

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
	)	
Schools and Libraries	)	CC Docket No. 02-6
Universal Service Support Mechanism	)	
	)	
Request for Review and/or Waiver by	)	
Greater Johnstown CTC	)	Application No. 963078
of Funding Decision by the	)	
Universal Service Administrative Company	)	

**REQUEST FOR REVIEW AND/OR WAIVER  
BY GREATER JOHNSTOWN CTC  
OF FUNDING DECISION BY THE  
UNIVERSAL SERVICE ADMINISTRATIVE COMPANY**

Pursuant to sections 54.719 and 54.722 of the Commission's rules,<sup>1</sup> the Greater Johnstown CTC (GJCTC or the School) in Johnstown, Pennsylvania,<sup>2</sup> hereby respectfully requests a review of the Universal Service Administrative Company (Administrator) decision to deny and remand Schools and Libraries Universal Service (E-Rate) funding to GJCTC for its Funding Year 2014 FCC Form 471 Application No. 963078 and Form 472 Invoice No. 2653935.<sup>3</sup>

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<sup>1</sup> 47 C.F.R. § 54.719(b), (c); 47 C.F.R. § 54.722(a).

<sup>2</sup> Billed Entity Number 17304.

<sup>3</sup> GJCTC is appealing the denial of funding for FCC Form 472 No. 2653935 (FRN No. 2647242). *See Attachment A.*

GJCTC requests a review of the denial of the Schools and Libraries Division of the Universal Service Administrative Company Decision Letter (Administrator's Decision Letter) dated November 9, 2018<sup>4</sup> and contends that these funds were disbursed appropriately and within the rules of the E-Rate program.

In the alternative, even if it GJCTC inadvertently missed a certification deadline, not a filing deadline, of the Form 472 Invoice, the School contends that the Service Provider was the reason that the deadline was missed for the certification and that the School should not be held liable for the funding which has already been disbursed as it was the fault of a service provider. Consistent with precedent, the Bureau should grant a waiver of the rules to allow GJCTC to retain the funding already disbursed.

## BACKGROUND

The Appeal originally submitted to the Administrator was based on the Form 471 USAC Recovery of Improperly Disbursed Funds Letter, dated: June 18, 2018 (Administrator's Recovery Letter) for FCC Form 471 Number 963078.<sup>5</sup> The letter issued the following Funding Commitment Adjustment Explanation:

“You received disbursements after your invoice deadline. For recurring services, invoices must be submitted no later than 120 days after the last day to receive service or 120 days after the FCC Form 486 Notification Letter date, whichever is later. Services must be delivered within the fund year. Your invoice was received after the invoice deadline. Therefore, USAC must see recovery of improperly disbursed funds in the amount of \$2,414.40”

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<sup>4</sup> See Attachment B.

<sup>5</sup> See Attachment C.

On October 23, 2015 a Billed Entity Applicant Reimbursement Form (BEAR) or FCC Form 472 Invoice No. 2273970<sup>6</sup>, was filed on-line with the Administrator by GJCTC. The BEAR was for FRN 2647242 for a total of \$2,682.67 discounted at 90% for the total amount billed to USAC of \$2,414.40. The service provider, In The Stix Broadband LLC (In The Stix) was contacted via telephone about certifying the corresponding BEAR.

GJCTC originally submitted a timely BEAR for FRN 2647242. October 23, 2015 is before the invoice deadline of October 30, 2015 and this BEAR was filed and certified by GJCTC at that time. The service provider, In The Stix did not certify the BEAR prior to October 30, 2015; however, GJCTC recognized that this was the first year of E-Rate participation for In The Stix and that In The Stix personnel may not have been familiar with the E-Rate process, so GJCTC applied for and was granted a one-time extension for the BEAR deadline, until May 27, 2016, by the Administrator.

Unfortunately, even after repeated phone calls by GJCTC asking for the BEAR to be certified, the service provider, In The Stix, did not certify the BEAR prior to 05/27/2016 and therefore the BEAR Invoice No. 2273970 was not paid by USAC. However, since the BEAR was filed on-line GJCTC was not aware that the service provider did not certify the form until after the deadline had passed.

On August 2, 2017, USAC sent an Administrator's Decision on FCC Remand – Funding Year 2014 letter (USAC Remand Letter) to GJCTC identifying that the BEAR form for FRN 2647242 should be resubmitted by September 1, 2017.<sup>7</sup>

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<sup>6</sup> See Attachment D.

<sup>7</sup> See Attachment E.

GJCTC resubmitted the BEAR form on August 8, 2017 for a total of \$2,682.67 discounted at 90% for the total amount billed to USAC of \$2,414.40, (FCC Form 472 Invoice No. 2653935).<sup>8</sup> This BEAR form was approved by USAC and subsequently a reimbursement of \$2,414.40 was made to GJCTC by USAC.

On June 18, 2018 the Administrator's Recovery Letter was sent to GJCTC which resulted in an Appeal to the Administrator and subsequently resulted in the Administrator's Decision Letter dated November 9, 2018.

## DISCUSSION AND ARGUMENT

The Commission implemented the rules and regulations for the *Telecommunications Act of 1996*. In doing so, among other regulations, it established two invoicing methods:

- Form 472, Billed Entity Applicant Reimbursement (BEAR) Form: applicant pays for services in full and then requests reimbursement from the USAC
- Form 474, Service Provider Invoice (SPI): Service provider discounts customer (applicant) bills and then requests discount amount from the USAC

“Under existing law and Commission procedure, the Administrator of the universal service support mechanism does not provide funds directly to schools and libraries, but rather, provides funds to eligible service providers who offer discounted services to eligible schools.”<sup>9</sup>

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<sup>8</sup> See Attachment A.

<sup>9</sup> See *Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service*, CC Docket Nos. 97-21 and 96-45, Order, FCC 99-291, paras. 8-9 (rel. October 8, 1999); *Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service*, CC Docket Nos. 97-21 and 96-45, Order, FCC 00-350 (rel. October 26, 2000). Also, see FCC 03-101, para 42

“The Commission previously noted in the Universal Service Order that requiring schools . . . to pay in full could create serious cash flow problems for many schools . . . would disproportionately affect the **most disadvantaged** schools and libraries.”<sup>10</sup> [Emphasis Added].

GJCTC is arguably one of the most disadvantaged schools (eligible for a 90% discount) being served by the FCC E-Rate program – it would devastate the School’s finances if this unexpected remand of funding was considered to be their responsibility.

GJCTC received Internet access services from the service provider, In The Stix, for the fund year beginning July 1, 2014 through June 30, 2015. The School paid the service provider for these services in full. The service provider was made whole by the School, but could not complete the steps necessary to certify the BEAR form in a timely manner, therefore it is the most disadvantaged party, GJCTC, that suffers the financial loss if this funding is denied.

There is no basis for the recovery of the funds disbursed by USAC as expressed by USAC in the Administrator’s Decision Letter denial, specifically “The invoicing deadline for Funding Request Number (FRN) 2647242 was May 27, 2016. The School did not submit a BEAR form for that FRN by that deadline, and therefore was ineligible for relief under the *Jefferson-Madison Reconsideration Order*.”

GJCTC offers this instant Appeal to refute this statement in the Administrator’s Decision Letter. Additionally, in the Administrator’s Remand Letter the Administrator specifically identifies the FCC Order DA 17-526 released on May 30, 2017. “In DA 17-526, the FCC directed USAC to allow applicants to resubmit invoices, or Billed Entity Applicant Reimbursement (BEAR) forms, which had been timely filed between August 2014 and July

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<sup>10</sup> Para 47, FCC 03-101; Universal Service Order, 12 FCC Rcd at 9083, para. 586

2016 and that were rejected “based on a lack of timely service provider certifications before the invoice filing deadline.”<sup>11</sup>

GJCTC filed the original invoice (FCC Form 472 Invoice No. 2273970) on October 23, 2015. This was filed during the time referenced in the Administrator’s Remand Letter “...August 2014 and July 2016...”<sup>12</sup>, and this BEAR form was timely submitted to USAC in advance of the deadline imposed by 47 CFR section 54.514(a).

