

Request for Waiver of 60-day Administrative Appeal Filing Deadline For Appeal to USAC of Funding Commitment Decision Letter Dated 6-2-2018

Proceeding: 02-6 (In the Matter of Schools and Libraries Universal Service Support Mechanism)

Filer/Applicant (School): Archdiocese of Miami Schools, Billed Entity Number ("BEN") 127728

Recipient of Service: Our Lady of the Lakes, BEN 36336

Description: Applicant filed an appeal on August 1, 2018, but filed it through USAC's email system rather than through USAC's EPC portal system. Applicant then re-filed the appeal on August 2, 2018, through the EPC portal system. The initial filing of August 1, 2018, falls within the 60-day appeal deadline prescribed by 47 C.F.R. §§54.719, 54.720. Applicant seeks a waiver of the 60-day appeal filing deadline, because it filed the appeal through the EPC system only one (1) day late on August 2, 2018, and because USAC had actual notice of the appeal on August 1, 2018, through its email appeal-filing system. See below for further history and detail of this appeal.

On March 19, 2018, Applicant filed and certified Funding Application (Form 471) Number 181030184. USAC subsequently initiated a Program Integrity Assurance ("PIA") review of the Funding Application. The PIA review primarily centered on a Category 2 budget overage in the Funding Application. Applicant applied for and received an extension until June 6, 2018, to respond to the reviewer's request for documentation/information. The attached exhibit shows a printout from USAC's own EPC portal system regarding Funding Application 181030184, and shows a "Due Date" of June 6, 2018, after 1 extension.

Despite USAC having granted the extension until June 6, 2018, USAC violated its own review procedures by issuing a Funding Commitment Decision Letter ("FCDL") on June 2, 2018, denying Applicant's Funding Application Number 181030184 on the basis that it exceeded the allowable Category 2 budget. Applicant contacted USAC immediately, in order to discuss the issues raised by USAC granting an extension until June 6, 2018, and then denying the Funding Application by issuing an FCDL four days prior to the extension date. Applicant fully expected USAC to withdraw the FCDL at that time, and put the Funding Application back into review until the June 6, 2018, extension date. USAC did not do so.

In fact, Applicant's E-Rate Consultant had two other Funding Applications for different applicants/BENs denied by USAC under nearly identical circumstances after having received an extension during PIA review, and received the denials prior to the extension date. The Consultant opened a Customer Service Case with USAC about this problem, USAC Customer Service Case # 241365 – which relates to one of the other BENs affected by this USAC problem. In that Customer Service Case, USAC stated, "We are aware of the issue and we apologize for the inconvenience. We expect to have the issue resolved soon." USAC did not resolve the problem in a timely manner, did not withdraw the funding denial, did not put the Funding Application back into review, and did not provide Applicant or Consultant any appropriate remedy other than filing an appeal to USAC.

On August 1, 2018, Consultant emailed the appeal to USAC via the email address: appeals@sl.universalservice.org. USAC in fact uses that email address to allow filing of certain appeals – those involving Funding Year 2015 or prior Funding Years. USAC asks that appeals relating to Funding Year 2016 or subsequent Funding Years be filed through its EPC portal system. USAC's maintenance of two separate appeal filing systems for different funding years creates duplication and confusion.

Upon realizing the distinction between the email appeal filing system and the EPC appeal filing system, Consultant contacted USAC again to confirm receipt of the appeal on August 1, 2018, via email. USAC refused to accept the appeal via its email system – despite allowing numerous other current appeals via that email appeal filing system. Therefore, Consultant re-filed the appeal the next day, on August 2, 2018.

Consultant and Applicant substantially complied with the filing deadline. USAC had actual notice of the appeal through the email system on August 1, 2018. USAC's confusing and contradictory system of appeal filings contributed substantially to the problems described herein. Moreover, this matter never should have required an appeal, given that USAC granted an extension during PIA review then denied funding prior to the extension date.

USAC's EPC portal system has created innumerable problems and barriers to funding, as observed by FCC Chairman Pai. In Chairman Pai's April 18, 2017, letter to Chris Henderson of USAC, he stated that the USAC EPC ("Epic") Portal system, and USAC as a whole, have "serious flaws." Issues that Applicant and/or Consultant have faced directly include:

- There were repeated problems with the EPC Portal input system, during which users could not access or upload necessary data.
- Necessary tools, such as the Category 2 (Wi-Fi Equipment) budget tool were repeatedly inaccurate and misleading to filers.
- USAC instituted an arbitrary lock-down of data that prevented the update of filers' account portals.
- Unexplained blocks on the filing of Forms 471 occurred, preventing the necessary filing of forms prior to the close of the filing window, and/or necessitating filing for benefits under an incorrect entity identification (reference USAC Customer Service Cases 177294 and 177343, as a result of which we were instructed by USAC to file Forms 471 using incorrect Billed Entity Numbers).
- Filers faced barriers to filing proper Forms 471 due to incorrect data in the USAC system for enrollment figures and numbers of low income students for schools filing forms.

The Chairman specifically instructed USAC to "identify alternative options to assist applicants even in the event of IT failures." Due to the above problems and many others, we ask that the FCC grant a waiver of the appeal filing deadline so that the school can properly obtain review and funding of its Application.

A copy of Chairman Pai's April 18, 2017, letter is also attached.

The appeal filed both August 1, 2018, and August 2, 2018, included all information necessary to respond to the initial PIA review and to bring the Applicant's Funding Application into budget. The Applicant properly submitted a Funding Application and complied with all review requests, and the Applicant should be eligible to receive funding, subject to receiving the waiver requested herein.