



Plano Community Unit School District No. 88

Dr. Hector Garcia • Superintendent
Dr. Tracy Thurwanger • Director for Teaching and Learning
Mr. Edgar Palacios • Director of ELA Services and Assessments

Petition For Reconsideration

CC Docket No. 02-6

E-Rate Appeal Filed Electronically via the FCC ECFS System

October 27, 2016

Ms. Marlene H. Dortch
Secretary Federal Communications Commission
Office of the Secretary
445 12th Street SW
Washington, DC 20554

Applicant Name: Plano School District 88
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Billed Entity Number: 135718

471 Application Numbers: 16105957, 161056010

Date Appeal filed: August 26, 2016.

Date of Administrator's Decision on Appeal: September 30, 2016.

Funds to be recovered: Funding Year 2016: \$42,232.51.

Re: Request for Consideration Regarding Denial of ‘Untimely-Filed Request for Review Appeal’ Issued under Docket. DA-16-1120A1

To Whom It May Concern:

This is a petition for reconsideration of the denial for a waiver of the Form 471 filing deadline, that was issued as part of DA 16-1120A1 dated September 30, 2016 in connection with FRN 1699130199, Application Number 161055957 and FRN 1699133461, Application Number 161056010.

Plano School District 88 (hereinafter, the “District”) respectfully requests the Commission review and reverse their decision on the “Untimely-Filed Request for Review Appeal” filed on August 26, 2016 for Funding Year 2016. The District intends to provide information to show special circumstances necessary for the Commission to waive the 471 filing deadline as well as a waiver of the 60-day rule in which to file their appeal, as well as demonstrate reasons for reconsideration for the prior ruling.

The original decision of the administrator was issued on September 30, 2016. (See Attached Exhibit A, footnote 21, a copy of DA 16-1120A1). For the reasons set forth herein, the Commission should grant the District's appeal of the Administrator's Decision and remand the underlying funding applications to USAC for immediate processing.

I. Summary of Issues On Review.

The only issue on review is timeliness of the filing of 471 forms by the District. On August 26, 2016, the District filed an appeal to have their Category 1 and Category 2 471 forms placed within the deadline window. Although the District does understand that the timestamps on both of these applications were filed nearly 3 hours after the filing window closed (See Exhibit B and Exhibit C, copies of timestamped 471 applications, attached.), the District contends that there were special circumstances around this late filing that we ask be considered.

Further, the District deserves reconsideration of the prior ruling as the District can identify a material error, omission, and valid reasons warranting reconsideration. Additionally, the Bureau has failed to fully consider the arguments made by the District in the appeal. See, *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Allan Shivers Library et al.*; Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Order and Order on Reconsideration, 29 FCC Rcd 10356, 10357, para. 2 (WCB 2014)

The point must be stressed that the District did not initially file their appeal to USAC because District Officials did not know until August 26, 2016, there were any issues, and that was already after the District had missed the 60-day Appeal window. This information was solely in the hands of a former employee who left the District in June of 2016.

As a result, the District seeks a waiver of the 60-day rule in which to file their appeal, as well as a waiver as to the filing of their initial Form 471's and further requests immediate processing for category 1 and category 2 funding approval reimbursements.

II. Statement of Facts.

Plano School District 88 is located in Northern Illinois and is one of the poorest school districts in Illinois. The District spending per pupil is far below the Illinois State average, and 61% of the student population comes from low income households. (See Exhibit B). Further, the District's E-Rate discount rate in 2016 was 80%.

Mr. Anand Raja was the District Network and Systems Administrator in the Spring of 2016 and was responsible for filing E-Rate applications for the District. He was also the Authorized Person who, once submitted, certified the E-Rate applications for the District. (See Exhibit's B and C)

Prior to the 471 Filing window closing (May 26, 2016 at Midnight EDT), Mr. Raja verbally informed the district he was resigning and intended to leave the District for other employment. District officials engaged in discussions with Mr. Raja to attempt to keep him with the district; however, he tendered his written resignation to the District on May 31, 2016. (See Exhibit D, the affidavit of Dr. Garcia).

