

Universal Service  
Administrative Co.

## Administrator's Decision on Appeal – Funding Year 2013

September 26, 2018

Dawn Belden  
Educational Consortium for Telecommunications Savings  
790 Newton-Yardley Road, Suite 410  
Newton, PA 18940

Re: Applicant Name: Roselle Borough School Dist  
Billed Entity Number: 122790  
Form 471 Application Number: 922448  
Funding Request Number(s) (FRN): 2543695, 2543748  
Your Correspondence Dated: August 7, 2018

The Universal Service Administrative Company (USAC) has completed its evaluation of the August 7, 2018 letter of appeal (Appeal) submitted by Roselle Borough School Dist (the District).<sup>1</sup> The Appeal requests that USAC cease its recovery action because the District timely submitted its invoices before the extended September 1, 2017 invoicing deadline.<sup>2</sup>

USAC has reviewed the appeal and the facts related to this matter and determined that it cannot grant the appeal because USAC is not authorized to waive the Federal Communications Commission (FCC) rules.<sup>3</sup> USAC is also required to seek recovery for funding that is disbursed in violation of the FCC rules.<sup>4</sup>

On May 30, 2017, the Federal Communications Commission (FCC) issued the *Jefferson-Madison Reconsideration Order* directing USAC to identify and allow all applicants who

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<sup>1</sup> Letter from Dawn Belden, Consultant, Educational Consortium for Telecommunications Savings. to Schools and Libraries Division, USAC (August 7, 2018) (*Appeal*).

<sup>2</sup> *Id.* at 2.

<sup>3</sup> See generally, 47 C.F.R. § 54.702(c) (2013) (“[USAC] may not make policy, interpret unclear provisions of the statute or rules, or interpret the intent of Congress.”). See 47 C.F.R. § 54.719(c) (“Parties seeking waivers of the Commission’s rules shall seek relief directly from the Commission.”).

<sup>4</sup> See *Changes to the Bd. Of Directors of the Nat’l Exchange Carrier Association, et al.*, CC Docket Nos. 96-45, *et al.*, Order, FCC 99-291 (1999) (*Commitment Adjustment Order*); *Changes to the Bd. Of Directors of the Nat’l Exchange Carrier Association, et al.*, CC Docket Nos. 96-45, *et al.*, Order, 15 FCC Rcd 7197 (1999) (*Commitment Adjustment Waiver Order*); *Changes to the Bd. of Directors of the Nat’l Exchange Carrier Association, et al.*, CC Docket Nos. 96-45, *et al.*, Order, 15 FCC Rcd 22975 (2000) (*Commitment Adjustment Implementation Order*).



timely filed their Billed Entity Application for Reimbursement (BEAR) forms to be allowed to resubmit their BEAR forms even if their service provider failed to certify the BEAR form prior to the original invoicing deadline.<sup>5</sup>

The invoicing deadline for Funding Request Numbers (FRNs) 2543695 and 2543748 was June 15, 2015. The District did not submit a BEAR form for those FRNs by that deadline, and therefore was ineligible for relief under the *Jefferson-Madison Reconsideration Order*. However, USAC erroneously identified the District as an applicant who qualified for the relief and improperly extended the invoice filing deadline for FRNs 2543695 and 2543748 to September 1, 2017.<sup>6</sup> Because USAC is not authorized to waive the FCC's invoicing deadline rules,<sup>7</sup> USAC must recover funding that was disbursed in violation of the FCC's rules.<sup>8</sup> For these reasons, your appeal is denied.

If you want to seek a waiver of FCC rules, or if you wish to appeal this decision, you must submit your request for waiver or appeal to the FCC within 60 days of the date of this decision letter. On all communications with the FCC, be sure to reference CC Docket No. 02-6. The FCC recommends filing with the Electronic Comment Filing System (ECFS) to ensure timely filing. You can find instructions for using ECFS on the ECFS Online Manual page of the FCC's website. The FCC will consider electronic filings as filed on a business day if they are received before midnight ET. If you have questions or comments about using the ECFS, please contact the FCC directly at (202) 418-0193 or via email. For additional information about submitting appeals or waiver requests to the FCC, including options to submit via U.S. mail or hand delivery, visit the FCC's website at: <https://www.fcc.gov/reports-research/guides/how-file-paper-documents-fcc>.

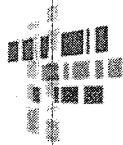
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<sup>5</sup> *Petition for Reconsideration by Jefferson-Madison Regional Library*, CC Docket No. 02-6, Order on Reconsideration, 32 FCC Rcd 4626, 4632, para. 15 (2017).

