

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

In the Matter of )  
Request for Review of a Decision of the Universal ) CC Docket No. 02-6  
Service Administrator )  
)

**REQUEST FOR REVIEW**

Pursuant to section 54.719(b) of the Commission’s rules, Cellco Partnership dba Verizon Wireless (“Verizon Wireless”) hereby seeks review of the decision by the Universal Service Administrative Company (USAC) to seek recovery of \$36,960<sup>1</sup> in E-rate support that was, according to USAC, disbursed “for additional broadband lines not requested on the FCC Form 471”<sup>2</sup> filed by the Riverside Unified School District (“Riverside”) for the 2011 funding year.

The Commission should rescind the proposed recovery because there is no Commission rule or order that requires a service provider to track the number of lines of service subject to discounting against an applicant’s Form 471 Item 21 Attachment.

---

<sup>1</sup> Email from Dennis Nielsen, Program Compliance, Schools and Libraries Division, USAC, to Erate\_USACRS, January 7, 2016 (correcting the recovery amount for Finding #5 from \$39,960 to \$36,960).

<sup>2</sup> Notification of Improperly Disbursed Funds Recovery Letter, December 21, 2015, at 4 (“Recovery Letter” at Attachment B).

## I. Background

On March 24, 2011, Riverside submitted a Form 471 to USAC in order to apply for E-rate discounts on mobile broadband services provided by Verizon Wireless.<sup>3</sup> USAC approved Riverside's application in a Funding Commitment Letter issued on October 12, 2011.<sup>4</sup> The FCDL approved a funding cap of \$1,068,871.60 for the Verizon Wireless services included in Riverside's funding request.<sup>5</sup>

For the mobile broadband services approved in the FCDL, Riverside elected to receive its approved E-rate discounts via the Service Provider Invoice (SPI) method.<sup>6</sup> In accordance with E-rate program requirements, Verizon Wireless applied the USAC-approved E-rate discount percentage to Riverside's bills and then sought reimbursement by filing FCC Form 474 Service Provider Invoice Forms with USAC. In total, Verizon Wireless provided discounts of \$789,344 to Riverside during Funding Year 2011<sup>7</sup> – substantially less than the funding cap approved in the FCDL.

In 2015, USAC completed an audit of Riverside's compliance with E-rate rules and regulations. In Finding #5 of the Riverside Audit Report,<sup>8</sup> USAC determined that “[Verizon Wireless] billed the Beneficiary for lines in excess of the amount requested on the item 21

---

<sup>3</sup> Riverside Unified School District, Form 471 Application No. 820912 (March 24, 2011).

<sup>4</sup> Riverside Unified School District, Funding Commitment Decision Letter (October 12, 2011) (“FCDL”).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Email from Chelsea Joiner, Senior Internal Auditor, Internal Audit Division, USAC, to Patrice DeMarco, Verizon, at 32 (November 4, 2015) (providing excerpt of Riverside Unified School District Audit Report consisting of Finding Nos. 4 and 5) (“Riverside Audit Report” at Attachment A). Due to an oversight, Verizon Wireless only invoiced USAC in the amount of \$557,794.89. *Id.*

Attachment and committed in the FCDL, and that [Verizon Wireless] invoiced [the Schools and Libraries Program] for the unapproved lines.”<sup>9</sup>

On December 21, 2015, USAC issued its Recovery Letter to Verizon Wireless.<sup>10</sup> Referencing the Riverside Audit Report, the Recovery Letter sought \$36,960 from Verizon Wireless that was, according to USAC, improperly disbursed “for additional broadband lines not requested on the FCC Form 471.”<sup>11</sup>

On February 19, 2016, Verizon Wireless appealed the Recovery Letter to USAC. In its appeal,<sup>12</sup> Verizon Wireless demonstrated that (1) Verizon Wireless complied fully with all SPI requirements; (2) there is no Commission rule or order that requires a service provider to track the number of lines of service subject to discounting against an applicant’s Item 21 Attachment; and (3) USAC was prohibited from seeking the recovery specified in the Recovery Letter because Commission rules specifically provide that USAC “may not make policy, interpret unclear provisions of the statute or rules, or interpret the intent of Congress.”<sup>13</sup>

USAC denied Verizon Wireless’s appeal in a decision dated April 29, 2016.<sup>14</sup> The Appeal Decision failed to address any of the arguments raised by Verizon Wireless in its appeal.

---

<sup>8</sup> See Riverside Audit Report.

<sup>9</sup> *Id.* at 30.

<sup>10</sup> Recovery Letter at 4.

<sup>11</sup> *Id.*

<sup>12</sup> Letter of Appeal from David L. Haga, Assistant General Counsel, Verizon, to USAC, February 19, 2016 (Attachment C).

<sup>13</sup> 47 C.F.R § 54.702(c).

<sup>14</sup> Administrator’s Decision on Appeal, April 29, 2016 (“Appeal Decision” at Attachment D). Although the Appeal Decision is dated April 29, 2016, Verizon Wireless did not receive the Appeal Decision until June 23, 2016.

Instead, the Appeal Decision summarily dismissed Verizon Wireless's appeal with the statement that "at this point, we do not have any indication that the Audit results were incorrect."<sup>15</sup>

## **II. Verizon Wireless Complied Fully with All SPI Requirements**

As is noted above, Riverside elected to receive its approved E-rate discounts via the SPI method.<sup>16</sup> Verizon Wireless complied fully with all SPI requirements.

