Before the Federal Communications Commission
Washington, D.C. 20554

June 18, 2016

In the Matter of

Schools and Libraries Universal Service
Support Mechanism

Request for Review of a Decision of the
Universal Service Administration by

Paterson Arts and Science Charter School

CC Docket No. 02-6

Request for Waiver

Appellant Name: Paterson Arts and Science Charter School
Billed Entity Number: 16075779
For 471: 980715
Funding Request Numbers: 2673172 and 2673174
Service Providers:
OV LLC – SPIN 143034500

Submitted by:

Ben Sniecinski
E-Rate Advantage
106 Lilac Drive
Annandale, NJ 08801
Phone: 908-892-0705
Fax: 888-527-5449
ben@erateadvantage.com

Introduction:

This is a request for a waiver of the Commission's invoice deadline rule. The school's invoices were denied by USAC because they were certified by the service provider after the deadline had passed. We believe this was due to a malfunction of the USAC system, an extraordinary circumstance beyond the service provider's control.

On 10/1/15 we submitted our online BEAR form's for our 2014-2015 application- see attached BEAR form summary. This submittal was 27 days before the invoice deadline.

On October 28th, the school's consultant reached out to the service provider - OV LLC - please see the enclosed e-mail, and was told that all invoices in their system would be certified on time.

We believe there was a malfunction in the USAC system because the service provider never received a notification from USAC that the BEAR was in the system and ready for certification. The notification from USAC to the service provider that the BEAR was available for certification did not show up in the service providers system until May 2016, In addition, the service provider reported that, when they went in to certify other BEAR forms, prior to May 2016, they did not see these pending BEAR forms for this school.

Please see the attached e-mail from the service provider dated May 3, 2016, shortly after OV LLC found this invoice and certified it.

This is an extraordinary circumstance beyond the school's or service provider's control and we request the FFC grant a waiver of the invoice deadline rule and allow the school to re-file their BEAR forms.

Argument:

1. We argue, except for this procedural error, Paterson Arts and Science Charter School acted consistently with all rules and should not be punished for something that will no longer be required as of July 1, 2016.
    a. The School timely filed our 470
    b. The School waited 28 days
    c. The School timely filed our 471
    d. The School successfully completed the review process
    e. The School were issued a positive Funding Commitment Decision Letter (FCDL)
    f. The School filed their BEAR forms over 27 days before the BEAR form deadline. This is well within a reasonable timeframe for it to be certified.
    g. The school's representative even reached out to OV LLC before the deadline to make sure that all BEAR forms, submitted, would be certified on time and was assured that they would be.

2. With the 2014 E-Rate Modernization Order, the Commission recognized the need for a simplification of USAC's invoicing process and made changes to eliminate the need for service providers to have to approve every FCC Form 472. Therefore, we believe it is unfair to punish an application for a rule that the commission already views as burdensome and hence is in the process of eliminating and will do so in less than a month.
    a. "We direct the Bureau and OMD to work with USAC to implement the new direct reimbursement process. We recognize that the current FCC Form 472 requires a service provider to certify that: (1) it must remit the discount amount authorized by the fund administrator to the Billed Entity Applicant; (2) it must remit payment of the approved discount amount to the Billed Entity Applicant; and (3) it is in compliance with the rules and orders governing the schools and libraries universal service support program.[1] Because service providers will no longer serve as a pass-through for payment, they will not be required to approve every FCC Form 472...."
3. The school also, just to be safe, filed for their 120 day invoice deadline extension, and were granted said extension. However, the additional 120 days did not help. OV LLC still never found the BEAR forms in their system and still were had an opportunity to certify them, even within the extended period. As you can see from the OV LLC Letter, from Janeen Long-Williams, our BEAR forms did not show up in their system until May 2016. This was well beyond the 120 day extension window. We are arguing this is an extraordinary circumstances that are beyond the school's and service provider's control.
4. We also make the case that USAC never sent any warnings about these BEAR forms not being certified. As has been common practice with USAC, in years past, they have sent reminder e-mails for forms that have not been filed. Most common are their e-mails to entities who have filed 470 applications but who are yet to have a 471 associated with that entity (Form 470 but No Form 471) or the Form 486 Urgent Reminder Letter. We argue that if USAC had a proactive procedure in place for BEAR forms, arguably one of the most important program forms, this might have helped our school and OV LLC, recognize that something was wrong and given them an opportunity to try and correct it.
5. We ask the FCC go back to the Bishop Perry Order and reread Paragraph 2 of the Introduction: We believe by doing so they will see that it has always been the Commissions intent to simplify the program and allow for the correction or errors. We believe that this denial is not in the best interest of the program. It is a procedural error that the commission has stated should be correctable.
    a. "As we recently noted, 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. We find that the actions we take here to provide relief from these types of errors in the application process will promote the statutory requirement of section

