterly Form 499-Qs, unless they meet the *de minimis* exemption.¹ USAC relies on projected revenue for the upcoming quarter reported on the Form 499-Q to bill contributors and relies on the annual Form 499-A to reconcile billings for the previous year, as projected on the Form 499-Qs. *See generally*, 47 C.F.R. Part 54.

The FCC has stated that timely filing of the FCC Form 499 is an essential administrative requirement that serves the public interest, and which the FCC relies upon in order to determine the quarterly USF contribution factor.² The FCC established a 45-day revision window to give contributors an opportunity to revise their quarterly forms while adequately maintaining appropriate USF funding in a given quarter. The revision period

¹ See 47 C.F.R. § 54.708.

² *In the Matter of Request for Review by Atlantic Digital, Inc. of Decision of Universal Service Administrator*, CC Docket No. 96-45, DA 05-520, Order, 20 FCC Rcd. 4224, 4225-26, ¶¶ 3, 5 (2005) (*Atlantic Digital*).

Mr. Brendan Brader
Via Talk, LLC.
June 24, 2009
Page 2 of 4

ends 45 days after the due date of each Form 499-Q.³ In all cases, it is the contributor's obligation to ensure filings are made in a timely manner.

Via Talk submitted its 2007 Form 499-A reporting 2006 revenue on March 27, 2008, a year past the April 1, 2007 deadline. Also on March 27, 2008, Via Talk submitted on a timely basis its 2008 Form 499-A reporting 2007 revenue. Upon receipt of these filings, USAC notified Via Talk of its obligation to submit Form 499-Qs projecting revenue on a quarterly basis for 2008. Thus, Via Talk was required to submit its past due November 2007 Form 499-Q reporting first quarter 2008 projected revenue and its past due February 2008 Form 499-Q reporting second quarter projected 2008 revenue.

If a contributor fails to submit a Form 499-Q on the date it is due, USAC is required to bill the company by estimating the revenue for the contributor as if it had submitted the required forms.⁴ In October, November and December 2008, USAC issued invoices to Via Talk reflecting support mechanism charges based on projected revenue estimates for the November 2007 Form 499-Q and the February 2008 Form 499-Q.⁵ Because Via Talk had not yet submitted the November 2007 and February 2008 Form 499-Qs, USAC estimated Via Talk's contribution obligation based on the actual revenue reported by Via Talk on its 2007 and 2008 Form 499-As.

USAC cannot accept a revised Form 499-Q submitted after the 45-day revision deadline has expired if information reported on the form results in a decreased contribution obligation.⁶ The November 2007 Form 499-Q had a 45-day revision deadline of December 17, 2007. The February 2008 Form 499-Q had a 45-day revision deadline of March 17, 2008. On December 15, 2008, after the issuance of the October, November and December 2008 invoices based on estimated revenue, and after the 45-day revision deadlines, Via Talk submitted its November 2007 and February 2008 Form 499-Qs, which projected less than that estimated and invoiced by USAC on the October, November and December 2008 invoices. Therefore, these forms were considered downward revisions and were correctly rejected. However, submission of the forms did

³ See *Federal-State Joint Board on Universal Service, 1998 Biennial Regulatory Review-Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms, Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990, Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size, Number Resource Optimization, Telephone Number Portability, Truth-in-Billing and Billing Format*. CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 95-200, 95-116, 98-170, Report and Order and Second Further Notice of Proposed Rulemaking, 17 FCC Rcd 24952, ¶36 (2002) (*Interim Contribution Methodology Order*). See also, *Universal Service Contribution Methodology Requests for Waiver of Decisions of the Universal Service Administrator by Achieve Telecom Network of Mass., LLC, et al.*, WC Docket 06-122, 23 FCC Rcd 17903 (2008) (FCC denies waiver of downward revision period finding that good cause did not exist to waive rule.)

⁴ 47 C.F.R. § 54.709(d).

⁵ The invoices also included late filing fees because Via Talk had not yet submitted its November and February Form 499-Qs as required.

⁶ See *supra* note 3.

Mr. Brendan Brader
Via Talk, LLC.
June 24, 2009
Page 3 of 4

stop the application of late filing fees with respect to those particular forms.

The May 2008 Form 499-Q, which reported projected revenue for third quarter 2008, had a due date of May 1, 2008 and a 45-day downward revision deadline of June 16, 2008. Via Talk timely submitted its first downward revision on May 12, 2008. Via Talk submitted a second downward revision for the May Form 499-Q on December 15, 2008. USAC rejected the second revised May 2008 Form 499-Q because it was submitted outside the 45-day revision window. Because USAC cannot accept late filed downward revisions, the second revision to the May Form 499-Q was correctly rejected.

In its April 22 letter supplementing the appeal, Via Talk requested "any interest and/or late fees associated with prior quarterly filings be forgiven."⁷ The FCC, in its *Comprehensive Review Order*,⁸ directed USAC to assess late filing fees and late payment fees on all unpaid balances. It is USAC's policy to enforce any late filing and payment fees associated with unpaid balances. It is the responsibility of the contributor to file forms in a timely manner and to submit correct revenue so that USAC may accurately assess USF contribution obligations. Failure to meet these obligations when due will result in monthly late filing fees until the required forms are received and late charges being assessed on any amount outstanding.⁹

USAC records indicate Via Talk has not paid its balance due in full, and, therefore, has received monthly late payment fees that started posting on the October 15, 2008 invoice. As of the invoice dated May 15, 2009, Via Talk has received late payment fees totaling \$29,929.41.¹⁰ Because Via Talk submitted the February 2008 Form 499-Q and the November 2007 Form 499-Q 318 days and 410 days late respectively, USAC assessed a late filing fee totaling \$5,080.20.¹¹ USAC wishes to advise Via Talk that it will continue to receive late fees and penalties until its account is paid in full.

