



Maryland

6124 MacArthur Boulevard
Bethesda, Maryland 20816
Tel: (202) 371-1500
Fax: (202) 371-1558
www.bennetlaw.com

District of Columbia

10 G Street NE, Suite 710
Washington, DC 20002

Caressa D. Bennet

Michael R. Bennet

Marjorie G. Spivak*

Kenneth C. Johnson‡

Howard S. Shaplo

* Admitted in DC & PA Only
‡ Admitted in DC & VA Only

Daryl A. Zakov^

Robert A. Silverman

Anthony K. Veach*

Of Counsel

Tara B. Shostek

^ Admitted in DC & WA Only
Admitted in DC & FL Only

July 5, 2013

Via Hand Delivery

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

**Re: Request for Review by Cordova Wireless Communications, LLC of a
Decision of Universal Service Administrator;
High-Cost Universal Service Support, WC Docket No. 05-337,
Federal-State Joint Board on Universal Service, CC Docket No. 96-45,**

Dear Ms. Dortch:

Enclosed for filing in the above-referenced dockets is a Request for Review by Cordova Wireless Communications, LLC ("Cordova"). Cordova seeks review by the Wireline Competition Bureau of the Universal Service Administrator's denial of Cordova's Appeal of the 2010 Competitive Eligible Telecommunications Carrier Line Count Validation for High Cost Program Beneficiary Cordova Wireless Communications, Inc. (SAC 619007).

As detailed in the enclosed Request for Confidential Treatment, Cordova requests that the Commission treat as confidential parts of the petition and supporting exhibits that contain confidential and proprietary information. Accordingly, Cordova submits two (2) versions of the petition and supporting exhibits: (1) a non-redacted version that contains confidential and proprietary information; and (2) a redacted version for public inspection. Cordova requests that the Commission treat the non-redacted version and the accompanying documents confidentially.

Please contact the undersigned with any questions.

Sincerely,

Michael R. Bennet

Counsel for Cordova Wireless Communications, LLC

Enclosures

cc: Amy Bender
Ryan Yates

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

| | | |
|---|---|----------------------|
| In the Matter of |) | |
| |) | |
| Request for Review by Cordova Wireless Communications, LLC of A Decision of Universal Service Administrator |) | |
| |) | |
| Federal-State Joint Board on Universal Service |) | CC Docket No. 96-45 |
| |) | |
| High-Cost Universal Service Support |) | WC Docket No. 05-337 |

**REQUEST FOR REVIEW BY CORDOVA WIRELESS COMMUNICATIONS, LLC OF
A DECISION OF UNIVERSAL SERVICE ADMINISTRATOR**

Michael R. Bennet
Kenneth C. Johnson
Bennet & Bennet, PLLC
6124 MacArthur Boulevard
Bethesda, MD 20816
(202) 371-1500
Counsel to Cordova Wireless Communications, LLC

Date: July 5, 2013

TABLE OF CONTENTS

| | PAGE |
|---|-------------|
| Summary..... | i |
| I. Introduction and Background | 2 |
| II. USAC Disregarded Concrete and Verifiable Evidence of Local Billing Addresses | 4 |
| III. Should the Bureau Decline to Overturn USAC’s Decision on the Rejected “Billing Address” Lines, it Should Grant a Waiver Pursuant to its <i>Bristol Bay</i> Precedent..... | 7 |
| IV. USAC Overstepped its Bounds in Interpreting the Definition of “Working Loop” | 11 |
| EXHIBIT A – USAC Denial Letter | |
| EXHIBIT B – Letter of Appeal | |
| EXHIBIT C – Letter from Shane Ahn to Mary Newirth | |
| EXHIBIT D – Email from Amanda Bilodeau | |
| EXHIBIT E – Pictures of Snow Covered Tower Sites | |
| EXHIBIT F – Cordova Times Article | |

SUMMARY

Cordova Wireless Communications, LLC (“Cordova”) seeks review of the Universal Service Administrative Company’s (“USAC”) denial of Cordova’s appeal of USAC’s rejection of certain Cordova line count submissions. Cordova is a competitive Eligible Telecommunications Carrier providing wireless telecommunications service in a rural Alaska service area that is both remote and extremely challenging to serve. The high cost universal service support that USAC threatens to take away jeopardizes the safety and lives of Cordova’s customers and its ability to continue to provide service to individuals and businesses who live, work, and travel in Cordova’s service area, including those for whom Cordova is the only available wireless service provider.

USAC erred in disregarding evidence of Cordova’s use of local billing addresses. In discounting some of the submitted lines based on the use of non-local billing addresses, USAC disregarded the additional use of local billing addresses. The use of non-local billing addresses was at Cordova’s customers’ request, made logical sense for these itinerant and seasonal business customers, and is consistent with the FCC’s *Bristol Bay* decision. To the extent that the Bureau declines to overturn USAC’s decision on the rejected “billing address” lines, it should grant a waiver pursuant to *Bristol Bay*. Strict application of the “billing address” rule as interpreted by USAC would be inconsistent with the underlying purpose of the rule, and would be inequitable, unduly burdensome, and contrary to the public interest.

In interpreting the FCC’s definition of “working loop,” and rejecting the lines submitted by Cordova for which there were no activity, USAC overstepped its bounds. Whether such lines fall under the definition of “working loop” is currently at issue in several proceedings pending before the Commission. For USAC to make its own interpretation without seeking guidance

from the FCC is contrary to Section 54.702(c) of the FCC's Rules. Notwithstanding USAC's overreaching, its interpretation of working loop is incorrect. Cordova's lines fall within the FCC's definition of "non-working loop" and receipt of support for such lines is consistent with the purpose of the Commission's high cost universal service rules. Denying support for such lines, which are relied upon by needy individuals for emergency use, is clearly contrary to the public interest.

The Bureau should mandate that USAC accept these line counts, refrain from taking support, and reimburse Cordova for any lost support.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Request for Review by Cordova Wireless)
Communications, LLC of A Decision of)
Universal Service Administrator)
)
Federal-State Joint Board on Universal Service) CC Docket No. 96-45
)
High-Cost Universal Service Support) WC Docket No. 05-337

**REQUEST FOR REVIEW BY CORDOVA WIRELESS COMMUNICATIONS, LLC OF
A DECISION OF UNIVERSAL SERVICE ADMINISTRATOR**

Cordova Wireless Communications, LLC (“Cordova”)¹, by its attorneys, and pursuant to Sections 54.719 et. seq. of the Rules and Regulations of the Federal Communications Commission (“FCC” or “Commission”), hereby seeks review by the Wireline Competition Bureau (“Bureau”) of the Universal Service Administrative Company’s (“USAC”) denial of Cordova’s appeal of USAC’s 2010 Competitive Eligible Telecommunications Carrier Line Count Validation for High Cost Program beneficiary Cordova Wireless Communications, Inc. (SAC 619007) (“Denial Letter”).² In its Denial Letter, USAC rejected Cordova’s appeal of USAC’s decision that Cordova was not entitled to all of its requested high cost support because lines submitted in Cordova’s line count filings either had: (1) billing addresses outside of

¹ Effective February 13, 2013, Cordova Wireless Communications, Inc. converted from an Alaskan corporation to an Alaskan limited liability company and the legal name of the entity changed from Cordova Wireless Communications, Inc. to Cordova Wireless Communications, LLC.

