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FCC Increases Penalties for Not Paying Regulatory Fees and USF and other Assessments

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The Federal Communications Commission recently issued a Policy Statement in which it announced a new methodology for assessing forfeitures (penalties) on service providers who fail to pay the annual federal regulatory fees and make timely contributions to the Universal Service Fund (USF), the Telecommunications Relay Service (TRS) Fund, and the cost recovery mechanisms for local number portability (LNP) and the North American Numbering Plan (NANP) collected by the Universal Service Administrative Company (USAC). A copy of the FCC's new Policy Statement can be found at http://transition.fcc.gov/Daily_Releases/Daily_Business/2015/db0203/FCC-15-15A1.pdf. Under the previous policy, the FCC applied a mechanistic formula to determine how much of a penalty to assess for failure to pay these various fees and assessments:

- \$10,000 forfeiture for each month in which a contributor has failed to fully pay required USF contributions and \$20,000 for each month in which a contributor has failed to make any required USF contribution, plus an upward adjustment based on one-half of the company's unpaid contributions;
- \$10,000 forfeiture for each year in which a contributor fails to timely make required TRS Fund contributions, plus an upward adjustment based on 50 percent of a company's largest unpaid TRS balance;
- \$10,000 forfeiture for each year in which there is a failure to timely make required LNP contributions;
- \$10,000 forfeiture for each year a company fails to timely and fully make required regulatory fee payments; and
- \$50,000 forfeiture for each failure to file a Quarterly Worksheet (Form 499-Q).

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Apparently the FCC found that this methodology for assessing penalties was too complicated and not sufficiently punitive, since violations continue to occur. **Under the new Policy Statement, the FCC penalty will be assessed based on three times the delinquent contributor's debts to the USF, TRS, LNP, NANP, and regulatory fee programs.**

We think this may be overly harsh, particularly when you consider how complicated it can be to determine the proper categorizations of revenues for the Form 499's, which determines the amount of the various fees and assessments. And hopefully the FCC will not penalize providers for disputing the USAC assessments. The bottom line, however, is that the FCC is making it very expensive if you fail to pay your required regulatory fees and assessments. So be sure you have in place a program to file the required Form 499's and timely pay any assessments and regulatory fees.