

May 6, 2011

Paul C. Besozzi
Direct: 202-457-5292
pbsozzi@pattonboggs.com

VIA ELECTRONIC FILING

Received & Inspected

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

MAY 13 2011

FCC Mail Room

**Re: Appeal of USAC Decision On Appeal of Notification of Improperly Disbursed Funds
in CC Docket No. 02-6**

Applicant Name:	SUMTER COUNTY SCHOOL DISTRICT
Billed Entity Number:	127982
Funding Year	2007
Form 471 App. Number:	561762
Funding Request Number(s):	1549662

Dear Ms. Dortch:

Information Transport Solutions, Inc. ("ITS"), acting through counsel and pursuant to Sections 54.719-54.721 of the Commission's rules¹, hereby timely files this Request for Review ("Appeal"). The Appeal requests Commission review of the adverse decision of the Administrator of the Universal Service Administrative Company ("USAC") reducing the funding request enumerated above for Funding Year 2007 and seeking recovery of previously disbursed E-rate support funds.²

More specifically, ITS is now in receipt of the USAC Decision denying an appeal filed by ITS with USAC. In that Decision USAC held that adjustment of the funding request was proper because of an auditor determination that a lower level of Basic Maintenance of Internal Connections ("BMIC") was a reasonable level of service and excessive BMIC was an ineligible product or service under the E-rate Program Rules. The USAC Decision reiterated a prior USAC ruling requiring the applicant

¹ 47 C.F.R. §§ 54.719-54.721.

² Administrator's Decision on Appeal - Funding Year 2007 - 2008, Information Transport Solutions, Inc. (March 31, 2011), attached as Exhibit 1 ("USAC Decision").

No. of Copies rec'd 0
List ABCDE

Ms. Marlene H. Dortch
May 6, 2011
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to return previously disbursed funds made available pursuant to the referenced Funding Request Number.

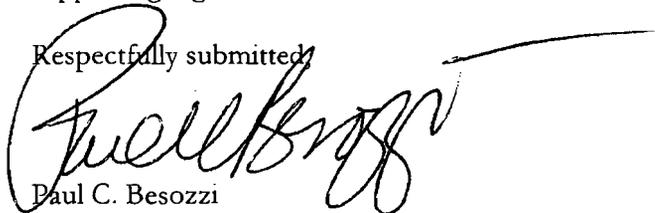
ITS is aggrieved by the USAC Decision and submits that for various reasons outlined in its original appeal to USAC, including the fact that an auditor's *post facto* judgment should not be determinative of eligibility, the USAC Decision is unwarranted and unjustified under the rules, policies and requirements concerning eligible services governing the E-rate Program that were applicable to the referenced Form 471 Application and Funding Request Number.

ITS is filing this Appeal well prior to the 60-day appeal period prescribed by the Commission's rules for appeal to the Commission because on April 1, the day after the date of the USAC Decision, USAC issued a Demand Payment Letter requiring payment of the amount sought to be recovered, with such payment due in 30 days (e.g., by May 1, 2011), even though the period for filing an FCC appeal will not expire until May 30, 2011.³ Indeed, at that point, neither ITS nor the applicant had any record of having received a copy of the USAC Decision and ITS counsel so informed USAC by letter dated April 20, 2011. It was only after ITS received a second Demand Payment Letter, dated May 2, 2011, and ITS made further inquiry of USAC, that ITS became aware of the USAC Decision. In addition to these demands, even though the FCC appeal window remains open, USAC has now decided to withhold action on pending invoices submitted by ITS which are in no way related to the FRN that is the subject of the payment demands.⁴

In the past USAC staff has informed the undersigned counsel that the only way to forestall the further implementation of USAC's collection process was to file an appeal with the Commission, even though there remained significant time before the end of the 60-day appeal deadline.

ITS will supplement this Appeal with a full discussion of the facts, ITS' position thereon and supporting arguments.

Respectfully submitted,



Paul C. Besozzi
Counsel to Information Transport Solutions, Inc.

cc: Quincy P. Minor

³ Copies of the Demand Payment Letters are attached as Exhibit 2.