As stated in the Administrator’s Remand Letter dated August 2, 2017 the BEAR was not paid “...based on a lack of timely service provider certification before the invoice filing deadline.”<sup>13</sup> This Administrator’s Remand Letter was based on the FCC Order on Reconsideration DA 17-526 (*Jefferson-Madison* decision)<sup>14</sup> and exactly what occurred with the BEAR issue with GJCTC and In The Stix. The DA 17-526 (*Jefferson-Madison* decision) Order does in fact apply to BEAR Invoice No. 2273970.

The BEAR was filed on-line prior to the original BEAR deadline. The service provider had represented to the School that it would certify the BEAR form. The School applied for, and was granted a one-time extension for the certification of the BEAR form. The on-line system did not permit GJCTC to see when or if the certification to the BEAR occurred. GJCTC was unaware the service provider had not certified the BEAR form until after the deadline had passed.

The Commission specifically states in the *Jefferson-Madison* decision the interpretation of section 54.514(a) is “...more consistent with both the plain language of the specific rule and

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<sup>11</sup> See Attachment E.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> See FCC Order on Reconsideration *Jefferson-Madison Regional Library, et. al., cc Docket No. 02-6, DA 17-526*, (released May 30, 2017). (*Jefferson-Madison* decision)

the E-rate program rules more broadly, is that **BEAR forms may be considered timely submitted even if the service provider did not certify them before the deadline.**<sup>15</sup>

[Emphasis added]

Additionally, the Commission continues in the Jefferson-Madison decision “We now find that under section 54.514(a) of the Commission’s rules, **USAC should have considered a BEAR form timely if it was submitted before the invoice filing deadline even if the service provider had not certified it before the invoice filing deadline.**”<sup>16</sup> [Emphasis added]

Finally, the FCC directed USAC “to identify any BEAR forms that were rejected for lacking a service provider certification after the timely submission by the applicant, [as is the case here] and allow for the resubmission and processing...”<sup>17</sup> That was done in the Administrator’s Remand Letter sent to GJCTC on August 2, 2017. GJCTC resubmitted the BEAR form, as directed, on August 8, 2017 (FCC Form 472 Invoice No. 2653935).<sup>18</sup> This BEAR form was approved by USAC on August 16, 2017.

#### ALTERNATIVE WAIVER REQUEST

Any of the Commission’s rules may be waived if good cause is shown.<sup>19</sup> The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.<sup>20</sup> The Commission has recently granted waivers to applicants that were unable to file their BEAR forms or an extension request before

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<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *See Attachment A.*

<sup>19</sup> 47 C.F.R. § 1.3.

<sup>20</sup> *See Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

the filing deadline due to circumstances outside of their control.<sup>21</sup> The Service Provider not certifying the BEAR in this situation (and since this BEAR was filed on-line the School was unable to see that it was not certified until after the deadline had passed) was outside the School's control.

If the Commission finds that GJCTC violated its rules – even if inadvertently – we respectfully request that the Commission waive the relevant rules because, as demonstrated above, such a waiver is in the public interest and consistent with prior Commission rulings as in the *Ada Public Library* decision and *Jefferson-Madison* decision.

## CONCLUSION

GJCTC filed FCC Form 472 Invoice No. 2273970 prior to the invoice deadline of October 30, 2015 as instructed under 47 CFR § 54.514(a). The service provider failed to certify the BEAR prior to the deadline. The *Jefferson-Madison* decision released on May 30, 2017 allows for the BEAR to be considered for payment by USAC, which was done via a new BEAR submitted on August 8, 2017. All of these forms were filed in a timely manner, the Administrator approved the final BEAR, and payment was received by GJCTC.

To return this funding at this date would indeed be a hardship for such a needy School. In the alternative, GJCTC requests that the Commission consider this request for waiver of section 47 CFR § 54.514(a) of its rules.

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<sup>21</sup> See *Request for Review and/or Waiver of Decisions of the Universal Service Administrator by Ada Public Library; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, DA 17-256 (WCB Mar. 16) (*Ada Public Library* decision).



