

§ 54.713

(b) [Reserved]

[67 FR 79533, Dec. 30, 2002, as amended at 68 FR 15672, Apr. 1, 2003]

§ 54.713 Contributors' failure to report or to contribute.

A contributor that fails to file a Telecommunications Reporting Worksheet and subsequently is billed by the Administrator shall pay the amount for which it is billed. The Administrator may bill a contributor a separate assessment for reasonable costs incurred because of that contributor's filing of an untruthful or inaccurate Telecommunications Reporting Worksheet, failure to file the Telecommunications Reporting Worksheet, or late payment of contributions. Failure to file the Telecommunications Reporting Worksheet or to submit required quarterly contributions may subject the contributor to the enforcement provisions of the Act and any other applicable law. The Administrator shall advise the Commission of any enforcement issues that arise and provide any suggested response. Once a contributor complies with the Telecommunications Reporting Worksheet filing requirements, the Administrator may refund any overpayments made by the contributor, less any fees, interest, or costs.

[64 FR 41332, July 30, 1999]

§ 54.715 Administrative expenses of the Administrator.

(a) The annual administrative expenses of the Administrator should be commensurate with the administrative expenses of programs of similar size, with the exception of the salary levels for officers and employees of the Administrator described in paragraph (b) of this section. The annual administrative expenses may include, but are not limited to, salaries of officers and operations personnel, the costs of borrowing funds, equipment costs, operating expenses, directors' expenses, and costs associated with auditing contributors of support recipients.

(b) All officers and employees of the Administrator may be compensated at an annual rate of pay, including any non-regular payments, bonuses, or other compensation, in an amount not

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to exceed the rate of basic pay in effect for Level I of the Executive Schedule under 5 U.S.C. 5312.

NOTE TO PARAGRAPH (b): The compensation to be included when calculating whether an employee's rate of pay exceeds Level I of the Executive Schedule does not include life insurance benefits, retirement benefits (including payments to 401(k) plans), health insurance benefits, or other similar benefits, provided that any such benefits are reasonably comparable to benefits that are provided to employees of the federal government.

(c) The Administrator shall submit to the Commission projected quarterly budgets at least sixty (60) days prior to the start of every quarter. The Commission must approve the projected quarterly budgets before the Administrator disburses funds under the federal universal service support mechanisms. The administrative expenses incurred by the Administrator in connection with the schools and libraries support mechanism, the rural health care support mechanism, the high cost support mechanism, the low income support mechanism, the interstate access universal service support mechanism, and the interstate common line support mechanism shall be deducted from the annual funding of each respective support mechanism. The expenses deducted from the annual funding for each support mechanism also shall include the Administrator's joint and common costs allocated to each support mechanism pursuant to the cost allocation manual filed by the Administrator under § 64.903 of this chapter.

[63 FR 70576, Dec. 21, 1998, as amended at 65 FR 38690, June 21, 2000; 65 FR 57739, Sept. 26, 2000; 66 FR 59728, Nov. 30, 2001; 69 FR 5719, Feb. 6, 2004]

§ 54.717 Audits of the Administrator.

The Administrator shall obtain and pay for an annual audit conducted by an independent auditor to examine its operations and books of account to determine, among other things, whether the Administrator is properly administering the universal service support mechanisms to prevent fraud, waste, and abuse:

(a) Before selecting an independent auditor, the Administrator shall submit preliminary audit requirements, including the proposed scope of the

audit and the extent of compliance and substantive testing, to the Wireline Competition Bureau.

(b) The Wireline Competition Bureau shall review the preliminary audit requirements to determine whether they are adequate to meet the audit objectives. The Wireline Competition Bureau shall prescribe modifications that shall be incorporated into the final audit requirements.

(c) After the audit requirements have been approved by the Wireline Competition Bureau, the Administrator shall engage within thirty (30) calendar days an independent auditor to conduct the annual audit required by this paragraph. In making its selection, the Administrator shall not engage any independent auditor who has been involved in designing any of the accounting or reporting systems under review in the audit.

(d) The independent auditor selected by the Administrator to conduct the annual audit shall be instructed by the Administrator to develop a detailed audit program based on the final audit requirements and shall be instructed by the Administrator to submit the audit program to the Wireline Competition Bureau. The Wireline Competition Bureau shall review the audit program and make modifications, as needed, that shall be incorporated into the final audit program. During the course of the audit, the Wireline Competition Bureau may direct the Administrator to direct the independent auditor to take any actions necessary to ensure compliance with the audit requirements.

(e) During the course of the audit, the Administrator shall instruct the independent auditor to:

(1) Inform the Wireline Competition Bureau of any revisions to the final audit program or to the scope of the audit;

(2) Notify the Wireline Competition Bureau of any meetings with the Administrator in which audit findings are discussed; and

(3) Submit to the Chief of the Wireline Competition Bureau any accounting or rule interpretations necessary to complete the audit.