⁷ Letter from Brendan A. Brader, Via Talk, to USAC (Apr. 22, 2009).

⁸ *In the Matter of Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight, Report and Order*, FCC 07-150, WC Docket No. 05-195, et al., 22 FCC Rcd. 16372, ¶ 14 (2007) (*Comprehensive Review Order*), citing 47 C.F.R. § 54.713.

⁹ If a contributor does not submit a Form 499-Q, USAC estimates the contributor's revenue to be one quarter of the revenue reported on the most recent Form 499-A. If the estimated revenue meets the *de minimis* threshold, then there is no late filing fee. If the estimated revenue is above the *de minimis* threshold, USAC will calculate the late filing fee accordingly. (See *infra* note 10 for explanation of late filing fee calculation.) The late filing fee continues until USAC receives the late filed form, or until such time that the Form 499-A covering that quarter is due.

¹⁰ The late payment penalty is calculated based on the annual rate of interest, which is equal to the U.S. prime rate as of the date of delinquency plus 3.5 percent, from the date the debt is due until the debt is paid in full. Any portion of debt that is more than 90 days unpaid incurs a penalty of six percent a year from the date of delinquency. *Comprehensive Review Order*, ¶¶ 14, 16.

¹¹ Late filing fees posted to the October, November and December 2008 invoices in the amounts of \$4,231.34, \$417.47 and \$431.39 respectively. USAC stopped assessing late filing fees upon receipt of the November 2007 and February 2008 Form 499-Qs on December 15, 2008. The late filing fee is the U.S. prime rate plus 3.5 percent multiplied against the filer's monthly contribution obligation. *Comprehensive Review Order*, ¶ 14.

Mr. Brendan Brader
Via Talk, LLC.
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Via Talk will receive any adjustments to its contribution obligation based on actual 2008 revenue reported on its 2009 Form 499-A. If applicable, adjustments will post to Via Talk's July, August and September 2009 invoices.

As required by FCC rules, the revisions to the November 2007, February and May 2008 Form 499-Qs were correctly rejected and late payment and late filing fees properly assessed. Because it is outside USAC's discretion to waive these rules, the appeal is hereby denied.

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

<http://www.universalservice.org/fund-administration/contributors/file-appeal>

Sincerely,

USAC

cc: Regina Dorsey, FCC Office of Managing Director
Hillary DeNigro, FCC Enforcement Bureau
Trent Harkrader, FCC Enforcement Bureau



January 27, 2009

Letter of Appeal
USAC
2000 L Street, N.W., Suite 200
Washington, D.C. 20036

Re: Legal Reporting Name: Via Talk, LLC (the "Company")
FCC Form 499 Filer ID – 827048
CC Docket No. 96-45

Dear Sir or Madam:

We are in receipt of, and this is a response to, the following:

1. Universal Service Administrative Company's ("USAC") November 2007 FCC Revised Form 499-Q Revision Rejection dated January 13, 2009 (the "November Rejection");
2. USAC's February 2008 FCC Revised Form 499-Q Revision Rejection dated January 13, 2009 (the "February Rejection"); and,
3. USAC's May 2008 FCC Revised Form 499-Q Revision Rejection dated January 13, 2009 (the "May Rejection," together with the November Rejection and the February Rejection, the "Rejections").

I. BACKGROUND

On January 21, 2009, the Company responded to USAC's Revised Form 499-A Rejection Decision dated December 16, 2008, the Federal Communication Commissions' Notice of Debt Transfer dated December 24, 2008, bearing FRN: 0017509456 and Bill No. 09US001525, and USAC's Final Notice of Dismissal of Request for Federal Universal Service Fund ("USF") Contribution Payment Extension Plan Request dated December 30, 2008 (the "Response"). A copy of the Response is attached as Exhibit "A," and for the purpose of brevity, is incorporated herein by reference.

As set forth in the Response, the Company was unclear of its filing obligations until March 31, 2008, and we acted promptly thereafter to complete all required filings. Unfortunately, all original FCC Forms 499-A and 499-Q completed by the Company were wrong and produced inflated figures. When these inaccurate projections were then used by USAC to determine the Company's assessments, they generated subsequent, estimated payments that were similarly inaccurate and substantially greater than the Company could manage.

As we gained a greater understanding of the Company's filing requirements, in October 2008 we purchased software developed by BillSoft—a compliance service widely used by companies in this and like industries—to ensure that the proper fees are passed on to our customers and to help us accurately determine the amounts owed to the USF. The BillSoft software showed us how significantly overstated our initial FCC Forms 499-A and 499-Q filings were, and we used BillSoft to re-calculate the Company's FCC obligations based on actual, accurate data and proper formulae and filed the following revised FCC Forms: (1) On December 9, 2008, the Company filed its revised 2007 and 2008 FCC Forms 499-A; and, (2) on December 11, 2008, the Company filed its revised November 2007, February 2008, May 2008 (also previously revised on May 11, 2008), August 2008 (also previously revised on August 1, 2008), and November 2008 FCC Forms 499-Q. At the time we filed these revised forms, we requested that USAC accept them as timely and in place of their predecessor submissions.