² Letter from USAC to Michael R. Bennet, Counsel for Cordova Wireless Communications, Inc., dated May 13, 2013. A copy of the Denial Letter is attached hereto as Exhibit A. Cordova’s February 7, 2012 Letter of Appeal to USAC’s High Cost Low Income Division is also attached hereto as Exhibit B.

Cordova's service area; or (2) lines with no activity. Cordova respectfully requests that the Bureau reverse the findings of USAC in the Denial Letter and direct USAC to disburse high cost support to Cordova for the lines in controversy.³ In the alternative, with respect to the lines in Category One (billing addresses outside of Cordova's service area), Cordova seeks a waiver of Section 54.307(b) of the FCC's Rules pursuant to the precedent established in the Bureau's *Bristol Bay* decision.⁴

I. Introduction and Background.

Cordova is a competitive Eligible Telecommunications Carrier that receives support from the High Cost and Low Income Programs of the federal Universal Service Fund. Cordova provides wireless telecommunications service in a rural Alaska service area that is both remote and extremely challenging to serve. Cordova's service area contains mountains, water and islands that make its facilities difficult to reach even in the optimal summer months of the year and next to impossible during the harsh Alaskan winter. The service Cordova provides is essential to those who live, work and travel through Cordova's service territory and the E911 access it provides is vital to the lives and safety of the many hikers, fishermen and others who rely on wireless service as a lifeline to potential assistance in emergencies. Due to the remote locations of these individuals and severe weather, the availability of E911 service equates literally to a matter of life and death.

³ To date, Cordova has received high cost support for the lines in question. However, pursuant to the Denial Letter, at the end of the sixty day period following issuance of the Denial Letter, "USAC will recover a total of [REDACTED] of previously disbursed High Cost Program Support through the monthly disbursement process." Denial Letter at p. 3.

⁴ *Federal-State Joint Board on Universal Service; Bristol Bay Cellular Partnership; Petition for Waiver of the Federal Communications Commission's Rules Concerning the Administration of the Universal Service Fund*, DC Docket No. 96-45, DA 07-4965 (rel. Dec. 12, 2007) ("*Bristol Bay*").

On March 30, 2011, Cordova submitted to USAC its line count filings to receive High Cost Program support. On November 16, 2011, USAC sent Cordova a letter rejecting line counts for the following three categories of lines: (1) out-of-area lines reported; (2) phones given away, but with no activity reported; and (3) test lines reported.⁵ On November 29, 2011, Cordova provided USAC with local billing addresses for the first category of rejected lines and usage information for the second category of rejected lines. On December 30, 2011, Cordova submitted modified line count filings, excluding [REDACTED] “roaming test lines” and five “administrative lines,” addressing USAC’s concern with the third category of rejected lines. On January 25, 2012, via email, USAC rejected Cordova’s resubmitted line counts for category one, stating that “USAC is unable to accept the revised billing addresses as the original billing addresses for the customers were outside the carrier’s designated study area.”⁶ In addition, USAC rejected [REDACTED] lines “with no activity.”⁷

On February 7, 2012, Cordova, via its counsel, submitted a Letter of Appeal to USAC. The Letter of Appeal argued that USAC erroneously ignored the alternate local billing addresses submitted by Cordova. With respect to the second category of rejected lines, Cordova argued that USAC provided no legal support for its rejection of lines without activity and Cordova challenged the methodology by which USAC determined that the rejected lines had “no activity.” Noting that many of the lines in question were associated with phones donated to needy individuals and organizations for emergency use, Cordova pointed out the many public interest harms that would flow from USAC’s decision to reject these essential lines.

⁵ Letter from Shane Ahn to Mary Newirth, dated November 16, 2011, attached as Exhibit C.

⁶ Email message from Amanda Bilodeau to Paul Kelly and Mary Newirth, January 25, 2012, attached as Exhibit D.

⁷ *Id.*

In its May 13, 2013 Denial Letter, USAC summarily affirmed its original rejection of these lines, concluding that Cordova had provided insufficient evidence that the local billing addresses were “actual billing addresses” or that the subscriber lines determined by USAC to lack activity actually had activity.⁸

II. USAC Disregarded Concrete and Verifiable Evidence of Local Billing Addresses.

Section 54.307(b) of the Commission’s Rules states that “[c]ompetitive eligible telecommunications carriers providing mobile wireless service in an incumbent LEC’s service area shall use the customer’s billing address for purposes of identifying the service location of a mobile wireless customer in a service area.”⁹ In rejecting the Cordova lines with non-local billing addresses, USAC disregarded evidence of both the use and existence of verifiable local billing addresses. The [REDACTED] lines rejected for non-local billing addresses were associated with five Cordova subscribers. Each of these subscribers lives and/or operates in the Cordova service area, uses Cordova wireless service there, and receives Cordova bills there. For various reasons, each of these subscribers (who are either local branches of national companies or individuals with no fixed address) requested that bills also be sent to non-local addresses.

Most of the rejected lines were billed to [REDACTED] a vertically integrated harvester, processor and marketer of seafood from Alaska, the Pacific Northwest and around the world.¹⁰ As fishing is a seasonal occupation in Alaska, [REDACTED] operates in the Cordova area on a seasonal basis. Most of [REDACTED] employees only live in the Cordova area during the Spring and Summer months. When [REDACTED] first signed up for service, it was billed at

⁸ Denial letter at pp. 2-3.

⁹ 47 C.F.R. § 54.307(b).

¹⁰ [REDACTED] was the customer associated with [REDACTED] of the rejected lines.

a local address. However, for its own administrative efficiency, [REDACTED] subsequently requested that Cordova send its bills to Trident headquarters in [REDACTED]. Cordova complied with this request.¹¹ Virtually all of the remaining rejected lines were billed to the [REDACTED] [REDACTED].¹² At the request of the local [REDACTED] bills for these lines have been mailed both to the local Cordova address and to “Telephone Invoices,” a service center located at [REDACTED]’s main billing address in [REDACTED]. The three remaining rejected lines were for individual subscribers who lived in the Cordova area but did not have a fixed address, and requested that their bills be sent either to their parents (who lived out-of-state), or to their permanent out-of-state residence.¹³

Accordingly, all of these subscribers had valid reasons for requesting that bills be sent to non-local addresses even though they resided and worked within the Cordova service area. All of these subscribers use their wireless phones exclusively or almost exclusively within Cordova’s eligible telecommunications carrier (“ETC”) service area, and the requested billing addresses are significantly different from the place of primary use of the service.

When bills are sent to multiple addresses, it is illogical and antithetical to longstanding universal service policy to choose as the location for high cost support purposes a location that has no relationship to the provision of service. Instead, it makes sense to use the location where the customer physically resides and uses the service. USAC’s insistence on determining a customer’s location based on where an invoice is processed and paid rather than where a

¹¹ Due to the extremely high cost of living in Alaska, national companies that operate there minimize their number of local employees. Clerical functions, such as accounts payable, typically take place in company administrative offices located in less costly locations.

