

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Universal Service Contribution Methodology) WC Docket No. 06-122
)
Application for Review of a Decision by the)
Wireline Competition Bureau by inContact, Inc.)

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FCC Mail Room

MEMORANDUM OPINION AND ORDER

Adopted: January 5, 2012

Released: January 5, 2012

By the Commission:

1. The Commission has before it an Application for Review filed on June 7, 2010 by inContact, Inc. (“inContact”).¹ inContact seeks review of an order² by the Wireline Competition Bureau (the “Bureau”) denying a request for review of a decision by the Universal Service Administrative Company (“USAC”).³ The Bureau found that inContact’s request was procedurally defective because it was filed more than sixty days after USAC’s decision.⁴

2. Upon review of the Application for Review and the entire record, we conclude that inContact has failed to demonstrate that the Bureau erred. The Bureau properly decided the matters raised, and we uphold its decision for the reasons stated in its Order.⁵ To the extent that the Application for Review raises new arguments not previously presented to the Bureau, those arguments are barred by section 1.115(c) of the Commission’s rules.⁶

¹ Application for Review of Order of Wireline Competition Bureau by inContact, Inc., WC Docket No. 06-122 (filed June 7, 2010) (Application for Review).

² *Universal Service Contribution Methodology; Request for Review by inContact, Inc. of a Decision by Universal Service Administrator*, 25 FCC Rcd 4739 (Wireline Comp. Bur. 2010) (Order).

³ Petition for Special Relief and Waiver by inContact, Inc. of a Decision of Universal Service Administrator (filed Apr. 13, 2009). Although inContact framed its filing as a petition for special relief and waiver, as noted in the Order, the petition is actually a request for review of an action taken by USAC pursuant to sections 54.719 through 54.725 of the Commission’s rules. See 47 C.F.R. §§ 54.719–54.725. For purposes of 47 C.F.R. § 54.720, USAC’s invoice is a decision by the Administrator. See *Federal-State Joint Board on Universal Service, Request for Review by Big River Telephone Company, LLC*, Order, 22 FCC Rcd. 4974, 4976, at n. 17 (Wireline Comp. Bur. 2007).

⁴ Order, 25 FCC Rcd at 4739 (citing 47 C.F.R. § 54.720(a), which requires that a request for review of a USAC decision must be filed within sixty days of the decision). inContact also requested a waiver of what it understood to be Commission “rules requiring contributors to first dispute USAC’s assessments with USAC, before seeking review by the Commission.” The Bureau noted there is no such requirement, and therefore dismissed as moot inContact’s request for waiver. See *Id.*

⁵ The Order provides, at paragraph 1, that inContact’s request for review is “den[ied] as procedurally defective” and, at paragraph 4, that the request for review is “denied.” Similarly, at paragraphs 1 and 3, the Order provides that inContact’s request for waiver is “den[ied] as moot.” We note that paragraphs 1, 3, and 4 should have stated that the request for review or request for waiver is “dismissed.” The proper term (dismissal) is used in paragraph 5 of the Order.

⁶ 47 C.F.R. § 1.115(c).

3. ACCORDINGLY, IT IS ORDERED that, (1) the Application for Review BE DISMISSED, pursuant to 47 C.F.R. § 1.115(c) to the extent that it relies on questions of fact or law not previously presented to the Bureau, and (2) the Application for Review otherwise BE DENIED, pursuant to section 5(c)(5) of the Communications Act of 1934, as amended, 47 U.S.C. § 155(c)(5), and section 1.115(g) of the Commission's rules, 47 C.F.R. § 1.115(g).

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary