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August 28, 2017

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

**RE: Petition for Reconsideration of Public Notice Released on July 31, 2017  
Streamlined Resolution of Requests Related to Actions by the  
Universal Service Administrative Company  
CC Docket No. 02-6 DA 17-712**

Appellant/BEN: Sno-Isle Rural Library System, BEN #145230

Contact: Claire O'Flaherty, E-rate Expertise, 3115 N Mason Ave, Tacoma, WA 98407  
Cell: 253-320-0664, Email: [claire@erateexpertise.com](mailto:claire@erateexpertise.com)

The Sno-Isle Library would like to thank you for your review of our appeal dated October 8, 2013 and for the favorable decisions relating to the 486 Forms for the 1999, 2001, 2003 and 2004 program years. We would like to present additional information in response to the stated reasons for the FCC's denial of the other requests. This information was not included in our original appeal and we believe it provides a basis for the FCC to reconsider the denials in its previous decision.

Most of the FCC denials in our appeal were due to untimely filing of forms/extension requests/waivers/appeals and due to the perception of a lack of special circumstances warranting approval of appeals. We ask for reconsideration of these findings as summarized in the following three points:

**I. Complexity of the Appeal Delayed Action:** The delays in filing the extension requests, waivers and appeals were due to the complexity of the appeal, the lack of documentation, working with the ombudsman and other staff at USAC, different directives from USAC on how to proceed, and diversion of our attention to the 2013 program year applications and strict compliance with all program rules going forward.

**II. Special Circumstances:** The magnitude of this situation and the fact that senior staff members had been assured for years that all was well with the E-rate funding, when in reality no reimbursements or credits had been received, creates special circumstances that warrant an appeal approval.

**III. 2014 Modernization Ruling is Not Applicable:** The 2014 Modernization with stipulations limiting extensions and waivers to 12 months after the deadlines, and subsequent rulings confirming the enforcement of this rule to all program years, are not applicable to this appeal. Different standards were in place in 2013 when this appeal was filed and were in effect for one full year while the FCC reviewed the appeal and before the Modernization ruling was passed in 2014 and then applied to this appeal in 2017.

Each of these points for reconsideration are further explained throughout this letter and in the attached supporting documentation. Note that the underlined text are our highlights for the purpose of emphasis and documenting our points.

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#### **I. Complexity of the Appeal Delayed Action:**

When Sno-Isle Library discovered that their E-rate program applications had been mismanaged by their Administrative Services Director after his unexpected retirement in April of 2012, the library hired a consultant for E-rate services in August of that year. The former Administrative Services Director deleted or shredded all of his E-rate related documents prior to his departure. For the next 6 months, our consultant worked closely with the USAC Ombudsman and other E-rate staff members, including countless phone calls and many emails, to research and understand the details of the prior 14 years of E-rate applications. They worked together to recreate the application files, and developed a strategy for preparing the appeal including identifying all of the decisions and actions that would be required for funding to be restored to the library. After significant debate amongst USAC staff members on how to address this situation, they eventually instructed the library to not appeal individual USAC decisions, but instead to submit a comprehensive appeal with a "blanket waiver" request to the FCC.

In a September 18, 2012 email, the USAC Ombudsman stated:

*At this point, the only way you can possibly retrieve funding on these applications is to file for a blanket waiver with the FCC explaining the circumstances, and detailing the status of each application...A blanket waiver would allow you to file Form 486s for those that need it and submit invoices for those which have Form 486s filed. The FCC has been reasonably generous in the past, so since this case is rather unusual, they may provide a waiver. [see Attachment 1, section A]*

On September 24, 2012, the Ombudsman sent two additional emails with instructions relating to the 2011 application and late filed 486.

*As to the invoicing, I would suggest that if you want to wait for the appeal to invoice the entire amount, it might be wise to send in an invoice deadline extension request now so if the appeal is not granted you can recover some of the funds at that time. [see Attachment 1, section B]*

Per this instruction, we did file the deadline extension request on October 25, 2012 [see Attach 2]. We also included the request in the comprehensive appeal to the FCC on October 8, 2013.

Later in the day on September 24, 2012, the Ombudsman gave further instructions regarding the 2011 486 form that was filed a few weeks after the deadline in the USAC 486 Reminder Letter:

*This means you need to file a waiver request with the FCC, as USAC cannot rule on this issue. However, the FCC has been lenient in the past with Forms that were filed only 14 days after the deadline... [see Attachment 1, Section C]*

On September 26, 2012, the Ombudsman found charges on a 2011 application that appeared to be eligible and he indicated that we should include them with our comprehensive request:

*The Advanced Data Services charge appears to be the total of the three circuits...These could indeed be eligible if they provide telecommunications services or even Internet Service...If you are going to file a waiver request with the FCC, you might as well ask for everything. [see Attachment 1, Section D]*