¹² [REDACTED] was the customer associated with [REDACTED] of the rejected lines.

¹³ One of these subscribers lived on a boat, another worked for the Cordova Community Medical Center as a traveling nurse, and the third earned a living as a seasonal work, doing carpentry and boat work.

customer resides and uses the service is contrary to the Commission's universal service goals and policies. The FCC has determined that carriers whose customers' billing addresses and primary places of use are significantly different properly count their lines as working loops that qualify for high cost support. See *Federal-State Joint Board on Universal Service; Bristol Bay Cellular Partnership; Petition for Waiver of the Federal Communications Commission's Rules Concerning the Administration of the Universal Service Fund*, Order, CC Docket No. 96-45 (WCB, rel. Dec. 12, 2007) ("*Bristol Bay*").

In *Bristol Bay*, a majority of Bristol Bay Cellular Partnership's rural Alaska customers received service in the carrier's ETC designated service area, but received bills at an address outside of that service area. The Bureau found that a waiver was warranted because the majority of Bristol Bay's customers' billing addresses and primary places of use of the wireless service are significantly different.¹⁴ Like Bristol Bay, the majority of Cordova's customers' billing addresses and primary places of use are significantly different.

Even if the Bureau disagrees that *Bristol Bay* requires USAC's acceptance of all of the rejected "billing address" lines, the [REDACTED] lines must be counted. USAC's denial of Cordova's appeal of the rejection of lines assigned to [REDACTED] was based on an erroneous assumption of fact, and must be overturned. In its Denial Letter, USAC states: "Because the original addresses from the billing system were not in Cordova's service area and the subsequent list of local addresses was not accompanied by documentation sufficient to demonstrate these addresses were actual billing addresses or were produced from Cordova's billing system, USAC hereby denies the portion of Cordova's appeal concerning lines having billing addresses outside Cordova's service area." However, contrary to USAC's understanding, [REDACTED] received bills from Cordova at its

¹⁴ *Bristol Bay* at par. 5.

local address. Accordingly, there is no factual basis for a determination that the [REDACTED] lines are not entitled to support.

III. Should the Bureau Decline to Overturn USAC's Decision on the Rejected "Billing Address" Lines, It Should Grant a Waiver Pursuant to its *Bristol Bay* Precedent.

In the event the Bureau is not persuaded by the foregoing facts showing that all of the rejected "billing address" lines should be accepted as working loops, the Bureau should grant a waiver of Section 54.307(b) to allow those lines to be counted in accordance with the precedent established by the *Bristol Bay* decision. Strict application of the billing address rule as interpreted by USAC would be inconsistent with the underlying purpose of Section 54.307(b). The Commission's decision to determine a wireless mobile customer's location based on the customer's billing address was based on the premise that there is not a significant difference between using a "billing address" definition and a "place of primary use" definition "because, in the majority of cases, the customer's billing address and the place of primary use would be the same."¹⁵ In the instant case, and to the contrary, for each of the five Cordova customers in question, the "place of primary use" and the billing address are not the same. The underlying purpose of Section 54.307(b) is to ensure that ETCs are receiving support based on the number of customers they exclusively serve.¹⁶ Applying the billing address requirement in the strict

¹⁵ *Bristol Bay* at par. 3.

¹⁶ See *Federal-State Joint Board on Universal Service, Multi-Association Group Plan for Regulation of Interstate Services of Non-Price Cap ILECs and Interexchange Carriers*, Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, and Report and Order in CC Docket No. 00-256, FCC 01-157, 16 FCC Rcd 11244 ¶ 181 (2001). Indeed, in adopting the billing address requirement, the Commission stated that a customer's billing address is "a reasonable surrogate" for the customer's location. *Id.* at par. 181.

fashion of the Denial Order would result in Cordova receiving support for far fewer customers than it actually serves and for whom it needs support to continue to serve.

In view of the unusual factual circumstances of this case, strict application of the “billing address” requirement as interpreted by USAC would be inequitable, unduly burdensome, and contrary to the public interest, while grant of a waiver would serve the public interest. If USAC’s decision is allowed to stand, Cordova will lose [REDACTED] in support that is essential to its continued ability to serve its customers who depend on Cordova for voice connectivity. Cordova is a small wireless carrier operating in a remote and rugged service territory consisting entirely of tribal lands. Cordova serves approximately [REDACTED] subscribers in an area spread out over 9,600 square miles. Cordova’s sparsely populated service territory is populated with mountains (including the Chugach mountain range, Chugach National Forest, and Childs Glacier), water and islands that contribute to the high cost nature of the provision and maintenance of wireless service.¹⁷ Several of Cordova’s transmitter sites are located on rugged and steep mountainsides, accessible only by helicopter. Yet another can only be reached by ski lift or helicopter. Transporting hundreds to thousands of pounds of equipment to these sites is extremely difficult and the expense of accessing these sites, even for routine maintenance, is substantial (over [REDACTED] per year to access three of the most hard to reach sites).

¹⁷The average annual snowfall in Cordova, Alaska is approximately 100 inches, with snow covering the ground for almost half the year. Last winter Cordova received almost 35 feet of snow. Pictures of Cordova’s snow covered tower sites, which illustrate the extreme nature of the weather conditions faced by Cordova as well as their inaccessibility, are attached hereto as Exhibit E.

Cordova is the sole provider of mobile voice telephone service in large portions of its service territory,¹⁸ and the service it provides is vital to the health and safety of the many hikers, fisherman and others who rely on wireless service as a lifeline to potential assistance in emergencies. Public safety and homeland security interests are highly dependent on the service provided by Cordova. Among the individuals and business that rely on Cordova's service for personal, business and emergency communications are the [REDACTED] and its personnel, the local fishing fleet of approximately 800 boats, tourist traffic in Prince William Sound, the cruise ship industry, oil tankers, local hunters and gatherers (both Native and non-native groups), privately owned cabins, the [REDACTED]

In Cordova's remote, rugged, and often hazardous rural service territory, individuals are particularly vulnerable to the loss of communications service. Prior to Cordova's construction of its Naked Island site and consequent extension of its coverage area to Prince William Sound, numerous fisherman lost their lives when their boats sank and they were unable to call to shore for help. Hikers in the treacherous Alaskan wilderness also lost their lives when they were unable to use their phones to call for help. Hikers who find themselves stranded are typically at the mercy of the large population of bears in the forests around Cordova.

Cordova's wireless service is regularly relied on to save lives when harsh weather conditions and predatory animals cause danger. As recently as this Spring, Cordova's wireless service was responsible for a dramatic rescue of two local fishermen. The rescue, and Cordova's critical role, are discussed in the attached article from *The Cordova Times* (Exhibit F).

¹⁸ The area in which Cordova is the sole provider of mobile service covers 3,295 miles, while the area in which Cordova is the sole provider of GSM service is 7,555 square miles.

