

# Filing an Appeal or Waiver Request

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## Appeals

Any decision made by USAC can be appealed by the adversely affected party. Two organizations review and decide appeals: USAC and the FCC. All appeals first must be submitted to USAC. The one exception is if the appeal is related to a rule violation and the appealing party wants to request that the rule be waived. In that situation, a request to waive the rules must be submitted to the FCC. This is because USAC has no authority to waive the E-rate program rules. If an appeal is submitted to USAC and denied, a further appeal may be submitted to the FCC. Do not send an appeal to both organizations at the same time.

All appeals and requests for waivers MUST be submitted to either USAC or the FCC within 60 days of the date of the USAC decision. If the 60-day appeal deadline is missed, the applicant must request a waiver of the appeal filing deadline from the FCC. USAC has no authority to waive the 60-day filing deadline. In such a situation, be very specific about why you missed the appeal deadline and why it is in the public interest to waive the deadline. The FCC is very stringent in deciding whether to consider and grant the merits of late-filed appeals or late-filed requests for waivers.

## FCC Rule Waiver Requests

A waiver is a request to waive an E-rate program requirement that is codified in a FCC regulation. For example, missing the Form 471 application filing window deadline requires the FCC to grant a waiver of the deadline. Please note that waivers are not granted often: only in special circumstances and when a deviation from the rules would serve the public interest. The waiver standard generally requires a showing of circumstances that could not be avoided even with careful planning.

Also, the FCC has made clear that the request for a Form 471 application window waiver, as well as any other waiver of a regulation, must follow the 60-day deadline that applies to filing appeals. The 60-day deadline begins from the date of the USAC decision. In the case of a Form 471 filing window waiver, the deadline is counted from the date of submission of the late-filed Form 471, since that is the date that the Form 471 receipt acknowledgment letter is issued, in which it states that you must file a request for waiver of the window deadline with the FCC.

## Deadline

The general rule is that the appeal or waiver request must be filed within 60 days of the date of the USAC decision. If the appeal/waiver deadline falls on a weekend or on a Federal Holiday, the appeal/waiver is also considered on time if you file it (or it is postmarked) by the first business day following that weekend or holiday.

## FILING AN APPEAL WITH USAC

### 1) What Information to Include in Your Appeal

The following information must be included in a letter of appeal. If USAC is unable to process the appeal because of missing documentation, the appeal will be denied for lack of information.

- Applicant Name and Billed Entity #
- Contact information including name, address, telephone number, and email address of the person who can discuss the appeal with USAC in detail;
- Documentation of USAC’s decision;
- Supporting documentation such as forms and previous correspondence
- A precise explanation of the relief sought through the appeal.

## 2) How to Submit Your USAC Appeal

Appeals must be submitted in EPC for any decision arising from a FY 2016 or later action. There is a specific appeal module in EPC. Appeals from FY 2015 and earlier actions must be submitted in EPC as a customer service case. Please refer to the separate EPC Appeals filing guide in this tab.

## FILING AN APPEAL WITH THE FCC

### 1) What Information to Include in Your Appeal

The following information must be included in a letter of appeal.

- Indicate CC Docket No. 02-6 on the first page of your appeal;
- Applicant Name and Billed Entity Number;
- Contact information including name, address, telephone number, and email address of the person who can discuss the appeal with the FCC in detail;
- Provide documentation of USAC’s decision or what rule violation is being appealed;
- Include supporting documentation such as forms and supporting documents;
- Explain the appeal to the FCC in as much detail as possible;
- Identify a problem and the reason for its appeal; and
- Explain precisely the relief sought through this appeal.

If you are submitting a letter of appeal requesting review of a decision made by USAC, please use the language "Request for Review" on the first page. If you are filing a request for a waiver of a deadline, please use the language "Request for Waiver" or "Waiver Request," so that it is clear what you request.

### 2) How to file your FCC Appeal

Submit your appeal electronically using the FCC’s filing system that is online at <https://www.fcc.gov/ecfs/filings>. It is advisable to convert your file to a PDF format for uploading to the FCC. On the next page there is a screen print of the online filing system with notes to explain what fields must be completed and what information should be provided.