<sup>6</sup> See Letter from Schools and Libraries Division, USAC to Marek Krakowski, Roselle Borough School Dist (Aug. 2, 2017) (notifying the District that it qualified for relief pursuant to the *Jefferson-Madison Order* and extending the invoicing deadline to September 1, 2017).

<sup>7</sup> See generally, 47 C.F.R. § 54.702(c) (2013) ("[USAC] may not make policy, interpret unclear provisions of the statute or rules, or interpret the intent of Congress."). See 47 C.F.R. § 54.719(c) ("Parties seeking waivers of the Commission's rules shall seek relief directly from the Commission."). *Request for Review of the Decision of the Universal Service Administrator by Merced Union High School*, CC Docket No. 96-45, Order, 15 FCC Rcd 18803, 18805 (2000) ("We note that rules and policies are enforced even where a party received erroneous advice from a government employee, and the Commission is not estopped from enforcing its rules in a manner that is inconsistent with the advice provided by the employee, particularly when the relief requested would be contrary to an applicable statute or rule.").

<sup>8</sup> See *Changes to the Bd. Of Directors of the Nat'l Exchange Carrier Association, et al.*, CC Docket Nos. 96-45, *et al.*, Order, FCC 99-291 (1999) (*Commitment Adjustment Order*); *Changes to the Bd. Of Directors of the Nat'l Exchange Carrier Association, et al.*, CC Docket Nos. 96-45, *et al.*, Order, 15 FCC Rcd 7197 (1999) (*Commitment Adjustment Waiver Order*); *Changes to the Bd. of Directors of the Nat'l Exchange Carrier Association, et al.*, CC Docket Nos. 96-45, *et al.*, Order, 15 FCC Rcd 22975 (2000) (*Commitment Adjustment Implementation Order*).



Universal Service  
Administrative Co.

Schools and Libraries Division  
Universal Service Administrative Company

CC: Marek Krakowski  
Roselle Borough School Dist  
710 Locust Street  
Roselle, NJ 07203-1919

Dawn Belden  
Educational Consortium for Telecommunications Savings  
790 Newton-Yardley Road, Suite 410  
Newton, PA 18940

Billed Entity Number: 122790  
Form 471 Application Number: 922448  
Form 486 Application Number: 1005544

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## Track BEAR Forms

Please choose from one or more of the following search options:

Created Date Range:	From:	<input type="text"/>	To:	<input type="text"/>
Dollar Amount:	Min:	<input type="text"/>	Max:	<input type="text"/>
SPIN:	<input type="text"/>			
Invoice Id:	<input type="text" value="2192147"/>			
Applicant Form Identifier:	<input type="text"/>			

Display Results As:

- ☐ BEAR  
☒ FRN

### Search Results:

BEAR:							
Invoice ID	Applicant Form Identifier	SPIN	Status	Reimbursement Amount	Contact Name	Authorized By	Date Created
2192147	FIBER13-14	143019354	PENDING VALIDATION	\$168973.2	Marek Krakowski	MAREK KRAKOWSKI	6/9/2015 9:28:32 AM
BEAR Line Items:							
Application Number	Funding Request Number	Total (Undiscounted) Amount for Service		Total Discount Amount Billed to SLC		Line Item Status	
922448	2543695	95988.00		81589.80		AWAITING CERTIFICATION	
922448	2543748	102804.00		87383.40		AWAITING CERTIFICATION	

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Client Service Bureau: 1-888-203-8100

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Do not write in this space.

Approved by OMB  
OMB Control No. 3060 - 0856  
Estimated time per Response: 1.0 hours

## Universal Service for Schools and Libraries

Please read instructions before  
completing.

(To be completed by schools, libraries, or  
consortia.)

### BILLED ENTITY APPLICANT REIMBURSEMENT FORM

For reimbursement of discounts on approved services already paid for by the Billed Entity Applicant.

Only one Service Provider Identification Number (SPIN) per form.

Must be completed and signed by the Billed Entity Applicant.

Persons willfully making false statements on this form can be punished by fine or forfeiture, under the Communications Act, 47 U.S.C. Secs. 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. Sec. 1001.

#### FCC NOTICE FOR INDIVIDUALS REQUIRED BY THE PRIVACY ACT AND THE PAPERWORK REDUCTION ACT

Part 54 of the Commission's Rules authorizes the FCC to collect the information on this form. Failure to provide all requested information will delay the processing of the application or result in the application being returned without action. Information requested by this form will be available for public inspection. Your response is required to obtain the requested authorization.