Loss of over half a million dollars in high cost support would have substantially adverse consequences on Cordova and its rural Alaskan and tribal customers. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Cordova relies extensively on universal service support to allow it provide wireless service in extremely difficult to serve and high cost areas that other carriers have chosen not to serve. As a result of the FCC's Order phasing down universal service support, Cordova is already struggling to reduce its already exceptionally lean operation even further to allow it to absorb the scheduled loss of support beginning in 2014¹⁹ and continue to provide service. Cordova sought a waiver of the phase down of universal support, but was denied based on the Commission's belief that the request was premature.²⁰ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] and resulting loss of vital mobile services in rural Alaska.

In *Bristol Bay*, the Commission waived the billing address requirement for an Alaska carrier that, like Cordova, served customers who used the service within the Alaska carrier's service territory but had their bills sent to non-local addresses. In the case of Cordova, it serves

¹⁹ Pursuant to Section 54.307(e)(3)(iv) of the FCC's Rules, Cordova will lose 20% of its support in 2014, 40% in 2015, 60% in 2016, 80% in 2017 and 100% in 2018.

²⁰ Cordova notes that a Bureau decision upholding the USAC denial would likely make Cordova's request for waiver ripe for refiling.

itinerant customers who were in Cordova's service territory when weather permitted and who requested that bills be sent to their company headquarters in the "Lower 48." *Bristol Bay* supports grant of the requested waiver, as does the public interest and the facts set forth above. Accordingly, for the foregoing reasons, good cause is shown for a waiver.

IV. USAC Overstepped its Bounds in Interpreting the Definition of "Working Loop".

In interpreting the FCC's definition of "working loop," USAC overstepped its bounds, and its rejection of the "no activity" lines should be overturned. The FCC's rules expressly provide that USAC "may not make policy, *interpret unclear provisions of the statute or rules*, or interpret the intent of Congress," and that where "the Act or the Commission's rules are unclear, or do not address a particular situation, [USAC] shall seek guidance from the Commission." 47 C.F.R. §54.702(c) (emphasis added). In its Denial Letter, USAC has clearly taken the liberty of interpreting an unclear provision of the FCC's rules, and has not sought guidance from the FCC.

Pursuant to Section 54.307(b) of the Commission's Rules, an ETC receives support for the number of working loops it serves in a service area. "For universal service support purposes, working loops are defined as the number of working Exchange Line C&WF loops used jointly for exchange and message telecommunications service, including C&WF subscriber lines associated with pay telephones in C&WF Category 1, but excluding WATS closed end access and TWX service."²¹ In rejecting Cordova lines based on a lack of activity during the reporting period, USAC effectively interpreted "working loop" to require that lines be "revenue generating" in order to be entitled to support, an interpretation that is currently before the

²¹ 47 C.F.R. § 54.307(b).

Commission in several pending proceedings.²² Those proceedings make clear that the definition of working loop is far from clear. Initially, the definition of working loop is inherently unclear as a loop and C&WF loops and subscriber lines are terms used in a wireline context, with no exact analogue in the wireless context. By focusing on “activity,” USAC is essentially adopting a definition of working loop that requires a line to be revenue generating in order to be eligible for support. However, the FCC in seeking comment on that interpretation in the Coral Wireless proceeding has made it clear that such an interpretation is not currently consistent with the FCC’s rules. Accordingly, USAC has overstepped its bounds in its interpretation of Section 54.307(b) and, absent an FCC order upholding such interpretation, such interpretation may not be given even tacit approval by the Bureau, and must be overturned.

While pending Coral Wireless and PCIA proceedings suggest that the ambiguity in the working loop definition needs to be resolved by the Commission, there is ample support for a finding that a wireless phone does not have to demonstrate activity during a particular period in order to be eligible for support. For example, the FCC has defined “non-working loops” to include “defective loops, loops reserved for some future activity, and loops with a pending connect status.”²³ None of these examples of non-working loops apply to the subject Cordova lines. Moreover, any interpretation of the Commission’s rules that would require demonstration

²² “Wireline Competition Bureau Seeks Comment on Coral Wireless Request for Review of USAC Decision”, Public Notice, WC Docket No. 05-337, CC Docket No. 96-45, DA 13-112 (rel. Jan. 29, 2013) (seeking comment on whether “USAC incorrectly and inappropriately interpreted the Commission’s regulations by requiring that a line be revenue generating in order to be eligible for support”); *See In the Matter of Federal-State Joint Board on Universal Service*, Order on Remand, Further Notice of Proposed Rulemaking, and Memorandum Opinion and Order, CC Docket No. 96-45, rel. Oct. 27, 2003 (noting the pendency of a petition seeking that the Commission clarify that the term “working loop” equates to a “working phone number” with respect to wireless CETCs).

²³ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, 12 FCC Rcd 9803, 9805, par. 7 (1997).

of activity to justify support is entirely inconsistent with the purpose of the high cost universal service rules. The entire purpose of the universal service system is to facilitate the *ability* of customers in remote and underserved areas of the nation to make voice telephone calls. It is the capability of making telephone calls that serves the public interest, and the cost of providing individuals in these areas with that capability that Congress has deemed to warrant support. Indeed, Cordova (or any other rural carrier operating in high cost areas and seeking universal service support) must make the financial investment in developing a network and maintaining sufficient capacity on that network before any customer utilizes such network and regardless of when or if such customer utilizes the network.

Apart from the absence of legal support for rejecting Cordova's submission of line counts for its no-activity phones, the public interest supports acceptance of such line counts. Cordova's no activity phones are donated²⁴ by Cordova for use by women's shelters and other volunteer organizations that maintain²⁵ and give out phones to battered women and other needy individuals for emergency use only, schools, police and firefighters for emergency use,²⁶ and individuals who travel in the backwoods and other isolated locales where ensuring that there is sufficient power to make a phone call in an emergency requires that the phone be turned off for extended periods.

²⁴ Cordova notes that, while the phones are given away, as is a common practice with carriers throughout the country, the associated cost of the local-only service plan for the so-called "free" phone is borne by Cordova.

²⁵ These organizations cannot predict their need for phones at any particular time, so typically maintain more phones than are needed at any particular time so that they are available for emergencies.

²⁶ Cordova phones were also made available to emergency snow removal crews during the recent period of extreme snowfall that made national news coverage. *See, e.g.,* http://www.windstream.net/news/read.php?rip_id=%3CD9S5VTG81%40news.ap.org%3E&ps=931 (last viewed February 3, 2012).

The FCC has promoted the use of “911-only” phones, phones which by their very nature are rarely if ever used.²⁷ To deny support for such phones would undermine the concept of promoting the distribution of such phones.

Failure to accept the line counts for these phones would cause considerable harm to individuals who live, work and travel through the Cordova service area. Without universal support, Cordova would no longer be able to donate these phones, thus denying emergency telephone service to emergency personnel as well as poor and vulnerable individuals. Furthermore, unlawfully denying Cordova the universal service support to which it is legally entitled [REDACTED] causing untold harm to the entire Cordova community - particularly during the harsh Alaska winter - that has its health and safety inextricably linked to its communications network. Cordova is the sole wireless communications provider in much of its service area, and ensuring that it receives the necessary support to continue to operate (to which it is entitled) is mandated by the Communications Act of 1934, as amended.