On or about June 6, 2016, District officials inquired as to the status of the E-Rate applications, and were informed by Mr. Raja that:

1. “E-Rate for this year has been completed up to the point where we are now just waiting for them to approve it. There is nothing more to be done at this moment. I have submitted a 470 and 471 as well as the contracts for the 471.” (See Exhibit D)

The email goes on to say:

2. “Like I said, all the forms, and contracts have been created and submitted.” (See Exhibit D)

Therefore, the District was unaware that there were any issues as to the Forms filed and further had no knowledge that there would be a need to request a 60-day extension of the filing of Form 471. Mr. Raja failed to inform anyone at the District that the 471’s were actually filed approximately three hours late.

Thereafter, Mr. Raja left the employment of the District in June of 2016. On August 26, 2016, Edgar Palacios, The District’s Director of Assessment and English Language Learning reached out to Mr. Raja via text message to inquire as to the filing status of the E-Rate applications, as the District had received information that the request was not in the USAC system. It was at this time that it became apparent to the District that there may be an issue as to the 2016 E-Rate filing status. Mr. Raja informed Mr. Palacios that he “believed” he filed right before the deadline. He stated that he had completed the submission at his apartment at the time, and that he was rushed to get it done. Mr. Raja then went on-line and discovered that the actual time for his submission was 2:50 AM on May 27, 2016. (See Exhibit E, the affidavit of Mr. Palacios)

The District immediately responded by filing an Appeal on the very same day, August 26, 2016, as this was the first anyone at the District was aware of Mr. Raja’s failure to meet the deadline. This appeal was subsequently denied on September 30, 2016, claiming that the District failed to show special circumstances for a waiver. (See Exhibit A, DA 16-11201A1, footnote 21).

III. Analysis and Argument.

The FCC has noted that “many E-Rate program beneficiaries, particularly small entities, contend that the application process is complicated, resulting in a significant number of applications for E-Rate support being denied for ministerial, clerical or procedural errors.” In such instances, the FCC has found that denials of the underlying applications are not warranted when “due to unintentional administrative or clerical errors, and the records . . . do not reveal more fundamental problems, such as misuse of funds or a failure to adhere to program requirements.” *In the Matter of Requests for Review of the Decisions of the Universal Service Administrator by Archer Public Library*, CC Docket No. 02-6, SLD 140961 et. al. para. 7 (Rei. October 30, 2008).

Further, the FCC has recognized: “the primary jobs of most of the people filling out these forms include school administrators, technology coordinators and teachers as opposed to staff dedicated to pursuing federal grants, especially in small school districts. Even when a school official becomes adept at the application process, unforeseen events or emergencies may delay filings in the event there is no other person proficient enough to complete the forms. In the Matter of Requests for Review of the Decision of the Universal Service Administrator by Alaska Gateway School District, CC Docket No. 02-6, SLD 412028, et al., para. 7 (Rei. September 14, 2006).

Special circumstances exist in this case for a granting of a waiver as to the deadline for the 60 day extension for filing the 471 requests as well as a waiver of the initial late filing. First it is worth noting that the District would have received an extension if the District knew that the filing of the original Form 471 was late, and had made the request within the initial 60-day window. However, the only person aware of this failure left the District on June 15, 2016, and when he left, the knowledge of the late filing left with him.

It is unclear why Mr. Raja failed to file the forms timely, and it is further unclear why he did not request an extension of time when he was filing the forms at 2:50 AM EDT. However, due to the timing of his tenure of resignation, and his failure to inform anyone of the late filing, it appears that Mr. Raja’s commitment to the District was in question. Mr. Raja had tendered his resignation verbally to the District before filing the Form 471’s.

Between the filing deadline of May 26, 2016 and August 26, 2016, there was no one aware of Mr. Raja’s late filing, and the only information that was provided to District officials was that the filing was “completed.” Thus, a special circumstance existed wherein the District should be allowed a waiver of the 60-day appeal deadline, as during the vast majority of that time there was no one at the District even aware of Mr. Raja’s failure.

Further, correspondence with USAC shows that Mr. Raja requested a password reset on May 26 2016, the final day of filing. This demonstrates that Mr. Raja had an intent to complete the task of filing the 471 Forms. It is unclear at this time why the timestamp is at 2:51 AM on May 27, 2016, except to suggest that is when Mr. Raja completed the submission. Perhaps Mr. Raja believed since he was logged into the system prior that it would somehow carry over.