[1] *See* BEAR Form.

254(h) of the Communications Act of 1934, as amended (the Act), by helping to ensure that eligible schools and libraries actually obtain access to discounted telecommunications and information services. In particular, we believe that by directing USAC to modify certain application processing procedures and granting limited waivers of our applications filing rules, we will provide for a more effective applications processing system that will ensure eligible schools and libraries will be able to realize the intended benefits of the E-rate program as we consider additional steps to reform and improve the E-rate program."

6. We believe that this extension should be granted so the school can retrieve their money that has already been committed to them. There is no burden to the Universal Service Fund. This money has already been approved and earmarked for the school. The only burden would be for this small school that no longer has access to their approved funds. Funds they count on for day to day operations.
7. We make the argument that the spirit of the 1St Modernization Order, Paragraph 240, "the Bureau should grant waivers of those rules in extraordinary circumstances." This is an extraordinary circumstance.
    a. At the same time, we agree with commenters that there may be circumstances beyond some applicants' or service providers' control that could prevent them from meeting the 120-day invoice filing deadline.[2] Therefore, we adopt a rule allowing applicants to seek and receive from USAC a single one-time invoicing extension for any given funding request, provided the extension request is made no later than what would otherwise be the deadline for submitting invoices: the latter of 120 days after the last day to receive service, or the date of the FCC Form 486 notification letter.[3] By adopting such a rule, we eliminate the need for applicants and service providers to identify a reason for the requested extension and the need for USAC to determine whether such timely requests meet certain criteria, which will ease the administrative burden of invoice extension requests on USAC.[4] In the interest of efficient program administration, USAC shall grant no other invoicing deadline extensions. Moreover, in considering waivers of our new invoicing rules, we find that it is generally not in the public interest to waive our invoicing rules, and therefore the Bureau should grant waivers of those rules in extraordinary circumstances.
8. 1St Modernization Order, the third goal is to "Making the E-rate application process and other E-Rate process Fast, Simple and efficient." Paragraph 55: The denial of this BEAR form definitely makes the E-rate process fast but not simply or efficient. We argue that a denial such as this only complicates and already

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[2] *See, e.g.*, ALA NPRM Comments at 30; CenturyLink NPRM Comments at 26; FFL NPRM Comments at 59-60; Iowa DOE NPRM Comments at 15.

[3] *See* 47 C.F.R. § 54.514 as amended herein.

[4] *See* USAC Invoice Extension Procedures. *See, e.g.*, ALA NPRM Comments at 30; Amy Biehl NPRM Comments at 2; CenturyLink NPRM Comments at 27-28; FFL NPRM Comments at 59-60; Iowa DOE NPRM Comments at 15; USTA NPRM Comments at 13.

complicated program. This is why the 1st Modernization Order came about, to try and make the program faster, simpler and more efficient. A ruling such as this only hinders those goals.

a. We adopt as our third goal making the E-rate application process and other E-rate processes fast, simple, and efficient.[5] Each year, USAC reviews tens of thousands of funding requests from schools and libraries, and processes thousands of appeals, invoice requests, deadline extension requests, and additional inquiries from schools, libraries, and other parties requesting information.[6] Simplifying and improving these procedures will help applicants receive their funding in a timely fashion, which will allow them to plan better and maximize the impact of their support. Simplification of the E-rate application process also eases the administrative burden on applicants—which is particularly important for smaller schools and libraries that lack extensive administrative support.[7] Conversely, complexity and delay discourage participation and ultimately result in fewer schools and libraries fully investing in needed high-speed broadband connections.