At the Fall Applicant Training session in 2012, our consultant spoke with a few of the USAC staff members regarding our predicament. Their advice differed from the Ombudsman's advice and they told us to file individual appeals for each decision we needed to be reviewed. We began drafting appeals based on this new approach. A copy of a draft appeal including only the 2012 application year was sent to the Ombudsman for review on November 27, 2012. [see Attachment 3 ]

As recounted in a status email from our consultant on December 5, 2012, with the subject Still Waiting on Ombudsman:

*I've exchanged some voice messages w/ the ombudsman and he told me that a few people were on vacation so he is having a hard time setting up some meetings w/ key people at USAC re: the appeal...Sorry for the delay, but wanted to keep you posted.*

*...our appeal plan has changed. When I called the Ombudsman a few weeks ago, he felt we would have a better chance laying all the cards out at once to the FCC and skipping the USAC appeal. This is opposite from what the USAC folks advised at the training conference. He's going to talk to key people at USAC and advise us how to revise our appeal letter. He said this is an*

*unprecedented situation so that is why there is some disagreement on what our next steps should be. [see Attachment 4, Sections A&B]*

On December 11<sup>th</sup>, 2012 our consultant sent another email with an update on the approach to the appeal:

*Fyi, I talked to the ombudsman again and he didn't really have anything new to share about how to approach the appeal. The person who had advised us to appeal year by year was figuring that each year would be assigned to a different reviewer at the FCC. After they all talked about it together, they think we should lump it all in one big appeal and then list the deadline and rule waivers needed for each year... [see Attachment 5, Section A]*

These documents show that we were working diligently with USAC to research the situation and responded in a timely manner to their instructions for next steps. The emails also demonstrate the unusual complexity of the situation and difficulties in determining the strategy for resolving the issues by even the experts at USAC.

The final strategy suggested by USAC included two steps. First we were advised to file appeals to USAC for only the more recent missed deadlines from 2009-2011 with the hopes of resolving some of the issues that were within USAC's ability to address or to at least have decisions that could be appealed to the FCC. This is why we were instructed to file the 486 forms for 2009, 2010 and 2011.

Second, we were advised to file a comprehensive "blanket waiver" appeal to the FCC for all missed deadlines given the large scope of the issues. This is the reason we did not appeal the USAC 486 decisions for 2009, 2010 and 2011 within the 60 day appeal period. In addition, because some of the other program years were nearly a decade old, we were told to just include them in a comprehensive appeal to the FCC. Ironically, waivers were granted for the earliest program years in 1999, 2001, 2003 and 2004 applications because the forms had never been filed with USAC, but the decisions on the forms that were filed late with USAC and then included in the FCC appeal were denials.

Since most of the deadlines had passed long before this time, the Ombudsman indicated that there was no rush with finishing and filing the appeal since we were consolidating everything into this "blanket waiver". Since so many of the deadlines had already passed, it would be better to prepare a complete and accurate appeal than to rush to appeal a few decisions at a time.

We all agreed that the more pressing issue was making sure that the library was in compliance with all current program activity. At that time, we turned our attention to the 2013 program year and we devoted our efforts to ensuring that all program eligibility, contracting, compliance, and documentation requirements were fulfilled going forward. We had issued a 470 for the 2013 program year on October 3, 2012 and were working on the competitive bidding and contracting process for five different services during this period. A small representation of this work appears in Attachment 4, Section B with

discussions between our consultant and IT Manager regarding a contract with Iron Goat, Inc. for internet access and data services.

We also dedicated significant time to training several staff members on the E-rate program to prevent this situation from happening again. We revisited the appeal in the Fall of 2013 after a summer break and we finished compiling the documentation and preparing a comprehensive summary of this very complex situation. After thorough research, debate and extensive work, we finally filed the appeal with the FCC on October 8, 2013.

## **II. Special Circumstances:**

We understand that many items in our original appeal were denied because an employee's misunderstanding of program rules relating to form filing, eligibility rules and reimbursement procedures was not considered "special circumstances" that are required for the approval of the appeal. In 2012 when we worked with the Ombudsman, he told us that he was aware of successful appeals that were granted because employees' other duties had interfered with their ability to meet E-rate deadlines. We previously referenced emails from the USAC Ombudsman stating that "...this case is rather unusual..." and that there was significant disagreement amongst USAC staff on how to proceed because it was an "unprecedented" situation. [see Attachment 1, Section A and Attachment 4, Section B]

The magnitude of this employee's lack of understanding which spanned a 14 year period cannot be considered normal circumstances. Furthermore, during that entire time period, he had assured both the Library's director and the IT Manager that all was well with the program and he was able to handle it all himself. After his retirement, the library discovered that he had destroyed all his computer documents and paper files relating to E-rate. Certainly all of these factors taken together represent a magnitude far beyond a simple misunderstanding and should be considered special circumstances that warrant the approval of the original appeal.

