

April 6, 2018

**Letter of Appeal** *(CC Docket No. 02-6)*  
Schools and Libraries Division - Correspondence Unit  
30 Lanidex Plaza West  
PO Box 685  
Parsippany, NJ 07054-0685

**To Whom It May Concern**:

We are writing to waive the deadline for service delivery of Category One dark fiber special construction and supporting network equipment due to delays and unusual circumstances. We are also writing to request an invoice deadline extension to allow a full reimbursement.

# Appellant

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Applicant Name: Clear Creek Indep School District   
Billed Entity Number: 141348

# Explanation of Appeal

***471 Application 161047008***

***FRN 1699145259***

We are writing to appeal the decision made by the Schools and Libraries Division (SLD) of the Universal Service Administration Company to deny a service delivery extension for special construction of dark fiber. The reason given for the denial was “*Request received after the FCC deadline for Implementation (Service Delivery) Deadline Extension requests which was 9/30/2017.”* This is not accurate and should have been granted but there were several unusual circumstances that caused issues with USAC proceeding with this request. While we greatly appreciate the attempt at USAC to help us remedy the issue, it was ultimately concluded that it was mishandled and we should proceed with a waiver request.

We also request an invoice deadline extension for this funding request so that once the project is complete, the service provider can invoice USAC for the remaining money.

***Background***

On May 31, 2017, Clear Creek ISD filed a Form 500[[1]](#footnote-1) to extend the service delivery deadline twelve months from the original deadline of 9/30/2017. The reason for the extension request was due to a late Funding Commitment Decision Letter (3/9/2017) and the district did not begin special construction with the service provider until they were funded. The Case Review Team at USAC issued outreach[[2]](#footnote-2) on the Form 500 on 8/16/2017 seeking additional information. A response was emailed to the reviewer, Kristan Serioux, on 8/22/2017[[3]](#footnote-3) providing details on the service provider delays and status of the project. The reason the response was done via email rather than in EPC was because there was an “error expression” that could not be remedied. A case number (#192257) was created for this issue. It should be noted that a different reviewer, Nancy Panfili, originally issued an inquiry (case # 58093) regarding the Form 500 on August 10, 2017, and a response was submitted but there was no reply and nobody at USAC could find the response for that inquiry; which is when Kristan took over the case. USAC issued a revised Funding Commitment Decision Letter (RFCDL) on September 20, 2017[[4]](#footnote-4) dismissing the Form 500 and service delivery deadline extension request. The reason for the denial was “*The FRN referenced in your request has been reimbursed the entire amount of the funding commitment*.” It was discovered that Phonoscope was reimbursed by USAC (Form 474 or Service Provider Invoice) the full amount prior to beginning the special construction for Clear Creek ISD. We reached out immediately to management at USAC, specifically Tracy Beaver and Cyndi Beach, to help us remedy this situation since it was out of the applicant’s control. Cyndi told us the way to remedy the situation was to have Phonoscope Enterprises repay the funds back to USAC for the work that was not complete as of September 30, 2017. Phonoscope provided a report[[5]](#footnote-5) of work completed and associated costs and on January 9, 2018, Phonoscope paid back $205,082.33[[6]](#footnote-6) to USAC for the work not completed as of September 30, 2017.

Cyndi Beach with USAC recommended we refile a new Form 500 once the funds were returned to USAC. On January 19, 2018, a new Form 500 (# 88270) was filed with USAC to extend the service delivery deadline to September 30, 2018[[7]](#footnote-7). This Form 500 (#88270) was dismissed on February 7, 2018. The reason given for the denial was “*Request received after the FCC deadline for Implementation (Service Delivery) Deadline Extension requests which was 9/30/2017.”* On February 23, 2018, we called Cyndi Beach asking why it was dismissed and how to remedy, yet again. During this call, she stated that we needed to file an FCC waiver to waive the service delivery deadline due to all the unusual circumstances which includes the fact that Clear Creek ISD is located in a Hurricane Harvey disaster area. In response to the hurricane, Phonoscope Enterprises, who handles Harris County and City of Houston fiber accounts, postponed all school district fiber projects to respond to hurricane damages for the city causing further delays for Clear Creek ISD. Phonoscope Enterprises expected to complete the special construction project as of March 2018; however, the project cannot be completed because the network equipment has not been purchased yet. This leads us to the next issue regarding FRN 1699145260. Please see next section.