9. In the most recent Ada School District Order – footnote 6: Allows for extensions in certain situations, bullet (9) – circumstances beyond the service providers control. We argue that this situation is beyond OV LLC's control.

   a. See, e.g., Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Third Report and Order and Second Further Notice of Proposed Rulemaking, 18 FCC Rcd 26912, 26950, para. 93 (2003) (noting that USAC provides an extension of the deadline to file invoices under certain conditions, including (1) authorized service provider changes; (2) authorized service substitutions; (3) no timely notice to USAC (e.g., the service providers' Form 486 Notification Letter is returned to USAC as undeliverable); (4) USAC errors that result in a late invoice; (5) USAC delays in data entering a form that ultimately result in a late invoice; (6) documentation requirements that necessitate third party contact or certification; (7) natural or man-made disasters that prevent timely filing of invoices; (8) good Samaritan BEARs; and (9) circumstances beyond the service providers control).

10. Lastly, and most importantly, we argue that there was some type of system glitch that caused these BEAR forms not to appear in the USAC BEAR system. As you can see from the letter by Janeen Long-Williams, "we never received any notification that these BEAR forms were filed and awaiting our certifications. We never saw them in our system until recently." This e-mail is dated May 3, 2016. As we mentioned earlier from the Ada Order footnote 6 states that, "USAC provides an extension of the deadline to file invoices under certain conditions, including.. (9) circumstances beyond the service providers control." We argue

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[5] *See E-rate Modernization NPRM*, 28 FCC Rcd at 11318-19, paras. 45-46.

[6] *Id.* at 11318-19, para. 45.

that this is a circumstance beyond the service provider's control. The service provider cannot certify a BEAR form that they are not aware exists or that they cannot find in USAC's system.

Summary

We believe this is an extraordinary occurrence. As a result, we believe that Paterson Arts and Science Charter School should not be punished for a system glitch. We ask the FCC to waive their Invoice Deadline rule and allow Paterson Arts and Science Charter School to file a new BEAR form. They followed all e-rate rules, there is no waste fraud or abuse, just a simple mistake for which there is a clear remedy.

We respectfully request the FCC waive this rule and allow Paterson Arts and Science Charter School the opportunity to re-file their BEAR form and recoup the money they are entitled to.

Thank you,

Ben Sniecinski

Track BEAR Forms

Please choose from one or more of the following search options:

Created Date Range:	From:	10/01/2015	To:	10/30/2015
Dollar Amount:	Min:		Max:	
SPIN:				
Invoice Id:				
Applicant Form Identifier:				

Display Results As: (•) **BEAR** ( ) **FRN**

Search

Search Results:

Invoice Id	Applicant Form Identifier	SPIN	Status	Reimbursement Amount	Contact Name	Date Created
2254706		143034500	COMPLETED	$2,030.71	Ben Sniecinski	10/1/2015 10:54:54 AM
2254716		143034500	COMPLETED	$1,133.46	Ben Sniecinski	10/1/2015 10:58:33 AM
2254721		143001362	COMPLETED	$495.49	Ben Sniecinski	10/1/2015 11:01:29 AM

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Subject: FW: 2014 BEAR Forms awaiting certification
Date: Saturday, June 18, 2016 at 10:02:31 AM Eastern Daylight Time
From: Ben Sniecinski
To: Ben Sniecinski
Category: Work

From: Erate [mailto:ERATE@cablevision.com]
Sent: Wednesday, October 28, 2015 9:54 AM
To: 'Kristin Sniecinski' <kristin@erateadvantage.com>
Cc: Ben <ben@erateadvantage.com>
Subject: RE: 2014 BEAR Forms awaiting certification

Hello Kristin,

All the invoices will be processed, have a good day.

