

SATELLITE POLICIES



By Raul Magallanes

Universal Service Fund and its Impact on the Satellite Sector

The Universal Service Fund (USF) is a mechanism by which providers of telecommunications services subsidize the cost of communications for rural communities, schools, libraries and health facilities. But the rules addressing USF contributions are a source of confusion among service providers in the satellite industry.

It is no surprise that many providers misapply the rules while others throw their hands up in frustration and ignore the rules completely. However the U.S. Federal Communications Commission (FCC) has placed a renewed focus on the issue and is imposing fines on providers who don't comply to the rules.

Who Should Contribute to USF

USF obligations apply to interstate and international telecommunications services provided to end users. The term "telecommunications" has legal significance and it is defined as the transmission of information between points specified by the user without changing the form or content of the information. Based on this definition, the FCC has made declaratory rulings dictating what services do or do not constitute "telecommunications." For instance, the FCC has stated that satellite operators are not subject to USF contributions because the lease of bare transponder capacity does not involve the transmission of information and does not constitute a telecommunications service.

On the other hand, because satellite service providers — that is, companies involved in earth station uplinking activities — do provide a telecommunications service, they are subject to USF contributions. This category of contributors include providers of mobile satellite services, resellers, paging and messaging services, and other data-only or non-voice services. Basically, any service providers that offer telecommunications services for a fee can assume that they will be subject to the USF mandate.

Where and How to Contribute

USF contributions are made quarterly and range from 9 percent to 12 percent of interstate and international telecommunications revenues. Contributors can either factor any USF

fees into their cost of business or pass them on to end-users.

The USF program is administered by the Universal Service Administration Co. (USAC). This agency requires that companies subject to the USF mandate make annual and quarterly financial disclosures on FCC Form 499. USAC does not require monies to be sent with these filings. Instead, contributors receive an invoice from USAC once USF obligations are calculated based on declared revenues.

Exemptions from Contributions

Telecommunications providers that are exempt from making USF contributions to USAC but are required to make the annual 499 filings are:

- *De Minimus*: Telecommunications service providers with an annual USF liability less than \$10,000.
- *International Only*: Service providers with no domestic telecommunications revenues, where 100 percent of the telecommunications revenue is derived from international services.

Other telecommunications providers are exempt from making USF contributions but are not required to make the annual 499 filings:

- *Government Services*: Providers that offer services exclusively to government or public safety entities.
- *System Integrators*: System integrators that derive less than 5 percent of their systems integration revenues from the resale of telecommunications services.

Mixed Revenues and the 88 Percent Rule

Telecommunications service providers who offer a mix of interstate and international services are required to make the annual and quarterly 499 filings. The mix of revenues will determine the amount of USF fees to be paid.

Providers whose international revenue is equal or greater than 88 percent of total telecommunications revenue pay USF only on the interstate portion. Conversely, providers with international revenue less than 88 percent of total telecommunications revenue pay USF on both the interstate and international revenues.

Telecommunications service providers in the satellite industry should look closely at their USF obligations and establish an internal USF compliance program to attend to the matter. ▽

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