

10/30/10

FCC PUBLIC NOTICE RESPONSE

Following are comments by Integrity Communications in response to the FCC PUBLIC NOTICE, DA 10-1990, Released October 15, 2010, referencing CC Docket No. 02-6 due November 1, 2010, regarding Integrity Communications, Ltd. (Integrity) July 30, 2010 filing of an application for review of the Wireline Competition Bureau's (Bureau) Integrity Order on Reconsideration in which the Bureau denied Integrity's request for review of a decision by the Universal Service Administrative Company under the Commission's school and libraries universal services support program.

The details of our comments have already been stated in our appeal. Please refer to the details addressed therein for pertinent facts relevant to our case. I believe any savvy, business minded American with common sense will have to come to the conclusion, after reading our entire case history, that a terrible injustice has been allowed to occur against a small business and multiple South Texas school districts. I will briefly reiterate the basics of our case in my following comments.

Integrity Communications contracted with San Benito ISD in 2002 to do an E-Rate project. The RFP stated that San Benito ISD would make "no progressive payments". The final agreed on and signed contract had no such stipulation and did not forbid progressive payments from USAC.

In order to make sure Integrity didn't violate any standing rules or policies regarding invoicing, Integrity personnel called USAC to insure program rule compliance and asked if we could do progressive payments with USAC even though the school said they would pay their portion at completion. USAC's response was, "yes you may, we don't care when the school pays their portion, as long as they pay it," as was USAC's policy at that time.

There was no FCC or USAC official rule in place at the time the relevant contract was signed, and this project was funded, preventing progressive invoicing to USAC. In fact, the quoted (and highly questionable) rule cited alleging the infraction, was not even implemented for over 2 years AFTER the contract was signed!

After funding of the project work commenced and progressive payment invoices were submitted to USAC and paid in a timely manner. San Benito was also invoiced at the same time (for record keeping and accountability purposes) and it was reiterated to school personnel that we understood that they would be paying their portion upon completion of the project.

Approximately 50% of the project had been completed, invoiced, and paid for by USAC before the quoted rule in question was even created! If you look at our appeal request we show reasonable doubt that the rule was ever officially adopted or actually made public by the FCC. At the least, any active contracts should have been grandfathered and or notice given that effected active contracts such as ours. The FCC even admits that there is no such “90 Day Rule”, but it’s rather a guideline.

Further, Integrity was not accused or convicted of fraud, but only a “technical” violation of a standard that was not characterized by the FCC in its Fifth Order when it said- “we have no rule...” Nevertheless, Integrity has been effectively debarred from the Schools and Libraries program.

Now, a year AFTER USAC said it was satisfied with Integrity’s invoicing procedures, and the FCC’s ORDER to USAC to resume our funding and pay our invoices, Integrity has still not been funded a single FRN nor paid a dime of the nearly \$800,000.00 of outstanding invoices over 3 years old.

This is absolute evidence that USAC has “debarred” Integrity without following the FCC’s rules with regard to debarment, which requires a conviction for fraud or a similar crime in order to debar a participant in the Schools and Libraries program. It further shows a blatant, total disregard for an FCC ORDER directly to USAC with no apparent repercussions.

Additionally, although the Wireline Competition Bureau pointed to rumors of an alleged investigation, the evidence was to the contrary, and the Texas Education Agency clarified that Integrity was never the target of any investigation. Similarly, the only evidence of an investigation was an article that appeared in a local newspaper in the Rio Grande Valley. Integrity was never asked for any documents by any governmental agency or requested to testify in connection with any governmental investigation.

That no governmental investigation was conducted or was not concluded is born out by the fact that USAC advised Integrity that it was satisfied with

Integrity's invoicing procedures and would commence processing the outstanding funding commitments and payment of outstanding invoices. This is further born out by the fact that the FCC ORDERD USAC to reinstate Integrity.

The FCC through USAC has violated Integrity's right under the Fifth and Fourteenth Amendments to the United States constitution by wrongfully taking Integrity's property, the approximately \$800,000.00 owed for work and materials certified as satisfactorily complete for the Schools and libraries program without compensation.

USAC, by biased and unreasonable actions and through the blind eye of the FCC's oversight, has had total disregard for the true spirit and intent of the E-Rate program and the tens of thousands of South Texas underprivileged children, the very ones this program was intended for and has wrongfully and unjustly done irreparable harm to Integrity's business and reputation.

Reconsideration by the FCC of the previous ruling by the Wireline Competition Bureau is in order and should be made. We respectfully request a reversal of that ruling in the name of justice and just simply doing the right thing for the wronged parties. Please refer to our appeal of this matter for the facts and the compelling details.

Sincerely,

Bill Sugarek  
Integrity communications