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The Miller Institute for Learning with Technology

April 22, 2018

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

Subject: CC Docket No. 02-6

FCC APPEAL of USAC denial of Appeal #68567 (incorrectly reduced OTC for LACOE upgrade to greater bandwidth)

BEN	16072690
Applicant	PALISADES CHARTER HIGH SCH CONSORTIUM
Funding Year	2017
Form 471 Application	171009861
FRN	1799018165

Ms. Dortch,

This letter is BOTH a request for waiver and an appeal of USAC's Appeal #68567 decision.

REQUEST FOR WAIVER

OVERVIEW: The 60 day deadline for appeal of USAC's Appeal #68567 was 3/17/18, 5 days before the close of the FY2018 application window. As an Applicant consultant, Learningtech.org was focused on dozens of client applications (98 submitted timely) and was already receiving Program Integrity Assurance [PIA] inquiries on the applications already submitted (1st arrived on 2/13/18, 41 received to date). USAC is to be commended for fastest PIA and 1st funding wave processing in history. Unfortunately, during this critical phase of the E-Rate process, the 3/17/18 appeal deadline was overlooked. (For the future, we recommend the option for a "window deferral" on PIA responses, much like the "summer deferral" opportunity.) Therefore, we respectfully request a waiver of the 60-day appeal deadline and request that the following appeal of USAC appeal #68567 be considered and processed.

APPEAL OF USAC DECISION ON APPEAL #68567

OVERVIEW: Palisades Charter High School Consortium [PCHS] is upgrading from 1 Gbps service with the Los Angeles County Office of Education [LACOE] to 5 Gbps, consistent with contract terms established by Form 470 #160025517 and contract awarded 5/12/16. This contract includes the option to upgrade during the contract's 3-year term. With the upgrade, LACOE includes a one-time installation fee of \$3500 for installation of a new router, which is eligible for E-Rate support as On Premise Category 1 Equipment.

This \$3500 One-Time Charge was included on the originally submitted Form 471 (see pchs_y20_471_c1_cont_20170510_certified.pdf).

As confirmed by LACOE (see last page of lacoe_docs.pdf), and shared with USAC Program Integrity Assurance [PIA] review, as well as with USAC Appeal review, the router is Category 1 eligible Customer Premise Equipment [CPE] consistent with the Tennessee Test.

EXPECTED RESULT: USAC to issue RFDCL that includes funding for the \$3500 one-time charge for installation of the eligible LACOE CPE router.

BACKGROUND:

1. USAC erred in the appeal decision, which states:

On appeal you are requesting that additional funding be approved for the above listed FCC Form 471. Program procedures allow applicants to amend their applications and correct ministerial and clerical errors on their FCC Forms (including adding a funding request) until an Funding Commitment Decision Letter (FCDL) is issued, which was issued on 9-15-2017. Additional funding requests cannot be submitted through the appeals process and after the issuance of the FCDL. There was not a RAL submitted for this change prior to the FCDL date of 9-15-2017. Consequently, USAC denies your appeal.

Your appeal requests additional funds that were not included in the FCC Form 471 that you are appealing. FCC rules require that funding requests must be submitted via an FCC Form 471. See 47 C.F.R. sec. 54.504(a). Considerations for funding requests depend on the date the FCC Form 471 is received and the amount of funds available if it is received after the close of the filing window. See 47 C.F.R. sec. 54.507(f). The FCC directed USAC to allow applicants to amend their forms to correct clerical and ministerial errors on their FCC Forms 470, FCC Form 471 applications, or associated documentation until an 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.

This USAC Post-Commitment Rationale, “*Your appeal requests additional funds that were not included in the FCC Form 471 that you are appealing,*” is incorrect. As seen in the original Form 471 #171009861 (attached), FRN 1799018165 did include the \$3500 One-Time Charge for the installation of the upgraded router.

FRN Calculation for FRN #1799018165

Monthly Charges		Total Requested Amount	
Total Monthly Recurring Charges	\$4,945.83	Total Eligible Pre-Discount Recurring Charges	\$59,349.96
Total Monthly Ineligible Charges	- \$0.00	Total Eligible Pre-Discount One-Time Charges	+ \$3,500.00
Total Monthly Eligible Charges	= \$4,945.83	Total Pre-Discount Charges	= \$62,849.96
Total Number of Months of Service	x 12	Discount Rate	65%
Total Eligible Pre-Discount Recurring Charges	= \$59,349.96	Funding Commitment Request	= \$40,852.47
One-Time Charges			
Total One-Time Charges	\$3,500.00		
Total Ineligible One-Time Charges	- \$0.00		
Total Eligible Pre-Discount One-Time Charges	= \$3,500.00		

2. This \$3500 One-Time Charge is eligible for E-Rate support as *On-Premise Category One Equipment*, “an integral part of an end-to-end Category One service, recurring or non-recurring charges for that service may include the cost of on-premise equipment used by the provider to provide that Category One service” per <https://www.usac.org/sl/applicants/beforeyoubegin/eligible-services/category-one.aspx> and consistent with service provider confirmation that the router meets the requirements of the Tennessee Test ([FCC 99-216](#)).

We hope that the FCC will review the documentation provided and agree that USAC erred and that FCC will remand USAC to issue a RFCDL to include the \$3500 of non-recurring cost requested with the initial application

Thank you for your consideration.

Regards,



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Executive Director

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