First, as the Form 474 Instructions specify,<sup>17</sup> Verizon Wireless sought reimbursement from USAC only for E-rate discounts on the eligible service for which Riverside was approved by USAC, i.e., mobile broadband service.

Second, Verizon Wireless did not seek reimbursement from USAC for any amount in excess of Riverside's USAC-approved funding commitment. While the FCDL approved a funding cap of \$1,068,871.60 for the mobile broadband services requested by Riverside, Verizon Wireless provided discounts of only \$789,344 to Riverside during Funding Year 2011.<sup>18</sup>

## **III. No Commission Rule or Order Required Verizon Wireless to Track Riverside's Line Counts Against the Item 21 Attachment**

No Commission rule or order required Verizon Wireless to track discounts for which it sought reimbursement based on the quantity of services provided to Riverside when the total amount of discounts did not exceed Riverside's authorized funding cap. In fact, the four "criteria" that the Riverside Audit Report relies upon in support of its finding make no mention

---

<sup>15</sup> *Id.*

<sup>16</sup> Riverside Unified School District, Funding Commitment Decision Letter (October 12, 2011).

<sup>17</sup> Form 474 Instructions at 3 ("The information requested in the following columns should be completed for the eligible services in each FRN....").

<sup>18</sup> Riverside Audit Report at 32. In fact, due to an oversight, Verizon Wireless only invoiced USAC in the amount of \$557,794.89. *Id.*

of line counts or the Item 21 Attachment, and two of the four criteria do not even apply to service providers.

**Criterion 1:** To support its finding, the Riverside Audit Report first relies on the Instructions to the Service Provider Annual Certification Form (Form 473).<sup>19</sup> But nothing in section 54.504(f) of the Commission’s rules, which sets forth the specific certifications required by service providers when filing the Form 473, obligated Verizon Wireless to track the lines subject to discounting against the quantity of lines specified in an E-rate participant’s Item 21. Indeed, during Funding Year 2011, the scope of section 54.504(f) was limited solely to competitive bidding matters.<sup>20</sup> Nothing in section 54.504(f) addressed invoicing, much less required service providers to track line counts against a beneficiary’s Item 21 Attachment.

To the extent that the Form 473 also included certifications outside the scope of the underlying rule, the Form 473 only required Verizon Wireless to certify that it was seeking reimbursement for discounts applied to eligible *services* for which an E-rate participant had been approved by USAC.<sup>21</sup> In this regard, USAC approved Riverside for E-rate discounts for mobile broadband service under the Internet Access category and, in accordance with E-rate program requirements, Verizon Wireless sought reimbursement from USAC only for discounts applied to that approved service.

---

<sup>19</sup> Riverside Audit Report at 33.

<sup>20</sup> 47 C.F.R. 54.504(f).

<sup>21</sup> The Riverside Audit Report specifically relies on Items 9 and 10 from the Instructions to the 2007 version of Form 473. Item 10 requires service providers to certify only that the reimbursement sought is for discounts applied to “*services* which have been billed to the service provider’s customers ... as deemed eligible by the fund administrator ...” (emphasis added). Item 9 requires service providers to certify that the data submitted on Form 473 is true, correct and accurate.

**Criterion 2:** The Riverside Audit Report next relies on the Instructions to the Form 474 as support for its finding.<sup>22</sup> However, those instructions require only that service providers deliver services “*consistent with the FCDL provided by USAC and for which the service provider has billed the applicant.*”<sup>23</sup> The instructions do not require service providers to track line counts against the Item 21 Attachment. Moreover, as USAC is aware, an E-rate Participant’s FCDL does not provide any information about the number of lines of service approved by USAC. The FCDL only provides the amount of the E-rate participant’s funding commitment. As noted above, Verizon Wireless complied with this requirement by not seeking reimbursement for an amount in excess of Riverside’s funding commitment.

**Criterion 3:** The Riverside Audit Report also relies on section 54.404(a) of the rules as support for its finding. Section 54.404(a) requires applicants to submit a Form 471 in order to apply for E-rate discounts.<sup>24</sup> The cited rule applies only to applicants, not service providers,<sup>25</sup> and thus cannot be interpreted as requiring Verizon Wireless or any other service provider to track line counts against the Item 21 Attachment.

**Criterion 4:** Finally, the Riverside Audit Report relies on the Instructions to the Form 471 as support for its finding. Those instructions require applicants to submit an Item 21

---

<sup>22</sup> Riverside Audit Report at 29. The Audit Report cites the instructions for Block 2 Columns (8) through (14): “The information requested in the following columns should be completed for the eligible services in each FRN for which the service provider with the assigned SPIN set forth in Item (2) has delivered services on or after the effective date of discounts, consistent with the FCDL provided by USAC and for which the service provider has billed the applicant.”

<sup>23</sup> Form 474 Instructions at 3 (emphasis added).

<sup>24</sup> Riverside Audit Report at 33.

<sup>25</sup> “An eligible school ... seeking to receive discounts for eligible services under this subpart shall, upon entering a signed contract or other legally binding agreement for eligible services, submit a completed FCC Form 471 to the Administrator.” 47 C.F.R. § 54.504(a).

Attachment.<sup>26</sup> The cited instructions apply only to E-rate participants, not service providers,<sup>27</sup> and thus cannot be interpreted as requiring Verizon Wireless or any other service provider to track line counts against the Item 21 Attachment.