This petition for Reconsideration presents new information supporting the fact that the Administrative Services Director assured other staff members that he could handle E-rate on his own and that all was well with the library's E-rate funding on numerous occasions over the years. Although the employee deleted all of his emails before his unexpected early retirement from the library, we were able to recover a representative email exchange between the Library Director Jonalyn Woolf-Ivory, the IT Manager John Mulhall, and the Administrative Services Director on July 27, 2011 in response to an inquiry from a consulting company about the status of E-rate disbursements:

*John Mulhall: Looks like this is a for profit company who provides consulting services. We have received funding, right? [see Attachment 6, Section A]*

*Arch Fonken: John has this right...We have received discounts and funds. [see Attachment 6, Section B]*

It was not until after his abrupt departure 9 months later that we discovered the existence of a problem and the magnitude of his errors.

### **III. 2014 Modernization Ruling is Not Applicable:**

While we were working with the USAC Ombudsman in 2012 and 2013, he told us on several occasions that the FCC had a history during that time period of being lenient in granting deadline extensions and waivers to applicants. This fact was substantiated in the emails quoted above [see Attachment 1, Sections A&C]. As you are aware, this policy created a practice at USAC to hold funds in reserves in the event of later appeals which was contrary to the FCC's goal of getting funds disbursed to schools and libraries in need. Although this issue was addressed in the 2014 Modernization Order that limits these extensions and waivers to a 12-month period after the deadlines, this ruling was not in effect at the time our original appeal was filed with the FCC on October 8, 2013. Although the FCC issued a subsequent ruling that the 12 month limitation applied to funding for program years prior to 2014, we would like to differentiate this request for reconsideration on the basis that the appeal itself was filed a full year prior to the 2014 Modernization Ruling. The standards for appeals and waivers were different and much more lenient at the time our appeal was filed. Since most appeals are decided within a year of their filing, if this appeal had been addressed during the usual and customary time frame, different standards would have been applied and there was precedence for the appeal to be approved.

### **Actions Requested in this Petition of Reconsideration:**

We have attached a Summary of the Appeal Decisions that were made in the July 31, 2017 Public Notice [see Attachment 7]. Although the appeals were approved for the four oldest program years when no form 486 was filed, the stated reasons for the other denials were because the comprehensive "blanket waiver" appeal we were instructed to file by USAC was considered late/untimely and did not present special/extraordinary circumstances. As the information detailed above clearly documents, there were special circumstances that caused these delays including but not limited to:

- Delay due to instruction to prepare a comprehensive "blanket waiver" for 14 years of applications rather than to address the issues one at a time as USAC decisions were issued
- Being told that a delay in the filing appeal was not critical because most of the deadlines were past and the FCC had the ability to waive deadlines regardless of the amount of time past
- Lack of documentation and need to recreate the files

- Delays in responses and conflicting directions from USAC due to the unprecedented nature of this situation
- Complexity of the issues
- Time spent developing effective and compliant procedures for E-rate activities and training staff on program rules and procedures
- Diversion of attention from the appeal to the coming year competitive bidding, contracting and application process
- Assurances from the Administrative Services Director that E-rate funding had been received and all was well with the program
- Different decision standards in place at the time the appeal was filed and for more than a year after the appeal was filed

In light of this new documentation demonstrating the special circumstances of this case, we respectfully request a reconsideration of the decisions in the July 31, 2017 ruling and that all decisions outlined in the Attachment 7 report be reversed so that funding can be restored to the Sno-Isle Library.

We greatly appreciate your careful consideration of our appeal. If you have any questions or need further information, please contact our consultant Claire O'Flaherty at [Claire@erateexpertise.com](mailto:Claire@erateexpertise.com) or 253-320-0664, 3115 N Mason Ave, Tacoma, WA 98407. Please note that her mailing address has changed since the original appeal was filed and your records for this case needs to be updated so that we can receive your responses to our submittal. We look forward to your favorable review of this new information we have presented.

Sincerely,



Gary Sitzman

Administrative Services Director

Attachments:

- Attachment 1 – Series of emails from USAC Ombudsman Robert Spiller dated September, 2012
- Attachment 2 – Invoice Deadline Extension Request dated October 25, 2012
- Attachment 3 – Email from consultant Claire O'Flaherty dated November 27, 2012
- Attachment 4 – Email from consultant Claire O'Flaherty dated December 5, 2012
- Attachment 5 – Emails from consultant Claire O'Flaherty dated December 11, 2012
- Attachment 6 – Emails from John Mulhall and Arch Fonken dated July 27, 2011
- Attachment 7 – Summary of Appeal Decisions for Reconsideration

Claire O'Flaherty

Attachment 1

**From:** Claire O'Flaherty <claire@erateexpertise.com>  
**Sent:** Wednesday, September 26, 2012 9:01 AM  
**To:** 'Robert Spiller'  
**Subject:** RE: Inquiry - Sno Isle Regional Library - BEN 145230 - Case # 22-413155 - Erate Applications 1998-2012

Thanks Bob, this is helpful. We have a call into Frontier to find out exactly what those billing/surcharges are for. They are no longer included in the bills so it's not an issue going forward.  
Claire

