

Request for Review and Waiver Letter

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

In the Matter of)
)
Request for Waiver and Review of Decisions of the) CC Docket No. 02-6
Universal Service Administrator for)
Linden Unified School District)

Schools and Libraries Universal
Service Support Mechanism

Funding Year 2014
Form 471 App 938418
FRN 2616794

Request for Review

The Linden Unified School District ¹ (“Linden USD”) pursuant to and in accordance with Sections 54.719 – 54.725 of the Federal Communications Commission’s (“FCC” or Commission”) rules, hereby requests FCC review and waive the Improperly Disbursed Funds Recovery actions that the Universal Service Administrative Company (“USAC”) as administrator of the National Education Rate Program (“E-rate”) issued on August 12, 2016. In particular, Linden USD appeals the Administrator’s Notice of Withholding Action Letter – Funding Year 2014-2015. See Exhibit 1, *Notice of Withholding Action – Funding Year 2014-2015* ²

Linden USD respectfully requests the Commission to overturn the Demand Payment Letter and remove the Red Light that was turned on per the Notice of Withholding Action letter. Linden USD has submitted payment to the Service Provider for their non-discounted portion of supported services therefore the delinquency that initiated this recovery has been satisfied. It was not Linden USD’s intention to violate any FCC rules by not paying their non-discounted share of E-rate supported services. Linden USD contends that they did not receive the services they were contracted to receive from Jive Communications. As a result there were ongoing disputes between Linden USD and Jive Communications surrounding their inability to provide a stable Hosted VoIP service. See *Exhibit 2, Linden USD and Jive Correspondence*

¹ Linden USD’s Billed Entity Number (BEN) is 144354

² This Request for Review is timely filed in accordance with Sections 54.720 and 1.1910(b)(3) of the Commission’s Rules within 30 days of the date of notice– Dated August 12, 2016

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Background

Linden USD³ is a district located in northeastern California and is comprised of three elementary schools, one middle school, one high school and one continuation high school. Under this regulatory authority, Linden USD annually submits E-rate application(s) for eligible services. During the application for the 2014-2015 E-Rate funding year, Linden USD submitted two Form 471s for Priority One services. Form 471 938418 included one Funding Request for Jive Communications to provide Hosted VoIP services. Funding Commitment Decision Letter dated May 29, 2014 was issued, FRN approved as requested see *Exhibit 3, Funding Commitment Decision Letter*. On March 30, 2016, the Program Compliance Team sent a Post Payment Review letter for FRN 2616794 stating that “Statements were made to USAC that Linden Unified School District has not paid the non-discount portion for products/services received.” See *Exhibit 4 Post Payment Review Letter*. In response, Linden USD provided copies of checks that were paid the service provider, Jive Communications, however it was later determined that these were payments for equipment purchased outside of E-rate.

Subsequent to the completion of USAC’s Post Payment Review, Linden USD received the Notice of Improperly Disbursed Funds Letter dated May 9, 2016. At this point Linden USD had already initiated the process of issuing a check to Jive Communications to pay their non-discounted portion to resolve the Improperly Disbursed Funds issue. Unfortunately, there were a few delays that prevented the check issuance from being expedited. One such delay was the fact that both the Superintendent and the Chief Business Official left Linden USD. Also during this timeframe, Linden USD’s Accounts Payable department was working with their County Office of Education (San Joaquin County Office of Education) to issue payment to Jive, however they were requiring back up documentation prior to issuance.

On August 16, 2016 Linden USD received the Notice of Withholding Action. On August 19, 2016 Linden USD received the check in the amount of \$9,114.49 to cover their non-discounted share, from the San Joaquin County Office of Education to be sent to Jive Communications. Jive Communications’ billing department was contacted

³ District information available at <http://www.lindenUSD.com/>

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to confirm the address and to whose attention the payment should be directed. The check was sent via certified U.S. Postal Service mail on August 19, 2016. See *Exhibit 5, Certified Mail Receipt and Copy of Check to Jive*

Conclusion

Linden Unified School District respectfully requests that the Red Light is turned off as the non-discounted share of disbursed funds has been paid to the Service Provider, Jive Communications.

Respectfully Submitted,

Michelle Harken
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