### To Submit an Appeal or Waiver Request to FCC:

- Go to: <https://www.fcc.gov/ecfs/filings> and complete the online submission form as follows:

|               |   |
|---------------|---|
| Proceeding    | 02-6 ( <i>press enter</i> )                           |
| Name of Filer | List Name of School or Library ( <i>press enter</i> ) |
| Law Firm      | Leave blank   |

|                        |   |
|------------------------|---|
| Attorney/Author Name   | List Name of School or Library Contact <i>(press enter)</i> |
| Primary Contact E-mail | E-mail of School or Library Contact                         |
| Type of Filing         | Appeal or Petition for Waiver                               |
| File Number            | <i>Leave blank</i>  |
| Report Number          | <i>Leave blank</i>  |
| Bureau ID Number       | <i>Leave blank</i>  |
| Address of:            | Select: Filer   |
| Address                | School or Library Address                                   |
| City                   | School or Library Address                                   |
| State                  | School or Library Address                                   |
| Zip                    | School or Library Address                                   |
| Upload Documents       | Upload Word or PDF copy of Your Waiver Letter               |
| E-mail Confirmation?   | Check this Box  |

**Email Confirmation**

Continue to review screen 

YOUR FILING HAS NOT YET BEEN SUBMITTED!

Please review the details below. Return to Step 1 above, or press the BACK button on your browser to make any changes. Then press the SUBMIT button at the bottom of this page to complete your submission.

Scroll to bottom of page, and click:

Submit



# Appeals Guidelines

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During the appeal review process, USAC will verify that the original Program Integrity Assurance (PIA) review was performed in compliance with program requirements and that the correct decision was achieved. If USAC made an error during the original PIA review of the application, USAC will correct the error.

For example, during PIA review, USAC lowered the discount rate requested by the applicant. During the appeal review process, USAC will determine if the proper procedures were followed and whether the applicant was given the opportunity to provide supporting documentation to justify the higher discount rate. If the appeal review process determines that procedures were not followed and the applicant was not given an opportunity to provide that documentation, the applicant will be able to do so before the appeal review process has concluded. USAC will grant the appeal and approve the discount rate based on the supporting documentation provided during the appeal process.

## **New Documentation Provided**

In general, a PIA reviewer will contact the applicant and ask for all information necessary to make decisions about an application. If that contact does not occur or the applicant is unable to respond to the request, and funding is denied, USAC may grant an appeal when the appellant provides such original documentation.

For example, during PIA review, the applicant indicated that it did not have a signed contract and USAC denied funding because there was no signed contract. On appeal, the applicant claims that the requested services are services provided under tariff and not covered by a contract. USAC will generally accept this new information on appeal and will issue a decision based on the information provided.

However, USAC will not grant this appeal if the documentation provided on appeal contradicts information contained in the original file and the applicant is unable to resolve the discrepancy.

For example, if the applicant had provided an unsigned copy of a contract during the review of its application, USAC will generally not accept the applicant's claim on appeal that it is a non-contractual tariffed service since it contradicts the documentation previously provided (e.g. a copy of the unsigned contract).

## **Policy Changes or Clarification**

If the Federal Communications Commission (FCC) issues a policy clarification or adopts a new policy that would affect USAC's original decision, applicants who submitted a timely appeal may be given the benefit of the new or changed policies. However, not all policies apply retroactively.

## **Accepting New Information**

USAC will not accept new information if it is apparent that the documentation submitted is not the original documentation and was created in response to a USAC request during the appeal review process.

USAC also may not accept new information on appeal if it is clear that the applicant was not working with USAC in good faith.

Finally, it is important to understand that USAC can grant an appeal assuming no other issues are identified during the appeal review that would lead to a denial. If, on appeal, the basis for a funding denial is successfully refuted, USAC must examine all remaining aspects of the funding request to ensure that all program rules were met. If another reason for denial is not appealed or the appellant does not present a successful argument to USAC's original decision, the appeal will be denied. All funding request denial reasons must be overcome on appeal for USAC to fund the Funding Request Number (FRN).