Claire O'Flaherty  
E-rate Expertise, Inc.  
5520 N. 43<sup>rd</sup> Street  
Tacoma, WA 98407  
Tel: 253-752-4737  
Cell: 253-320-0664

**From:** Robert Spiller [mailto:rspiller@usac.org]  
**Sent:** Wednesday, September 26, 2012 6:46 AM  
**To:** Claire O'Flaherty  
**Subject:** Inquiry - Sno Isle Regional Library - BEN 145230 - Case # 22-413155 - Erate Applications 1998-2012  
**Importance:** High

Claire,

I reviewed the details of the FY2011 application 821891 to clarify the ineligible services that impacted the funding commitment. This is what I found:

**FRN 2238488 – Whidbey Telephone**

Late fees:  $\$2.16 \times 12 = \$25.92$   
Unpublished listings:  $\$4.60 \times 12 = \$55.20$   
Total:  $\$81.12$

This was indicated on the FCDL.

**FRN 2238487 - Frontier Communications**

Surcharges: \$603.61  
    \$ 0.40  
    \$ 6.77  
Total: \$610.78  
Enhanced Billing Service \$37.09  
The Billing Resource \$35.24  
OAN Services \$13.11  
Advanced Data Services \$1838.25

This was also indicated on the FCDL.



I believe the surcharges and the billing service are obviously ineligible. You should contact Frontier to have them define what constitutes the "Billing Resource" and the "OAN Services", but I suspect they too may be ineligible. The Advanced Data Services charge appears to be the total of the three circuits:

01.QGDA.098880 - \$617.58

01.QGDA.002103 - \$564.00

01.QGDA.097663 - \$656.67

**\* Section D \***

These could indeed be eligible if they provide telecommunications services or even Internet Service. If they provide Internet Services, they are eligible even if included under the Telecommunications FRN as long as they are provided by the same service provider, and the CIPA requirements are met.

See the Eligible Services List on our website at: <http://www.usac.org/si/applicants/beforeyoubegin/eligible-services-list.aspx>.

It states under the Telecommunications Section:

In addition, some service offerings provide a combination of both Internet access and telecommunications services. For example, a service provider may offer local phone service, long distance service, cellular service, and Internet access for one price. For administrative convenience, such a combined offering, if provided by an eligible telecommunications carrier, may be requested in the telecommunications services category of service on the FCC Form 471. Alternatively, funding may be requested as two separate requests, with the price of the offering appropriately allocated between the telecommunications services and Internet access categories.

If you are going to file a waiver request with the FCC, you might as well ask for everything.

Hope this helps.

Regards,

Bob

J.Robert Spiller  
Ombudsman Manager  
Schools and Libraries Division  
Universal Service Administrative Company  
Office: 202-772-5232  
Fax: 202-776-0080  
[Ombudsman@usac.org](mailto:Ombudsman@usac.org)  
[www.usac.org](http://www.usac.org)

**From:** Robert Spiller  
**Sent:** Monday, September 24, 2012 3:28 PM  
**To:** 'Claire O'Flaherty'  
**Cc:** 'gsitzman@sno-isle.org'; 'JMulhall@sno-isle.org'  
**Subject:** RE: Inquiry - Sno Isle Regional Library - BEN 145230 - Case # 22-413155 - Erate Applications 1998-2012

Claire,

I pulled a copy of the 486 and the 486 Urgent Reminder Letter (attached). If the 486 had been submitted prior to 7/31/2012 as per the letter, there would have been no penalty. Unfortunately, the 486 was submitted on 8/14/12. This means you need to file a waiver request with the FCC, as USAC cannot rule on this issue. However, the FCC has been lenient in the past with Forms that were filed only 14 days after the deadline, so it's certainly worth filing the waiver request with them. }

**\* Section C \***

I'll check the services issue and get back to you.

Regards,

Bob

J.Robert Spiller  
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Universal Service Administrative Company  
Office: 202-772-5232  
Fax: 202-776-0080  
[Ombudsman@usac.org](mailto:Ombudsman@usac.org)  
[www.usac.org](http://www.usac.org)

**From:** Robert Spiller  
**Sent:** Monday, September 24, 2012 10:40 AM  
**To:** 'Claire O'Flaherty'  
**Cc:** [gsitzman@sno-isle.org](mailto:gsitzman@sno-isle.org); [JMulhall@sno-isle.org](mailto:JMulhall@sno-isle.org)  
**Subject:** Inquiry - Sno Isle Regional Library - BEN 145230 - Case # 22-413155 - Erate Applications 1998-2012  
**Importance:** High

Claire,

I've attached a copy of the initial application in our files, which includes the billing information that the reviewer used. I also enclosed some of the correspondence in the file. This is what I have been able to find at this point.

**\* Section B \***

As to the invoicing, I would suggest that if you want to wait for the appeal to invoice the entire amount, it might be wise to send in an invoice deadline extension request now so if the appeal is not granted you can recover some of the funds at that time. If the USAC appeal is denied, you can appeal to the FCC – but it might be a long time before they issue their decision. }

I took a quick glance at the attachments, which appear to answer some of the questions.