However the ultimate point is that Mr. Raja never notified anyone at the District that the Form 471’s showed a timestamp of May 27, 2016. As a result, no one at the District was in a position to correct this error as they simply had no notice of the issue. The only person who was aware of this information was Mr. Raja. Further, he then made no attempt to contact anyone at the District to inform them that there may be an issue. (See Exhibit E)

In Mr. Raja’s explanation as to the status of the 2016 E-Rate applications, he always confirmed to the District that the applications had been filed and they were awaiting funding approval by USAC. (See Exhibit D). Therefore, the District was under the impression that the 2016 E-rate filing had been completed properly and on time within the filing window. Without this critical piece of knowledge, the District could not attempt to correct this issue.

Mr. Raja was the Network and Systems Administrator. He was not hired to secure federal grants for the District. He learned how to file E-Rate on the job. It appears for whatever reason he filed the two 471 forms a mere three hours late. There is no indication that this was done with ill intent, and there is nothing in the record to suggest that The District was misusing these funds or was trying to avoid program rules. Therefore, there can be no just reason for a denial of the requested extension.

The District demonstrates herein ample reasons for granting this request for reconsideration, and it would appear that the Bureau has failed to consider the full breath of the initial argument made. The initial appeal was filed immediately upon discovery with the belief that each additional hour that the request for an appeal was made late, the less chance for getting the appeal granted. As a result, the initial document is sparse on information, and it is understandable why the Bureau did not fully consider the argument. However, the District can clearly show that the only person who had any information that would've have alerted the District for the need to file an appeal, or even that the initial filing was late, was Mr. Raja, who had left the employ of the District and had provided verbal notice of his resignation prior to the filing of the documents, which he completed at his home curiously enough.

V. Conclusion and Prayer For Relief.

Plano School District 88 requests that the Commission reverse and remand the previous decision denying requests for Funding Year 2016 and allow the 2016 E-Rate applications to be processed by USAC in order to approve the requests. Plano School District 88 relied upon the expertise and diligence of their former employee Mr. Anand Raja in filing the appropriate E-Rate applications within the filing window. When he failed to do so, and then left the employ of the District without informing anyone of this failure, he left the District in an impossible position, where discovery was most likely going to be after filing deadlines were passed. This must provide the Bureau with the necessary special circumstances for granting this request for reconsideration.

Unfortunately for the District, Mr. Raja was leaving the District at the time of the 2016 E-Rate filing. It is unclear what was in Mr. Raja's head. Perhaps he was anxious to get on to his new position and was just negligent, or perhaps there was some intent. Regardless, it is the District's position that special circumstances exist here to allow a waiver and extension of the filing deadlines. There are no repercussions for Mr. Raja as he has now left the District; however, there are major repercussions to the District as the District may potentially miss out on thousands of dollars of funding which are critically necessary to the District's ability to teach their students.

There is nothing in the record to indicate any ill intent, or abuse of program rules in this case. There is no claim that the District has violated program rules. The only issue is the late filing of the Form 471 and the late request for an extension of the same. This all happened as a result of a perfect storm of circumstances where one technology coordinator decided to change jobs for whatever reason. The District was unaware of any issue prior to August 26, 2016, and as soon as the District was made aware of the late filing, they attempted to correct the error. We are asking that FRN(s) 1699130199, 1699133537 (471## 161055957) and FRN(s) 1699133461, 1699133481 & 1699133510 (471#161056010) we fully granted and remanded to USAC for further processing.

There simply is not a just reason to deny the request. The FCC has generally taken the position to be liberal with the granting of extensions, and in this case, all the District is requesting is an extension of three hours.

Plano School District 88 services a low income community and attempted to follow each and every rule and regulation of USAC and the E-Rate process. Indeed, the E-rate program was designed for school districts just like Plano School District 88 to provide better access to the Internet for their students. Therefore, Plano School District 88 respectfully requests that the decision be overturned for the reasons stated herein and argued above, and that the FCC not punish the District, or their students, because of the negligence of one former employee.

If you should have any questions, do not hesitate to contact me at the below number or e-mail address, and I would be happy to discuss any issue with you.

Respectfully Submitted,



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