II. THE REJECTIONS

The Rejections—copies of which are attached as Exhibit “B”—disallowed the Company's Revised FCC Forms 499-Q for November 2007, February 2008, and May 2008 because said revised forms were not filed within forty-five (45) days from the date the original filings were due. As stated above and in the Response, the Company was unclear of its filing requirements until March 31, 2008, and therefore could not have timely filed a FCC Form 499-Q for November 2007 and February 2008. We did, however, timely file a FCC Form 499-Q for May 2008. As it became clear that the figures on the FCC Forms 499-Q for November 2007, February 2008, and May 2008 were incorrect, they were revised to ensure proper reporting.

Accordingly, for all the reasons set forth herein and in the Response, we respectfully request that the Rejections be reconsidered and the Company's Revised FCC Forms 499-Q for November 2007, February 2008, and May 2008 be accepted at this time.

The following may be contacted to discuss the Rejections and any other matter related to the Company:

Richard E. Honen, Esq.
Phillips Lytle LLP
Omni Plaza
30 South Pearl Street
Albany, New York 12207
Tel. No. (518) 472-1224
Fax No. (518) 472-1227
Email: Rhonen@phillipslytle.com

We appreciate your time and attention to this matter and look forward to hearing from you at your earliest convenience.

This is forwarded without waiver or prejudice and with full reservation of all the Company's rights.

Respectfully,



Brendan A. Brader

Enclosures

CC: USAC
2000 L Street, N.W., Suite 200
Washington, D.C. 20036
ATTN: Billing Department (without enclosures)

USAC
2000 L Street, N.W., Suite 200
Washington, D.C. 20036
ATTN: Michael Lawrence, Collections Manager (without enclosures)

USAC
2000 L Street, N.W., Suite 200
Washington, D.C. 20036
ATTN: Theron Dawson, Senior Financial Analyst (without enclosures)

USAC
2000 L Street, N.W., Suite 200
Washington, D.C. 20036
ATTN: Michele Garber, Director of Financial Operations (without enclosures)

Federal Communications Commission
P.O. Box 979088
St. Louis, Missouri 63197-9000 (without enclosures)

Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554 (without enclosures)

Doc # 06-32864.1

Exhibit A



January 21, 2009

Letter of Appeal
USAC
2000 L Street, N.W., Suite 200
Washington, D.C. 20036

USAC
2000 L Street, N.W., Suite 200
Washington, D.C. 20036
ATTN: Michael Lawrence, Collections Manager

Federal Communications Commission
P.O. Box 979088
St. Louis, Missouri 63197-9000

USAC
2000 L Street, N.W., Suite 200
Washington, D.C. 20036
ATTN: Theron Dawson, Senior Financial Analyst

Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554

USAC
2000 L Street, N.W., Suite 200
Washington, D.C. 20036
ATTN: Michele Garber, Director of Financial Operations

USAC
2000 L Street, N.W., Suite 200
Washington, D.C. 20036
ATTN: Billing Department

Re: Legal Reporting Name: Via Talk, LLC (the "Company")
FCC Form 499 Filer ID - 827048
CC Docket No. 96-45

Dear Sir or Madam:

We are in receipt of, and this is a response to, the following:

1. Universal Service Administrative Company's ("USAC") Revised Form 499-A Rejection Decision dated December 16, 2008 (the "USAC Decision");
2. Federal Communication Commissions' ("FCC") Notice of Debt Transfer dated December 24, 2008, bearing FRN: 0017509456 and Bill No. 09US001525 (the "FCC Debt Transfer"); and,
3. USAC Final Notice of Dismissal of Request for Federal Universal Service Fund (USF) Contribution Payment Extension Plan Request dated December 30, 2008 (the "USAC Final Dismissal Notice").

I. BACKGROUND

Since October 2006, the Company has offered certain interconnected Voice over Internet Protocol ("VoIP") services to its customers. At the outset, it was not clear whether the Company met FCC Form 499's threshold filing requirements. After much consideration and research,

however, the Company determined that such filings should be made. Upon reaching that determination, the Company moved expeditiously to make those filings.

On March 31, 2008, the Company applied for and received its Filer ID—827048. The next day, the Company filed its 2007 and 2008 FCC Forms 499-A, covering the years 2006 and 2007, copies of which are attached as Exhibit “A.” Thereafter, the Company timely filed the required FCC Forms 499-Q on the first day of May, August, and November 2008, copies of which are attached as Exhibit “B.”

Unfortunately, as we later learned, our FCC Forms 499-A and 499-Q were wrong. They were improperly completed and produced inaccurate and inflated figures on the order of about 23% too high. When these inaccurate projections were used by USAC to determine the Company’s assessments, they generated subsequent, estimated payments that were similarly inaccurate and substantially greater than the Company could manage. Soon after, we discovered that we had made a second mistake. Prior to October 2008, the Company did not pass FCC fees on to the end user. This exacerbated the cash flow problems.

Around October 2008, as we gained a greater understanding of the Company’s obligations, we purchased software developed by BillSoft—a compliance service widely used by companies in this and like industries—to ensure that the proper fees are passed on to our customers and to help us accurately determine the amounts owed to the Federal Universal Service Fund (“USF”). It was in fact the BillSoft software that showed us how significantly overstated our initial FCC Forms 499-A and 499-Q filings were.

