

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

In the Matter of		
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Schools and Libraries Universal Service)	
Support Mechanism)	CC Docket No. 02-6

Petition for Waiver and Request for Review For
Metropolitan Boston Library Network

On behalf of the Metropolitan Boston Library Network (“MBLN”), I respectfully submit this request for review and petition for waiver related to the Revised Funding Commitment Decision Letter issued by the Universal Service Administrative Company (“USAC” or “Administrator”) on August 13, 2019. In that decision, USAC denied the appeal of MBLN (or “applicant”) to correct a clerical error related to one funding requests from E-rate Fund Year 2018, citing FCC restrictions that prohibit USAC from correcting such errors if more than 60 days has elapsed since the issuance of a Funding Commitment Decision Letter (“FCDL”). We request that the Commission review the evidence presented herein and in our previous correspondence with USAC and direct USAC to modify the funding commitment to correct for the clerical error that led to an underestimate of the pre-discount cost and increase the funding commitment to reflect the correct pre-discount cost.

Background

MBLN is a library consortium consisting of the library systems for the cities of Boston, Chelsea, and Malden in Massachusetts. The consortium manages the filing of E-rate applications for services for the three entities. All three communities have high poverty rates and qualify for deep discounts through

the E-rate program. The services in question in this appeal were provided to the Boston Public Library (“BPL”), which qualified for a 90% discount on Category 1 services for the funding year in question.

In 2018, BPL had 25 library locations throughout the city of Boston. As part of the 2018 E-rate cycle, MBLN and BPL went out for bid to replace their existing leased WAN with a new leased WAN which would provide each library location with two (2) 1 Gbps circuits connecting it to the BPL wide area network. MBLN and BPL successfully attracted multiple bids, evaluated the bids, and awarded the contract to the most cost effective vendor, using price as the primary factor. After some negotiation, the contract for services was fully executed on March 19, 2018, for a term of up to three years.

Unfortunately, a clerical error was made when inputting the cost of each of the 1 Gbps circuits into the FY2018 Form 471 covering these services (Form 471 # 18108669). On FRN line items for 1899048974.001 and 1899048974.002, rather than the correct cost (\$551/mo.) for each 1 Gbps circuit being entered, the amount was incorrectly entered as \$475/mo. This led to the pre-discount cost being miscalculated as \$285,000.00, rather than \$330,600.00 (an under calculation in the pre-discount cost of \$45,600).

Compounding this clerical error, neither BPL nor USAC noticed the discrepancy between the contract (which clearly shows a pre-discount cost of \$330,600.00) and the 471 (showing the incorrect pre-discount cost of \$285,000.00) during the program integrity assurance (“PIA”) review process. In fact, the application was fully reviewed and funded without either party realizing the clerical error. Ultimately, the error was discovered when, during the FY2019 application process, the information from the FY2018 application was reviewed in preparation for the filing of the FY2019 application (which represents the second year of the original contract’s term). MBLN immediately filed an appeal with USAC, explaining the clerical error, on March 26, 2019. USAC issued a Revised Funding Commitment Decision Letter (“RFCDL”) on August 13, 2019, denying the appeal, stating that:

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 3/26/19. The FCDL was issued on 06/15/18. 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.

Appeal

We are filing this appeal to request that the FCC waive its rules in this specific instance regarding the timeline for filing such an appeal, and to request that the FCC direct USAC to correct the clerical error on FRN line items 1899048974.001 1899048974.002 on our original application, and adjust the funding commitment accordingly. This is a simple request with two parts: first, to direct USAC to correct the clerical error to reflect the costs in the underlying contract, and second to request that the deadline for correcting the error be waived. This is not an attempt to increase funding beyond what should have been in the original funding request, but rather to restore the funding that should have been included in the original request.

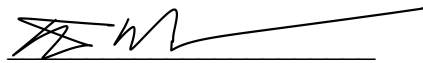
We understand and respect the importance of the FCC's rules regarding timelines for filing appeals. In this instance, the applicant did not discover the clerical error in a timely fashion, and hence was unable to file an appeal within the traditional deadline of 60 days after the issuance of the Funding Commitment Decision Letter. We request that, in this instance, the FCC waive the 60 day deadline because doing so would be in the public interest, as the funds which otherwise would need to be reallocated to pay for these services would need to be stripped from other library services, such as book budgets, online periodical budgets, other technology projects, and staff budgets. Taking money from these areas would result in a reduction in the quality and volume of services available to members of the public using our library branches.

Importantly, it is worth noting that there are no allegations of waste, fraud, or abuse associated with this funding request.

Conclusion

As this appeal makes clear, the applicant made mistakes related to the entry of data on this particular application. The errors present in this application are clearly clerical in nature, however, rather than malicious or fraudulent. Given that the reduced funding will impose significant costs on BPL, we strongly believe that it is in the public interest for the FCC to overturn the Administrator's decision in the Revised Funding Commitment Decision Letter and restore funding to the Library at the proper level so that BPL can continue to provide excellent services to the public.

Respectfully Submitted on behalf of the Metropolitan Boston Library Network,



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9/6/2019

Date