Any errors in the specific circumstances here were procedural rather than a failure to adhere to a core program requirement or a misuse of funds by the School. There is no evidence or instance of waste, fraud, or abuse here.

For the foregoing reasons, GJCTC urges the FCC to grant this Request for Review and/or Waiver; overturn the Administrator's Decision Letter of November 9, 2018 and ultimately, dismiss the Administrator's Recovery Letter of June 18, 2018.

Respectfully submitted  
*on behalf of Greater Johnstown CTC*

/s/ Rosemary Enos  
Rosemary Enos  
Epic Communications  
P.O. Box 39490  
Solon, OH 44139  
Phone: (216) 514-3336  
Fax: (216) 514-3337  
rpenos@epicinc.org

January 7, 2019

# ATTACHMENT A

FCC Form 472

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-PER, 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. 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)

STIX Y17GRJOHNSTOWN

FCC Form 472 Invoice #

(To be inserted by administrator) 2653935

#### BLOCK 1: HEADER INFORMATION

1. Billed Entity Name	GREATER JOHNSTOWN CTC
2. Billed Entity Number	17304
3. Service Provider Identification Number (SPIN)	143037410
Applicant FCC Form 498 ID	443004416
4. Contact Name	LINDA ALEXANDER
5. Contact Telephone Number	216- 6820169 ext
6. Total Reimbursement Amount (total from Block 2, Column 14)	\$2,414.40

### Billed Entity Applicant Reimbursement Form

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

Billed Entity Name GREATER JOHNSTOWN CTC Billed Entity Number 17304  
Contact Name LINDA ALEXANDER Contact Telephone Number 216-6820169  
Applicant Form Identifier STIX Y17GRJOHNSTOWN

#### 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	963078	2647242		7/1/2014		\$2,682.67	90.00	\$2,414.40
2								
3								
4								
5								
6								
7								
8								
9								
10								
11								
12								
13								
14								
<b>TOTAL REIMBURSEMENT AMOUNT TO BE ENTERED INTO ITEM (6)</b>								<b>\$2,414.40</b>

## BILLED ENTITY APPLICANT Reimbursement Form

Billed Entity Name GREATER JOHNSTOWN CTC

Billed Entity Number 17304

Contact Name LINDA ALEXANDER

Applicant Form Identifier STIX Y17GRJOHNSTOWN

### 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 LINDA ALEXANDER

16. Date 8/8/2017

17. Printed name of authorized person LINDA ALEXANDER

18. Title or position of authorized person CLIENT MANAGER

19. Telephone number of authorized person 216- 6820169

20. Address of authorized person P.O. BOX 39490, SOLON OH 44139

## ATTACHMENT B



## Administrator's Decision on Appeal – Funding Year 2014

November 9, 2018

Rosemary Enos  
Epic Communications  
P.O. Box 39490  
Solon, OH 44139

Re: Applicant Name: Greater Johnstown CTC  
Billed Entity Number: 17304  
Form 471 Application Number: 963078  
Funding Request Number(s) (FRN): 2647242  
Your Correspondence Dated: August 15, 2018

The Universal Service Administrative Company (USAC) has completed its evaluation of the August 15, 2018 letter of appeal (Appeal) submitted by Greater Johnstown CTC (the School).<sup>1</sup> The Appeal requests that USAC cease its recovery action because the School timely submitted its invoice 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

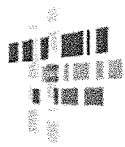
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<sup>1</sup> Letter from Rosemary Enos, Consultant, Epic Communications to Schools and Libraries Division, USAC (August 15, 2018) (*Appeal*).

<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*).



Universal Service  
Administrative Co.

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 Number (FRN) 2647242 was May 27, 2016. The School did not submit a BEAR form for that FRN by that deadline, and therefore was ineligible for relief under the *Jefferson-Madison Reconsideration Order*. However, USAC erroneously identified the school as an applicant who qualified for the relief and improperly extended the invoice filing deadline for FRN 2647242 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 John Augustine, Greater Johnstown CTC (Aug. 2, 2017) (notifying the School 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*).





Schools and Libraries Division  
Universal Service Administrative Company

## ATTACHMENT C



Universal Service  
Administrative Co.