If USAC makes a new decision to deny funding, the appellant will have 60 days from the date of USAC's decision letter to file a new appeal with the FCC.

# Filing Appeals in EPC

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**NOTE:** Guide is based on current procedures as of October 2020.  
Dates embedded in presentation do not reflect upcoming funding year.

# EPC Appeals Module

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- Applicable for appeals arising from an adverse decision relating to a FY 2016 or later FRN
  - Appeals for FY 2015 or earlier FRNs must be submitted as a customer service case, also in EPC.
- Start from Landing Page > Appeal

My Landing Page



[Funding Request Report](#) | [FCC Form 470](#) | [FCC Form 471](#) | [FCC Form 486](#) | [FCC Form 500](#) | [SPIN Change](#) | [Appeal](#) | [Service Substitution](#) | [Hurricane Impact Designation](#) | [Manage My Organization](#) | [USAC Website](#) | [Contact Us](#) | [Help](#)

# Appeal Details – Type of Decision

**Appeal Details**

**Nickname \***

**Funding Year \*** 2016, 2017, 2018, 2019, 2020

**What type of decision would you like to appeal? ? \***

- FCC Form 486 Notification Letter
- Administrator's Decision on Invoice Deadline Extension Request Letter
- FCC Form 472 (BEAR) Notification Letter
- Funding Commitment Decision Letter
- Notification of Commitment Adjustment Letter
- Notification of Improperly Disbursed Funds Recovery Letter
- Quarterly E-Rrate Payment Authorization Report
- Remittance Statement
- Revised Funding Commitment Decision Letter
- Adminstrator's Decision on Invoicing Mode Change Request

**Appeal Type \*** -- Select a Value --

son's name or

# Appeal Details – Type of Appeal

**Appeal Details**

**Nickname \***

**Funding Year \***  
2016, 2017, 2018, 2019, 2020

**What type of decision would you like to appeal? ? \***  
-- Select a Value --

**Appeal Category \***  
-- Select a Value --

**Contact Information**

**Main Contact Person \***

Please select a main contact person by typing the contact person's name or email address.

- Appeal Type \***
- Commitment Adjustment Appeal
  - Notification of Improperly Disbursed Funds Recovery
  - 486 Appeal
  - Appeal
  - SPIN Change Appeal
  - Entity Updates (Non-Appeal)
  - Invoice Appeal
  - FCC Remand. Commitment
  - FCC Remand. Non-Commitment
  - FCC Remand. COMAD
  - State Replacement Contract SPIN Change (Non-Appeal)
  - Service Substitution Appeal
  - Invoice Deadline Extension Appeal
  - FCC Form 500 Appeal
  - FCC 17-139 Hurricane Relief

Pick the best option to describe your **“Appeal Type.”**  
If unsure, select **“Appeal.”**

# Appeal Details – Appeal Category

## Appeal Details

Nickname \*

Create a descriptive nickname|

Funding Year \*

2016, 2017, 2018, 2019, 2020

What type of decision would you like to appeal? ? \*

-- Select a Value --

Appeal Type \*

-- Select a Value --

**Appeal Category \***

|   |  |  |
|---|--|--|
| 28 Day Violation                          | Data Entry Errors                                | Red Light Rule                             |
| Beneficiary and Contributor Audit Program | Discount Calculations                            | Service Delivery/Implementation            |
| Beneficiary Audit                         | Duplicative Services Issue                       | Service Eligibility                        |
| Bidding Violation                         | Form 472 (BEAR)                                  | Service Substitution                       |
| Cancellation Dispute                      | Form 474 (SPI)                                   | Services Not Posted                        |
| Category of Service Change                | Ineligible Entity                                | SPIN Change - Corrective                   |
| Category Two Budget                       | Invoice Deadline Extension (IDE)                 | SPIN Change - Operational                  |
| CIPA                                      | Late Filing of Form 486                          | USAC POA (Payment Quality Assurance Audit) |
| COMAD/RIDF                                | MPS (Minimum Processing Standards)               |  |
| Contract Dates                            | No Binding Contract                              |  |
| Cost-Effectiveness                        | No Response/Insufficient Documentation Violation |  |
|   | Post Payment Review Recovery                     |  |

# Select FRNs for Appeal

**Choose Search Method**

- Use “Search by FRN” for most appeals.
- If the appeal is from a decision made by SLD on a Form 500, SPIN Change, Service Substitution, then select “Search by Post-Commitment Request.”