Regards,

Bob

J.Robert Spiller  
Ombudsman Manager  
Schools and Libraries Division  
Universal Service Administrative Company  
Office: 202-772-5232  
Fax: 202-776-0080  
[Ombudsman@usac.org](mailto:Ombudsman@usac.org)

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**From:** Claire O'Flaherty [<mailto:claire@erateexpertise.com>]

**Sent:** Wednesday, September 19, 2012 2:14 PM

**To:** Robert Spiller

**Cc:** [gsitzman@sno-isle.org](mailto:gsitzman@sno-isle.org); [JMulhall@sno-isle.org](mailto:JMulhall@sno-isle.org)

**Subject:** RE: Inquiry - Sno Isle Regional Library - BEN 145230 - Case # 22-413155 - Erate Applications 1998-2012

Thanks Bob. I appreciate your help in getting the FCDL copies.

Did you mention that you have access to file notes for denied or reduced FRNs? I need more information on why the FRNs were reduced in program year 2011 so I can work on the BEARs. I understand why late fees and directory listings were denied, but we can't figure out what the Surcharge - \$610.78, Enhanced Billing Service - \$37.09, Billing Resource \$35.24, and OAN Services Inc - \$13.11 are for. The IT Manager doesn't recall seeing these items on any bills. Also, Advanced Data Services of \$1,838.25 were denied, but they should just refer to DSL or T-1 lines for phone services so we don't know why they would be denied. Was there some kind of a bill submitted and on file that we could see?

In addition, although a 486 was filed for this year, we just did it last month so I believe that only 120 days prior to the filing date are eligible for reimbursement. Do we need to go through an appeal process for the rest of the year or would we be allowed to file a BEAR for everything now? Ideally, we would like to file only 1 BEAR form for the entire year, either right now, or after an appeal. What do you advise?

Claire

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E-rate Expertise, Inc.  
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Tacoma, WA 98407  
Tel: 253-752-4737  
Cell: 253-320-0664

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**From:** Robert Spiller [<mailto:rspiller@usac.org>]

**Sent:** Tuesday, September 18, 2012 11:50 AM

**To:** Claire O'Flaherty

**Cc:** [gsitzman@sno-isle.org](mailto:gsitzman@sno-isle.org); [JMulhall@sno-isle.org](mailto:JMulhall@sno-isle.org)

**Subject:** Inquiry - Sno Isle Regional Library - BEN 145230 - Case # 22-413155 - Erate Applications 1998-2012

**Importance:** High

Claire,

Sorry for the delay in responding to your email, but the status of these applications is spread in several differing systems here. I think I now have a pretty good idea of the situation.

First, I would recommend that you gather the billing information from the service providers for FY2011 associated with Application 821891. The Form 486 was issued for those Funding Requests (FRNs), so you can now submit invoices for the actual discounted costs. However, the deadline is approaching, so if you feel you need additional time, you should request an invoice deadline extension. The procedures for doing so can be found on the website at: <http://www.usac.org/sl/applicants/step07/invoice-extensions.aspx>. I have also attached a copy of the FCDL for that application.

I checked the status of the FY2012 application 875656, and confirmed that they have your LOA and contact information. The PIA review has started, so that process appears OK.

The information on previous funding years can be downloaded from our website Data Retrieval Tool (DRT), but I have summarized it below:

1998 -- Applications 64254, 31423, 30571, & 85219. Funding approved. Form 486 submitted but no invoices are recorded.

1999 -- Application 148960 -- Funding approved. Form 486 submitted, but no invoices are recorded

2000 -- Application 190290 -- Funding approved. Form 486 submitted. One FRN 404927 was invoiced for \$601.23 by Nextel. The other 9 FRNs had no invoices submitted.

2001 -- Application 266305 -- Funding approved. No Form 486 submitted.

2002 -- No records

2003 -- Application 382691 -- Funding approved No Form 486 submitted.

2004 -- Application 434583 -- Funding approved. No Form 486 submitted.

2005 -- Application 489285 -- Funding denied due to no response from applicant to questions.

2006 -- Application 538951 -- FRN 1492905 denied. Others approved. Form 486 submitted. No invoices.

2007 -- Application 586757 -- FRNs 1628563 & 1628566 denied. Others approved. Form 486 submitted. No invoices

2008 -- Application 637629 -- Funding approved. Form 486 submitted. No invoices

2009 -- Application 691322 -- Funding approved. No Form 486 submitted.

2010 -- Application 769113 -- Funding approved. No Form 486 submitted.

**\*Section A\***

At this point, the only way you can possibly retrieve funding on these applications is to file for a blanket waiver with the FCC explaining the circumstances, and detailing the status of each application. You will need to request a waiver for those without a Form 486 filed and those with a Form 486 filed, but requiring an invoice deadline extension. A blanket waiver would allow you to file Form 486s for those that need it and submit invoices for those which have Form 486s filed. The FCC has been reasonably generous in the past, so since this case is rather unusual, they may provide a waiver. It's certainly worth the attempt. There is no predicting the outcome or the time it will take for a decision, so you may want to start putting together copies of the bills for each FRN if the waiver is approved.