## Recovery of Improperly Disbursed Funds Letter

John Augustine  
GREATER JOHNSTOWN CTC  
445 SCHOOLHOUSE RD  
JOHNSTOWN, PA 15904 - 2927

6/18/2018

Our review of your Schools and Libraries Universal Service Support Program (or E-rate) funding request has determined funds were committed in violation of Federal Communications Commission (FCC) rules. You have 60 days from the date of this letter to appeal the following decision(s). For more detailed information see below.

**Total amount to be recovered: \$2,414.40**

<i>FCC Form 471</i>	<i>FRN</i>	<i>Commitment adjustment</i>	<i>Total amount to be recovered</i>	<i>Explanation(s)</i>	<i>Party to recover from</i>
963078	2647242	\$0.00	\$2,414.40	FCC Directive	Applicant

*See Attached Adjustment Report for more information on the specific FRNs and Explanations listed above.*

### Recovery of Improperly Disbursed Funds

Our review of your Universal Service Schools and Libraries Support Program (or E-rate) funding request(s) referenced in the Adjustment Report has determined funds were improperly disbursed in violation of Federal Communications Commission (FCC) rules. A copy of that Adjustment Report is also attached to this letter.



## Universal Service Administrative Co.

FCC rules require the Universal Service Administrative Company (USAC) to rescind commitments and recover funding when it is determined that funding was committed and disbursed in violation of the rules. This letter notifies you that USAC will be adjusting your funding commitment(s) and provides information on how to appeal this decision.

This is NOT a bill. If disbursed funds need to be recovered, USAC will issue a Demand Payment Letter. The debt referenced in the Demand Payment Letter will be due within 30 days of that letter's date. Failure to pay the debt may result in interest, late payment fees, and administrative charges and will invoke the FCC's "Red Light Rule."

### FCC's Red Light Rule

The FCC Red Light Rule requires USAC to dismiss pending FCC Form 471 applications, appeals, and invoices or to net disbursements offsetting the debt if the entity responsible for paying the outstanding debt owed to the FCC has not paid the debt or made satisfactory arrangements to pay the debt within 30 days of the Demand Payment Letter. For information on the Red Light Rule, see

<https://www.fcc.gov/licensing-databases/fees/debt-collection-improvement-act-implementation>

### To Appeal This Decision

If you wish to contest any part of this letter, you must first file an appeal with USAC to seek review of the decision. Parties that have filed an appeal with USAC and received an adverse decision may, if they choose, appeal USAC's decision to the FCC. Parties seeking a waiver of a codified FCC rule should file a request for waiver directly with the FCC because USAC cannot waive FCC rules. Your appeal to USAC or waiver request to the FCC must be filed within 60 days of the date of this letter.

All appeals filed with USAC must be filed in EPC by selecting "Appeal" from the menu in the top right hand corner of your landing page and providing the requested information.

Your appeal should include the following information. (Because you file the appeal through your EPC account, the system will automatically fill in some of these components for you).

- 1) Name, address, telephone number, and email address for the contact person for this appeal.
- 2) Indicate specifically that your letter is an appeal. Include the following to identify the USAC decision letter (e.g., Recovery of Improperly Disbursed Funds) and the decision you are appealing:



**Universal Service  
Administrative Co.**

- a. Appellant name;
- b. Applicant name and service provider name, if different from appellant;
- c. Applicant BEN and Service Provider Identification Number (SPIN);
- d. FCC Form 471 Application Number and the Funding Request Number (FRN) or Numbers as assigned by USAC;
- e. "Recovery of Improperly Disbursed Funds," AND the exact text or the decision that you are appealing.

3) Identify the problem and the reason for the appeal and explain precisely the relief sought. Please keep your appeal to the point, and provide supporting documentation. Be sure to keep a copy of your entire appeal, including any correspondence and documentation. A copy will automatically be saved for you in EPC. USAC will reply to your appeal submission to confirm receipt.

For more information on submitting an appeal to USAC including step by step instructions on how to file the appeal through EPC, please see "Appeals" in the Schools and Libraries section of the USAC website.

