

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

Re: Letter of Appeal of Revised Funding Commitment Decision Letter for funding Year 2018, issued 09/06/18, denying the submitted USAC appeal.

Dear Sir or Madam:

I am submitting this letter of appeal regarding E-rate Revised Funding Commitment Decision Letter for application #181008810, on the grounds that, a waiver for the Appeal Deadline should be granted due to a ministerial/clerical order and in accordance with the Bishop Perry Order and FCC Order 07-36.

Appellant Name:	e2e Exchange, LLC
Applicant Name:	Notre Dame High School
471 Application Number:	181008810
Billed Entity Number:	16058074
FRN:	n/a
Service Provider:	Cogent

Post Commitment Rationale: 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 7/13/2018. The FCDL was issued on 5/4/2018. 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.

Notre Dame High School successfully completed a 2018 Form 470 for internet services; the Form was certified on 12/18/17 and the minimum 28-day bidding window closed on 01/15/18. After evaluation, Cogent was selected by Notre Dame High School to provide a new service for 200mbps to 303 Haverhill Street and the proposal was signed 02/20/18. The signed quote from Cogent has been included as documentation. Notre Dame High School was unsure of when the transition would occur and misunderstood that the new service was required to be included on the Form 471 prior to certification. The Form 471 was certified on 03/01/2018 without this new service with Cogent added.

Notre Dame High School realized the miscommunication error and that the new service with Cogent, properly selected after the 28-day Form 470 window and evaluations, was not reflected on the FY2018-2019 application. This was then communicated with e2e exchange and the appeal was then prepared and filed with USAC 7/13/18. This was after the 60-day deadline to file a USAC appeal. All other program rules and regulations have been followed and no harm has been done to USAC, the applicant or the service provider.

The funding for this service could significantly help the school provide for the educational needs of the students; approval of this appeal would help promote and sustain the USAC goal of making increased bandwidth more accessible to applicants. The missing funding in this case was based on an administrative error as it was omitted by mistake prior to certification of the Form 471. This falls under the category of a ministerial/clerical error. Based on the Bishop Perry Order, we request USAC actions remain consistent with this order and FRN for Cogent in the amount of \$1,500 MRC be funded on the 2018 application.

We are requesting a waiver of the Appeal Deadline rule that appeals must be filed within 60 days of the date of the letter. **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.

The Parties respectfully request that the SLD process this Letter of Appeal and approve the funding commitment for Notre Dame High School, remaining consistent with **FCC Order 07-36**. The denial of reimbursement due to a procedural error, places a hardship on a school district such as Notre Dame High School that otherwise should be approved for E-rate funding for its application.

We respectfully request that you approve this waiver request. 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](mailto:stc@e2eexchange.com)

Sincerely,  
**E2e Exchange, LLC**

Sean Cuskey  
Vice President

CC:

Enclosures –

1. Submitted USAC Appeal for missing Cogent FRN #181008810
2. RFCDL for #181008810
3. Cogent Quote signed by Notre Dame High School
4. 2018 FCC Form 470 #180003363
5. 2018 FCC Form 471 Certification #181008810
6. FRN details for Cogent