I have attached copies of the FCDs for each funding year, which you will need for the appeal. That should be sufficient at this point. Let me know if you need anything further.

Appreciate your coping me on you appeal for our records.

Regards,

Bob

J. Robert Spiller  
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Universal Service Administrative Company

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[www.usac.org](http://www.usac.org)

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**From:** Claire O'Flaherty [<mailto:claire@erateexpertise.com>]  
**Sent:** Thursday, September 13, 2012 3:18 PM  
**To:** Ombudsman  
**Cc:** [gsitzman@sno-isle.org](mailto:gsitzman@sno-isle.org); [JMulhall@sno-isle.org](mailto:JMulhall@sno-isle.org); David LeNard  
**Subject:** Documentation Request

Bob,

Thank you so very, very much for your offer to help us with the documentation for the Sno-Isle Regional Libraries appeal. As we discussed the library's staff member who had handled the E-rate applications from the beginning of the program did not fully understand the program rules and procedures. It appears that in many years a 486 form was not filed, and no BEARs were filed to collect approved funding commitments for any of the program years. In addition, it looks like a few funding requests were either reduced or denied, but we are unsure of the reasons for the denial. Unfortunately, after the staff member retired earlier this year, the library was unable to locate any hard copy or computer files for the entire E-rate program. We estimate that there may more than \$1.2 million in unclaimed committed funds, and denials of over \$660,000 in funding requests for which we cannot find explanations and may in fact be eligible services.

In order to send an appeal to USAC, we will need the following documentation:

Copies of all 470 & 471 applications that were filed since the beginning of the E-rate program (looks like all program years except 2002)

Copies of any 486 forms that were filed (1998-2000, 2006-8?)

Copies of all FCDLs

Confirmation that no BEARs were filed

File notes of any correspondence between USAC PIA and the Library

Detailed explanations of denials (beyond what is listed on an FCDL)

Copies of any Item 21 Attachments submitted by the library

Copies of any calculation charts or invoices submitted by the library as part of a 471 (this type of documentation was required on all FRNs in the early program years prior to the on-line Item 21 Attachment system)

We appreciate any advice you can give us in filing this appeal and any additional information/documentation you can provide. As you can see, a lot is at stake for the library and we want to make sure that we present and document our case as effectively as possible to maximize any funds we might be able to recover. We are very grateful for your assistance!

Sincerely,  
Claire O'Flaherty

Claire O'Flaherty  
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Attachment 2

October 25, 2012

Invoice Deadline Extension Request  
Schools and Libraries - Correspondence Unit  
30 Lanidex Plaza West  
PO Box 685  
Parsippany, NJ 07054-0685  
Fax: (973) 599-6526

Dear USAC:

After a recent staff turnover, the Sno-Isle Library (BEN # 145230) discovered serious errors in the administration of our E-rate program management, including the failure to file numerous 486 and BEAR forms over several years. We are in the process of making an appeal to the FCC to try to recover some of the funding that was previously committed but never disbursed.

In August of 2012, we filed a late 486 form for program year 2011. The funding commitment was reduced and the service start date was changed to reflect the 120 day 486 deadline. Only the expenses from 4/17/12 - 6/30/12 are now eligible for reimbursement. We would like to request an extension of the BEAR/Invoice deadline for these eligible charges while we continue to assess the current situation and work on the larger issues with the FCC appeal.

Below are the relevant application details for this request:

Contact: Claire O'Flaherty, E-rate Expertise, 5520 N 43<sup>rd</sup> St., Tacoma, WA 98407  
253-752-4737 [claire@erateexpertise.com](mailto:claire@erateexpertise.com)

471 #: 821891

FRN Info: FRN 2238487, Amt. \$14,256.96, Frontier Communications (SPIN # 143004786)  
FRN 2238488, Amt. \$1,159.55, Whidbey Telephone Company (SPIN # 143002608)

Thank you for your consideration of this request. If you have any questions, please feel free to contact Claire O'Flaherty and she will be happy to provide any additional information you need.

Sincerely,

A handwritten signature in dark ink, appearing to read "G. Siltzman", written over a horizontal line.