As mentioned, parties seeking a waiver of FCC rules or that have filed an appeal with USAC and received a decision may file a request for waiver or appeal USAC's decision to the FCC. Waiver requests or appeals to the FCC must be made within 60 days of the issuance of USAC's decision and include all of the information referenced above for appeals to USAC.

The FCC recommends filing appeals or waiver requests with the Electronic Comment Filing System (ECFS) to ensure timely filing. Electronic waiver requests or appeals will be considered filed on a business day if they are received at any time before 11:59 PM ET. If you have questions or comments about using the ECFS, please contact the FCC directly at (202) 418-0193.

For more information about submitting waiver requests or appeals to the FCC, including options to submit the waiver request or appeal via U.S. mail or hand delivery, visit the FCC's website.

Schools and Libraries Division

cc: Nick Weakland  
In The Stix Broadband LLC



**Universal Service  
Administrative Co.**

## Adjustment Report

FCC Form 471 Application Number:	963078
Funding Request Number:	2647242
Commitment Adjustment:	\$0.00
Total Amount to Be Recovered:	\$2,414.40
Explanation(s):	FCC Directive
Party to Recover From:	Applicant
Funding Year:	2014
Billed Entity Number:	17304
Services Ordered:	INTERNET ACCESS
Service Provider Name:	In The Stix Broadband LLC
SPIN:	143037410
Original Funding Commitment:	\$3,785.76
Adjusted Funding Commitment:	\$3,785.76
Funds Disbursed to Date:	\$2,414.40

### Funding Commitment Adjustment Explanation

You received disbursements after your invoice deadline. For recurring services, invoices must be submitted no later than 120 days after the last day to receive service or 120 days after the FCC Form 486 Notification Letter date, whichever is later. Services must be delivered within the fund year. Your invoice was received after the invoice deadline. Therefore, USAC must seek recovery of improperly disbursed funds in the amount of \$2,414.40.

## ATTACHMENT D

FCC Form 472

**DO NOT STAPLE THIS FORM**

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 and signed by the relevant service provider.****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-PER, 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. 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)****17GRJONSTOWN- STIX****FCC Form 472 Invoice #****(To be inserted by administrator) 2273970****BLOCK 1: HEADER INFORMATION**

1. Billed Entity Name	<b>GREATER JOHNSTOWN CTC</b>
2. Billed Entity Number	<b>17304</b>
3. Service Provider Identification Number (SPIN)	<b>143037410</b>
4. Contact Name	<b>LINDA ALEXANDER</b>
5. Contact Telephone Number	<b>216- 6820169 ext</b>
6. Total Reimbursement Amount (total from Block 2, Column 14)	<b>\$2,414.40</b>



### Billed Entity Applicant Reimbursement Form

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

Billed Entity Name GREATER JOHNSTOWN CTC Billed Entity Number 17304

Contact Name LINDA ALEXANDER Contact Telephone Number 216-6820169

Applicant Form Identifier 17GRJONSTOWN-STIX

#### 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	963078	2647242		7/1/2014		\$2,682.67	90.00	\$2,414.40
2								
3								
4								
5								
6								
7								
8								
9								
10								
11								
12								
13								
14								
TOTAL REIMBURSEMENT AMOUNT TO BE ENTERED INTO ITEM (6)								\$2,414.40

## BILLED ENTITY APPLICANT Reimbursement Form

Billed Entity Name GREATER JOHNSTOWN CTC

Billed Entity Number 17304

Contact Name LINDA ALEXANDER

Applicant Form Identifier 17GRJONSTOWN- STIX

### 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 Column (14) of this Billed Entity Applicant Reimbursement Form represent charges for eligible services 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 Form 486.
- B. The discount amounts listed in Column (14) of this Billed Entity Applicant Reimbursement Form were already billed by the service provider and paid by the Billed Entity Applicant on behalf of eligible schools, libraries, and consortia of those entities.
- C. The discount amounts listed in Column (14) of this Billed Entity Applicant Reimbursement Form are for eligible services approved by the fund administrator pursuant to a Form 471 Funding Commitment Decision Letter.
- D. I recognize that I may be audited pursuant to this application and will retain for five years any and all records that I rely upon to fill in 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 LINDA ALEXANDER