For the foregoing reasons, USAC’s rejection of the line counts submitted by Cordova is not in the public interest, and the Bureau should mandate that USAC accept these line counts and refrain from retroactively and in the future taking support for the lines at issue. To the extent that USAC may take such support for the lines at issue prior to Bureau action in this matter, the Bureau should direct USAC to reimburse Cordova for the lost support.

²⁷ *In the Matter of Petition of ACS Wireless, Inc. for Limited Waiver of Analog Service Rule*, DA 06-2542 (Dec. 18, 2006) (granting waiver of analog service requirement for Alaskan cellular carrier operating in remote and challenging terrain, provided that carrier continued to provide free 911-only handsets to affected individuals).

REDACTED - FOR PUBLIC INSPECTION

Respectfully submitted,

Cordova Wireless Communications, LLC

By: 

Michael R. Bennet
Kenneth C. Johnson
Bennet & Bennet, PLLC
6124 MacArthur Boulevard
Bethesda, MD 20816
(202) 371-1500
Its Attorneys

Dated: July 5, 2013

Exhibit A



Administrator's Decision on High Cost Program Beneficiary Appeal

Via Email and Certified Mail

May 13, 2013

Michael R. Bennet
Bennet & Bennet PLLC
4350 East West Highway, Suite 201
Bethesda, MD 20814

Re: Appeal of the 2010 Competitive Eligible Telecommunications Carriers Line Count Validation for High Cost Program Beneficiary Cordova Wireless Communications, Inc., (SAC 619007)

Dear Mr. Bennet:

The Universal Service Administrative Company (USAC) has reviewed the appeal you filed on behalf of Cordova Wireless Communications, Inc. ("Cordova"), dated February 7, 2012, concerning USAC's letter directing Cordova to submit revised line counts to remove incorrect subscriber lines included on its Form 525 filed in June 2011.¹

Cordova appealed USAC's determination that lines with billing addresses outside of the service area are ineligible to receive High Cost Program support.² Cordova also appeals USAC's assertion that subscriber lines with no activity cannot be included in line counts submitted to receive High Cost Program support.³

Decision on Appeal: Denied.

Background and Discussion

USAC performs periodic data validation on line counts submitted by eligible telecommunications carriers receiving High Cost Program support. Through these data validations, USAC found that Cordova subscriber lines included billing addresses outside of Cordova's service area. The billing documentation that Cordova provided was a subscriber listing of all of their customers with billing addresses as well as service

¹Letter from USAC to Cordova Wireless Communications, Inc. dated Nov. 16, 2011 (*USAC Line Count Validation Letter Nov. 16th*).

²Letter from Michael R. Bennet, Counsel for Cordova Wireless Communications, Inc. to the High Cost and Low Income Division of the Universal Service Administrative Company, dated Feb. 7, 2012, page 1 (*February 7 Letter*).

³*Id.*

REDACTED - FOR PUBLIC INSPECTION

Mr. Michael R. Bennet
Bennet & Bennet, PLLC
May 13, 2013
Page 2 of 3

connection date, line type, and customer type. In this list, USAC found subscribers listed with billing addresses outside the state of Alaska, which is outside of Cordova's serving area. Cordova stated that these subscribers are companies that operate in Cordova on a seasonal basis and have bills delivered to two separate addresses. Cordova provided a list of local addresses to the audit team in a subsequent email, but did not provide any evidence that the addresses were billing addresses or produced from their billing system. 47 C.F.R. § 54.307(b) requires CETCs providing mobile wireless service in an ILEC's service area to use the subscriber's billing address for purposes of identifying the service location of a mobile wireless customer.⁴ Because the original addresses from the billing system were not in Cordova's service area and the subsequent list of local addresses was not accompanied by documentation sufficient to demonstrate these addresses were actual billing addresses or were produced from Cordova's billing system, USAC hereby denies the portion of Cordova's appeal concerning lines having billing addresses outside Cordova's service area. USAC will recover ██████████ of high cost support if Cordova does not resubmit line counts removing these lines.

Cordova also included in their line count filing subscriber lines that had no activity or evidence of use. Cordova further adds that these phones are free to customers.⁶ Cordova asserts that there are no Federal Communications Commission (FCC) requirements that lines have activity in order to be counted for universal service support purposes. Cordova provided several examples of the type of customers who have a phone but rarely use it, but Cordova provided no further evidence of any activity on these lines other than the two months of usage for the entire billed account in question. If these individual lines

⁴ 47 C.F.R. § 54.307(b) ("In order to receive support pursuant to this subpart, a competitive eligible telecommunications carrier must report to the Administrator the number of working loops it serves in a service area pursuant to the schedule set forth in paragraph (c) of this section. For a competitive eligible telecommunications carrier serving loops in the service area of a rural incumbent local exchange carrier, as that term is defined in Sec. 54.5, the carrier must report, by customer class, the number of working loops it serves in the service area, disaggregated by cost zone if disaggregation zones have been established within the service area pursuant to Sec. 54.315. For a competitive eligible telecommunications carrier serving loops in the service area of a non-rural telephone company, the carrier must report the number of working loops it serves in the service area, by customer class if the non-rural telephone company receives Interstate Common Line Support pursuant to Sec. 54.901 and by disaggregation zone if disaggregation zones have been established within the service area pursuant to Sec. 54.315 of this subpart, and the number of working loops it serves in each wire center in the service area. For universal service support purposes, working loops are defined as the number of working Exchange Line C&WF loops used jointly for exchange and message telecommunications service, including C&WF subscriber lines associated with pay telephones in C&WF Category 1, but excluding WATS closed end access and TWX service. Competitive eligible telecommunications carriers providing mobile wireless service in an incumbent LEC's service area shall use the customer's billing address for purposes of identifying the service location of a mobile wireless customer in a service area.").

⁵ The recovery amount noted is not reflective of prior period or cap adjustments. The actual recovery amount will not exceed the proposed recovery amount.

⁶ *February 7 Letter*, page 2.

REDACTED - FOR PUBLIC INSPECTION

Mr. Michael R. Bennet
Bennet & Bennet, PLLC
May 13, 2013
Page 3 of 3

were active, Cordova should be able to provide a year's worth of usage to show the random nature of the use of the phone.

In August 2007, the FCC adopted a Report and Order, FCC 07-150, '...to safeguard the USF from waste, fraud and abuse....'⁷ In this order, the FCC established the requirement that carriers retain historical customer records in order to demonstrate that the support the customers received was consistent with FCC regulations.⁸ Cordova has not provided sufficient documentation for USAC to determine whether these lines were valid and eligible for support. Therefore USAC hereby denies this portion of Cordova's appeal concerning lines without activity. USAC will recover [REDACTED]⁹ of high cost support if Cordova does not resubmit line counts removing these lines.

USAC Action and Cordova Appeal Rights

USAC hereby denies Cordova's appeal, but will provide Cordova the opportunity to submit revised line count filings by removing the lines billed to areas outside Cordova's service area as well as the [REDACTED] lines with no activity, within 60 days of the issuance date of this letter. If Cordova does not submit revised line counts by this date, USAC will recover a total of [REDACTED]¹⁰ of previously disbursed High Cost Program support through the monthly disbursement process. If the recovery amount exceeds the current month's disbursement, USAC will continue to net the recovery amount against subsequent monthly disbursements. USAC also reserves the right in its discretion and at anytime to issue an invoice to Cordova for all or a portion of the amount to be recovered. If any further errors are found in any of Cordova's reporting for the period under data validation herein, USAC reserves the right to recover the financial impact of those deviations.

