

Revised FCC Debt Collection Processes for Delinquent Support Fund Obligations Shift Burdens to Carriers

July 27, 2012

The FCC recently announced revisions to its debt collection process for those carriers that are delinquent in contributing to the FCC's Universal Service Fund ("USF"), Telecommunications Relay Services Fund ("TRS") and North American Numbering Plan Fund ("NANP") (collectively the "Funds"). Under the [new procedures](#), the Fund administrators will forward delinquent accounts directly to the United States Department of Treasury ("Treasury") for collection (where a 28% collection fee is added), rather than forwarding them to the FCC first. In addition, the FCC will no longer send delinquency notices to contributors for these types of debts.

These revisions could have a significant impact on telecommunications providers, who now may receive only a single notice before an outstanding debt is transferred to Treasury for collection. Contributors will have to exercise greater diligence to ensure that they receive notices of delinquent obligations to the Funds and do not mistakenly incur collection fees.

Under the prior [debt collection process](#), contributors that failed to make required Fund contributions would receive a notice (and sometimes several) from the Fund's administrator explaining the potential consequences of failing to pay a debt. Delinquent debts eventually would be transferred by the Fund administrator to the FCC for collection. The FCC would then place the entity on "[red light status](#)". While attempting to collect the debt, the FCC would send delinquency notices to the contributor, including, typically, a courtesy notice sent shortly before a debt was to be transferred to Treasury. If the FCC's collection efforts were unsuccessful, the FCC would transfer the debts to Treasury. A fee equal to a percentage of the outstanding debt amount - currently set at 28% - is added to debts transferred to Treasury.

Under the new debt collection process, Fund administrators will bypass the Commission and transfer debts directly to Treasury. Fund administrators are only required to send one notice to a contributor explaining the consequences of failing to pay a delinquent debt. Thus, while some Fund administrators may continue to issue multiple delinquency notices (at 30, 60 and 90 days), this is not required. Moreover, the FCC will no longer send its own notices before debts are transferred to Treasury. Consequently, contributors that miss the Fund administrator's debt delinquency notice may later find their debts have been transferred to Treasury without further warning.

It should be noted that the FCC's announcement did not mention the Local Number Portability Administration ("LNPA") Fund. Carriers should expect that debts owed to that fund will continue to be collected pursuant to the existing debt collection process. However, we anticipate that this may change in the near future resulting in the LNPA following the new debt collection process.

What this means for carriers:

There is now an increased chance that a Fund debt delinquency notice that “falls through the cracks” may turn into an expensive headache.

- Timely response to a Fund debt delinquency notice is critical. Do not ignore a Fund’s debt notice because it may be the only notice received before a debt is transferred to Treasury.
- Carriers should ensure that the contact address available to the Fund administrator is accurate and that the persons receiving such notice are properly trained to respond. Failure to pay debts has legal consequences including FCC “red light” application processing holds. In our experience, the FCC notice often was an important backstop, because this was sent to the contact address listed for official FCC correspondence, rather than the Fund’s contact person. The FCC’s contact person often was a regulatory or legal contact outside the department that ordinarily handles revenue reporting or accounts payable.
- Carriers also should regularly check the FCC’s Red Light Display system. Fund administrators report contributor debt delinquencies to the Commission on a daily basis. Frequent checks to the FCC’s Red Light Display system will provide another alert of the existence of delinquent Fund contribution debts. **Note:** Checking the Red Light Display system is particularly important as once on “red light” status, contributors are prevented from conducting new business before the Commission and the Commission withholds action on the contributor’s outstanding requests, such as applications or petitions.