⁴ A copy of the Notice of Withholding of Action, dated May 6, 2011, is attached as Exhibit 3.

Exhibit 1



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2007-2008

March 31, 2011

Quincy Minor
Information Transport Solutions, Inc.
335 Jeanette Barrett Industrial Blvd.
Wetumpka, AL 36092

Re: Applicant Name: SUMTER COUNTY SCHOOL DISTRICT
Billed Entity Number: 127982
Form 471 Application Number: 561762
Funding Request Number(s): 1549662
Your Correspondence Dated: January 12, 2011

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2007 Notification of Improperly Disbursed Funds Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1549662
Decision on Appeal: **Denied**
Explanation:

- Information Transport Solutions maintenance support was provided on an as needed basis and a technician is on site as necessary to resolve trouble tickets. Per the FCC Third Report and Order (FCC 03-323) defining the eligible Basic Maintenance of Internal Connections: "On-site technical support is not necessary to the operation of the internal connection network when off-site technical support can provide basic maintenance on an as-needed basis". The auditor's assessment of the size of the applicant, number of assets maintained, competitive bids received, maintenance logs and the resulting determination of reasonable technical support needs deemed three days per week as a reasonable level of service. By reducing the commitment and recovering the difference for the excess basic maintenance services provided by a full-time (on-site) technician, the commitment for FRN 1437711 was properly adjusted to provide discounts for 3 days/week of (off site) technical support on an as-needed basis. USAC will seek recovery

of \$38,144.00 of improperly disbursed funds from the service provider. You have failed to provide documentation or persuasive information to conclude that USAC erred in its initial decision. Consequently, your appeal is denied.

Your Form 471 application included costs for the following ineligible products and/or services: excessive basic maintenance of internal connections. FCC Rules provide that funding may be approved only for eligible products and services. 47 C.F.R. secs. 54.502, 54.503. The USAC website contains a list of eligible products and services. See the website, www.usac.org/sl, Eligible Services List. FCC Rules further require that if 30% or more of the applicant's funding request includes ineligible products and/or services, then the funding request must be denied, otherwise the funding request will be reduced accordingly. 47 C.F.R. sec. 54.504(d).

If your appeal has been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

cc: Ray Evans

Exhibit 2



Demand Payment Letter

Funding Year 2007: July 1, 2007 - June 30, 2008

April 1, 2011

Tomi Selby

Information Transport Solutions, Inc.

335 Jeanette Barrett Industrial Blvd.

Wetumpka, AL 36092

Re: SPIN: 143008119
Service Provider Name: Information Transport Solutions, Inc.
Form 471 Application Number: 561762
Funding Year: 2007
FCC Registration Number:
Applicant Name: SUMTER COUNTY SCHOOL DISTRICT
Billed Entity Number: 127982
Applicant Contact Person: Ray Evans
Payment Due By: 5/1/2011

You were recently sent a Notification of Improperly Disbursed Funds Recovery Letter informing you of the need to recover funds from you for the Funding Request Number(s) (FRNs) listed on the Funding Disbursement Recovery Report of that letter. A copy of that Report is also attached to this letter.

The balance of this debt is due within 30 days from the date of this letter. Failure to pay the debt within 30 days from the date of this letter could result in interest, late payment fees, administrative charges, and implementation of the "Red Light Rule." The FCC's Red Light Rule requires USAC to dismiss pending FCC Form 471 applications if the entity responsible for paying the outstanding debt has not paid the debt, or otherwise made satisfactory arrangements to pay the debt within 30 days of the notice provided by USAC. For more information on the Red Light Rule, please see "Red Light Frequently Asked Questions (FAQs)" posted on the FCC website at http://www.fcc.gov/debt_collection/faq.html.

If the Universal Service Administrative Company (USAC) has determined that both the applicant and the service provider are responsible for a Program rule violation, then, pursuant to the Order on Reconsideration and Fourth Report and Order (FCC 04-181), USAC will seek recovery of the improperly disbursed amount from BOTH parties and will continue to seek recovery until either or both parties have fully paid the debt. If the USAC has determined that both the applicant and the service provider are responsible for a Program rule violation, this was indicated in the Disbursed Funds Recovery Explanation on the Funding Disbursement Recovery Report.

