



Administrator's Decision on Appeal – Funding Year 2014

October 5, 2018

Brian Grimmer
E-RATE ONLINE
200 Boston Post Road Ste. 11
Orange, CT 06477

Re: Applicant Name: Salmon School District 291
Billed Entity Number: 142674
Form 471 Application Number: 939751
Funding Request Number(s) (FRN): 2635780
Your Correspondence Received Date: July 24, 2018

The Universal Service Administrative Company (USAC) has completed its evaluation of the July 24, 2018 letter of appeal (Appeal) submitted by Salmon School District 291 (the District).¹ The Appeal requests that USAC cease its recovery action because the District timely submitted its invoice before the extended September 1, 2017 invoicing deadline.²

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.³ USAC is also required to seek recovery for funding that is disbursed in violation of the FCC rules.⁴

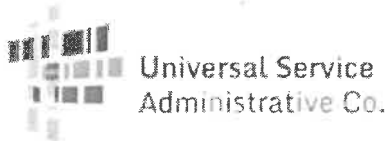
On May 30, 2017, the Federal Communications Commission (FCC) issued the *Jefferson-Madison Reconsideration Order* directing USAC to identify and allow all applicants who timely filed their Billed Entity Application for Reimbursement (BEAR) forms to be

¹ Letter from Brian Grimmer, consultant, E-RATE ONLINE to Schools and Libraries Division, USAC (July 24, 2018) (*Appeal*).

² *Id.* at 2.

³ 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.”).

⁴ 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*).



allowed to resubmit their BEAR forms even if their service provider failed to certify the BEAR form prior to the original invoicing deadline.⁵

The invoicing deadline for Funding Request Number (FRN) 2635780 was February 25, 2016. The District 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 District as an applicant who qualified for the relief and improperly extended the invoice filing deadline for FRN 2635780 to September 1, 2017.⁶ Because USAC is not authorized to waive the FCC's invoicing deadline rules,⁷ USAC must recover funding that was disbursed in violation of the FCC's rules.⁸ 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>.

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

⁶ See Letter from Schools and Libraries Division, USAC to Dick Hadlock, Salmon School District 291 (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).

⁷ 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.”).

⁸ 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*).



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