To the extent that an E-rate participant's Form 471 specified the number of lines of service, that information would have been shown in the Item 21 Attachment. However, during Funding Year 2011, Item 21 Attachments were treated as *confidential* and were not generally made available to service providers. The fact that Item 21 Attachments were treated as confidential confirms that service providers were not expected, let alone required by Commission rule or order, to track line counts against an applicant's Item 21. The Audit Report's suggestion<sup>28</sup> that a service provider could have divined the Item 21's line count by comparing the committed dollars in the FCDL to the service provider's price quote is without merit. Absent any binding Commission rule or order establishing such an obligation, it is unreasonable to expect any service provider to compare every FCDL that it receives to the thousands of price quotes it has issued – which in many instances differ from the amount ultimately approved in the FCDL – in an attempt to derive such a line count.<sup>29</sup>

---

<sup>26</sup> Riverside Audit Report at 33-34.

<sup>27</sup> “Item 21 – Each Funding Request must include a description of the products and services for which discounts are being sought. This description is known as an ‘Item 21 Attachment’. The Item 21 Attachment is a detailed and complete narrative description of the products and services contained in the funding request and a line-item listing of the products and services requested with their associated costs, including make, model number and location of any equipment.” Instructions for Completing the Schools and Libraries Universal Service Services Ordered and Certification Form (FCC Form 471), Oct. 2010 (OMB 3060-0806) at 21.

<sup>28</sup> Riverside Audit Report at 32 (“The Service Provider also should have been aware of the number of lines that were approved since the pre-discounted cost in the FCDL was based on the Service Provider's price quote for 2,300 lines.”).

<sup>29</sup> It was Verizon Wireless's policy in Funding Year 2011 to direct each E-rate participant that selected Verizon Wireless as its service provider to access a website to enter information

Furthermore, USAC’s apparent position that a service provider has an independent obligation (not set forth in any FCC rule or order) to verify that its reimbursement request conforms to the quantity of approved E-rate eligible services is inconsistent with the purpose of Form 474. As the Commission has explained, Form 474 is “used to ensure that each service provider has provided discounted services within the current funding year for which it submits an invoice to USAC, and *that invoices submitted from service providers for the costs of discounted eligible services do not exceed the amount that has been approved.*”<sup>30</sup>

Here, no dispute exists that the amount for which Verizon Wireless sought reimbursement on Form 474 did not exceed the amount of E-rate funding approved by USAC for Riverside. Thus, Verizon Wireless complied with all applicable FCC rules and orders when submitting its Form 474 for reimbursement for mobile broadband services provided to Riverside, notwithstanding USAC’s view to the contrary.

---

necessary to properly service the E-rate participant’s account, including account numbers matched to the participant’s 2011 FRNs. Verizon Wireless specifically requested that its customers identify only those accounts that were eligible for E-rate discounts.

<sup>30</sup> See *Modernizing the E-rate Program for Schools and Libraries*, Notice of Proposed Rulemaking, 28 FCC Rcd 11304, ¶ 301 (2013) (emphasis added); see also *Wireline Competition Bureau Seeks Comment on Revisions to Forms 472, 473, and 474*, Public Notice, 28 FCC Rcd 2210 (2013) (noting that the purpose of Form 474 is to ensure that the service provider’s invoices “do not exceed the amount that has been approved by USAC”).

**IV. Conclusion**

Because no FCC rule or order required Verizon Wireless to track a beneficiary's line count against the Item 21 Attachment, the Commission should rescind the Recovery Letter.

Respectfully submitted,

By: /s/ Tamara L. Preiss

William H. Johnson, *Of Counsel*

Tamara L. Preiss  
1300 I Street N.W.  
Suite 400 West  
Washington, DC 20005  
(202) 515-2540

June 28, 2016

# ATTACHMENT A

**Finding #5**  
**Service Provider Over-Invoiced SLP for Services Not Approved**

**Condition**

IAD examined the FCC Forms 474 Service Provider Invoice (SPI) Forms, and the corresponding service provider bills provided by the Beneficiary to determine whether the Schools and Libraries Program (SLP) was invoiced only for approved, eligible services for FRN 2235134. IAD determined that the Service Provider, Verizon Wireless, invoiced SLP for broadband lines that were not requested on the Beneficiary's FCC Form 471 and Item 21 Attachment. The Beneficiary's Item 21 Attachment consisted of a copy of Verizon Wireless' quote to the Beneficiary for unlimited Mobile Broadband services for 2,300 lines for a total pre-discounted cost of \$1,186,524. The Beneficiary and Service Provider received a Funding Commitment Decision Letter (FCDL) from SLP for the amount requested on the Item 21 Attachment. However, IAD determined that the Service Provider billed the Beneficiary for lines in excess of the amount requested on the Item 21 Attachment and committed in the FCDL, and that the Service Provider invoiced SLP for the unapproved lines. See chart below for further details.

