

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.**

In the Matter of:)	
)	
Request for Review of the)	Administrator Correspondence
Decision of the)	June 23, 2018
Universal Service Administrator by)	
)	
West Rusk CCISD)	
New London, Texas)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

TO: Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street SW
Washington, D.C. 20554

Requestor: West Rusk CCISD
Billed Entity Number: 226378
FCC Registration Number: 0015113343
FRN: 1699031014
FCC Form 471: 161017180

In accordance with Sections 54.719 through 54.721 of the Commission's Rules, West Rusk County Consolidated Independent School District (West Rusk) appeals an Administrator's Decision dated June 23, 2018 regarding a recent appeal denial issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC or Administrator).

On March 29, 2016, West Rusk CCISD's (West Rusk) previous consultant, Martha Labbit, completed and certified FCC Form 471 #161017180.¹ Labbit mistakenly entered a quantity of twelve circuits and a contract expiration date (CED) of July 30, 2016. Labbit correctly identified the unit cost as \$2,820 for an annual cost of \$33,840 (\$2,820 times a quantity of twelve). Labbit should have entered a CED of June 30, 2017 and a one under "Monthly Quantity".² This error resulted in one month of service for FRN 1699031014 with the correct annual cost of \$33,840.

It is our belief that USAC should have identified this error during Program Integrity Assurance (PIA) review and provided the district an opportunity to correct the contract expiration date, quantity of circuits and quantity of months of service. On the FCC Form 471, the FRN in question was identified as a continuation of service that was approved on Funding Year (FY) 2015 FRN 2836405. On FRN 2836405 the district correctly identified the CED as June 30, 2018. Furthermore, FY 2016 FRN 1699031014 references Contract Number "WRY19-102INTACCESS" which was available in the E-rate Productivity Center (EPC) portal contract module and identified as Contract ID "31181".³ The three-year contract was attached to Contract ID "31181" and available for PIA to review. Therefore, USAC had information in the EPC portal to demonstrate that the CED identified on FRN 1699031014 was entered incorrectly. In the Bishop Perry Order the FCC directed USAC to "inform applicants promptly in writing of any and all ministerial or clerical errors that are detected in their applications, along with a clear and specific explanation of how the applicant can remedy those errors."⁴ We believe it is clear that USAC failed to notify the district of this clerical error nor did USAC provide the applicant an opportunity to cure the clerical error. Had USAC complied with the requirements of the Bishop Perry Order and reviewed the supporting contract documentation, this error would have been corrected prior to the issuance of the Funding Commitment Decision Letter (FCDL)⁵. The District was not aware of a discrepancy when they received their FCDL because the approved yearly amount was correct. They had no reason to question the commitment.

The service provider, ESC7Net, Service Provider Number (SPIN) 143008766 submitted FCC Form 474 #2545922 to USAC on March 15, 2017. It was denied by the invoicing team on March 30, 2017 because the "Bill Date" was after the CED.⁶

Immediately following this discovery, West Rusk submitted FCC Form 500 #41141 on March 31, 2017 to correct the CED and to June 30, 2018.⁷ We included a copy of the three-year contract with the submitted FCC Form 500 #41141, even though USAC already had a copy of the contract which was uploaded into the contract module for this FRN. This documentation clearly demonstrated that we were requesting 12 months of service, not one month of service, and reflected the actual term of the contract, which was 36

¹ Attachment A – certified FCC Form 471 #161017180

² Attachment C (b) –signed & dated 2015 3yr contract ending on June 30, 2017.

³ Attachment C (c)- Screenshot of EPC Contract Module.

⁴ See <https://www.usac.org/res/documents/about/pdf/fcc-orders/2006-fcc-orders/FCC-06-54.pdf>, FCC 06-54 at paragraph 23 for Bishop Perry Order.

⁵ See file:///C:/Users/Jessica%20J.%20Olsen/Downloads/FCC-11-60A1 Rcd%20(1).pdf, FCC 11-60 for order to extend the deadline to correct M&C errors.

⁶ Attachment B – FCC Form 474 3/15/17 and denial of payment 3/30/17

⁷ Attachment C – FCC Form 500 #41141 submitted on 3/31/17, along with Attachment C(b)- signed & dated 2015 3yr contract.

months, ending 6/30/2018. A revised funding decision on FCC Form 500 #41141 was received on September 13, 2017 and the CED was modified to June 30, 2018. Although USAC corrected the CED, they did not increase the months of service. Specifically, the decision stated:

"The Contract Expiration Date Change request for FRN 1699031014 has been approved and your FRN was modified. You requested a Contract Expiration Date change for FRN 1699031014 to 6/30/2018. Since the new Contract Expiration Date will increase the number of months of service and the funding commitment for this FRN, your request is not allowable and is therefore denied."