If you wish to appeal this decision, you may file an appeal pursuant to the requirements of 47 C.F.R. Part 54, Subpart I. Detailed instructions for filing appeals are available at:

<http://www.usac.org/hc/about/program-integrity/appeals.aspx>

//s// Universal Service Administrative Company

⁷ *Comprehensive Review of Universal Service Fund Management, Administration, and Oversight Report and Order*, 22 FCC Rcd 16372, FCC 07-150, ¶24 (2007).

⁸ *Id.*

⁹ *See supra note 5*

¹⁰ *Id.*

Exhibit B



Maryland
4350 East West Highway, Suite 201
Bethesda, Maryland 20814
Tel: (202) 371-1500
Fax: (202) 371-1558
www.bennetlaw.com

District of Columbia
10 G Street NE, Suite 710
Washington, DC 20002

Caressa D. Bennet
Michael R. Bennet
Marjorie G. Spivak*
Kenneth C. Johnson‡

* Admitted in DC & PA Only
‡ Admitted in DC & VA Only

Howard S. Shapiro
Daryl A. Zakov^
Robert A. Silverman
Anthony K. Veach*

^ Admitted in DC & WA Only
Admitted in DC & FL Only

February 7, 2012

Via Hand Delivery

Letter of Appeal
High Cost Low Income Division
Universal Service Administrative Company
2000 L Street, NW, Suite 200
Washington, DC 20036

Received
FEB 07 2012
USAC

Attn: Karen Majcher

**Re: Cordova Wireless Communications, Inc.
Letter of Appeal**

Dear Ms. Majcher:

Cordova Wireless Communications, Inc. (“Cordova”), by its attorneys, hereby appeals and seeks reconsideration of a decision by USAC’s High Cost Low Income Division set forth in a January 25, 2012 electronic mail message (attached hereto) from Amanda Bilodeau to Paul Kelly and Mary Newirth of Cordova (“Decision”). That Decision concluded that Cordova was not entitled to requested support because the lines submitted in Cordova’s line count filings fall within one of the following categories: (1) out of area lines reported; and (2) phones given away, but with no activity. The Decision concluded that none of these lines were correctly filed. USAC’s decision on both of these categories of lines is incorrect and entirely without support. The basis for Cordova’s appeal of these decisions is set forth below.

Out of Area Lines

Section 54.307(b) of the Federal Communications Commission’s (“FCC” or “Commission”) Rules provides that, in order to receive support, a competitive eligible telecommunications carrier (“CETC”) must report to the Administrator the number of working loops it serves in a service area. That rule also states that CETCs providing mobile wireless service in an incumbent LEC’s service area “shall use the customer’s billing address for purposes of identifying the service location of a mobile wireless customer in a service area.”

On November 29, 2011, Cordova submitted by email to “HC Review” Cordova’s revised line counts which provided *local* billing addresses (i.e., within Cordova’s service area) for the following Account Numbers: [REDACTED] Cordova originally submitted its line counts for these Accounts on March 23, 2011 utilizing out of area billing addresses. After receiving notification from USAC that lines with billing addresses

located outside of Cordova's service area would not count, Cordova resubmitted these lines, associating them with the *local* addresses used by each of the referenced customers. Like many business customers who operate in Alaska on a seasonal basis,¹ these entities maintain separate addresses both in Alaska (within Cordova's service area) and in their home states. While such entities typically receive business correspondence at their headquarters addresses, they also receive correspondence, including Cordova invoices, at local addresses within Cordova's wireless service area, and Cordova sends its invoices to these addresses.

In its Decision, USAC states that "USAC is unable to accept the revised billing addresses as the original billing addresses for the customers were outside the carrier's designated study area. USAC finds these lines were incorrectly filed and requires the carrier to update its line counts with these lines removed (approx. [REDACTED] lines)." USAC erroneously relies on the billing addresses *originally submitted* by Cordova as the basis for its apparent conclusion that these Cordova customers do not have billing addresses in Cordova's service area. As noted above, these customers have *multiple* addresses where bills are sent, including addresses within Cordova's service area. Accordingly, there is no supportable basis for rejecting these [REDACTED] lines, and Cordova requests that USAC reverse its Decision and accept those lines.²

Phones Without Activity

In its Decision, USAC determined that for [REDACTED] Cordova lines with no activity, "these lines were incorrectly filed." However, the Decision provided no explanation for what legal support it was relying on to reach that conclusion. There is no FCC requirement that lines have activity in order to be counted for universal service support purposes. The entire purpose of the universal service system is to facilitate the *ability* of customers in remote and underserved areas of the nation to make voice telephone calls. It is the capability of making telephone calls that serves the public interest, and the cost of providing individuals in these areas with that capability that Congress has deemed to warrant support. Moreover, Cordova questions USAC's methodology for determining that [REDACTED] lines had "no activity." The only way to verify activity is to actually call these lines. USAC does not state when such calls were made or how many attempts were made to verify activity on each line. For a variety of reasons, many Cordova customers turn off their phones for long periods during the day. Many of the phones given away³ by Cordova go to students (who often turn off their phones while in class), employees at the local fish processing plant (who are required to turn phones off while at work⁴), women's

¹ The population residing in Cordova's service area increases five-fold during the summer months.

² Cordova notes that even if USAC's mistaken factual assumption was correct, and there was no local billing address for these lines, Cordova's situation is consistent with FCC policy that recognizes the need for high-cost support when handsets are predominantly used by customers within a carrier's service area. *See Bristol Bay Cellular Partnership*, CC Docket No. 96-45, DA 07-4965, Order (rel. Dec. 12, 2007). Cordova's subscribers use their telephones exclusively or almost exclusively within Cordova's designated ETC service area.

³ Cordova notes that, while the phones are given away, as is a common practice with carriers throughout the country, the associated cost of the local-only service plan for the so-called "free" phone is borne by CTC.

⁴ Typically these employees work shifts of as much as 16 to 18 hours per day.

shelters and other volunteer organizations that maintain⁵ and give out phones to battered women and other needy individuals for emergency use only, schools, police and firefighters for emergency use⁶, and individuals who travel in the backwoods and other isolated locales where ensuring that there is sufficient power to make a phone call in an emergency requires that the phone be turned off for extended periods. Test calls made by USAC staff (particularly given the time difference with Alaska) would therefore be likely to often reach a phone that may appear to have “no activity” simply because it is turned off.

Failure to accept the line counts for these phones would cause considerable harm to individuals who live, work and travel through the Cordova service area. Without universal service support, Cordova would no longer be able to donate these phones, thus denying emergency telephone service to emergency personnel as well as poor and vulnerable individuals. Furthermore, unlawfully denying Cordova the universal service support to which it is legally entitled will cause Cordova to shut down its network, causing untold harm to the entire Cordova community, a community, particularly during the harsh Alaskan winter, that has its health and safety inextricably linked to its communications network. Cordova is the sole wireless communications provider in much of its service area, and ensuring that it receives the necessary support to continue to operate (to which it is entitled) is mandated by the Communications Act of 1934, as amended.