Service Period	Bill Number	Quantity of Lines Invoiced to USAC	Quantity of Lines Not Requested in Item 21 Attachment	Pre-Discount Cost per Line	Pre-Discount Amount Over-Invoiced to SLP
10/7/11 - 11/6/11	1027978428	2,500	200	\$25.07	\$5,014
11/7/11 - 12/6/11	1036888920	2,499	199	\$37.99	\$7,560
12/7/11 - 1/6/12	1045828763	2,499	199	\$37.99	\$7,560
1/7/12 - 2/6/12	1054758299	2,491	191	\$37.99	\$7,256
2/7/12 - 3/6/12	1063646688	2,492	192	\$37.99	\$7,294
3/7/12 - 4/6/12	1072553498	2,468	168	\$37.99	\$6,382
	<b>Total</b>				<b>\$41,067</b>

Thus, the Service Provider over-invoiced SLP for lines not requested on the Beneficiary's Item 21 Attachment or approved in the FCDL (criteria 1 to 4). The total pre-discounted amount that was over-invoiced by the Service Provider to SLP amounted to \$41,067. The Service Provider over-invoiced SLP by seeking reimbursement of discounted services in the amount of \$36,960 (\$41,067 \* the Beneficiary's 90 percent discount rate). SLP disbursed the full amounts that were requested on the SPI Forms to the Service Provider who passed on the payments to the Beneficiary.

**Cause**

The Service Provider did not demonstrate sufficient knowledge of the Rules governing seeking reimbursement from SLP for approved, eligible services.

---

**Effect**

The monetary effect of this finding is \$36,960. This amount represents the total amount for the unapproved services that were invoiced to and disbursed by SLP for FRN 2235134.

**Recommendation**

IAD recommends USAC management seek recovery of \$36,960. The Service Provider must implement controls and procedures to ensure that SLP is invoiced only for approved, eligible services and equipment that are requested on the FCC Form 471 and the Item 21 Attachment and committed in an FCDL, as required by the Rules.

**Beneficiary Response**

It is impossible or impractical for [the] Beneficiary to track information related to the condition referenced in this Finding. The Beneficiary does not have access to [the FCC] Form 474 filed by the Service Provider. Additionally, it is impossible or impractical for [the] Beneficiary to interpret this information from the hundreds of pages of invoices and billing information provided by the Service Provider to the Beneficiary.

**Service Provider Response**

Riverside Unified School District (“Riverside”) was approved for participation in the EDU(2011) pilot program, which authorized limited funding for the 2011-2012 funding year to support a small number of innovative, interactive off-premise wireless projects for schools and libraries. In connection with Riverside’s participation in this program, SLP approved a total funding cap of \$1,068,871.60 for the mobile broadband services Riverside requested. Although the Riverside Funding Commitment Decision Letter (FCDL) does specify Riverside’s total approved funding cap, it does not specify the number of lines for which Riverside was approved for funding. This information appears only to be available in Riverside’s Item 21 Attachment to its [FCC] Form 471. In this regard, it is important to note that in 2011, USAC did not make Item 21 Attachments available to the E-rate participants’ service providers, and Riverside’s Item 21 Attachment was not available online. Therefore, while VZW monitors its customers’ cap amounts to help ensure that it does not over-invoice SLP, VZW relies on its customers to provide it with accurate information, including information relating to the number of lines for which they have been approved for SLP funding, at the time the customer sets up or makes changes to its account. In this instance, Riverside apparently included in its account up to 200 lines that were ineligible for funding. In light of Riverside’s involvement in the set-up of its account and the lack of accessibility of Item 21 Attachments, VZW believes it was reasonable to rely on Riverside to ensure that the number of lines Riverside included in its account as eligible was consistent with the information Riverside provided to USAC.

---

Please note that on or about February 10, 2015, VZW advised the customer that VZW would invoice them for approximately \$36,960 that was previously discounted. Please also note that in total, VZW actually provided SLC discounts of \$789,344.73 to this customer for FY2011. (See invoices dated Dec 2011 pages 2-53; Jan 2012 pages 2-54; Feb 2012 pages 2-53; Mar 2012 pages 2-53; April 2012 pages 2-53; May 2012 pages 2-53; June 2012 pages 2-25 and July 2012 pages 2-26). However, VZW inadvertently only invoiced SLP for \$557,794.89. Therefore, if the \$36,960 for which SLP is seeking reimbursement from VZW is netted out (and the ineligible lines are removed), VZW is still entitled to approximately \$167,000 in reimbursement from SLP.

#### **USAC IAD Response to Service Provider Response**

In its response, the Service Provider states that the FCDL “does not specify the number of lines for which Riverside was approved for funding [and] this information appears only to be available in Riverside’s Item 21 Attachment to its [FCC] Form 471.” However, the FCDL did specify a pre-discounted cost of \$1,186,524 committed by SLP. The pre-discounted cost was based on the Item 21 Attachment submitted by the Beneficiary, which was a copy of the price quote received from the Service Provider. The Service Provider’s price quote submitted to the Beneficiary included 2,300 “Total Lines.” Although the Service Provider indicates it “relies on its customers to provide it with accurate information, including information relating to the number of lines for which they have been approved for SLP funding.” The Service Provider received a copy of the FCDL and, thus, was aware of the pre-discounted cost committed by SLP. The Service Provider also should have been aware of the number of lines that were approved since the pre-discounted cost in the FCDL was based on the Service Provider’s price quote for 2,300 lines.

The Service Provider states in its response that it is “still entitled to approximately \$167,000 in reimbursement from SLP.” The Service Provider may be able to file an invoicing deadline extension request with SLP for FRN 2235134. If the extension is approved, the Service Provider may submit invoices seeking reimbursement.

For these reasons, IAD’s position on this finding remains unchanged.