If USAC is attempting to collect all or part of the debt from both the applicant and the service provider, then you should work with the applicant to determine who will be repaying the debt to avoid duplicate payment.

Please note, however, that the debt is the responsibility of both the applicant and service provider. Therefore, you are responsible for ensuring that the debt is paid in a timely manner.

Please remit payment for the full "Funds to be Recovered from Service Provider" amount shown in the Report. To ensure that your payment is properly credited, please include a copy of the Report with your check. Make your check payable to the Universal Service Administrative Company (USAC).

If sending payment by U. S. Postal Service or major courier service (e.g. Airborne, Federal Express, and UPS) please send check payments to:

Bank of America
c/o Universal Service Administrative Company (105056)
1075 Loop Road
Atlanta, GA 30337
Phone 404-209-6377

If you are located in the Atlanta area and use a local messenger rather than a major courier service, please address and deliver the package to:

Universal Service Administrative Company
P.O. Box 105056
Atlanta, GA 30348-5056
Phone 404-209-6377

Local messenger service should deliver to the Lockbox Receiving Window at the above address.

Payment is due within 30 days from the date of this letter.

Complete Program information is posted to the SLD section of the USAC website at www.usac.org/sl/. You may also contact the SLD Client Service Bureau by email using the "Submit a Question" link on the SLD website, by fax at 1-888-276-8736 or by phone at 1-888-203-8100.

Universal Service Administrative Company
Schools and Libraries Division

cc: Ray Evans
SUMTER COUNTY SCHOOL DISTRICT

Funding Disbursement Recovery Report
Form 471 Application Number: 561762

Funding Request Number: 1549662
Contract Number: N/A
Services Ordered: INTERNAL CONNECTIONS MNT
Billing Account Number:
Funding Commitment: \$94,304.20
Funds Disbursed to Date: \$94,304.20
Funds to be Recovered from Service Provider: \$38,144.00

After a thorough review, it was determined that the funding commitment for this request must be reduced by \$38,144.00. During the course of an audit it was determined that funding was provided for the following ineligible items: Basic Maintenance for a technician to be on site five (5) days per week for eight (8) hours per day. This is considered gold-plating and not basic maintenance. The pre-discount cost associated with these items is \$104,782.44. At the applicants 90 percent discount rate this resulted in an improper commitment of \$94,304.20. The reasonable level of service, as calculated by the auditor is \$62,400.00. This was calculated as follows (\$50 x 8 hours x 3 days per week x 52 weeks). FCC rules provide that funding may be approved only for eligible products and/or services. The USAC web site contains a list of eligible products and/or services. See the web site, www.universalservice.org/sl/about/eligible-services-list.aspx for the Eligible Services List. On the SPAC Form, the authorized person certifies at Item 10 that the service provider has billed its customer for services deemed eligible for support. Therefore, USAC has determined that the service provider is responsible for this rule violation. Accordingly, the commitment has been reduced by \$38,144.00 (\$104,782-\$62,400) x 90%) and if the recovery of improperly disbursed funds is required, USAC will seek recovery from the service provider.

PLEASE SEND A COPY OF THIS PAGE WITH YOUR
CHECK TO ENSURE TIMELY PROCESSING



Schools and Libraries Division

Demand Payment Letter

SECOND REQUEST

(Funding Year 2007: July 1, 2007 - June 30, 2008)

May 2, 2011

Fcmi Selby
Information Transport Solutions, Inc.
335 Jeanette Barrett Industrial Blvd.
Wetumpka, AL 36092

- PAST DUE NOTICE -

THIS NOTICE PROVIDES IMPORTANT INFORMATION ABOUT YOUR
ACCOUNT AND YOUR RIGHTS AND OBLIGATIONS UNDER LAW

Re: SPIN: 143008119
Form 471 Application Number: 561762
Funding Year: 2007
FCC Registration Number:
Applicant Name: SUMTER COUNTY SCHOOL DISTRICT
Billed Entity Number: 127982
Applicant Contact Person: Ray Evans
Payment Due By: 5/2/2011

You were recently sent a Demand Payment Letter informing you of the need to recover funds for the Funding Request Number(s) (FRNs) listed on the Funding Disbursement Recovery Report (Report) attached to this letter. Our records indicate that you have not responded to the Demand Payment Letter. As of 5/2/2011, the debt is past due and delinquent.

