

Federal Communications Commission
Schools and Libraries Division - Correspondence Unit
445 12th Street SW
Washington, DC 20554

Re: Letter of Appeal of Funding Commitment Decision Letter for funding Year 2017, issued 06/09/2017.

Dear Sir or Madam:

I am submitting this letter of appeal regarding E-rate FY 2017 funding request for Data Transmission and/or Internet Access, on the grounds that, the one-time installation charge included on the signed agreement was omitted on the original Form 471 submission. It is evident that the \$189,000.00 was simply not taken from the documentation and data entered onto the Form 471; this situation is a prime example of a ministerial/clerical error.

Appellant Name:	e2e Exchange, LLC
Applicant Name:	Lake Geneva-Genoa SD
471 Application Number:	171007810
Billed Entity Number:	132839
FRN:	1799014056
Service Provider:	WANrack

SLD Explanation for denial:

The change requested with your appeal was not implemented because your request for was received after the associated FCC Form 471 # 171007810 was committed and as such could not be processed. In your appeal, you did not show that USAC's determination was incorrect. Consequently, your appeal is denied. See Ministerial & Clerical Errors posted in the Reference Area of the SLD section of the USAC website. Per the FCC's directive, applicants should be allowed to amend their forms to correct clerical and ministerial errors until a Funding Commitment Decision Letter (FCDL) is issued. Such errors include only the kinds of errors that a typist might make when entering data from one list to another, such as mistyping a number, using the wrong name or phone number, failing to enter an item from the source list onto the application, or making an arithmetic error. See Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Order, FCC 11-60 para. 5 (rel. April 14, 2011). Additional correctable errors can be found in the FCC Order DA 10-2354. See Requests for Waiver and Review of Decisions of the Universal Service Administrator by Ann Arbor Public Schools, Ann Arbor, Michigan, et al., Schools and Libraries Universal Service Support Mechanism, File Nos. SLD-542873, et al., CC Docket No. 02-6, Order, DA 10-2354 para. 2 (rel. December 16, 2010). An applicant's request to remove entities from its application, when such removal would raise the average discount percentage for the relevant funding request above the funding threshold for that year, is not justifiable as a ministerial or clerical error. See Request for Waiver and Review of Decisions of the Universal Service Administrator by Alexander County School District, Taylorsville, North Carolina, et al., Schools and Libraries Universal Service Support Mechanism, File No. SLD-827833 et al., CC Docket No. 02-6, Order, DA 13-1383 para. 2 (rel. June 14, 2013). The FCC's Bishop Perry Order directed USAC to provide all E-rate applicants with an opportunity to correct ministerial and clerical errors on their FCC Form 470 or FCC Form 471, and an additional opportunity to file the required certifications without posting new FCC Forms 470 and 471. See Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, New Orleans, Louisiana, et al., Schools and Libraries Universal Service Mechanism, File Nos. SLD-487170, et al., CC Docket No. 02-6, Order, 21 FCC Rcd 5316-5317, FCC 06-54 para. 23 (May 19, 2006) (Bishop Perry Order). As a result, USAC sends an applicant a Receipt Acknowledgement Letter (RAL) when the FCC Form 471 has been successfully data entered and provides the applicant with an opportunity to make allowable corrections to its FCC Form 471.

Case issues:

An agreement with WANrack was signed on March 13th, 2017 after the 28 day fair and open bidding process for Form 470 #170047615 and prior to certification of the Form 471 #171007810. The signed WANrack agreement was uploaded to the Form 471 with the monthly and one-time charges included on page 8. The one-time installation charge was omitted on the original Form 471 submission as a ministerial/clerical error and is undoubtedly included on the original documentation (agreement) provided.

Ministerial, Clerical Errors, and the Bishop Perry Order.

USAC defines a ministerial or clerical error as "Such errors include only the kinds of errors that a typist might make when entering data from one list to another, such as mistyping a number, using the wrong

name or phone number, failing to enter an item from the source list onto the application, or making an arithmetic error.” The error in question explicitly fits this definition. The agreement was uploaded into EPC’s portal on 3/3/17, before the submission of the Form 471. The Form 471 did not include the special construction charge. The charge is listed on the original document but not on the 471 – as if was left off mistakenly. As such, this error qualifies as a ministerial / clerical error.

To aid in the correction of clerical errors, The Bishop Perry Order is in place not only to provide an opportunity for correcting clerical errors, but to ensure minor clerical errors do not inhibit an applicant’s E-rate funding. Universal Service Section 254 directs the FCC to “enhance... access to advanced telecommunications and information services for all public and non-profit elementary and secondary school classrooms, health care providers, and libraries. The Bishop Perry Order also states that it satisfies Section 254 by opening the opportunity for funding to applicants previously denied for minor errors – the Bishop Perry Order is not in place to satisfy errors that occur pre-commitment, as stipulated by USAC’s Appeal decision.

The Order was also granted to provide relief to applicants as it understands that the 15 day correction period imposed by USAC may not allow enough time. In the example of Lake Geneva a 15 day period was never given as it never went through PIA review. The 471 application in question was subject to zero PIA inquiries. In a sense, USAC did not review this application. Not a single PIA question or inquiry was sent and subsequently an FCDL was issued 6/9/2017. While we clearly admit a clerical error, USAC also did not review the submitted WAN RACK agreement or the associated Form 471. In the Order, the Commission understands the 15 day period in itself may not be sufficient. In instances such as Lake Geneva where no opportunity was given to make corrections, the Bishop Perry Order should apply provide relief to this denial. In finality and more generally, the Bishop Perry Order stands to provide relief for denials that are procedural in nature, and are not a source of program waste, fraud, or abuse. Procedural errors are to be corrected by way of the Bishop Perry as this is as seen as beneficial and necessary to appeal to the public’s and the applicant’s best interest.

Final Summary

The Funding Commitment Decision Letter for this application was approved and issued on 06/09/2017 without the \$189,000.00 charge due solely to clerical and procedural errors. It would be unacceptable and a disservice to the school to not fund the full cost of the eligible services included on the agreement because of an administrative/clerical error. Based on the Bishop Perry Order, we request FRN 1799014056 be funded for the full amount of the agreement and USAC actions remain consistent with this order.

Given that the missing funding in this case was based on merely an administrative error and a procedural breakdown from USAC, the Parties respectfully request that the SLD process this Letter of Appeal and approve the \$189,000.00 one-time charge for Lake Geneva-Genoa School District. The denial of funding for an administrative error places a particular hardship on a school district such as Lake Geneva-Genoa School District that otherwise should have been approved for and received E-rate funding for its application.

We respectfully request that you process the RAL request and restore full funding of this FRN. Thank you for reviewing this appeal. Please use the contact information below.

Sean Cuskey, Director of Operations, e2e Exchange, LLC, PO Box 451, Syracuse, NY 13206, Tel. 315.422.7608, Fax 866.283.9332,
stc@e2eexchange.com

Sincerely,
E2e Exchange, LLC



Sean Cuskey, Director of Operations

CC:

Enclosures – WANrack signed agreement