#### **USAC Management Response**

The Service Provider (Verizon Wireless), invoiced SLP for broadband lines that were not requested on the Beneficiary’s FCC Form 471 Item 21 Attachment. The Beneficiary’s Item 21 Attachment consisted of the Service Provider’s price quote for unlimited Mobile Broadband services for 2,300 lines for a total pre-discounted cost of \$1,186,524. However, IAD determined that Verizon Wireless billed the Beneficiary for broadband lines in excess of the amount requested on the Item 21 Attachment and committed in the FCDL. Verizon Wireless invoiced SLP for these unapproved lines for \$39,960. Although the Service Provider states that it did not have access to the Beneficiary’s Item 21 Attachment, the Service Provider received a copy of the FCDL, which indicated the

---

full committed amount. Further, the Beneficiary's Item 21 Attachment consisted of the Service Provider's price quote for 2,300 lines, and the FCDL committed the full costs indicated in that price quote. Going forward, the Service Provider should ensure that USAC is only invoiced for requested and approved eligible services included on the Beneficiary's Item 21 Attachment. Further guidance concerning the invoicing process can also be found on USAC's website.

USAC management concurs with the finding, effect and recommendation and will seek recovery of \$39,960.

#### Criteria

1. Service providers must certify on the FCC Form 473 that:

**“Item (9)** - Based on information known to the authorized person or provided to the authorized person by employees responsible for the data being submitted, the authorized person hereby certifies that the data set forth in this Form has been examined and reviewed and is true, accurate and complete.

**Item (10)** - The invoice forms that are submitted by this service provider contain requests for universal service support for services which have been billed to the service provider's customers on behalf of schools... as deemed eligible for universal service support by the fund administrator...”

Instructions for Completing the Universal Service for Schools and Libraries Service Provider Annual Certification Form (FCC Form 473), Apr. 2007 (OMB 3060-0856), at 3 (*FCC Form 473 Instructions*).

2. **“Columns (8) through (14)**. The information requested in the following columns should be completed for the eligible services in each FRN for which the service provider with the assigned SPIN set forth in Item (2) has delivered services on or after the effective date of discounts, consistent with the FCDL provided by USAC and for which the service provider has billed the applicant.” Instructions for Completing the Universal Service for Schools and Libraries Service Provider Invoice Form (FCC Form 474), Apr. 2007 (OMB 3060-0856), at 3 (*FCC Form 474 Instructions*).
3. “An eligible school ... seeking to receive discounts for eligible services under this subpart, shall, upon signing a contract for eligible services, submit a completed FCC Form 471 to the Administrator. A commitment of support is contingent upon the filing of an FCC Form 471.” 47 C.F.R. § 54.504(a) (2011).
4. **“Item 21** - Each Funding Request must include a description of the products and services for which discounts are being sought. This description is known as an ‘Item 21 Attachment’. The Item 21 Attachment is a detailed and complete narrative description of the products and services contained in the funding request and a line-item listing of the products and/or services

---

requested with their associated costs, including make, model number and location of any equipment.” Instructions for Completing the Schools and Libraries Universal Service Services Ordered and Certification Form (FCC Form 471), Oct. 2010 (OMB 3060-0806) at 21 (*FCC Form 471 Instructions*).

# ATTACHMENT B

**Notification of Improperly Disbursed Funds Recovery Letter**  
**Funding Year 2011: July 1, 2011 - June 30, 2012**

December 21, 2015

**Diane Reese**  
**Verizon Wireless (Cellco Partnership)**  
**One Verizon Way**  
**Basking Ridge, NJ 07920**

**Re: SPIN: 143000677**  
**Form 471 Application Number: 820912**  
**Funding Year: 2011**  
**FCC Registration Number: 0003290673**  
**Applicant Name: RIVERSIDE UNIF SCHOOL DISTRICT**  
**Billed Entity Number: 143748**  
**Applicant Contact Person: Jesse Stayton**

Our routine review of Schools and Libraries Program (SLP) funding commitments has revealed certain applications where funds were disbursed in violation of SLP rules.

In order to be sure that no funds are used in violation of SLP rules, the Universal Service Administrative Company (USAC) must now recover these improper disbursements. The purpose of this letter is to inform you of the recoveries as required by SLP rules, and to give you an opportunity to appeal this decision. USAC has determined the service provider is responsible for all or some of the SLP rule violations. Therefore, the service provider is responsible to repay all or some of the funds disbursed in error.

This is NOT a bill. The next step in the recovery of improperly disbursed funds process is for USAC to issue you a Demand Payment Letter. The balance of the debt will be due within 30 days of that letter. Failure to pay the debt within 30 days from the date of the Demand Payment Letter could result in interest, late payment fees, administrative charges and implementation of the "Red Light Rule." The FCC's Red Light Rule requires USAC to dismiss pending FCC Form 471 applications if the entity responsible for paying the outstanding debt has not paid the debt, or otherwise made satisfactory arrangements to pay the debt within 30 days of the notice provided by USAC. For more information on the Red Light Rule, please see <https://www.fcc.gov/encyclopedia/red-light-frequently-asked-questions>.

TO APPEAL THIS DECISION:

If you wish to appeal the Notification of Improperly Disbursed Funds Recovery decision indicated in this letter to USAC, your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and email address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify the date of the Notification of Improperly Disbursed Funds Recovery Letter and the Funding Request Number(s) (FRNs) you are appealing. Your letter of appeal must include the
  - Billed Entity Name,
  - Form 471 Application Number,
  - Billed Entity Number, and
  - FCC Registration Number (FCC RN) from the top of your letter.
3. When explaining your appeal, copy the language or text from the Funding Disbursement Recovery Report that is the subject of your appeal to allow USAC to more readily understand your appeal and respond appropriately. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal including any correspondence and documentation.
4. If you are an applicant, please provide a copy of your appeal to the service provider(s) affected by USAC's decision. If you are a service provider, please provide a copy of your appeal to the applicant(s) affected by USAC's decision.
5. Provide an authorized signature on your letter of appeal.

