

FHH Telecom Law
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Telecommunications Providers
Given \$700,000 Spanking

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The FCC's Commissioners declared that they are serious about making a level playing field among telecommunications carriers and complying with Congressional mandates. Wielding a big paddle, the Commissioner recently singled out two telecommunications companies and issued them a combined fine of \$700,000 for failing to file Universal Service Fund paperwork with the FCC.

Federal rules mandate that telecommunications carriers who are entering or anticipate entering into interstate telecommunications markets must submit an annual reporting worksheet to the FCC. In addition, based upon income limitations, carriers are required to file quarterly reporting worksheets. In the industry, the forms are referred to as 499-A and 499-Q reports or TRWs. All providers of interstate telecommunications services should be familiar with this form and its filing requirements. Based upon revenue and traffic data contained in the reports, the FCC assesses carriers several fees for FCC programs such as Universal Service, the Schools and Libraries Fund, and Telecommunications Relay Service.

In an effort to find filing scofflaws, the FCC contacted telecommunications wholesalers and requested a list of customers to whom they sold service. Armed with the list of retail providers, the FCC checked all reporting forms on file. Among those retailers who were not FCC filers were a local exchange and long distance reseller as well as a Georgia based interstate service provider. The FCC sent the two companies inquiries as to why they had not been filing their paperwork with the FCC. The companies sent back replies which did not satisfy the FCC.

The FCC has fined each company \$100,000 for failing to register their companies with the FCC and \$50,000 per quarter for failing to file quarterly reports. In addition, the FCC fined each of the companies a 50% fine for underpayment of their USF contributions. These fines were significant and, as likely intended by the Commission, were widely reported in the industry media. The total fines well exceeded the amount of contributions for which the companies would otherwise have been responsible if they had simply completed the reporting worksheets. Indeed, because the bulk of each fine was associated with failure to submit reporting worksheets, they could have been avoided simply by filling out the FCC forms.

The FCC claims that its ultimate goal is to bring fairness to its programs. As the FCC correctly points out, a company's failure to contribute to a fund results in a larger burden

being borne by all other carriers. By levying such large fines, the FCC has served notice that it will aggressively pursue participants, or those who should be participants, in its programs to ensure that companies are reporting data and contributing into funds. Clients who provide any telecommunications service should be filing, at a minimum, a 499-A and in many instances also a 499-Q. If you have questions about what services qualify as telecommunications services and what filing requirements apply to your company, you should immediately contact the attorney at our firm with whom you generally work.