Accordingly, we used BillSoft to re-calculate the Company’s FCC Forms based on actual, accurate data and proper formulae. We then corrected our calculations and filed revised FCC Forms 499-A and 499-Q (collectively, the “Revised Forms”) as follows, copies of which are attached as Exhibit “C.”

- On December 9, 2008, the Company filed its revised 2007 and 2008 FCC Forms 499-A; and,
- On December 11, 2008, the Company filed its revised November 2007, February 2008, May 2008 (also previously revised on May 11, 2008), August 2008 (also previously revised on August 1, 2008), and November 2008 FCC Forms 499-Q.

At the time we filed these Revised Forms, we requested that USAC accept them as timely and in place of their predecessor submissions. And after we began properly billing our customers and filing accurate, revised FCC Forms, on October 28, 2008 we sought a Payment Extension Plan (“Plan”) from USAC based on the Revised Forms to address our USF arrears.

There are now several issues. First, the ongoing problem has been that our initially filed forms, which were inaccurate, caused permeating confusion, and any proposed payment plans based on the incorrect, overstated numbers contained therein have been unworkable for that reason. Second, there have been some issues with USAC accepting certain Revised Forms. Third, it is not clear exactly how the USF payments we made have been applied.

With this as the background, and based upon a common understanding of the facts, we wish to address the concerns of USAC and the FCC and resolve the Company's outstanding USF debt by paying the correct, remaining amount in full over a mutually agreeable time-frame.

II. THE USAC DECISION

The USAC Decision—a copy of which is attached as Exhibit "D"—rejected the Company's Revised 2007 FCC Form 499-A for the period of 2006 because it was not filed within one (1) year of its original due date (April 1, 2007). As stated, the Company was initially unclear on its filing obligations and could not timely file an FCC Form 499-A for the period of 2006. Upon learning of the requirement to file said form, the Company acted promptly and filed its FCC Form 499-A concurrent with acquiring its Filer ID. Due to the improper completion of said form, however, inaccurate and exaggerated figures resulted. The Revised 2007 FCC Form 499-A was submitted to correct those errors and was filed within approximately nine (9) months of the original 2007 FCC Form 499-A filing. Accordingly, in the interest of resolving all issues relative to the Company, we respectfully request that the USAC Decision be reconsidered and the Company's Revised 2007 FCC Form 499-A be accepted at this time.

III. THE FCC DEBT TRANSFER

The FCC Debt Transfer—a copy of which is attached as Exhibit "E"—claims that the Company's outstanding USF debt (the "Debt") as of December 24, 2008, including accrued interest, administrative costs, and penalties, was \$77,346.29; it also states that the Debt does not include subsequent arrearages. Despite diligent attempts, we are unable to determine how that Debt is derived. It appears that, as discussed below, the Debt is based on the initial, erroneously filed FCC Forms 499-A and 499-Q, and not the Revised Forms.

To date, the Company has made the following payments to the USF, totaling \$66,251.13.

Date of Payment	Amount
August 15, 2008	\$11,408.20
October 17, 2008	\$11,408.00
October 24, 2008	\$11,408.00
November 14, 2008	\$11,408.00
November 18, 2008	\$11,408.00
November 24, 2008	\$ 9,210.93

It is not clear to which invoices these payments were applied. We thought all payments were to be applied against USAC's July 28, 2008 invoice, but it appears that the five most recent payments, totaling \$54,842.93, were applied to USAC's November 7, 2008 invoice. Further, the three letters from USAC dated January 6, 2009, attached as Exhibit "F," also reference different amounts and we are unclear where these numbers originate and which number controls. Additionally, one of these letters—the USAC Third Notice-Delinquent Account—states that the Company waived its right to present evidence that all or part of the Debt is not past due and failed to request the opportunity to enter into a Plan with respect to the Debt. This is incorrect. See USAC Final Dismissal Notice, Section IV below, and the Company's December 15, 2008

letter to USAC, a copy of which is attached as Exhibit "G." questioning USAC's billing practices and forwarding documents in connection with its Plan request.

It is respectfully submitted that the Debt, as currently reflected in the FCC Debt Transfer and subsequent USAC correspondence, is inaccurate. Accordingly, we request (1) an accounting of the Debt to ascertain the proper amount due, and (2) that the Debt not be transferred to the United States Department of the Treasury or the United States Department of Justice until this matter is resolved.

IV. USAC FINAL DISMISSAL NOTICE

The USAC Final Dismissal Notice—a copy of which is attached as Exhibit "H"—references the Company's failure to comply with USAC's November 11, 2008 Acknowledgment Letter ("Acknowledgment Letter") as the basis for dismissing the Company's Plan request. More specifically, USAC claims that the Company did not provide the required documents pursuant to the Acknowledgment Letter within the stated time-frame. Additionally, the USAC Final Dismissal Notice states that all USF Debt is now due and will be processed in accordance with federal debt collection procedures.

We submit that the Company substantially complied with the Acknowledgment Letter's requirements. On December 17, 2008, the Company proffered its 2006 Federal Return of Partnership Income (Form 1065), Application for Automatic 6-Month Extension of Time to File Certain Business Income Tax, Information, and Other Returns (Form 7004), Profit and Loss Statement for January 2007 through December 2007, Profit and Loss Statement for January 2008 through August 2008, and revenue projections for October 2008 through September 2011, copies of which are attached as Exhibit "I." Additionally, all required FCC Forms 499-A and 499-Q were filed and revised.