We strongly recommend that you use one of the electronic filing options. To submit your appeal to USAC by email, email your appeal to [appeals@sl.universalservice.org](mailto:appeals@sl.universalservice.org) or submit your appeal electronically by using the "Submit a Question" feature on the USAC website. USAC will automatically reply to incoming emails to confirm receipt.

To submit your appeal to us by fax, fax your appeal to (973) 599-6542.

To submit your appeal to us on paper, send your appeal to:

Letter of Appeal  
Schools and Libraries Program - Correspondence Unit  
30 Lanidex Plaza West  
PO Box 685  
Parsippany, NJ 07054-0685

For more information on submitting an appeal to USAC, see "Appeals" in the "Schools and Libraries" section of the USAC website.

FUNDING DISBURSEMENT RECOVERY REPORT

On the pages following this letter, we have provided a Funding Disbursement Recovery Report (Report) for the Form 471 application cited above. The enclosed Report includes the Funding Request Number(s) from the application for which recovery is necessary. See the "Guide to USAC Letters" posted at <http://www.usac.org/sl/tools/samples.aspx> for more information on each of the fields in the Report. USAC is also sending this information to the applicant for informational purposes. If USAC has determined the applicant is also responsible for any rule violation on these FRN(s), a separate letter will be sent to the applicant detailing the necessary applicant action.

Schools and Libraries Program  
Universal Services Administrative Company

cc: *Jesse Stayton*  
*RIVERSIDE UNIF SCHOOL DISTRICT*

**Funding Disbursement Recovery Report  
for Form 471 Application Number: 820912**

---

Funding Request Number:	2235134
Contract Number:	WSCA 1523
Services Ordered:	INTERNET ACCESS
Billing Account Number:	
Funding Commitment:	\$1,067,871.50
Funds Disbursed to Date:	\$557,794.89
Funds to be Recovered from Service Provider:	\$77,159.00

**Disbursed Funds Recovery Explanation:**

During an audit, it has been determined that funds were improperly disbursed for this funding request. Funds were disbursed in excess of the cost of products and/or services actually delivered to the applicant. Specifically, the service provider invoiced USAC in excess of the amount billed and services provided to the applicant. FCC rules authorize USAC to disburse funds to service providers for providing supported services to eligible entities. These rules are violated if the service provider invoices USAC and receives payment for services and/or products in excess of what it delivered to the eligible entity. Since the services were invoiced via a SPT, this violation was caused by an act or omission of the service provider because the service provider is responsible for ensuring that it only receives support for services and/or products that it actually provides to its customers. Accordingly, USAC will seek recovery of the \$37,199.00 of improperly disbursed funds from the service provider.

During an audit, it has been determined that funds were improperly disbursed for products and/or services that were not approved on the FCC Form 471. The products and/or services do not meet the requirements for an eligible service substitution. During an audit it was determined that \$39,960.00 of funding was disbursed for additional broadband lines not requested on the FCC Form 471. FCC rules require that applicants indicate on the FCC Form 471 and Item 21 attachments the services and/or equipment for which they are seeking funding so that USAC can determine whether the services and/or equipment are eligible for funding. Since the services were invoiced via a Service Provider Invoice form, this violation was caused by an act or omission of the service provider because the service provider is responsible for ensuring that it provides and invoices USAC for only the products and/or services equipment that USAC approved. On the SPAC Form, the authorized person certifies on behalf of the service provider that the SPIs that are submitted by this service provider contain requests for Universal Service support for services which have been billed to the service providers customers on behalf of schools, libraries, and consortia of those entities, as deemed eligible for Universal Service support by the fund administrator. Accordingly, USAC will seek recovery of the \$39,960.00 of improperly disbursed funds from the service provider.

# ATTACHMENT C



David L. Haga  
Assistant General Counsel

1320 N. Courthouse Road  
Arlington, VA 22201  
Phone 703.351.3065  
Fax 703.351.3658  
david.haga@verizon.com

February 19, 2016

**VIA ELECTRONIC MAIL**

Universal Service Administrative Company  
Schools and Libraries Division  
[appeals@sl.universalservice.org](mailto:appeals@sl.universalservice.org)

**LETTER OF APPEAL**

**Re: Appeal of Notification of Improperly Disbursed Funds Recovery Letter**

Date of Notification	December 21, 2015
Service Provider	Verizon Wireless (Cellco Partnership)
SPIN	143000677
Form 471 Application Number	820912
Funding Year	2011-2012
FCC Registration Number	0003290673
Billed Entity Name	Riverside Unified School District
Billed Entity Number	143748

Verizon Wireless (Cellco Partnership) (“Verizon Wireless”) hereby appeals the decision of the Universal Service Administrative Company (“USAC”) to seek recovery of \$36,960<sup>1</sup> that was, according to USAC, disbursed “for additional broadband lines not requested on the FCC Form 471.”<sup>2</sup> The proposed recovery is based on Finding #5 of the Audit Report for Riverside Unified School District (Riverside),<sup>3</sup> which determined that “[Verizon Wireless] billed the

---

<sup>1</sup> Email from Dennis Nielsen, Program Compliance, Schools and Libraries Division, USAC, to Erate\_USACRS, January 7, 2016 (correcting the recovery amount for Finding #5 from \$39,960 to \$36,960).

