

Letter of Appeal
 Federal Communications Commission
 Office of the Secretary
 445 12th Street, SW
 Washington, DC 20554
 CC Docket No. 02-6

Re: Request for Review of FY 2019 Funding Commitment Decision Letter dated 8/22/2019.

I am submitting this letter of appeal regarding the Funding Commitment Decision Letter on the grounds that there are special circumstances involved whereby Cogent Communications FRN 1999046420 should not be considered a duplicate service as RCN Telecom Services of Illinois. We request that the duplicate services rule is waived and FRN 1999046420 is fully funded.

Appellant Name:	e2e Exchange, LLC
Applicant Name:	Niles Township High School District 219
471 Application Number:	191027747
Billed Entity Number:	135325
FRN:	1999046420
Service Provider:	Cogent Communications, Inc.

SLD Explanation: *“DRI: This FRN is denied because the funding request is duplicative of a current year's FRN. Program rules prohibit USAC from funding the same products and services to the same location in the same funding year.”*

Niles Township High School District 219 signed a 36 month contract for 500Mbps internet service on 2/28/2018 with RCN Telecom Services Illinois, LLC. After the service was increased from 100Mbps to 500Mbps after June 20, 2018 – it was found that the 500Mbps was still insufficient for the needs of the growing school district. The original combined MRC for the North and West campus in the agreement was \$6,180.00. RCN then added 1Gbps for an additional MRC of \$5,000.00, shown on the invoices provided with this appeal, resulting in a new MRC of \$10,777.00. This solution was still not the most successful for Niles Township.

Therefore, Niles Township High School District 219 certified a FY2019 Form 470 to seek bids for higher bandwidths to meet the needs of the school. Form 470 #190001687 was certified on 1/10/2019 with an allowable contract date of 2/7/2019. Four bids were received and a recent invoice from RCN was used as a bid from the incumbent. Using price as the most heavily weighted criteria, the bids were evaluated and Cogent selected as the winning vendor. Cogent bid on 5Gbps internet at both locations for a total MRC of \$3,150.00. The school's current 500Mbps internet with RCN is costing the school district triple as much for a total MRC of \$10,777.00.

The School District would like to drop service with RCN altogether in favor of solely using Cogent internet service, however, cancelling service with RCN would cost the school a great deal of money with no benefit. The RCN internet agreement has the following clause:

“If (a) customer terminates this agreement or any individual Service Order during the initial Term for reasons other than Cause, or (b) RCN terminates this agreement or any individual Service Order for Cause, the Customer remains obligated to pay RCN any reasonable costs and expenses incurred by RCN to prepare and deliver the Service on behalf of Customer. In addition, Customer will pay RCN, within thirty days after such termination, (i) all past-due but unpaid charges and interest incurred through the date of termination, plus (ii) the sum of (A)seventy-five percent (75%) of and unpaid monthly recurring charge (MRC) that would have been incurred for the ordered service, plus (B) any disconnection, early cancellation or termination charges incurred and paid to third parties by RCN on behalf of customer; plus (C) any additional amount specifically set forth in the service order. The parties agree that the precise damages resulting from early termination by Customer are difficult to ascertain,

and the early termination fees are reasonable estimate of anticipated actual damages and not a penalty”.

An excel has been provided showing a comparison of the monthly recurring cost (MRC) that the school district would need to pay if they canceled the 500mbps service versus not cancelling the service. If the school continued the 2019 Funding Year with both the 500Mbps and 5Gbps internet service, the MRC would be \$13,927.00. If the school requested an early termination of the RCN contract and only continued with the 5Gbps internet service, the MRC would still be \$7,785.00 because of the early termination fees required by RCN. Once the RCN contract expires, Niles Township High school District 219 plans to only continue with the Cogent 5Gbps internet contract for a total MRC of \$3,150.00. This would be reflected on the Form 471 for 7/1/2021 – 6/30/2022.

As demonstrated in the attached spreadsheet, Niles Township is required to pay a total of \$111,240.00 dollars just to cancel the current RCN contract in order to move forward with Cogent solely as their internet provider. Having to pay this amount of money with absolutely no benefit for Niles Township places a large hardship on the district and community. Since the school is required to pay a large sum of money to RCN either way, it is in their best interest financially to remain in their current contract with RCN until the natural expiration date; utilizing the little bandwidth they provide *while* moving forward with the new contract with Cogent in order to make up for the lack of bandwidth provided by RCN. The internet service being provided by Cogent is absolutely necessary in order to provide Niles Township the amount of bandwidth and strength in service they need to uphold student and teacher internet access throughout the district.

We have established that the extreme need for the increased 5Gbps internet service and the special early termination fees required by the incumbent service provider RCN qualify this case as a special circumstance whereby the duplicate services rule should be waived. Having both the 500mbps and 5Gbps is only the short term solution for 7/1/2019 to 6/30/2021 until the natural expiration of the RCN contract.

We respectfully request that you consider this appeal and approve funding for FRN 1999046420. Thank you for reviewing this appeal. Please use the contact information below.

Tiffany Bullion, E2e Exchange, LLC, PO Box 451, Syracuse, NY 13206, Tel. 315.422.7608, Fax 866.283.9332, trb@e2eexchange.com

Sincerely,
E2e exchange, LLC

Tiffany Bullion
Director of Operations

Attachments:

Excel comparison of MRC regarding early cancellation of RCN contract
2018-2020 RCN 500Mbps internet contract
2019-2022 Cogent 5Gbps internet contract
May 2018 invoice for RCN account #1001-0812415-01
May 2018 invoice for RCN account #1001-0816789-01