The main document the Company did not provide was the promissory note memorializing a Plan to USAC. As was explained at the time, the total balance USAC claims to be due is \$434,999.40, a figure apparently based on the initial, incorrectly filed FCC Forms 499-A and 499-Q and not the proper information contained in the Revised Forms. A copy of USAC's December 22, 2008 statement is attached as Exhibit "J." Accordingly, we ask that the USAC Final Dismissal Notice be reconsidered and that the Company be permitted to enter into a Plan.

V. CONCLUSION

We respectfully request that USAC and the FCC work with the Company to recalculate and reallocate the total USF Debt based on the Revised Forms and permit the Company to enter into a Plan to pay the arrears due the USF. We point out that none of the filing mistakes were made in bad faith, none of them have caused any material harm to third parties, and the Company has been paying and will continue to do so as we resolve the issues set forth herein.

The following may be contacted to discuss the USAC Decision, the FCC Debt Transfer, the USAC Final Dismissal Notice, and any other matter related to the Company:

Richard E. Honen, Esq.
Phillips Lytle LLP
Omni Plaza
30 South Pearl Street
Albany, New York 12207
Tel. No. (518) 472-1224
Fax No. (518) 472-1227
Email: Rhonen@phillipslytle.com

We appreciate your time and attention to this matter and look forward to hearing from you at your earliest convenience.

This is forwarded without waiver or prejudice and with full reservation of all the Company's rights.

Respectfully,



Brendan A. Brader

Enclosures

Doc # 06-32713.1

Exhibit A



RECEIVED

MAR 31 2008

USAC
Signature *A-Williams*

March 31, 2008

Form 499 Data Collection Agent
c/o USAC
2000 L Street, NW
Suite 200
Washington, D.C. 20036

RE: Registration Information and 2007 FCC Form 499-A

Dear Form 499 Data Collection Agent:

Enclosed please find for filing (1) registration information for Via Talk, LLC ("Via Talk"), a provider of interconnected Voice over Internet Protocol ("VoIP") service, and (2) the 2007 FCC Form 499-A, which identifies Via Talk's revenues for 2006. Consistent with the 2007 FCC Form 499-A Instructions for VoIP providers, Via Talk has included its revenues only for the fourth quarter 2006, and has identified the date on which it started to provide telecommunications (line 228) as October 2006, the first month of the fourth quarter 2006. See 2007 FCC Form 499-A Instructions at note 30.

Please contact me at (866) 599-7151 if you have any questions regarding this filing.

Respectfully submitted,

Alison Bauder / gme

Alison Bauder

Enclosures(2)

2007 FCC Form 499-A Telecommunications Reporting Worksheet (Reporting Calendar 2008 Revenue) REVISED

Approval by OMB
3040-0868

>>> Please read instructions before completing <<<
Annual Filing - due April 1, 2007

Block 1: Contributor (Identification Information)

During the year, filers must refile Blocks 1, 2 and 6 if there are any changes in Lines 104 or 112. See instructions.

101 Filer 499 ID (If you don't know your number, contact the administrator at (888) 641-8722.

If you are a new filer, write "new" in this block and a Filer 499 ID will be assigned to you.

New

102 Legal name of reporting entity

Via Talk, LLC

103 IRS employer identification number

(Enter 9 digit number) 04-3837627

104 Name telecommunications provider is doing business as

Via Talk, LLC

105 Telecommunications activities of filer (Select up to 5 boxes that best describe the reporting entity. Enter numbers starting with "1" to show the order of importance - see directions.)

- | | | | |
|--|---|---|--|
| <input type="checkbox"/> CAP/LEC | Cellular/PCS/SMR (wireless telephony incl. by resale) | <input type="checkbox"/> Coastal Cable | <input type="checkbox"/> Incumbent LEC |
| <input checked="" type="checkbox"/> Interconnected VoIP | Interexchange Carrier (IXC) | <input type="checkbox"/> Local Reseller | <input type="checkbox"/> Operator Service Provider (OSP) |
| <input type="checkbox"/> Payphone Service Provider | | <input type="checkbox"/> Prepaid Card | <input type="checkbox"/> Paging & Messaging |
| <input type="checkbox"/> Shared-Tenant Service Provider / Building LEC | | <input type="checkbox"/> SMR (dispatch) | <input type="checkbox"/> Private Service Provider |
| <input type="checkbox"/> Other Local, Other Mobile or Other Toll is checked, describe carrier type / services provided → | | <input type="checkbox"/> Toll Reseller | <input type="checkbox"/> Satellite Service Provider |
| | | <input type="checkbox"/> Other Mobile | <input type="checkbox"/> Wireless Data |
| | | | <input type="checkbox"/> Other Toll |

106.1 Holding company name (All affiliated companies must show the name used with filer)

Via Talk, LLC

106.2 Holding company IRS employer identification number

(Enter 9 digit number) 04-3837627

107 FCC Registration Number (FRN) (<http://www.fcc.gov/core3/cores/home.html>)
(For assistance, contact the CORES help desk at 877-480-3201 or CORES@fcc.gov)

(Enter 10 digit number) 0017509454

108 Management company (if filer is managed by another entity)

109 Complete mailing address of reporting entity
corporate headquarters

Street 1 Corporate Drive

Street 2

Street 3

Ct Clifton Park

State NY

Zip (postal code) 12005

Country of use USA

Note: This address will be used for the ITSP FCC regulatory fee billings unless the appropriate box is checked on Line 208.