16. Date 10/23/2015

17. Printed name of authorized person LINDA ALEXANDER

18. Title or position of authorized person CLIENT MANAGER

19. Telephone number of authorized person 216- 6820169

20. Address of authorized person P.O. BOX 39490-, SOLON OH 44139

## BILLED ENTITY APPLICANT Reimbursement Form

Billed Entity Name GREATER JOHNSTOWN CTC

Billed Entity Number 17304

Contact Name LINDA ALEXANDER

Applicant Form Identifier 17GRJONSTOWN- STIX

### Block 4: Service Provider Acknowledgment

I declare under penalty of perjury that the foregoing is true and correct and that I am authorized to submit this Service Provider Acknowledgment for this Billed Entity Applicant Reimbursement Form, and acknowledge to the best of my knowledge, information and belief, as follows:

- A. The service provider must remit the discount amount authorized by the fund administrator to the Billed Entity Applicant who prepared and submitted this Billed Entity Applicant Reimbursement Form as soon as possible after the fund administrator's notification to the service provider of the amount of the approved discounts on this Billed Entity Applicant Reimbursement Form, but in no event later than 20 business days after receipt of the reimbursement payment from the fund administrator, subject to the restriction set forth in B. below.
- B. The service provider must remit payment of the approved discount amount to the Billed Entity Applicant prior to tendering or making use of the payment issued by the Universal Service Administrative Company to the service provider of the approved discounts for the Billed Entity Applicant Reimbursement Form.
- C. I certify that, in addition to the foregoing, this Service Provider 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.

21. Signature of authorized person (fax, copy or original signature)

22. Date

23. Printed name of authorized person

24. Title or position of authorized person

25. Telephone number of authorized person -

26. Address of authorized person

### 27.Applicant Remittance Information

Name **LINDA ALEXANDER**

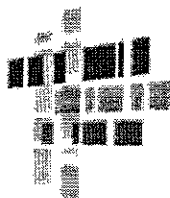
Title **CLIENT MANAGER**

Street Address

**P.O. BOX 39490**

**OLON, OH 44139-0490**

# ATTACHMENT E



Universal Service  
Administrative Co.

Schools and Libraries Division

**Administrator's Decision on FCC Remand - Funding Year 2014**

August 2, 2017

John Augustine  
GREATER JOHNSTOWN CTC  
445 SCHOOLHOUSE RD  
JOHNSTOWN, PA 15904-2927

Re: Applicant Name: GREATER JOHNSTOWN CTC  
Billed Entity Number: 17304  
Form 471 Application Number: 963078  
Funding Request Number: 2647242  
FCC Order: 17-526  
FCC Order Release Date: May 30, 2017  
**Invoice Due Date: September 1, 2017**

Dear Program Participant:

You are receiving this Administrator's Decision Letter because USAC has identified you as qualifying for relief provided for in FCC Order DA 17-526 released on May 30, 2017.

In DA 17-526, the FCC directed USAC to allow applicants to resubmit invoices, or Billed Entity Applicant Reimbursement (BEAR) forms, which had been timely filed between August 2014 and July 2016 and that were rejected "based on a lack of timely service provider certification before the invoice filing deadline." The FCC directed USAC to allow for resubmission of these BEARs and processing within the next 90 days.

We have identified your BEAR form for the invoice # 2273970 where the system change prevented service providers from certifying BEARs that were pending on July 1, 2016. The remaining commitment on this Funding Request is \$3785.76.

**Please resubmit your BEAR form for the information identified above by September 1, 2017 for processing.**

If you need further assistance with filing your BEAR form, please see the BEAR form instructions on the USAC website or contact our Client Service Bureau (CSB) at 1-888-203-8100.

In addition, please note, service providers need to annually file a Service Provider Annual Certification (SPAC) Form, to certify they will comply with program rules. Your service provider(s) must have a SPAC Form on file for each Service Provider Identification Number (SPIN) indicated on your BEAR form.

Sincerely,

Schools and Libraries Division  
Universal Service Administrative Company