

07/14/2018

Letter of Appeal
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554
CC Docket No. 02-6

Re: Letter of Appeal of Funding Commitment Decision Letter for funding Year 2016, issued 07/13/2018.

Dear Sir or Madam:

I am submitting this letter of appeal regarding E-rate FY 2016 Commitment Adjustment Letter for Internet Access services, on the grounds that, a waiver for the SPIN change denial should be granted in accordance with FCC Order 07-36.

Appellant Name:	e2e Exchange, LLC
Applicant Name:	Elk Hill Farm School
471 Application Number:	161002166
Billed Entity Number:	24965
FRN:	1699067259
Service Provider:	Windstream Communications

The issue in this case boils down simply to this: USACs overall failure to properly administer funding for fiber projects forced Elk Hill Farm School to acquire the additional lines in order to maintain internet service for the three locations. USAC haphazardly announced funding for special fiber projects beginning with FY2016 in March 2016. Since that time, USAC has only been able to fund a very limited amount of 2016 or 2017 fiber applications. Furthermore, 2018 fiber applications have been deemed “unworkable” and remain pending with the likelihood that this round of fiber projects will also be denied for all applicants. The need for the SPIN change as described below is a direct result of the inability of USAC to fund fiber requests.

Elk Hill Farm School was intending to do a fiber installation with Windstream/Verizon after the USAC announcement of available funding for fiber and special construction costs in order to significantly reduce costs for the school. Elk Hill Farm School completed the required Form 470, bidding evaluation and selection, and finally the Form 471 per USAC and FCC rules and regulations. USAC did not issue a decision on the fiber funding request until the very last day of the funding year 6/30/2017. Elk Hill Farm School was required to add three lines through Windstream/Verizon that would keep service available to its three locations while the USAC decision was pending for the 2016 fiber application. Without the added 100GB wireless service through Windstream/Verizon there would have been no sufficient internet service for the students. This scenario was not a fault of the applicant but the fault of USACs poor administration of the fiber applications and inability to issue approvals in a timely manner.

As a result of the USAC delay on a funding decision and ultimate denial for the fiber request, a SPIN change was required for FRN 1699067259, a supporting fiber FRN, since the proper SPIN for the added lines was through the related Verizon SPIN. USAC denied the request to change the SPIN from Windstream to Verizon since the funding had already been disbursed.

We are requesting a waiver of the SPIN change rule that SPIN changes must be provided before disbursement. **In accordance with FCC Order 07-36, the missed deadlines are a procedural error, and not a failure to adhere to the core program requirement or a misuse of funds. Violations that were procedural, not substantive should not be completely rejected.** No harm has been done to USAC, the applicant or the service provider as payments flow directly from USAC to the applicant. This is a procedural issue and not substantive.

The Parties respectfully request that the SLD process this Letter of Appeal and approve the funding commitment for Elk Hill Farm School, remaining consistent with **FCC Order 07-36**. The denial of funding due to a SPIN change denial, a procedural error, places a particular hardship on a school district

such as Elk Hill Farm School that otherwise has been approved for and received E-rate funding for its application.

We respectfully request that you approve funding of this FRN. Thank you for reviewing this appeal. Please use the contact information below.

Sean Cuskey, Vice President, e2e Exchange, LLC, PO Box 451, Syracuse, NY 13206, Tel. 315.422.7608, Fax 866.283.9332, stc@e2eexchange.com

Sincerely,
E2e Exchange, LLC

Sean Cuskey
Vice President

CC:

Enclosures – Proof of expenditures with Verizon