

**Las Vegas-Clark County Library District**

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January 28, 2019

Letter of Appeal

Federal Communications Commission  
Office of the Secretary  
9300 East Hampton Drive  
Capitol Heights, MD 20743

**CC Docket No 02-6**

**Letter of Appeal** of “Administrator’s Decision on Appeal” regarding FRNs 2446394, issued on November 30, 2018

**Authorized person who can best discuss this Appeal with you**

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**Application Information**

Entity **Las Vegas-Clark County Library District**

Billed Entity Number **143400**

Funding Year **FY 2013**

Form 471 Application Number **899684**

Funding Request Number **2446394**

Service Provider **Moapa Valley Telephone Company**

SPIN **143002674**

Funding Commitment Requested **$** **1,656.22**

Document Being Appealed: “Administrator’s Decision on Appeal” regarding FRNs 2446394, issued on November 30, 2018[[1]](#footnote-1)

ADL Items Being Appealed:

Decision on Request “This serves as acknowledgement and dismissal of your request for a deadline extension for the following FRNs”

ADL Explanation “…USAC erroneously identified the Library as an applicant who qualified for the relief and improperly extended the invoice filing deadline for FRN 2446400 to September 1, 2017. Because USAC is not authorized to waive FCC invoicing deadline rules, USAC must recover funding … For these reasons, your appeal is denied”

**Appeal Background:**

**Las Vegas-Clark County Library District** (the District) requests that the FCC review and reverse the denial decision of the Administrator’s Decision on Appeal regarding FRN 2446400, issued on November 30, 2018.

The District followed all of the program rules to the best of its ability throughout this process.

The FCDL[[2]](#footnote-2) for 471# 899684 indicated, FCDL Date: 08/14/2013 and Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2014. The Form 486[[3]](#footnote-3) was completed and certified[[4]](#footnote-4) 8/20/2013. Well within required timeframes.

The BEARs were timely submitted and Invoice deadline extensions that were required were timely requested and were duly approved[[5]](#footnote-5),[[6]](#footnote-6). However, due to issues totally out of the control of the District, the Service Provider was unable to timely certify the BEAR. On May 30, 2017 the FCC issued FCC Order DA 17-526[[7]](#footnote-7) which was followed by a Remand Letter to USAC[[8]](#footnote-8),[[9]](#footnote-9). This stated in part, “…the FCC directed USAC to allow applicants to resubmit invoices, or Billed Entity Applicant Reimbursement (BEAR) forms, which had been timely filed…” and also “…We have identified your BEAR form for the invoice# 2157993[[10]](#footnote-10) 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 $1,656.22. Please resubmit your BEAR form for the information identified above by September 1, 2017 for processing…”

The guidance in the Remand letter provided the new Invoice Due Date: September 1, 2017.

All service received under this FRN 2446394 were delivered in the fund year 2013 – 2014.

As indicated in the Administrator's Decision on FCC Remand - Funding Year 2013 letter dated 8/2/2017 the FCC changed the new invoice deadline to September 1, 2017. The BEAR invoice # 2652535[[11]](#footnote-11) was certified on 8/8/2017, well before the deadline of 9/1/2017.

Based on *paragraph 15 of FCC Order DA 17-526 quoted here; - “15*. IT IS FURTHER ORDERED, …that USAC SHALL IDENTIFY all similarly-situated BEAR forms that were rejected for lacking a service provider certification after the timely submission by the applicant, including those listed in Appendix A, SHALL ALLOW for resubmission of the BEAR forms, and SHALL COMPLETE its review of the BEAR forms in the next 90 days.”

And particularly the Administrator's Decision on FCC Remand - Funding Year 2013 letter dated 8/2/2017 clearly shows that the funds of $ 7,098.52 were not improperly disbursed.

**Conclusion:**

Las Vegas-Clark County Library District recognizes that the circumstances which delayed the submission of their invoice were beyond usual erate procedures, but note that it was completely outside of the District’s control. The District did everything within its power to follow the FCC & USAC’s guidelines.

The Service Provider, Moapa Valley Telephone Company experienced administrative problems with the EPC Portal preventing them from being able to timely certify the BEAR. The District should not be held accountable for a programmatic failure which was also recognized by the FCC resulting in the issuance of FCC Order DA 17-526.

The District understands the ADL response, that “…USAC is not authorized to waive FCC rules” however the District strongly disputes the ADL explanation “…USAC erroneously identified the Library as an applicant who qualified for the relief and improperly extended the invoice filing deadline for FRN 2446400 to September 1, 2017.”

The District was indeed impacted by a Service Provider being unable to timely certify the BEAR.

The District respectfully requests the FCC to instruct USAC to: -

* Recognize that the Remand Letter does provide relief to Las Vegas-Clark County Library District
* Cancel the issued RDIF.
* Approve the funding commitment for FRN # 2446394 per FCDL.
* And instruct USAC to no longer seek recovery of previously disbursed funds in the amount of $1,656.22.

Las Vegas-Clark County Library District appreciates the FCC’s consideration of this appeal. We are available to respond to questions or to provide any further information requested by the FCC.

**Authorized signature for this Appeal**

***John E. Harvey Jr.***

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| Date: 8/14/2018  John E. Harvey Jr. |  |
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1. Administrator’s Decision on Appeal – Funding Year 2013\_November 30, 2018 [↑](#footnote-ref-1)
2. Las Vegas\_FY16\_471\_899684\_FCDL [↑](#footnote-ref-2)
3. Form486\_972239\_All\_Pgs [↑](#footnote-ref-3)
4. Form486\_972239\_Ecert [↑](#footnote-ref-4)
5. LV-Clark\_FY2013 BEAR extn to 3-12-15 - Report [↑](#footnote-ref-5)
6. BEAR Extension Approved to 8-12-15 [↑](#footnote-ref-6)
7. FCC Order DA-17-526 [↑](#footnote-ref-7)
8. LV-Clark\_ADL FCC Remand\_FRN 2446400 [↑](#footnote-ref-8)
9. ADL FCC Remand Approves BEAR-due 9-1-17 [↑](#footnote-ref-9)
10. BEAR 2157993 Moapa FRNs 2446394 2446400 [↑](#footnote-ref-10)
11. BEAR 2652535 MOAPA FY16 [↑](#footnote-ref-11)