For the foregoing reasons, Cordova respectfully requests that USAC accept the line counts submitted by Cordova on December 20, 2011.⁷

Sincerely,



Michael R. Bennet
Counsel for Cordova Wireless Communications,
Inc.

Attachment

Cc: Sammy Kahn
Amanda Bilodeau
Craig Davis

⁵ These organizations cannot predict their need for phones at any particular time, so typically maintain more phones than are needed at any particular time so that they are available for emergencies.

⁶ Cordova phones were also made available to emergency snow removal crews during the recent period of extreme snowfall that made national news coverage. *See, e.g.,* http://www.windstream.net/news/read.php?rip_id=%3CD9S5VTG81%40news.ap.org%3E&ps=931 (last viewed February 3, 2012).

⁷ The line counts submitted on December 20 modified the November 29 line counts to remove “test lines” and five administrative lines pursuant to USAC request.

Attachment 1

From: prvs=1364991400=abilodeau@usac.org [mailto:prvs=1364991400=abilodeau@usac.org] **On Behalf Of** Amanda Bilodeau
Sent: Wednesday, January 25, 2012 8:42 AM
To: Paul Kelly (paul@ctcak.net); Mary Newirth (cwcman@ctcak.net)
Cc: HC Review
Subject: 2010 Line Count Validation 619007

Dear Mr. Paul Kelly,

We've reviewed the additional documentation (usage reports) that was provided and the issues identified in the letter that was sent on November 16, 2011 have not changed. As noted in the previous disclosure letter:

1. Out of area lines reported
2. Phones given away, but with no activity
3. Test lines reported

In response,

1. USAC is unable to accept the revised billing addresses as the original billing addresses for the customers were outside the carrier's designated study area. USAC finds these lines were incorrectly filed and requires the carrier to update its line counts with these lines removed (approx. [REDACTED] lines). Corrections should be made for the filing period reviewed and going forward.
2. USAC reviewed the additional documentation and was able to verify the activity for [REDACTED] lines out of [REDACTED] lines. However, for the remaining [REDACTED] lines with no activity, USAC finds these lines were incorrectly filed and requires the carrier to update its line counts with these lines removed. Corrections should be made for the filing period reviewed and going forward.
3. USAC recognizes that the carrier has completed the process of correcting its reporting and updating its filings. No further action is required for this issue at this time.

Please submit updated filings by January 31, 2012. Failure to submit updated data will result in recovery of all exceptions or you may file an appeal. The recovery and appeal cutoff date has been extended to January 31, 2012.

Thank you,

HC Review

No virus found in this message.

Checked by AVG - www.avg.com

Version: 10.0.1416 / Virus Database: 2109/4764 - Release Date: 01/24/12

Exhibit C



Via Electronic Mail & Post

November 16, 2011

Mary Newirth
Office Mgr
CORDOVA WIRELESS COMMUNICATIONS, INC. - CL
621 Second Street
P.O. Box 438
Cordova, AK 99574

RE: 2010 Competitive Eligible Telecommunications Carriers Line Count Validation

Dear Mary Newirth:

Thank you for your cooperation during our validation of your FCC Form 525 filed March 30, 2011 for CORDOVA WIRELESS COMMUNICATIONS, INC. - CL, Study Area Code (SAC) 619007, to receive High Cost Program support.

As noted in our introductory letter, we reviewed the form submitted for CORDOVA WIRELESS COMMUNICATIONS, INC. - CL and the underlying information used to complete the form to assess the accuracy of the line count filing.¹ The information provided was reviewed for line count validation purposes only and was not shared with any other parties.

During our review of your lines reported under CORDOVA TEL COOP, SAC 613007, and your line classification and mapping methodologies, we noticed the following issues:

1. out-of-area lines reported
2. phones given away, but with no activity, reported
3. test lines reported

In response,

¹ The Federal Communications Commission ("FCC"), including its Inspector General, and USAC may request and obtain all records, documents and other information that is necessary to determine whether an entity receiving benefits from any of the universal service support mechanisms or supporting the universal service support mechanisms through contributions to the Universal Service Fund has been and continues to be in compliance with applicable federal and state laws and regulations. *See* 47 U.S.C. § 220(c). *See also*, 47 U.S.C. § 254 (authorizing the FCC to promulgate regulations for provision and support of universal service); 47 C.F.R. §§ 54.701(a) (FCC appointment of USAC as the permanent administrator of the federal universal service support mechanisms); 54.702(a) (FCC designating USAC responsible for administering the schools and libraries support mechanism, the rural health care support mechanism, the high cost support mechanism, and the low income support mechanism.); 54.702(b) (FCC making USAC responsible for billing contributors, collecting contributions to the universal service support mechanisms, and disbursing universal service support funds).

1. USAC finds these lines were incorrectly filed and requires the carrier to update its line count filings with these lines removed
2. USAC finds these lines were incorrectly filed and requires the carrier to update its line count filings with these lines removed
3. USAC finds these lines were incorrectly filed and requires the carrier to update its line count filings with these lines removed

Please submit your updated filings through the normal means (e525, email, fax, mail) by January 3, 2012, and notify USAC High Cost Program staff of your re-file at HCReview@usac.org or (202) 776-0200 so that we can ensure prompt processing. If you cannot meet the deadline established above, please let us know as soon as possible. Failure to submit updated data may result in recovery of all exceptions and further review.

As is the case with any decision of the USF administrator, you have the right to appeal this decision pursuant to 47 C.F.R. § 54.719. The appeal must be filed within 60 days of the date of this letter as required by 47 C.F.R. § 54.720(a) and must conform to the filing requirements of 47 C.F.R. § 54.721. Additional information about the FCC appeals process may be found at <http://www.usac.org/hc/about/filing-appeals.aspx> under “OPTION B.”

Thank you again for your cooperation.

Sincerely,

/SA/

Shane Ahn
High Cost

Exhibit D

REDACTED - FOR PUBLIC INSPECTION

From: prvs=1364991400=abilodeau@usac.org [mailto:prvs=1364991400=abilodeau@usac.org] **On Behalf Of** Amanda Bilodeau
Sent: Wednesday, January 25, 2012 8:42 AM
To: Paul Kelly (paul@ctcak.net); Mary Newirth (cwcman@ctcak.net)
Cc: HC Review
Subject: 2010 Line Count Validation 619007

Dear Mr. Paul Kelly,

We've reviewed the additional documentation (usage reports) that was provided and the issues identified in the letter that was sent on November 16, 2011 have not changed. As noted in the previous disclosure letter:

1. Out of area lines reported
2. Phones given away, but with no activity
3. Test lines reported

In response,

1. USAC is unable to accept the revised billing addresses as the original billing addresses for the customers were outside the carrier's designated study area. USAC finds these lines were incorrectly filed and requires the carrier to update its line counts with these lines removed (approx. [REDACTED] lines). Corrections should be made for the filing period reviewed and going forward.
2. USAC reviewed the additional documentation and was able to verify the activity for [REDACTED] lines out of [REDACTED] lines. However, for the remaining [REDACTED] lines with no activity, USAC finds these lines were incorrectly filed and requires the carrier to update its line counts with these lines removed. Corrections should be made for the filing period reviewed and going forward.
3. USAC recognizes that the carrier has completed the process of correcting its reporting and updating its filings. No further action is required for this issue at this time.