Thank you,

Janeen Long
B&C Research & Support
(516) 803-2119 (office)
(516) 513-3004 (fax)
erate@cablevision.com

From: Kristin Sniecinski [mailto:kristin@erateadvantage.com]
Sent: Monday, October 26, 2015 8:41 PM
To: Erate <ERATE@cablevision.com>
Cc: Ben <ben@erateadvantage.com>
Subject: 2014 BEAR Forms awaiting certification

Janeen,

Many of the 2014 BEAR Forms we submitted for our schools have not been certified by your organization yet. I have included some of the invoice ids below. Will these be certified by this Wednesday's deadline? If not, will you be filing invoice extensions for these?

SPIN 143034500

Invoice ID: 2223898
Invoice ID: 2219882
Invoice ID: 2232618
Invoice ID: 2232720
Invoice ID: 2231340
Invoice ID: 2235059
Invoice ID: 2233530
Invoice ID: 2229814
Invoice ID: 2232679
Invoice ID: 2232661
Invoice ID: 2219346
Invoice ID: 2233453

SPIN 143007246

Invoice ID: 2233517
Invoice ID: 2233521
Invoice ID: 2222384

Thank you,

Kristin

Kristin Sniecinski
E-Rate Advantage
Phone: 908-894-3114
Fax: 888-878-5371
kristin@erateadvantage.com
www.erateadvantage.com

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Subject: Pending Invoices
Date: Tuesday, May 3, 2016 at 11:36:20 AM Eastern Daylight Time
From: Janeen Long-Williams
To: Ben Sniecinski (ben@erateadvantage.com)

Mr. Sniecinski,

Please be advised at the service provider for the below invoices/FRN's, we never received any notification that these BEAR forms were filed and awaiting our certification. We never saw them in our system until recently.

When an applicant files a BEAR form online, the service provider is supposed to get a confirmation e-mail letting them know that a BEAR form has been filed and needs to be certified. That invoice should also appears in the service providers online portal for certification.

Cablevision/OV LLC as the schools service provider, never received the e-mail notification nor were able to view these BEAR forms in our system until recently.....when we reached out to you. The invoices and FRN's in question are as follows:

1. Invoice 2226925 FRN 2675183
2. Invoice 2254706 FRN 2673172
3. Invoice 2254716 FRN 2673174
4. Invoice 2257516 FRN 2673118
5. Invoice 2257499 FRN 2673125

Please contact USAC to request a waiver of the invoice extension deadline so that these schools can file their BEAR forms, we can certify them, and they can get the money they deserve.

There is no reason a computer glitch should be the reason these schools are not afforded this opportunity.

Thank you,

Janeen Long-Williams
B&C Research & Support
(516) 803-2119 (office)
(516) 513-3004 (fax)
jwillia1@cablevision.com

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Subject: Invoice Deadline Extension

Date: Thursday, November 19, 2015 at 10:55:51 AM Eastern Standard Time

From: deadline@sl.universalservice.org

To: ben@erateadvantage.com

This serves as acknowledgement and approval of your request for your one-time 120 day invoice deadline extension for the following FRNs:

2673063
2673118
2673118
2673125
2673125
2673134
2673134
2673172
2673172
2673174
2673174
2673180
2673180
2675326
2678791
2681054
2681054
2684404
2684404
2686491
2686510
2691297
2691308
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2695628
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2696512
2699208
2699693
2700724
2703318
2703337
2873139
2873139

Since this serves as approval, an invoice requesting payment must be submitted so that it is postmarked no later than the date found on the USAC website within the Search Tools in order for your request to be considered as timely filed. If you are resubmitting a Form 472, please remember that you should forward the form to the Service Provider as soon as possible to ensure sufficient time to process your request. The invoice should be submitted in accordance with the instructions that are posted in the SLD Forms area of the SLD web site at www.sl.universalservice.org or are available by contacting the SLD Client Service Bureau at 1-888-203-8100.

Thank you for your continued support of and participation in the E-rate program.

Schools and Libraries Division
Universal Service Administrative Company

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