Gary Siltzman  
Administrative Services Director

**Claire O'Flaherty**

---

**From:** Claire O'Flaherty <claire@erateexpertise.com>  
**Sent:** Tuesday, November 27, 2012 11:59 AM  
**To:** 'Robert Spiller'  
**Subject:** draft  
**Attachments:** 2012 Appeal to USAC.docx

Claire O'Flaherty  
E-rate Expertise, Inc.  
5520 N. 43<sup>rd</sup> Street  
Tacoma, WA 98407  
Tel: 253-752-4737  
Cell: 253-320-0664



**Claire O'Flaherty**

**From:** Claire O'Flaherty <claire@erateexpertise.com>  
**Sent:** Wednesday, December 05, 2012 11:37 AM  
**To:** JMulhall@sno-isle.org; gsitzman@sno-isle.org  
**Cc:** Jeanne Crisp  
**Subject:** Still waiting on Ombudsman

I've exchanged some voice messages w/ the ombudsman and he told me that a few people were on vacation so he is having a hard time setting up some meetings w/ key people at USAC re: the appeal. My hope is that he can do it this week so we should have his input by early next week. Sorry for the delay, but wanted to keep you posted. }A  
(Jeanne, I don't think we talked since our appeal plan has changed. When I called the Ombudsman a few weeks ago, he felt we would have a better chance laying all the cards out at once to the FCC and skipping the USAC appeal. This is opposite from what the USAC folks advised at the training conference. He's going to talk to key people at USAC and advise us on how to revise our appeal letter. He said this is an unprecedented situation so that is why there is some disagreement on what our next steps should be. I'll keep you posted w/ the final appeal when it's prepared.) }B  
Claire

Claire O'Flaherty  
E-rate Expertise, Inc.  
5520 N. 43<sup>rd</sup> Street  
Tacoma, WA 98407  
Tel: 253-752-4737  
Cell: 253-320-0664

Claire O'Flaherty

Attachment 5

**From:** Claire O'Flaherty <claire@erateexpertise.com>  
**Sent:** Tuesday, December 11, 2012 12:42 PM  
**To:** 'John Mulhall'  
**Subject:** RE: Contracts

Fyi, I talked to the ombudsman again and he didn't really have anything new to share about how to approach the appeal. The person who had advised us to appeal year by year was figuring that each year would be assigned to a different reviewer at the FCC. After they all talked about it together, they think we should lump it all in one big appeal and then list the deadline and rule waivers needed for each year. I'll do the research on that and get back to you later this week.

} A

Claire

Claire O'Flaherty  
E-rate Expertise, Inc.  
5520 N. 43<sup>rd</sup> Street  
Tacoma, WA 98407  
Tel: 253-752-4737  
Cell: 253-320-0664

**From:** John Mulhall [mailto:JMulhall@sno-isle.org]  
**Sent:** Tuesday, December 11, 2012 12:37 PM  
**To:** 'Claire O'Flaherty'  
**Subject:** RE: Contracts

Lol, yeah I meant to also include the incorrect Goat dates in my email. I have corrected versions of each on my desktop. All the rest looks good.

**From:** Claire O'Flaherty [mailto:claire@erateexpertise.com]  
**Sent:** Tuesday, December 11, 2012 12:36 PM  
**To:** John Mulhall  
**Subject:** RE: Contracts

The contract terms/renewals listed look good as far as E-rate goes. Note that the Iron Goat start/end dates are wrong too – they put in the wrong years and it now shows a start date of last summer. The 2 year term should read: July 1, 2013 – June 30, 2015. I've only reviewed the contract for E-rate compliance, so make sure you're comfortable w/ all of the technology details to make sure it meets your needs.

} B

Claire

Claire O'Flaherty  
E-rate Expertise, Inc.  
5520 N. 43<sup>rd</sup> Street

Claire O'Flaherty

Attachment 6

**From:** John Mulhall <JMulhall@sno-isle.org>  
**Sent:** Monday, November 26, 2012 1:30 PM  
**To:** Jeanne Crisp; Claire O'Flaherty; Gary Sitzman  
**Subject:** FW: E-RATE Funding

Here was the other piece of that email Jeanne sent.

**From:** John Mulhall  
**Sent:** Wednesday, July 27, 2011 3:24 PM  
**To:** Arch Fonken  
**Subject:** FW: E-RATE Funding

\* Section A \*

Looks like this is a for profit company who provides consulting services. We have received funding, right?

**From:** Jonalyn Woolf-Ivory  
**Sent:** Wednesday, July 27, 2011 3:21 PM  
**To:** Arch Fonken; John Mulhall; Jeanne Crisp  
**Subject:** Fwd: E-RATE Funding

What's up

Begin forwarded message:

**From:** Mary Jo Sagnella <msagnella@erateportal.com>  
**Date:** July 27, 2011 6:37:27 AM PDT  
**To:** Jonalyn Woolf-Ivory <JWoolf-Ivory@sno-isle.org>, Arch Fonken <AFonken@sno-isle.org>  
**Cc:** "jdefazio@sno-isle.org" <jdefazio@sno-isle.org>  
**Subject:** E-RATE Funding

Hi,

While the Sno-Isle Regional Library has applied for E-rate funding each year for more 10 years, it appears that **NO funding has ever been received.**

**The library is entitled to an 80% discount on Telecommunications and Internet Access costs - over \$100,000 annually.** Missing forms have prevented the Library from successfully utilizing the program and receiving these funds.

The Library could still collect reimbursement for part of Funding Year 2010 if a form is filed immediately. A missing form for the 2011 application may be cause for denial.