Please submit updated filings by January 31, 2012. Failure to submit updated data will result in recovery of all exceptions or you may file an appeal. The recovery and appeal cutoff date has been extended to January 31, 2012.

Thank you,

HC Review

No virus found in this message.

Checked by AVG - www.avg.com

Version: 10.0.1416 / Virus Database: 2109/4764 - Release Date: 01/24/12

Exhibit E

Cordova Tower Sites



REDACTED - FOR PUBLIC INSPECTION

Flag Point







Exhibit F

The Cordova Times - New Cordova Wireless Communications cell phone service saves two lives

Share this

375

Google + 1

29

0

Posted 04/19/2013

by - Jennifer Gibbins

As Vernon Schumacher sat on the reef in Yakatat Bay, a feeling of failure crept over him as he listened to his brother Frank's voice coming from somewhere out on the water. Vernon was sorry he had not been strong enough to save his brother. He was sorry for his two new twins at home. He did not want his brother to die and he did not want his own children to grow up without a dad.

The wind chilled him to the bone through his water soaked clothes as it whipped the snow up into white out conditions. Vernon knew that the tide was coming in and even if his brother managed to get back to shore, it was only a matter of time before it covered the exposed reef and sweep them back out into the bay to die.

"That reality just kept going through my head over and over," said Schumacher.

Just the day before he had been out in the skiff hunting for otters with his older brother Denson. The three brothers, ages 21, 28 and 30, know the area well and have hunted there for their entire lives. They were young, fit and well prepared, loading his father-in-law's skiff with food, radios and plenty of gear. Today was no different except that he had gone out with his younger brother Frank.

As the brothers beached the skiff on the reef they hopped out, set the anchor watching as the line went taught and then set off to scout the shoreline, each moving in a different direction. Frank was the first to notice.

"Hey Vernon, the boat," he called out. Somehow the anchor line had come loose and the skiff was floating out to sea.

"Should we get ready and jump in and swim for it," asked the younger brother. Before Vernon could reply, Frank had stripped off his clothes and jumped in. The skiff was about 50 yards from shore and as Vernon watched, he could see the icy water quickly sapping his brother's energy.

"He got about three feet from the boat, but the wind kept blowing it further out and the the cold water had taken all of his energy. He couldn't go any further," said Vernon.

"He started screaming that he was going to die and without thinking I jumped in with all my clothes on, swimming out to save him. The water was so cold. Stinging cold. It felt like a million needles. I was trying to fight it, I had to save my brother and I knew this was life or death."

Vernon struggled against the cold water, his body quickly stiffening. Halfway to Frank, he began to sink and soon he was too weak to swim to the surface. Thinking of his children, he gathered his thoughts, staying calm, relaxing and allowing his body to float to the surface, just enough for his lips to pierce the surface so he could breath. After a moment he managed to slowly stroke towards shore, then float. Slowly stroke towards shore, then float. Repeating the pattern he made it back to shore and hauled himself up on the reef. As he sat there, all he could do for his brother was to keep calling out to him.

"Don't give up. Don't give up Frank. Don't give up."

Miraculously, Frank made his way to within 20 feet of the shoreline and Vernon was able to wade back into the icy water and drag his brother onto land.

"He couldn't move. He was completely drained. He had no clothes on and he was falling asleep. I knew I had to keep him awake."

With the tide still rising, and the skiff gone out of sight, Vernon was certain they would die, but again thinking of his two children he couldn't give up. He dressed Frank in the dry clothes he had left onshore before diving in to save the skiff and then wrapped Frank's arm over his shoulders and started walking him up and down the reef to get his blood circulating.

After a few minutes Frank said quietly "I have a cell phone."

The cell phone was new. Service had just recently been made available in Yakatat by Cordova Wireless Communications.

"Cell phones were so new for us. I had one but I had left it at home and I did not even know that Frank had a cell phone."

Vernon searched his brothers pockets, and found the phone.

"I looked at it and it said 'no service' but I crawled up to the highest point on the reef and I could get one bar," said Vernon. "I called Denson and told him to get someone out there or we were going to die."

After an hour the brothers heard the sound of a motor approaching.

"It was the most amazing feeling on the planet," said Vernon Schumacher. "We thought we were going to die, but that cell phone saved our lives."

Denson had called the Yakatat Harbormaster who had motored out several miles to the reef. Frank's body temperature was critical and the two men put him in a survival suit. Although Vernon was soaked and fatigued from the cold, he was determined to save his father-in-law's skiff. By the time they found it, it had drifted some three miles away. Vernon hopped on board and drove the skiff back to town while the harbormaster ran his brother into the clinic.

REDACTED - FOR PUBLIC INSPECTION

"When I got to the dock, I tied up the skiff and collapsed onto the dock. My core temp did not raise until the next day and it took two days for my brother's core temp to come back up," said Vernon Schumacher.

Schumacher is still shaken by the experience. In spite of the many things he did that day that saved his own life and then his brother's - the calm thinking, the sheer force of will to survive for his brother's and his children's sake - he is still haunted by a sense of failure. The lesson he says he learned that day was never go anywhere without your cell phone.

"Ever since, my cell phone is in my pocket at all times," said Schumacher. "Even in places where you can't make a call, you can text, get a message to someone."

In the aftermath of the experience Schumacher discovered that another member of the family had changed one knot on his anchor line without his knowing, causing the line to come loose.

"Just one knot on our line. The smallest thing you could think of. A few years ago this exact same scenario happened to a young guy here and he died. I am so thankful for the cell phone service that we now have, and I just want to warn people. Don't leave your cell phone behind. You could be in a bad situation, and it could save your life. I just want to say thank to Cordova."

You can reach Jennifer Gibbins with comments and suggestions at editor@thecordovetimes.com

DECLARATION OF PAUL KELLY

I, Paul Kelly, do hereby declare under penalty of perjury the following:

1. I am the General Manager and Chief Executive Officer of Cordova Wireless Communications, Inc. ("Cordova").
2. I have reviewed the foregoing Request for Review by Cordova Wireless Communications, Inc. of a decision of the Universal Service Administrator. I have personal knowledge of the facts set forth therein and believe them to be true and correct.



Paul Kelly

2-3-13

Date

CERTIFICATE OF SERVICE

I, Linda L. Braboy, of Bennet & Bennet, PLLC, hereby certify that a copy of the foregoing **REQUEST FOR REVIEW BY CORDOVA WIRELESS COMMUNICATIONS, LLC OF A DECISION OF UNIVERSAL SERVICE ADMINISTRATOR** was served this 5th day of July, 2013, via First Class U.S. Mail, on those listed below:

Universal Service Administrative Company
2000 L Street, N.W., Suite 200
Washington, DC 20036

Linda L. Braboy
Linda L. Braboy