THE FOLLOWING PROVISIONS CONTAIN IMPORTANT INFORMATION AND A DESCRIPTION OF LEGAL RIGHTS, OBLIGATIONS, AND OPPORTUNITIES

1. Debtor is cautioned that failure to make the demanded payment or make other satisfactory arrangements will result in further sanctions, including, but not limited to, the initiation of proceedings to recover the outstanding debt, together with any applicable administrative charges, penalties, and interest pursuant to the provisions of the Debt Collection Act of 1982 (Public Law 97-365) and the Debt Collection Improvement Act of 1996 (Public Law 104-134), as amended (the DCIA), as set forth below.
2. If we do not receive full payment of the outstanding debt within 30 days of the date of this letter (Demand Date), pursuant to the DCIA, you may incur additional charges and costs, and the debt may be transferred to the Federal Communications Commission (Commission or FCC) and/or the United States Department of Treasury (Treasury) for debt collection. The FCC has determined that the funds are owed to the United States pursuant to the provisions of 31 U.S.C. § 3701 and 47 U.S.C. § 254. Because the unpaid amount is a debt owed to the United States, we are required by the DCIA to impose interest and to inform you what may happen

Schools and Libraries Division - Correspondence Unit
100 South Jefferson Road, P.O. Box 902, Whippany, NJ 07981
Visit us online at: www.usac.org/sl

if you do not pay the full outstanding debt. Under the DCIA, the United States will charge interest from the date of this notice, you will be required to pay the administrative costs of processing and handling a delinquent debt as set by the Treasury (currently 18% of the debt), and you will be charged an additional penalty of 6% a year for any part of the debt that is more than 90 days past due. Interest on the outstanding debt (DCIA Interest) will be assessed at the published investment rate for the Treasury tax and loan accounts (Treasury Current Value of Funds Rate). If, however, you pay the full amount of the outstanding debt within 30 days of the Demand Date, the DCIA Interest will be waived. These requirements are set out at 31 U.S.C. § 3717.

3. When we transfer the debt (to the Commission or later to the Treasury), you may be subject to other administrative proceedings. Your failure to pay the debt may be reported to credit bureaus (see 31 U.S.C. § 3711(e)), the debt will be considered for administrative offset (see 31 U.S.C. § 3716), the debt may be further transferred to collection agencies (see 31 U.S.C. §§ 3711 & 3718), and also the debt may be referred to the United States Department of Justice or agency counsel for litigation. In that situation, you may be subject to additional administrative costs that result from the litigation. Moreover, pursuant to 31 U.S.C. § 3720 (B), a person owing an outstanding non-tax debt that is in delinquent status shall not be eligible for Federal financial assistance. You should be aware that the discharge of any portion of the debt may be reported to the Internal Revenue Service as potential taxable income.

Opportunity of Inspection and Review

4. You have an opportunity to inspect and copy the invoices and the records pertinent to the debt. The Notification of Improperly Disbursed Funds Recovery Letter constituted notice of your opportunity to appeal the validity of the debt.

Opportunity to Request Repayment Agreement

5. You have an opportunity to request a written repayment agreement (which includes a Promissory Note) to pay the full amount of the debt. In that case, however, you must first provide evidence that demonstrates financial inability to pay the debt in one payment. Your claim of financial inability to pay in one payment is subject to verification (see 31 C.F.R. § 901.8). If your request is approved for further processing, you will be required to execute a written agreement suitable to the Commission. You should be aware that repayment agreements regularly impose a number of obligations on the debtor, including additional administrative charges, audit obligations, and surety bond requirements. For more information on the obligations associated with repayment agreements, see "USAC Repayment Request Procedure" <http://www.usac.org/fund-administration/contributors/paying-your-invoice/payment-extension-plans.aspx>.

