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

**Request for Review and Petition for Waiver For USD 234 Fort Scott**

# On behalf of USD 234, Fort Scott, I respectfully submit this request for review and petition for waiver related to the Administrator’s Decision on Appeal issued by the Universal Service Administrative Company (“USAC” or “Administrator”) on August 13, 2019. In that decision, USAC denied the appeal of USD 234, Fort Scott, (or “applicant”) related to one funding request from E-rate Fund Year 2018 for the application Form 471 181928813.

# Because of the nature of this appeal, USD 234 believes that the Schools and Libraries Division (SLD) of USAC failed to take into account all of the facts related to this case, as outlined below. We request that the Commission review the evidence presented herein and reverse the decision of the Administrator.

Background

USD 234 Fort Scott is a small school district serving the southeastern part of Bourbon County in Kansas with 4 buildings located in one town. Based upon the NSLP data for the 2018 school year (and Erate funding year), USD 234 had a student enrollment of 1911 and a NSLP enrollment of 1182, qualifying them for an 80% Erate discount for both Category One and Category Two services. The Erate program, as it does for so many poor, rural school districts, serves as the cornerstone of USD 234’s technology efforts. USD 234 views technology as a critical component in its efforts to bring educational opportunities to its students. Familiarity with and fluency in technology is the key to bringing new opportunities to students living in rural areas. USD 234 has used the Erate program to put technology tools into the hands of hundreds of students who currently attend and have attended school at USD 234.

Unfortunately, as is often the case with schools that are on an extremely limited budget, staff at USD 234 serve in a variety of roles and capacities.

In Fund Year 2018, USD 234 applied for Erate funding to cover their Internet service and telecommunication service. USD 234 was under an existing contract with NexTech for Internet services, having entered into that contract during a previous Erate cycle. The contract that was awarded to NexTech, was awarded based on the competitive bidding law and using price as a factor. Please keep in mind that the contract with NexTech was an ongoing contract. During the online filing period, a Form 471 was filed using only information received during the 2018 Erate cycle, awarding a bid to a *second* service provider, again using the same criteria (KanRen), but completely forgetting about or omitting the existing service provider NexTech. The error was not noticed until long after the FCDL had been received and the district began receiving their Erare reimbursement. Once the error was noticed, an appeal was immediately filed, but because of the timeline that occurred when the district realized the lack of funding, the 60 days with which to file an appeal had also expired. Because there was not an existing FRN to appeal (again, it was an ongoing contract), the Schools and Libraries Help Line assistance suggested the appeal be filed using an already existing FRN for 2018 (because the online process does not allow an appeal to be filed on an omitted FRN). There were no follow up questions during the review process of the appeal so an explanation could be made while the appeal was being filed for an FRN that was funded and no follow up questions on why an FRN was omitted that was currently under contract. Unfortunately, while the school district and consultant will share in the responsibility of this error, we feel an error was made at the appeal review level as well with no follow up questions as to why an appeal was even filed. This error should have been noticed once the FDCL was received, but due to a change over of district staff and a job status change of the consultant, it was not noticed until after the allowed 60 days had lapsed. At that time, an appeal was filed with the Schools and Libraries, but because of the time lapse, the appeal was denied.

The SLD denied the appeal, citing the following reason *“our records show that your appeal was filed more than 60 days after the date your decision letter was issued.”*

Since USAC claims it is unable to restore the proper funding to the funding commitment, we ask that the FCC do so. This is clearly a simple omission error made rather than an attempt to increase funding beyond what should have been included in the Form 471 originally. The oversight in not noticing that the FCDL was denied, while it should have been noticed immediately, was due to a change in district personnel and the job status of the consultant.

In addition, we request that the Commission waive the usual deadline for filing such an appeal because of said change in district personnel resulting in the discrepancy in funding going unnoticed by incoming district staff who had no prior knowledge of Erate.

Conclusion

As this appeal makes clear, it is entirely possible – even probable – that the applicant may have made mistakes related to this particular application by not noticing that the ongoing contractual service provider was not even listed, but it is also clear that there was not any follow up questions during the appeal to find out why an appeal was being filed. The mistakes and errors present in this application are clearly ministerial and/or clerical in nature, however, rather than malicious or fraudulent. Given that the lack of funding for FY2018 has caused serious hardship for the District, we strongly believe that it is in the public interest for the FCC to overturn the Administrator’s decision on the appeal and restore funding to the district at the proper level so that USD 234 can continue to provide a quality educational experience for its rural student body.

Respectfully Submitted,

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