In addition to a service delivery deadline extension, we also request an invoice deadline extension for this funding request so that once the project is complete, the service provider can invoice USAC for the remaining $205,082.33. The invoice deadline extension we request is 9/30/2019.

***471 Application 161047008***

***FRN 1699145260***

A Form 500 was filed on August 8, 2017[[8]](#footnote-8) to extend an FRN that was created for Network Equipment to support the Dark Fiber project listed above - FRN 1699145259. The Form 500 was denied and a Revised FCDL[[9]](#footnote-9) was issued on December 13, 2017. The reason for the denial was “*The FRN(s) is(are) currently on the extension table with the last date of service as 09/30/2018 and the last date to invoice as 01/28/2019 as a result of an approved Late FCDL*.”[[10]](#footnote-10) We have confirmed on the FRN extension table that the service delivery deadline for this funding request is 9/30/2018 and the last date to invoice is 1/28/2019. These dates are great and will allow the district to complete the project for Network Equipment. We ask the same dates to be allowed for the associated FRN above to complete the fiber special construction (FRN 1699145259).

# Conclusion

This FRN should be funded because of unusual circumstances that caused confusion and, therefore, mishandling by USAC. The district has acted in good faith to work on these projects and attempt to extend deadlines for their completion. We are asking for the deadline dates for FRN 16991455260 to be granted for FRN 1699145259 as this will allow the district to complete the special construction of this project and install the network equipment by September 30, 2018. We further request an invoice deadline extension for FRN 16991455259 of 1/28/2019 to allow for the remaining money to be reimbursed once the project is completed.

It is also our understanding that Cyndi Beach, with USAC, is willing to provide the FCC with her timeline record for the funding requests as she was very instrumental in helping us work through these issues.

Sincerely,



Ginnie Harwood

Director, Education Service Center Region 12 E-Rate Consulting

*Exhibits:*

Exhibit A: SCDER\_ClearCreek ISD\_2016\_Fiber Build\_43785

Exhibit B: ClearCreek\_2016\_500-SCDER\_43785\_Req for info

Exhibit C: CCISD\_2016\_500\_Email to USAC reply to inquiry\_43785

Exhibit D: Clear Creek\_2016\_500\_RFCDL\_Supplement\_Post Commit Request\_43785

Exhibit E: CCISD Project Status 12-4-17 breakdown

Exhibit F: ClearCreek\_2016\_500\_Phonoscope ACH detail\_return funds

Exhibit G: ClearCreek\_2016\_C1\_WAN\_Serv Del Exten\_88270\_1.18.2018

Exhibit H: ClearCreek\_2016\_500-58093\_Deadline Extension Request for Equipment

Exhibit I: ClearCreek\_2016\_500\_58093\_EPC Notice\_RFCDL

Exhibit J: ClearCreek\_2016\_500\_58093\_RFCDL

1. Exhibit A: SCDER\_ClearCreek ISD\_2016\_Fiber Build\_43785 [↑](#footnote-ref-1)
2. Exhibit B: ClearCreek\_2016\_500-SCDER\_43785\_Req for info [↑](#footnote-ref-2)
3. Exhibit C: CCISD\_2016\_500\_Email to USAC reply to inquiry\_43785 [↑](#footnote-ref-3)
4. Exhibit D: Clear Creek\_2016\_500\_RFCDL\_Supplement\_Post Commit Request\_43785 [↑](#footnote-ref-4)
5. Exhibit E: CCISD Project Status 12-4-17 breakdown [↑](#footnote-ref-5)
6. Exhibit F: ClearCreek\_2016\_500\_Phonoscope ACH detail\_return funds [↑](#footnote-ref-6)
7. Exhibit G: ClearCreek\_2016\_C1\_WAN\_Serv Del Exten\_88270\_1.18.2018 [↑](#footnote-ref-7)
8. Exhibit H: ClearCreek\_2016\_500-58093\_Deadline Extension Request for Equipment [↑](#footnote-ref-8)
9. Exhibit I: ClearCreek\_2016\_500\_58093\_EPC Notice\_RFCDL [↑](#footnote-ref-9)
10. Exhibit J: ClearCreek\_2016\_500\_58093\_RFCDL [↑](#footnote-ref-10)