If you desire to exercise any of the above described rights, you must do so in writing which must be delivered to and received at the address below within 30 (thirty) days of the Demand Date. Any required evidence must be submitted at the same time that you submit your request. Failure to provide the written request (and, as appropriate, the required evidence) within the stated time is a waiver of these opportunities.

You may notify us in writing by mail or facsimile transmission at the following address and telephone number:

Schools and Libraries Division - Program Compliance II,
Dept. 125 - Correspondence Unit,
100 South Jefferson Road,
Whippany, NJ 07981
Phone Number: 973-581-5395
Fax Number: 973-599-6582

If USAC has determined that both the applicant and the service provider are responsible for a program rule violation, then, pursuant to the Order on Reconsideration and Fourth Report and Order (FCC 04-181) (Fourth Report and Order), USAC will seek recovery of the improperly disbursed amount from BOTH parties and will continue to seek recovery until either or both parties have fully paid the debt. If USAC has determined that both the applicant and the service provider are responsible for a program rule violation, this will be indicated in the Disbursed Funds Recovery Explanation on the Funding Disbursement Recovery Report.

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Please remit payment for the full Funds to be Recovered from Service Provider amount shown in the Report. To ensure that your payment is properly credited, please include a copy of the Report with your check. Make your check payable to the Universal Service Administrative Company (USAC).

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c/o Universal Service Administrative Company (105056)
1075 Loop Road
Atlanta, GA 30337
Phone 404-209-6377

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Universal Service Administrative Company
P.O. Box 105056
Atlanta, GA 30348-5056
Phone 404-209-6377

Local messenger service should deliver to the Lockbox Receiving Window at the above address.

PAYMENT MUST BE RETURNED IMMEDIATELY.

Complete program information is posted to the SLD section of the USAC web site at www.usac.org/sl/. You may also contact the SLD Technical Client Service Bureau by e-mail using the "Submit a Question" link on the SLD web site, by fax at 1-888-276-8736 or by phone at 1-888-203-8100.

Universal Service Administrative Company
Schools and Libraries Division

cc: Ray Evans
SUMTER COUNTY SCHOOL DISTRICT

Funding Disbursement Recovery Report
Form 471 Application Number: 561762

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PLEASE SEND A COPY OF THIS PAGE WITH YOUR
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¹Please note that if the Funds to be Recovered from the Service Provider is less than what was reported on the Notification of Improperly Disbursed Funds Letter or the 1st Demand Payment Letter, it's because you have partially repaid the debt or because the applicant has partially repaid the debt.

Exhibit 3

From: CustomerService@bcd.universalservice.org [mailto:CustomerService@bcd.universalservice.org]
Sent: Friday, May 06, 2011 10:13 AM
To: Tomi Selby
Subject: NOTICE OF WITHHOLDING OF ACTION - 143008119



Universal Service Administrative Company
Billing, Collections & Disbursement Department
For billing inquiries call (888) 641-8722

Date:05/06/2011

Tomi J Selby
Information Transport Solutions, Inc.
335 Jeanette Barrett Industrial Blvd.

Wetumpka, AL 36092
SPIN:143008119

NOTICE OF WITHHOLDING OF ACTION

As required by 47 C.F.R. § 1.1910(a)(1), we have reviewed our accounting records and determined that as of 05/06/2011, you or an entity sharing the same Taxpayer Identification Number (631200720) is delinquent on the payment of a debt owed to the Universal Service Administrative Company (USAC).