Following the September 13, 2017 decision that was made on FCC Form 500 #41141, the District incorrectly assumed the invoicing issue was resolved because the CED was modified to June 30, 2018. The corrected CED resulted in 12 months of service.

Based on that assumption, the service provider, ESC7Net, submitted FCC Form 474 #2770840 on February 8, 2018. ESC7Net received in invoice notification letter on February 15, 2018, which stated that their bill date was still after the CED.

West Rusk submitted appeal #92255 to USAC on April 3, 2018 explaining this was simply a ministerial error and requested additional time for the service provider to invoice USAC.⁸ The appeal was denied on June 23, 2018 for the following reason:⁹

"Our records show that your appeal was filed more than 60 days after the date your decision letter was issued. Your appeal was filed on 004/03/2018. The RFCDL was issued on 09/13/2017. Federal Communications Commission (FCC) rules require appeals to be filed within 60 days of the date on the decision letter being appealed. FCC rules do not permit the Universal Service Administrative Company (USAC) to consider your appeal. Therefore, the appeal was denied."

It was always the District's intention to request twelve months of service. As you can see on the original copy of FCC Form 471 #161017180, the "Monthly Quantity" was "12", but the "Months of Services" was "1". This was clearly a ministerial error, as the numbers were transposed. Additionally, FRN 1699031014 referenced previous FY 2015 FRN 2836405, which reflected the correct contract expiration date, number of circuits and months of service. FRN 2836405 referenced a three-year contract, awarded on March 30, 2015 and expiring on June 30, 2018. USAC approved FRN 2836405 as submitted.¹⁰

On May 19, 2006, the Bishop Perry Order required USAC to modify its application review procedures to allow for applicants to make corrections to certain clerical or ministerial errors that may have been made

⁸ Attachment D- Appeal #92255 submitted on April 3, 2018.

⁹ Attachment E- Revised Funding Commitment Letter received on June 23, 2018.

¹⁰ Attachment F – Copy of certified FY 2015 FCC Form 471 #1025183.

while filing their E-rate applications.¹¹ Therefore, we believe PIA should have identified this error while reviewing previous FY 2015 FRN 2836405 that was referenced on the FY 2016 FRN 1699031014 as well as the three-year contract that was attached to Contract ID #31181 and referenced on FRN 1699031014. If PIA had done a thorough review of the previous year's referenced FRN 2836405 and compared it to FY 2016 FRN 1699031014's information, they would have noticed that the CED in FY 2015 did not match the CED in FY 2016. Also, a review of Contract "WRY19-102INTACCESS" which was referenced on FRN 1699031014, would have resulted in more questions from PIA. We are convinced that PIA would have reached back out to the District to resolve the CED discrepancy as well as the ministerial error on the monthly and circuit quantities.

We believe our appeal should be granted because:

- The applicant provided documentation to demonstrate that we had a three-year contract in place that covered July 1, 2015 through June 30, 2018.
- As required by the Bishop Perry Order, PIA should have recognized the ministerial error that was entered on FCC Form 471 #161017180. This issue could have been easily resolved prior to issuing a funding commitment decision.
- The District is not requesting to increase the requested amount for FRN 1699031014. We are requesting to modify the monthly amount from \$33,840 to \$2,200; decrease the monthly quantity from twelve to one; and change the number months of service from one to twelve based on the 3-year contract we provided. Finally, this modification decreases the yearly pre-discount amount from \$33,840 to \$26,400.

The District should not be penalized for making a ministerial error. We have provided evidence to support that it was indeed a ministerial error and that we are not requesting for an increase in funding.

We are requesting that the FCC direct USAC to correct the ministerial errors listed above and grant an invoice deadline extension so that ESC7Net can invoice USAC for the remaining eleven months of service.

Thank you and we greatly appreciate your consideration of this appeal.

Sincerely,



Lawrence Coleman

West Rusk County Consolidated Independent School District

¹¹ See <https://www.usac.org/res/documents/about/pdf/fcc-orders/2006-fcc-orders/FCC-06-54.pdf>, FCC 06-54 at paragraph 23 for Bishop Perry Order.