

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, DC 20554

In the Matter of )  
 )  
Request for Waiver and Review of )SLD File Nos. 599288, 631306  
Decisions of the )  
Universal Service Administrator by )  
 ) CC Docket No. 02-6  
Akisha Networks, Inc. )  
Houston, Texas )  
 )

**APPLICATION FOR REVIEW BY THE FULL COMMISSION**

COMES NOW, Akisha Networks, Inc. of Houston, Texas, by and through her attorney, Charles Thompson, and files this Application for Review by The Full Commission of The Order Adopted and Released on July 25, 2012 in CC Docket No. 02-06.

This application for review by the full commission is requested pursuant to 29 CFR 54.722(a) because this appeal involves novel questions of law, fact, and policy. See 49 CFR 54.722(a).

**ARGUMENTS**

Akisha Network, Inc. relies on the following arguments: (1) the Bureau relied on distinguishable precedent when deciding Akisha's appeal and (2) the Bureau applied changes in the CFRs retroactively (i.e. the 470 applications were covered by the 2008 version of the CFR's when made, whereas the appeal was decided under the 2011 CFRs).

**BUREAU RELIED UPON DISTINGUISHABLE PRECEDENT**

First, the precedent the Bureau cites in fn.1 of the July 25, 2012 Order seems more applicable to the companion case they decided (Montcalm). Those three orders cited by the Commission, *Request for Review by Approach Learning and Assessment Center*, CC Docket No. 96-45, 22 FCC Rcd 5296, para. 19 (2007); *Request for Review of the Decision of the Universal Service Administrator by Send Technologies, L.L.C.*, CC Docket No. 02-6, 22 FCC Rcd 4920, 4952, para.6 (2007) and *Request for Review of the Decision of the Universal Service Administrator by Ysleta Independent School District*, CC Docket Nos. 96-45, 97-21, Order, 18 FCC rcd 26407, 26434, para. 60. talk about entities controlling dissemination of service

requests rather than participating in the bidding process. Here, an independent contractor that Akisha had allegedly, at some point in time in the past, paid an unrelated sale commission prepared the 470, not Akisha or even an Akisha employee prepared the 470. Further, in the decisions, the employee preparing the 470 owned an interest in the service provider. This matter is wholly distinguishable as Evans owned no interest in Akisha. Also, the decisions focus on "direct involvement" by the service provider in the application process. At best, Akisha played no role and at worst, an independent contractor with whom a sales commission-based relationship existed at one point in time in the past prepared the Request (470). The decisions cited the Commission do not support the Order and therefore the Commission should grant a full review in this matter.

**THE CFR's WHEN THE PROJECT FUNDED IN 2008 ARE  
DISTINGUISHABLE FROM THE CFR's IN PLACE IN 2011 THAT ARE  
USED TO SUPPORT THE ORDER**

Next, the CFRs in place at the time the 470s we have were published, contracts entered into, and projects funded (2008-2009) are different than the ones in place at the time of the Administrator's Decision and Bureau's Order. It appears that both the Decision and Order rely heavily on the 2011 version, as opposed to the 2008. In fact, 49 CFR 54.503(a) is completely different and in 2011 specifically addresses and attempts to define by way of example "competitive bidding". The note accompanying (a) even appears to be written with decisions cited in fn.1 of the Order in mind. These illustrative examples are also factually distinguishable from the Akisha appeal. The conduct of Akisha was wholly permissible under the 2008 CFR's, therefore, the Commission should grant a full review in this matter.

WHERE FOR, PREMISES CONSIDERED, Akisha Networks, Inc., by and through her attorney, Charles Thompson, hereby request that this matter be set for review by the full Commission.

Yours truly,

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