Pursuant to 47 C.F.R. § 1.1910(b), a disbursement for your SPIN in the amount of (\$228718.43) is currently being withheld by USAC. The details of this held disbursement are as follows:

SLD Invoice Number:1466449;Line Item Detail Number:4913780;Amount Requested:9450.00;
SLD Invoice Number:1477608;Line Item Detail Number:4959592;Amount Requested:17146.79;
SLD Invoice Number:1477613;Line Item Detail Number:4959606;Amount Requested:5240.55;
SLD Invoice Number:1477616;Line Item Detail Number:4959616;Amount Requested:3168.00;
SLD Invoice Number:1477617;Line Item Detail Number:4959624;Amount Requested:4950.00;
SLD Invoice Number:1477627;Line Item Detail Number:4959657;Amount Requested:8575.39;
SLD Invoice Number:1477640;Line Item Detail Number:4959694;Amount Requested:3213.08;
SLD Invoice Number:1477642;Line Item Detail Number:4959698;Amount Requested:9720.00;
SLD Invoice Number:1477645;Line Item Detail Number:4959699;Amount Requested:500.00;
SLD Invoice Number:1477646;Line Item Detail Number:4959706;Amount Requested:13860.00;
SLD Invoice Number:1477652;Line Item Detail Number:4959717;Amount Requested:13627.50;
SLD Invoice Number:1477657;Line Item Detail Number:4959726;Amount Requested:9864.00;
SLD Invoice Number:1477661;Line Item Detail Number:4959729;Amount Requested:3150.00;
SLD Invoice Number:1477665;Line Item Detail Number:4959734;Amount Requested:960.00;
SLD Invoice Number:1477668;Line Item Detail Number:4959738;Amount Requested:900.00;
SLD Invoice Number:1477670;Line Item Detail Number:4959741;Amount Requested:12190.50;
SLD Invoice Number:1477671;Line Item Detail Number:4959742;Amount Requested:4620.00;
SLD Invoice Number:1477674;Line Item Detail Number:4959743;Amount Requested:1213.14;
SLD Invoice Number:1477678;Line Item Detail Number:4959749;Amount Requested:6480.00;
SLD Invoice Number:1477679;Line Item Detail Number:4959757;Amount Requested:4995.62;
SLD Invoice Number:1477683;Line Item Detail Number:4959765;Amount Requested:1120.00;
SLD Invoice Number:1477685;Line Item Detail Number:4959766;Amount Requested:1755.00;
SLD Invoice Number:1477688;Line Item Detail Number:4959773;Amount Requested:1800.00;
SLD Invoice Number:1477731;Line Item Detail Number:4959882;Amount Requested:3696.00;
SLD Invoice Number:1477742;Line Item Detail Number:4959904;Amount Requested:680.00;
SLD Invoice Number:1477748;Line Item Detail Number:4959914;Amount Requested:32668.50;
SLD Invoice Number:1477754;Line Item Detail Number:4959944;Amount Requested:12600.00;
SLD Invoice Number:1477760;Line Item Detail Number:4959954;Amount Requested:9175.32;
SLD Invoice Number:1477765;Line Item Detail Number:4959961;Amount Requested:4000.00;
SLD Invoice Number:1477769;Line Item Detail Number:4959971;Amount Requested:5000.00;
SLD Invoice Number:1477773;Line Item Detail Number:4959979;Amount Requested:12499.04;
SLD Invoice Number:1477777;Line Item Detail Number:4959983;Amount Requested:9900.00;

No further disbursements will be made until the debt is fully satisfied and/or arrangement has been made to pay the delinquent debt. If no payment is made within 30 days of the date of this letter, any pending applications and requests for benefits may be dismissed.

Please be advised that any additional applications or requests for benefits from the FCC or its reporting components, including but not limited to support from the Universal Service Fund, payments from the Telecommunications Relay Services Fund, or the issuance of telephone numbers from the North American Numbering Plan Administrator, will be reviewed to determine if any delinquent debts are outstanding.

If you have any questions regarding this notice, please contact USAC for additional information:

Address:
USAC Billing & Disbursement
2000 L Street, N.W., Suite 200
Washington, DC 20036
Attention: Red Light Inquiries

Telephone: (888) 641-8722

Facsimile: (888) 637-6226

E-mail: customerservice@bcd.universalservice.org

Sincerely,

USAC Billing, Collections & Disbursements Department