110 Complete business address for customer inquiries and complaints

check if same address as Line 109

Street 1

Street 2

Street 3

City

State

Zip (postal code)

Country of use USA

111 Telephone number for customer complaints and inquiries (Full five number if available)

(800) - 626 - 7150 ext -

112 List all trade names used in the past 3 years in providing telecommunications. Include all names by which you are known by customers

a Via Talk, LLC

b

c

d

e

f

g

h

i

j

k

l

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

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William

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Block 2-A: Regulatory Contact Information

201 Filer 499 ID (from Line 101) **New**

202 Legal name of reporting entity (from Line 102) **Via Talk, LLC**

203 Person who completed this Worksheet **Alison** **WA** **Boulder**

204 Telephone number of this person **(800) 599-7151** ext -

205 Fax number of this person **(518) 826-0283**

206 Email of this person (Required if available - not for public release) **fcc@viatalk.com**

207 Corporate office, attn. name, and mailing address to which future Telecommunications Reporting Worksheets should be sent

check if same name as Line 203

check if same address as Line 109

208 Billing address and billing contact person. (Plan administrators will send bills for contributions to this address. Please attach a written request for alternative billing arrangements.)

check if name and address same as Line 207

check to use Line 208 information for FCC ITSP regulatory fee bill

Office: **21 Corporate Drive, Suite 203, Clifton Park, NY 12065**

Attn: **Alison**

City: **Clifton Park** State: **NY** Zip (partial code): **12065** Country: **USA**

Company: **Via Talk, LLC** Attn: **Alison**

Email: **fcc@viatalk.com** Phone: **(800) 599-7151** Fax: **(518) 826-0283**

Block 2-B: Agent for Service of Process

All carriers and providers of interconnected VoIP must complete Lines 209 through 213. During the year, carriers and providers of interconnected VoIP must refile Blocks 1, 2 and 6 if there are any changes in this section. See instructions.

209 D.C. Agent for Service of Process per 47 U.S.C. § 413 **Womble, Carlyle, Sandridge & Rice** **DC** **Washington**

210 Telephone number of D.C. agent **(202) 857-4506** ext -

211 Fax number of D.C. agent **(202) 261-0006**

212 Email of D.C. agent (Required if available) **JKASHATUS@WCSR.COM**

213 Complete business address of D.C. agent for hand service of documents

check to use Line 213 information for FCC ITSP regulatory fee bill (If both Line 208 and Line 213 are checked, Line 208 will be used.)

214 Local/alternate Agent for Service of Process (optional)

215 Telephone number of local/alternate agent () -

216 Fax number of local/alternate agent () -

217 Email of local/alternate agent (Required if available)

218 Complete business address of local/alternate agent for hand service of documents

check to use Line 218 information for FCC ITSP regulatory fee bill (If both Line 208 and Line 218 are checked, Line 208 will be used.)

City: **Washington** State: **DC** Zip (partial code): **20005** Country: **USA**

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Block 2-C: FCC Registration and Contact Information

Filers must refile Blocks 1, 2 and 6 if there are any changes in this section. See instructions.

219 Filer 499 ID (from Line 101)

220 Legal name of reporting entity (from Line 102)

New
Via Talk, LLC

221 Chief Executive Officer (or, highest ranking company officer if the filing entity does not have a chief executive officer)

Brendan A Brader

222 Business address of individual named on Line 221

check if same as Line 109

Street
Street 2
Street 3
City State Zip (postal code) Country if not USA

223 Second ranking company officer, such as Chairman (Must be someone other than the individual listed on Line 221)

John K Reyes

224 Business address of individual named on Line 223

check if same as Line 109

Street
Street 2
Street 3
City State Zip (postal code) Country if not USA

225 Third ranking company officer, such as President or Secretary (Must be someone other than individuals listed on Lines 221 or 223)

Street
Street 2
Street 3
City State Zip (postal code) Country if not USA

226 Business address of individual named on Line 225

check if same as Line 109

Street
Street 2
Street 3
City State Zip (postal code) Country if not USA

227 Indicate jurisdictions in which the filing entity provides service and jurisdictions in which service is likely to be provided in the next 12 months. Include jurisdictions in which service was provided in the past 15 months.

- | | | | | |
|--|--|---|--|---|
| <input checked="" type="checkbox"/> Alabama | <input checked="" type="checkbox"/> Guam | <input checked="" type="checkbox"/> Massachusetts | <input checked="" type="checkbox"/> New York | <input checked="" type="checkbox"/> Tennessee |
| <input checked="" type="checkbox"/> Alaska | <input checked="" type="checkbox"/> Hawaii | <input checked="" type="checkbox"/> Michigan | <input checked="" type="checkbox"/> North Carolina | <input checked="" type="checkbox"/> Texas |
| <input checked="" type="checkbox"/> American Samoa | <input checked="" type="checkbox"/> Idaho | <input checked="" type="checkbox"/> Midway Atoll | <input checked="" type="checkbox"/> North Dakota | <input checked="" type="checkbox"/> Utah |
| <input checked="" type="checkbox"/> Arizona | <input checked="" type="checkbox"/> Illinois | <input checked="" type="checkbox"/> Minnesota | <input checked="" type="checkbox"/> Northern Mariana Islands | <input checked="" type="checkbox"/> U.S. Virgin Islands |
| <input checked="" type="checkbox"/> Arkansas | <input checked="" type="checkbox"/> Indiana | <input checked="" type="checkbox"/> Mississippi | <input checked="" type="checkbox"/> Ohio | <input checked="" type="checkbox"/> Vermont |
| <input checked="" type="checkbox"/> California | <input checked="" type="checkbox"/> Iowa | <input checked="" type="checkbox"/> Missouri | <input checked="" type="checkbox"/> Oklahoma | <input checked="" type="checkbox"/> Virginia |
| <input checked="" type="checkbox"/> Colorado | <input checked="" type="checkbox"/> Johnston Atoll | <input checked="" type="checkbox"/> Montana | <input checked="" type="checkbox"/> Oregon | <input checked="" type="checkbox"/> Wake Island |
| <input checked="" type="checkbox"/> Connecticut | <input checked="" type="checkbox"/> Kansas | <input checked="" type="checkbox"/> Nebraska | <input checked="" type="checkbox"/> Pennsylvania | <input checked="" type="checkbox"/> Washington |
| <input checked="" type="checkbox"/> Delaware | <input checked="" type="checkbox"/> Kentucky | <input checked="" type="checkbox"/> Nevada | <input checked="" type="checkbox"/> Puerto Rico | <input checked="" type="checkbox"/> West Virginia |
| <input checked="" type="checkbox"/> District of Columbia | <input checked="" type="checkbox"/> Louisiana | <input checked="" type="checkbox"/> New Hampshire | <input checked="" type="checkbox"/> Rhode Island | <input checked="" type="checkbox"/> Wisconsin |
| <input checked="" type="checkbox"/> Florida | <input checked="" type="checkbox"/> Maine | <input checked="" type="checkbox"/> New Jersey | <input checked="" type="checkbox"/> South Carolina | <input checked="" type="checkbox"/> Wyoming |
| <input checked="" type="checkbox"/> Georgia | <input checked="" type="checkbox"/> Maryland | <input checked="" type="checkbox"/> New Mexico | <input checked="" type="checkbox"/> South Dakota | |

228 Year and month filer first provided (or expects to provide) telecommunications in the U.S. Check if prior to 1/1/1999, otherwise Year 2006 Month October

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Block A: End-User of Non-Telecommunications Service (Continued)

401 Filer 498 ID (from Line 101)	402 Legal name of reporting entity (from Line 102)		Breakouts		
	Total Revenues (a)	If breakouts are not book amounts, enter whole percentage estimates		Interstate Revenues (d)	International Revenues (e)
		Interstate (b)	International (c)		
	New Via Talk, LLC				
Report billed revenues for January 1 through December 31, 2006. Do not report any negative numbers. Dollar amounts may be rounded to the nearest thousand dollars. However, report all amounts as whole dollars. See instructions regarding percent interstate & international.					
Revenue from All Other Sources (end-user telecom. & non-telecom.)					
403	Surcharges or other amounts on bills identified as recovering State or Federal universal service contributions	0	0	0	0
Fixed local services					
Monthly service, local calling, connection charges, vertical features, and other local exchange service charges except for federally tariffed subscriber line charges and PICC charges					
<i>Traditional circuit switched</i>					
404.1	Provided at a flat rate including interstate toll service -- local portion	0	0	0	0
404.2	Provided at a flat rate including interstate toll service -- toll portion	0	0	0	0
404.3	Provided without interstate toll included (see instructions)	0	0	0	0
<i>Unconnected VoIP</i>					
404.4	Offered in conjunction with a broadband connection	0	0	0	0
404.5	Offered independent of a broadband connection	826,286	0	280,937	0
405	Tariffed subscriber line charges and PICC charges levied by a local exchange carrier on a no-PIC customer	0	0	0	0
406	Local private line & special access service (Through August 13, 2006, includes the transmission portion of wireline broadband Internet access. After August 13, 2006, includes the transmission portion of wireline broadband Internet access provided on a common carrier basis.)	0	0	0	0
407	Payphone coin revenues (local and long distance)	0	0	0	0
408	Other local telecommunications service revenues	0	0	0	0
Mobile services (including wireless telephone, paging & messaging, and other mobile services)					
409	Monthly and activation charges	0	0	0	0
410	Message charges including roaming and air-time charges for toll calls, but excluding separately stated toll charges	0	0	0	0

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Block A-A: Continued

	Total Revenue	If breakouts are not both amounts, enter whole percentage estimates		Breakouts	
		Domestic	International	Interstate Revenue (a)	International Revenue (b)
Total revenues					
411 Prepaid calling cards (including card sales to customers and non-carrier distributors) reported at face value of cards	0	0	0	0	0
412 International calls that both originate and terminate in foreign points	0	0%	100%		0
413 Operator and toll calls with alternative billing arrangements (credit card, collect, international call-back, etc.) other than revenues reported on Line 412	0	0	0	0	0
Ordinary long distance (direct-dialed MTS, customer toll-free (800/888 etc) service, "10-10" calls, associated monthly account maintenance, PCCC pass-through, and other switching services not reported above)	0	0	0	0	0
414.1 All other than interconnected VoIP, including, but not limited to, normalized toll on wireline and wireless bills					
414.2 All interconnected VoIP long distance, including, but not limited to, normalized toll	106,316			5010	100306
415 Long distance private line services	0	0	0	0	0
416 Satellite services	0	0	0	0	0
417 All other long distance services	0	0	0	0	0
Revenue other than U.S. telecommunications revenues, including television services, inside wiring maintenance, billing and collection customer premises equipment, published directory, data fiber, internet access, cable TV program transmission, foreign carrier operations, and non-telecommunications revenues. (See Instructions.)	0				
418.1 bundled with circuit switched local exchange service					
418.2 bundled with interconnected VoIP local exchange service	0				
418.3 other					