(f) Within 105 calendar days after the end of the audit period, but prior to

discussing the audit findings with the Administrator, the independent auditor shall be instructed by the Administrator to submit a draft of the audit report to the Wireline Competition Bureau Audit Staff.

(g) The Wireline Competition Bureau shall review the audit findings and audit workpapers and offer its recommendations concerning the conduct of the audit or the audit findings to the independent auditor. Exceptions of the Wireline Competition Bureau to the findings and conclusions of the independent auditor that remain unresolved shall be included in the final audit report.

(h) Within fifteen (15) calendar days after receiving the Wireline Competition Bureau's recommendations and making any revisions to the audit report, the Administrator shall instruct the independent auditor to submit the audit report to the Administrator for its response to the audit findings. At this time the auditor also must send copies of its audit findings to the Wireline Competition Bureau. The Administrator shall provide the independent auditor time to perform additional audit work recommended by the Wireline Competition Bureau.

(i) Within thirty (30) calendar days after receiving the audit report, the Administrator shall respond to the audit findings and send copies of its response to the Wireline Competition Bureau. The Administrator shall instruct the independent auditor that any reply that the independent auditor wishes to make to the Administrator's responses shall be sent to the Wireline Competition Bureau as well as the Administrator. The Administrator's response and the independent auditor's replies shall be included in the final audit report;

(j) Within ten (10) calendar days after receiving the response of the Administrator, the independent auditor shall file with the Commission the final audit report.

(k) Based on the final audit report, the Chief of the Wireline Competition Bureau may take any action necessary to ensure that the universal service support mechanisms operate in a manner consistent with the requirements

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of this Part, as well as such other action as is deemed necessary and in the public interest.

[67 FR 13227, Mar. 21, 2002, as amended at 68 FR 18907, Apr. 17, 2003]

Subpart I—Review of Decisions Issued by the Administrator

§ 54.719 Parties permitted to seek review of Administrator decisions.

(a) Any person aggrieved by an action taken by a division of the Administrator, as defined in § 54.701(g), may seek review from the appropriate Committee of the Board, as defined in § 54.705.

(b) Any person aggrieved by an action taken by the Administrator pertaining to a billing, collection or disbursement matter that falls outside the jurisdiction of the Committees of the Board may seek review from the Board of Directors of the Administrator, as defined in § 54.703.

(c) Any person aggrieved by an action taken by a division of the Administrator, as defined in § 54.701(g), a Committee of the Board of the Administrator, as defined in § 54.705, or the Board of Directors of the Administrator, as defined in § 54.703, may seek review from the Federal Communications Commission, as set forth in § 54.722.

[63 FR 70577, Dec. 21, 1998]

§ 54.720 Filing deadlines.

(a) An affected party requesting review of an Administrator decision by the Commission pursuant to § 54.719(c), shall file such a request within sixty (60) days of the issuance of the decision by a division or Committee of the Board of the Administrator.

(b) An affected party requesting review of a division decision by a Committee of the Board pursuant to § 54.719(a), shall file such request within sixty (60) days of issuance of the decision by the division.

(c) An affected party requesting review by the Board of Directors pursuant to § 54.719(b) regarding a billing, collection, or disbursement matter that falls outside the jurisdiction of the Committees of the Board shall file such request within sixty (60) days of

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issuance of the Administrator's decision.

(d) The filing of a request for review with a Committee of the Board under § 54.719(a) or with the full Board under § 54.719(b), shall toll the time period for seeking review from the Federal Communications Commission. Where the time for filing an appeal has been tolled, the party that filed the request for review from a Committee of the Board or the full Board shall have sixty (60) days from the date the Committee or the Board issues a decision to file an appeal with the Commission.

(e) In all cases of requests for review filed under § 54.719, the request for review shall be deemed filed on the postmark date. If the postmark date cannot be determined, the applicant must file a sworn affidavit stating the date that the request for review was mailed.

(f) Parties shall adhere to the time periods for filing oppositions and replies set forth in 47 CFR 1.45.

[63 FR 70577, Dec. 21, 1998, as amended at 68 FR 36943, June 20, 2003]

§ 54.721 General filing requirements.

(a) Except as otherwise provided herein, a request for review of an Administrator decision by the Federal Communications Commission shall be filed with the Federal Communications Commission's Office of the Secretary in accordance with the general requirements set forth in part 1 of this chapter. The request for review shall be captioned "In the matter of Request for Review by (name of party seeking review) of Decision of Universal Service Administrator" and shall reference the applicable docket numbers.

(b) A request for review pursuant to § 54.719(a) through (c) shall contain:

(1) A statement setting forth the party's interest in the matter presented for review;

(2) A full statement of relevant, material facts with supporting affidavits and documentation;

(3) The question presented for review, with reference, where appropriate, to the relevant Federal Communications Commission rule, Commission order, or statutory provision;