**Claire O'Flaherty**

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**From:** Arch Fonken <IMCEAEX-\_O=SNO-ISLE+20REGIONAL+20LIBRARY+20SYSTEM\_OU=SNOISLE\_CN=RECIPIENTS\_CN=AFONKEN@sno-isle.org>  
**Sent:** Wednesday, July 27, 2011 4:44 PM  
**To:** Jonalyn Woolf-Ivory; John Mulhall; Jeanne Crisp  
**Subject:** RE: E-RATE Funding

**\* Section B \***

John has this right. For profit trolling. Our discounts have always been in the 48% to as high as 60% in a couple of years. We have received discounts and funds.

Arch

Arch Fonken, Administrative Services Director  
Sno-Isle Libraries  
7312 35<sup>th</sup> Avenue NE  
Marysville, WA 98271

360-651-7009  
360-651-7151 - Fax

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**From:** Jonalyn Woolf-Ivory  
**Sent:** Wednesday, July 27, 2011 3:21 PM  
**To:** Arch Fonken; John Mulhall; Jeanne Crisp  
**Subject:** Fwd: E-RATE Funding

What's up

Begin forwarded message:

**From:** Mary Jo Sagnella <[msagnella@erateportal.com](mailto:msagnella@erateportal.com)>  
**Date:** July 27, 2011 6:37:27 AM PDT  
**To:** Jonalyn Woolf-Ivory <[JWoolf-Ivory@sno-isle.org](mailto:JWoolf-Ivory@sno-isle.org)>, Arch Fonken <[AFonken@sno-isle.org](mailto:AFonken@sno-isle.org)>  
**Cc:** "[jdefazio@sno-isle.org](mailto:jdefazio@sno-isle.org)" <[jdefazio@sno-isle.org](mailto:jdefazio@sno-isle.org)>  
**Subject:** E-RATE Funding

Hi,

While the Sno-Isle Regional Library has applied for E-rate funding each year for more 10 years, it appears that **NO funding has ever been received.**

**The library is entitled to an 80% discount on Telecommunications and Internet Access costs - over \$100,000 annually.** Missing forms have prevented the Library from successfully utilizing the program and receiving these funds.

E-RATE ONLINE is an e-rate consulting firm, whose core business is e-rate program management. I would be happy to discuss your account and work with you to collect the e-rate funding to which you are entitled. I can also provide you with a full e-rate funding history.

Please contact me as soon as possible at 203 445-9577.

Thanks,

Mary Jo

MARY JO SAGNELLA  
DIRECTOR OF OPERATIONS  
E-RATE ONLINE, LLC  
P: (203) 445.9577  
F: (203) 445.0456  
[www.erateportal.com](http://www.erateportal.com)

Member of the E-Rate Management Professionals Association



## Summary of Appeal Decisions

Based on July 31, 2017 DA 17-712 CC Docket No. 02-06

Attachment 7

Appeal Filed on October 8, 2013  
Public Notice on July 31, 2017

Year	Appl #	FRNs	Decision	Reason/Comments
1999	148960	288580,82	Granted - 486 Late Filing	Need to file 486 now
2001	266305	all	Granted - 486 Late Filing	Need to file 486 now
2003	382691	all	Granted - 486 Late Filing	Need to file 486 now
2004	434583	all	Granted - 486 Late Filing	Need to file 486 now
2005	489285	all	Denied - FCDL Review	Untimely
2011	821891	all	FCDL Review denied	Untimely
2012	875656	all	FCDL Review denied	Untimely
2009	691322	all	Denied - Modify 486 start dates	Filed after 60 days - Need to show special circumst
2010	769113	all	Denied - Modify 486 start dates	Filed after 60 days - Need to show special circumst
2011	821891	all	Denied - Modify 486 start dates	Filed after 60 days - Need to show special circumst
1998	30571	all	Denied - Invoice deadline ext	Filed more than 12 months late - Does not present extraordinary circumstances
1998	64254	all	Denied - Invoice deadline ext	Filed more than 12 months late - Does not present extraordinary circumstances
1998	85219	all	Denied - Invoice deadline ext	Filed more than 12 months late - Does not present extraordinary circumstances
1998	31423	all	Denied - Invoice deadline ext	Filed more than 12 months late - Does not present extraordinary circumstances
1999	148960	288563,65,67,84,75	Denied - Invoice deadline ext	Filed more than 12 months late - Does not present extraordinary circumstances
2000	190290	all	Denied - Invoice deadline ext	Filed more than 12 months late - Does not present extraordinary circumstances
2006	538951	all	Denied - Invoice deadline ext	Filed more than 12 months late - Does not present extraordinary circumstances
2007	586757	all	Denied - Invoice deadline ext	Filed more than 12 months late - Does not present extraordinary circumstances
2008	637629	all	Denied - Invoice deadline ext	Filed more than 12 months late - Does not present extraordinary circumstances
2011	821891	all	Denied 2nd invoice deadline ext request	Filed 7 months after its latest deadline; No basis for delay to be reasonable