Block 4-B: Total Revenues and Uncollectible Revenues (See Instructions)

419 Gross billed revenues from all sources (incl. reseller & non-telecom.) (Lines 303 through 314 plus Lines 403 through 416)	931,602			285,947	100,306
420 Gross universal service contribution base amounts (Lines 403 through 411 Lines 413 through 417) See Figure 4 in Instructions.	931,602			285,947	100,306
421 Uncollectible revenues less debt expense associated with gross billed revenues amounts shown on Line 419 (See Instructions Page 26)	0			0	0
422 Uncollectible revenues less debt expense associated with universal service contribution base amounts shown on Line 420	0			0	0
423 Net universal service contribution base revenues (Line 420 minus line 422)	931,602			285,947	100,306

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501 Filer 499 ID (from Line 101)

NCA

502 Legal name of reporting entity (from Line 102)

Via Talk, LLC

Filers that report revenues in Block 3 and Block 4 must provide the percentages requested in Lines 503 through 510. See page 27 of the instructions for limited exceptions.

Percentage of revenues reported in Block 3 and Block 4 billed in each region of the country. Round or estimate to nearest whole percentage. Enter 0 if no service was provided in the region.

		Block 3 Carrier Carrier (a)	%	Block 4 End-User Telecom. (b)	%
503	Southeast: Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, and U.S. Virgin Islands	0	%	21	%
504	Western: Alaska, Arizona, Colorado, Idaho, Iowa, Minnesota, Montana, Nebraska, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming	0	%	13	%
505	West Coast: California, Hawaii, Nevada, American Samoa, Guam, Johnston Atoll, Midway Atoll, Northern Mariana Islands, and Wake Island	0	%	10	%
506	Mid-Atlantic: Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, Virginia, and West Virginia	0	%	16	%
507	Mid-West: Illinois, Indiana, Michigan, Ohio, and Wisconsin	0	%	15	%
508	Northeast: Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont	0	%	14	%
509	Southwest: Arkansas, Kansas, Missouri, Oklahoma, and Texas	0	%	11	%
510	Total (Percentages must add to 0 or 100)	0	%	100	%

611 Revenues from resellers that do not contribute to Universal Service support mechanisms are included in Block 4-B, Line 420 but may be excluded from a filer's TRS, NANPA, LNP, and FCC interstate telephone service provider regulatory fee contribution bases. To have these amounts excluded, the filer has the option of identifying such revenues below. As stated in the instructions, you must have in your records the FCC Filer 499 ID for each customer whose revenues are included on Line 611. (See instructions.)

Revenues from resellers that do not contribute to Universal Service	(a) Total Revenues		(b) Interstate and International	
	\$	0	\$	0

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Block 6: CERTIFICATION: to be signed by an officer of the filer

601 Filer 499 ID (from Line 101) New
602 Legal name of reporting entity (from Line 102) Via Talk, LLC

Section IV of the instructions provides information on which types of reporting entities are required to file for which purposes. Any entity claiming to be exempt from one or more contribution requirements should so certify below and attach an explanation. [The Universal Service Administrator will determine which entities meet the de minimis threshold based on information provided in Block 4, even if you fail to so certify, below.]

603 I certify that the reporting entity is exempt from contributing to: Universal Service TRS NANPA LNP Administration
I certify that the reporting entity is an interconnected VoIP filer that became subject to FCC Form 499 filing requirements on or after August 1, 2006 and therefore is reporting revenues in Blocks 3, 4, and 5 for the fourth quarter of 2006 instead of for the entire calendar year.

Provide explanation below

604 Please indicate whether the reporting entity is State or Local Government Entity I.R.C. § 5017c Exempt

605 I certify that the revenue data contained herein are privileged and confidential and that public disclosure of such information would likely cause substantial harm to the competitive position of the company. I request nondisclosure of the revenue information contained herein pursuant to Sections 0 459, 52.17, 54 711 and 64.604 of the Commission's Rules

I certify that I am an officer of the above-named reporting entity as defined on page 28 of the instructions, that I have examined the foregoing report and, to the best of my knowledge, information and belief, all statements of fact contained in this Worksheet are true and that said Worksheet is an accurate statement of the affairs of the above-named company for the previous calendar year. In addition, I swear, under penalty of perjury, that all requested identification registration information has been provided and is accurate. If the above-named reporting entity is filing on a consolidated basis, I certify that this filing incorporates all of the revenues for the consolidated entities for the entire year and that the filer adhered to and continues to meet the conditions set forth in Section II-B of the instructions.

606 Signature 
607 Printed name of officer Brendan A. Brady
608 Position with reporting entity CEO
609 Business telephone number of officer (866) 599-7151 ext.
610 Email of officer (Required if available -- not for public release) FCC@viatalk.com

611 Date 3/27/08
612 Check those that apply: Original April 1 filing for year New filer, registration only Revised filing with updated registration Revised filing with updated revenue data

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For additional information regarding this worksheet contact: Telecommunications Reporting Worksheet information: (866) 841-8722 or via email: Form499@universal-service.org

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