The public reporting for this collection of information is estimated to range from 1 to 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the required data, and completing and reviewing the collection of information. If you have any comments on this burden estimate, or how we can improve the collection and reduce the burden it causes you, please write to the Federal Communications Commission, AMD-PERM, Paperwork Reduction Act Project (3060-0856), Washington, DC 20554. We will also accept your comments regarding the Paperwork Reduction Act aspects of this collection via the Internet if you send them to [PRA@fcc.gov](mailto:PRA@fcc.gov). PLEASE DO NOT SEND YOUR RESPONSE TO THIS FORM TO THIS ADDRESS.

Remember - You are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number or if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-0856.

THE FOREGOING NOTICE IS REQUIRED BY THE PRIVACY ACT OF 1974, PUBLIC LAW 93-579, DECEMBER 31, 1974, 5 U.S.C. 552a(e)(3) AND THE PAPERWORK REDUCTION ACT OF 1995, PUBLIC LAW 104-13, OCTOBER 1, 1995, 44 U.S.C. SECTION 3507.

Applicant Form Identifier (Create an identifier for your  
own reference)  
FIBER13-14

FCC Form 472 Invoice #  
(To be inserted by administrator) 2192147

#### BLOCK 1: HEADER INFORMATION

1. Billed Entity Name	ROSELLE BOROUGH SCHOOL DIST
2. Billed Entity Number	122790
3. Service Provider Identification Number (SPIN)	143019354
Applicant FCC Form 498 ID	
4. Contact Name	Marek Krakowski
5. Contact Telephone Number	908- 2982040 ext 2130
6. Total Reimbursement Amount (total from Block 2, Column 14)	\$168,973.20

### Billed Entity Applicant Reimbursement Form

For reimbursement of discounts on approved services already paid for by the Billed Entity Applicant.

Billed Entity Name ROSELLE BOROUGH SCHOOL DIST Billed Entity Number 122790

Contact Name Marek Krakowski Contact Telephone Number 908-29820402130

Applicant Form Identifier FIBER13-14

#### BLOCK 2: LINE ITEM INFORMATION PER FUNDING REQUEST NUMBER

	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
	FCC Form 471 Application Number (from Funding Commitment Decision Letter)	Funding Request Number (FRN) (from Funding Commitment Decision Letter)	Bill Frequency	Customer Billed Date (mm/yyyy)	Shipping Date to Customer or Last Day of Work Performed (mm/dd/yyyy)	Total (Undiscounted) Amount for Service	Discount Rate	Amount Billed to USAC (Column 12 multiplied by Column 13)
			DO NOT WRITE IN THIS COLUMN.	For each FRN, complete either Column (10) or Column (11), but not both Columns				
1	922448	2543695		7/1/2013		\$95,988.00	85.00	\$81,589.80
2	922448	2543748		7/1/2013		\$102,804.00	85.00	\$87,383.40
3								
4								
5								
6								
7								
8								
9								
10								
11								
12								
13								
14								
<b>TOTAL REIMBURSEMENT AMOUNT TO BE ENTERED INTO ITEM (6)</b>								<b>\$168,973.20</b>

# BILLED ENTITY APPLICANT Reimbursement Form

Billed Entity Name ROSELLE BOROUGH SCHOOL DIST

Billed Entity Number 122790

Contact Name Marek Krakowski

Applicant Form Identifier FIBER13-14

## Block 3: Billed Entity Certification

I declare under penalty of perjury that the foregoing is true and correct and that I am authorized to submit this Billed Entity Applicant Reimbursement Form on behalf of the eligible schools, libraries, or consortia of those entities represented on this Form, and I certify to the best of my knowledge, information and belief, as follows:

- A. The discount amounts listed in this Billed Entity Applicant Reimbursement Form represent charges for eligible services and/or equipment delivered to and used by eligible schools, libraries, or consortia of those entities for educational purposes, on or after the service start date reported on the associated FCC Form 486.
- B. The discount amounts listed in this Billed Entity Applicant Reimbursement Form were already billed by the Service Provider and paid for by the Billed Entity Applicant on behalf of eligible schools, libraries, and consortia of those entities.
- C. The discount amounts listed in this Billed Entity Applicant Reimbursement Form are for eligible services and/or equipment approved by the Fund Administrator pursuant to a Funding Commitment Decision Letter (FCDL).
- D. I acknowledge that I may be audited pursuant to this application and will retain for at least 10 years (or whatever retention period is required by the rules in effect at the time of this certification), after the latter of the last day of the applicable funding year or the service delivery deadline for the funding request any and all records that I rely upon to complete this form.
- E. I certify that, in addition to the foregoing, this Billed Entity Applicant is in compliance with the rules and orders governing the schools and libraries universal service support program, and I acknowledge that failure to be in compliance and remain in compliance with those rules and orders may result in the denial of discount funding and/or cancellation of funding commitments. I acknowledge that failure to comply with the rules and orders governing the schools and libraries universal service support program could result in civil or criminal prosecution by law enforcement authorities.