<sup>2</sup> Notification of Improperly Disbursed Funds Recovery Letter, December 21, 2015 at 4 (“Recovery Letter”).

<sup>3</sup> Email from Chelsea Joiner, Senior Internal Auditor, Internal Audit Division, USAC, to Patrice DeMarco, Verizon (November 4, 2015) (providing excerpt of Riverside Unified School District Audit Report consisting of Finding Nos. 4 and 5) (“Riverside Audit Report”).

Beneficiary for lines in excess of the amount requested on the item 21 Attachment and committed in the [Funding Commitment Decision Letter], and that [Verizon Wireless] invoiced [the Schools and Libraries Program] for the unapproved lines.”<sup>4</sup>

USAC should rescind the proposed recovery because there is no Commission rule or order that requires a service provider to track the number of lines of service subject to discounting against an applicant’s Item 21 Attachment. In the absence of such a Commission rule or order, USAC is prohibited from seeking the recovery specified in the Recovery Letter. Commission rules specifically provide that USAC “may not make policy, interpret unclear provisions of the statute or rules, or interpret the intent of Congress.”<sup>5</sup>

#### **I. Verizon Wireless Complied with SPI Requirements**

For the mobile broadband services approved in its Funding Commitment Decision Letter (FCDL), Riverside elected to receive its approved E-rate discounts via the Service Provider Invoice (SPI) method.<sup>6</sup> In accordance with E-rate program requirements, Verizon Wireless applied the USAC-approved E-rate discount percentage to Riverside’s bills and then sought reimbursement by filing FCC Form 474 Service Provider Invoice Forms with USAC.

Verizon Wireless complied with all SPI requirements. First, as the Form 474 Instructions specify,<sup>7</sup> Verizon Wireless sought reimbursement from USAC only for E-rate discounts applied to the charges for the eligible Internet Access service for which Riverside was approved by USAC, i.e., mobile broadband service.

Second, Verizon Wireless did not seek reimbursement from USAC for any amount in excess of Riverside’s USAC-approved funding commitment. Indeed, while the FCDL approved a funding cap of \$1,068,871.60 for the mobile broadband services requested by Riverside, Verizon Wireless provided discounts of only \$789,344 to Riverside during Funding Year 2011.<sup>8</sup>

#### **II. No Commission Rule or Order Required Verizon Wireless to Track Riverside’s Line Counts Against the Item 21 Attachment**

No Commission rule or order required Verizon Wireless to track discounts for which it sought reimbursement based on the quantity of services provided to Riverside when the total amount of discounts did not exceed Riverside’s authorized funding cap. The four “criteria” that

---

<sup>4</sup> Riverside Audit Report at 30.

<sup>5</sup> 47 C.F.R § 54.702(c).

<sup>6</sup> Riverside Unified School District, Funding Commitment Decision Letter (October 12, 2011).

<sup>7</sup> Form 474 Instructions at 3 (“The information requested in the following columns should be completed for the eligible services in each FRN...”).

<sup>8</sup> Riverside Audit Report at 32. Due to an oversight, Verizon Wireless only invoiced USAC in the amount of \$557,794.89. *Id.*

the Riverside Audit Report relies upon in support of its finding make no mention of line counts or the Item 21 Attachment, and two of the four criteria do not even apply to service providers.

**Criterion 1:** To support its finding, the Riverside Audit Report first relies on the Instructions to the Service Provider Annual Certification Form (Form 473).<sup>9</sup> But nothing in section 54.504(f) of the Commission's rules, which sets forth the specific certifications required by service providers when filing the Form 473, obligated Verizon Wireless to track the lines subject to discounting against the quantity of lines specified in an E-rate participant's Item 21. Indeed, during Funding Year 2011, the scope of section 54.504(f) was limited solely to competitive bidding matters.<sup>10</sup> Nothing in section 54.504(f) addressed invoicing, much less required service providers to track line counts against a beneficiary's Item 21 Attachment.

To the extent that the Form 473 also included certifications outside the scope of the underlying rule, the Form 473 only required Verizon Wireless to certify that it was seeking reimbursement for discounts applied to eligible *services* for which an E-rate participant had been approved by USAC.<sup>11</sup> In this regard, USAC approved Riverside for E-rate discounts for mobile broadband service under the Internet Access category and, in accordance with E-rate program requirements, Verizon Wireless sought reimbursement from USAC only for discounts applied to that approved service.

**Criterion 2:** The Riverside Audit Report next relies on the Instructions to the Form 474 as support for its finding.<sup>12</sup> However, those instructions require only that service providers deliver services "*consistent with the FCDL provided by USAC and for which the service provider has billed the applicant.*"<sup>13</sup> The instructions do not require service providers to track line counts against the Item 21 Attachment. Moreover, as USAC is aware, an E-rate Participant's FCDL does not provide any information related to the number of lines of service approved by USAC. The FCDL does, however, provide the amount of the E-rate participant's funding commitment.

---

<sup>9</sup> Riverside Audit Report at 33.

<sup>10</sup> 47 C.F.R. 54.504(f).

<sup>11</sup> The Riverside Audit Report specifically relies on Items 9 and 10 from the Instructions to the 2007 version of Form 473. Item 10 requires service providers to certify only that the reimbursement sought is for discounts applied to "*services which have been billed to the service provider's customers ... as deemed eligible by the fund administrator ...*" (emphasis added). Item 9 requires service providers to certify that the data submitted on Form 473 is true, correct and accurate.