The search results will show all possible FRNs or post-commitment request decisions that are associated with the BEN and may be appealed.

**Important:** If your search results do not identify the FRN or the post-commitment request # that you want to appeal, submit a customer service case and submit the appeal as an attachment.

| <input type="checkbox"/>            | FRN        | ↑ Application Number | FRN Nickname                  | Category of Service | FRN Status |
|-------------------------------------|------------|----------------------|-------------------------------|---------------------|------------|
| <input checked="" type="checkbox"/> | 1899054544 | 181028720            | Frontier Cable Modem Internet | Category 1          | Funded     |
| <input type="checkbox"/>            | 1899054580 | 181028720            | Comcast Cable Modem           | Category 1          | Funded     |

Must select at least 1 FRN to add to appeal

ADD (1) FRNS

# Narrative Text/Document Upload

## Appeal Details

### Narrative \*

It is recommended that you write your appeal in a separate document and upload the document, so you have a complete record of your appeal and formatting is retained. Upload all supporting documentation in addition to uploading the appeal (multiple documents may be uploaded). If you choose to use the narrative, keep in mind there is a 2000-character limitation.

0/2000 characters

Please explain the reason for your appeal. If you are appealing multiple decisions by the Administrator (USAC), list all of the decisions you are appealing for FRN(s). You may upload supporting documentation to help further explain your appeal. Please remember that waivers of an official E-rate rule can only be sought at the Federal Communications Commission (FCC), not USAC (this would include such appeals as seeking a waiver of the rule that an invoice extension be filed before the last date to invoice and appeals seeking a waiver of the FCC Form 471 deadline). Conversely, the FCC will not accept appeals of USAC decisions that have not first been appealed to USAC (such as late FCC Form 486s where there is no FCC rule governing the deadline). See 47 C.F.R. § 54.719.

## Upload Document

### New Document #1

 Drop file here

Please note that the document upload is not required to proceed with the Form

# Retrieve Copy of Appeal

EPC Landing Page > BEN Name > FRN Appeals

Customer Service   Modifications   Additional Information   Discount Rate   Contracts   FCC Forms   **FRN Appeals**   News   Related Actions

## Appeals

| Appeal Number | Request Status | Nickname                            | Created On              | Created By         |
|---------------|----------------|-------------------------------------|-------------------------|--------------------|
| 77086         | Complete       | FRN 1799092779 CTSI Frontier Appeal | 10/14/2017 12:36 PM EDT | dmkriete@gmail.com |

In-Review

Outreach

Wave Ready

Committed

### ▼ Appeal Information

View Status (+)

**Status** USAC issued a revised funding decision on 03/19/2018. Check your Newsfeed for the decision.

# Next Steps

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- Respond to any questions that you may receive
  - Email from EPC will require you to log in and respond to questions in your portal
  - Locate questions either:
    - In your news feed or
    - From your Landing Page, scroll to bottom section, FCC Forms and Post-Commitment Requests
      - Select Post-Commitment Requests
      - Request type = appeal
      - Select applicable FY
      - Then select Request Number
      - Select Related Actions
        - » Respond to Inquiries

# Appeal Decision

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- Decision will be issued in the form of a Revised FCDL (RFCDL)
- Will be emailed to appeal contact person in the same manner as a FCDL
  - PDF and .CSV file will be attached
  - Revised FCDL will indicate whether appeal was approved
    - If appeal was denied, you have 60 days to file a further appeal to the FCC