15. Signature of authorized person **Signed electronically by MAREK KRAKOWSKI**

16. Date **6/9/2015**

17. Printed name of authorized person **MAREK KRAKOWSKI**

18. Title or position of authorized person **NETWORK MANAGER**

19. Telephone number of authorized person **908- 2982040 ext 2130**

20. Address of authorized person **710 LOCUST STREET, ROSELLE NJ 07203**



Do not write in this space.

## Universal Service for Schools and Libraries

Please read instructions before completing.

(To be completed by schools, libraries, or consortia.)

### BILLED ENTITY APPLICANT REIMBURSEMENT FORM

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Applicant Form Identifier (Create an identifier for your own reference)  
FIBER13-14 R

FCC Form 472 Invoice #  
(To be inserted by administrator) 2669342

#### BLOCK 1: HEADER INFORMATION

1. Billed Entity Name	ROSELLE BOROUGH SCHOOL DIST
2. Billed Entity Number	122790
3. Service Provider Identification Number (SPIN)	143019354
Applicant FCC Form 498 ID	443014715
4. Contact Name	Marek Krakowski
5. Contact Telephone Number	908- 2982040 ext 2130
6. Total Reimbursement Amount (total from Block 2, Column 14)	\$168,973.20

### Billed Entity Applicant Reimbursement Form

For reimbursement of discounts on approved services already paid for by the Billed Entity Applicant.

Billed Entity Name ROSELLE BOROUGH SCHOOL DIST Billed Entity Number 122790  
Contact Name Marek Krakowski Contact Telephone Number 908-29820402130  
Applicant Form Identifier FIBER13-14 R

#### BLOCK 2: LINE ITEM INFORMATION PER FUNDING REQUEST NUMBER

	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
	FCC Form 471 Application Number (from Funding Commitment Decision Letter)	Funding Request Number (FRN) (from Funding Commitment Decision Letter)	Bill Frequency	Customer Billed Date (mm/yyyy)	Shipping Date to Customer or Last Day of Work Performed (mm/dd/yyyy)	Total (Undiscounted) Amount for Service	Discount Rate	Amount Billed to USAC (Column 12 multiplied by Column 13)
			DO NOT WRITE IN THIS COLUMN.	For each FRN, complete either Column (10) or Column (11), but not both Columns				
1	922448	2543695	MONTHLY	7/1/2013		\$95,988.00	85.00	\$81,589.80
2	922448	2543748	MONTHLY	7/1/2013		\$102,804.00	85.00	\$87,383.40
3								
4								
5								
6								
7								
8								
9								
10								
11								
12								
13								
14								
TOTAL REIMBURSEMENT AMOUNT TO BE ENTERED INTO ITEM (6)								\$168,973.20

# BILLED ENTITY APPLICANT Reimbursement Form

Billed Entity Name ROSELLE BOROUGH SCHOOL DIST

Billed Entity Number 122790

Contact Name Marek Krakowski

Applicant Form Identifier FIBER13-14 R

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- C. The discount amounts listed in this Billed Entity Applicant Reimbursement Form are for eligible services and/or equipment approved by the Fund Administrator pursuant to a Funding Commitment Decision Letter (FCDL).
- D. I acknowledge that I may be audited pursuant to this application and will retain for at least 10 years (or whatever retention period is required by the rules in effect at the time of this certification), after the latter of the last day of the applicable funding year or the service delivery deadline for the funding request any and all records that I rely upon to complete this form.
- E. I certify that, in addition to the foregoing, this Billed Entity Applicant is in compliance with the rules and orders governing the schools and libraries universal service support program, and I acknowledge that failure to be in compliance and remain in compliance with those rules and orders may result in the denial of discount funding and/or cancellation of funding commitments. I acknowledge that failure to comply with the rules and orders governing the schools and libraries universal service support program could result in civil or criminal prosecution by law enforcement authorities.

15. Signature of authorized person **Signed electronically by MAREK KRAKOWSKI**

16. Date **8/22/2017**

17. Printed name of authorized person **MAREK KRAKOWSKI**

18. Title or position of authorized person **NETWORK MANAGER**

19. Telephone number of authorized person **908- 2982040 ext 2130**

20. Address of authorized person **710 LOCUST STREET, ROSELLE NJ 07203**

*Handwritten:*  
Last Date To  
Invoice  
9/1/17