<sup>12</sup> Riverside Audit Report at 29. The Audit Report cites the instructions for Block 2 Columns (8) through (14): "The information requested in the following columns should be completed for the eligible services in each FRN for which the service provider with the assigned SPIN set forth in Item (2) has delivered services on or after the effective date of discounts, consistent with the FCDL provided by USAC and for which the service provider has billed the applicant."

<sup>13</sup> Form 474 Instructions at 3 (emphasis added).

As noted above, Verizon Wireless complied with this requirement by not seeking reimbursement for an amount in excess of Riverside's funding commitment.

**Criterion 3:** The Riverside Audit Report also relies on section 54.404(a) of the rules as support for its finding. Section 54.404(a) requires applicants to submit a Form 471 in order to apply for E-rate discounts.<sup>14</sup> The cited rule applies only to applicants, not service providers,<sup>15</sup> and thus cannot be interpreted as requiring Verizon Wireless or any other service provider to track line counts against the Item 21 Attachment.

**Criterion 4:** Finally, the Riverside Audit Report relies on the Instructions to the Form 471 as support for its finding. Those instructions require applicants to submit an Item 21 Attachment.<sup>16</sup> The cited instructions apply only to E-rate participants, not service providers,<sup>17</sup> and thus cannot be interpreted as requiring Verizon Wireless or any other service provider to track line counts against the Item 21 Attachment.

To the extent that E-rate participants included the number of lines of service requested in their Form 471, that information would have been included in the Item 21 Attachment. However, during Funding Year 2011, Item 21 Attachments were treated as *confidential* and were not generally made available to service providers. The fact that Item 21 Attachments were treated as confidential confirms that service providers were not expected, let alone required by Commission rule or order, to track line counts against an applicant's Item 21. The Audit Report's suggestion<sup>18</sup> that a service provider could have divined the Item 21's line count by comparing the committed dollars in the FCDL to the service provider's price quote is without merit. Absent any binding Commission rule or order establishing such an obligation, it is unreasonable to expect any service provider to compare every FCDL that it receives to the

---

<sup>14</sup> Riverside Audit Report at 33.

<sup>15</sup> "An eligible school ... seeking to receive discounts for eligible services under this subpart shall, upon entering a signed contract or other legally binding agreement for eligible services, submit a completed FCC Form 471 to the Administrator." 47 C.F.R. § 54.504(a).

<sup>16</sup> Riverside Audit Report at 33-34.

<sup>17</sup> "Item 21 – Each Funding Request must include a description of the products and services for which discounts are being sought. This description is known as an 'Item 21 Attachment'. The Item 21 Attachment is a detailed and complete narrative description of the products and services contained in the funding request and a line-item listing of the products and services requested with their associated costs, including make, model number and location of any equipment." Instructions for Completing the Schools and Libraries Universal Service Services Ordered and Certification Form (FCC Form 471), Oct. 2010 (OMB 3060-0806) at 21.

<sup>18</sup> Riverside Audit Report at 32 ("The Service Provider also should have been aware of the number of lines that were approved since the pre-discounted cost in the FCDL was based on the Service Provider's price quote for 2,300 lines.").

thousands of price quotes it has issued – which in many instances differ from the amount ultimately approved in the FCDL – in an attempt to derive such a line count.<sup>19</sup>

### III. Conclusion

Because no FCC rule or order required Verizon Wireless to track a beneficiary's line count against the Item 21 Attachment, USAC should grant the appeal and rescind the recovery.

Respectfully submitted



---

David L. Haga

cc: Laura Egan  
Riverside Unified School District  
(via email [legan@rusd.k12.ca.us](mailto:legan@rusd.k12.ca.us))

---

<sup>19</sup> It was Verizon Wireless' policy in Funding Year 2011 to direct each E-rate participant that selected Verizon Wireless as its service provider to access a website to enter information necessary to properly service the E-rate participant's account, including account numbers matched to the participant's 2011 FRNs. Verizon Wireless specifically requested that its customers identify only those accounts that were eligible for E-rate discounts.

# ATTACHMENT D



Universal Service Administrative Company  
Schools & Libraries Division

---

**Administrator's Decision on Appeal – Funding Year 2011-2012**

April 29, 2016

David Haga  
Verizon  
1320 N. Courthouse Road  
Arlington, VA 22201

Re: Applicant Name: RIVERSIDE UNIF SCHOOL DISTRICT  
Billed Entity Number: 143748  
Form 471 Application Number: 820912  
Funding Request Number(s): 2235134  
Your Correspondence Dated: February 19, 2016

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2011 Notification of Improperly Disbursed Funds Recovery Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision. If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 2235134  
Decision on Appeal: Denied  
Explanation:

- During appeal review of your FCC Form 471# 820912 no new information was provided. At this point, we do not have any indication that the Audit results were incorrect. The Service Provider (Verizon Wireless), invoiced SLP for broadband lines that were not requested on the Beneficiary's FCC Form 471 Item 21 Attachment. In your appeal, you did not demonstrate that USAC's determination was incorrect. Consequently, your appeal is denied.

Since your appeal was denied in full, dismissed or cancelled, you may file an appeal with the FCC. Your appeal must be postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the

Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found under the Reference Area/"Appeals" of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division  
Universal Service Administrative Company

cc: Jesse Stayton