**Before the**

**Federal Communications Commission**

**Washington, DC 20554**

In the Matter of )

)

Requests for Waiver and Review of )

Decisions of the )

Universal Service Administrator by )

)

Carteret County School District ) File No. SLD- 161046170

)

)

Schools and Libraries Universal )

Service Support Mechanism ) CC Docket No. 02-6

November 13, 2018

**Request for Review or Waiver**

**Carteret County School District**

**BEN: 127022**

**Form 471 Number: 161046170**

**Funding Request Numbers:**

**1699103751, 1699103696, 1699103772, 1699103779**

**FCC Registration Number: 0011833068**

In accordance with Sections 54.719 through 54.721 of the Commission’s Rules, Carteret County School District (Carteret) appeals this decision of the Schools and Libraries Division of the Universal Service Administrative Company (Administrator). The Administrator improperly denied a Service Delivery Extension Request and denied the subsequent Carteret appeal.

Based on longstanding precedent and clear procedures, Carteret asks the Commission to overturn this decision and instruct the Administrator to extend the service delivery and invoice deadlines for this funding commitment.[[1]](#footnote-1) Carteret also timely filed an Invoice Deadline Extension Request and requests Invoice Deadline Waiver in accordance with Commission Order FCC 18-188. Carteret requests an additional 120 days to invoice from any Commission approval of this appeal.

Carteret filed for and subsequently received approval the above Funding Request Numbers with Encore Technology Group, LLC, SPIN: 143037152. The requests were for discounts on Category Two network cabling and professional installation for Newport Elementary School, East Carteret High School, West Carteret High School, and White Oak Elementary School. As of this writing, all work has been completed and non-discounted invoices paid. We are respectfully seeking relief from the Administrator’s denial of the service delivery deadline extension and invoice deadline extension requests.

**BACKGROUND**

Carteret is in largely rural eastern North Carolina with a portion encompassing the Outer Banks, an isolated group of barrier islands on the Atlantic Ocean and subject to frequent weather-related disruptions. Several coastal storms affected school operations during this funding year.

The 2016 application and related Funding Requests, listed above, were reviewed and were funded in Wave 28 on January 4, 2017 – less than two months from a Commission-mandated year extension for project completion. The last allowable date for one time delivery of services deadline of September 30, 2017 was 269 days from the date of funding commitment. Although the service provider, Encore Technology Group, LLC, ordered the equipment and tried to schedule the installation within the time frame allowed, through no fault of the service provider, they were not able to complete the last four (4) schools’ cabling installation project prior to the Service Delivery Deadline of September 30, 2017. ***(Attachment A dated 01-04-17)***

On September 29, 2017, Carteret filed a Form 500 requesting an extension of the service delivery deadline as well as extension of the invoicing deadline, citing “the type of work requiring workers to be in the schools doing the work, the work could not be done during the school day.” Because of school opening and inability to supervise outside employees during the school day, ***through no fault of the service provider***, (emphasis added) Carteret delayed installation work to after hours and non-student days. ***(see Attachment B dated 09-29-17)***

Project beginning and completion dates are as follows:

1699103772 West Carteret HS install began 9/26/17, completed 10/19/17

1699103696 East Carteret HS install began 11/13/17, completed 12/28/17

1699103751 Newport Elementary install began 10/18/17, completed 01/02/18

1699103779 White Oak Elementary install began 11/06/17, completed 11/14/17

Nine months after the September 29 Extension Requests, on June 12, 2018, Carteret received notice of denial of the Form 500 request via the USAC News Feed. ***(see Attachment C dated 06-12-18 and Attachment C-1 dated 6-12-18)*** The denial reason stated: “Your request did not provide information that satisfied those conditions. Your appeal/request has not brought forth clear information establishing that those conditions were met but not considered. Therefore, your appeal/Form 500 request is denied.” The Revised Funding Commitment Decision was dated March 28, 2018. ***(see Attachment D dated 6-12-18)*** However, Carteret did not receive the notification of denial until June 12, 2018. Because the RFCDL denial date is dated March 28, 2018, Carteret County School District was already beyond the 60 day period for appealing the decision.

Rebecca Martin, NC State Coordinator, emailed Jennifer Hung, in the USAC office of Jeff Walsh, on 06-12-18 asking for advice on the Form 500 denial and RFCDL date of 3-28-18 when the applicant, Carteret, was notified on 6-12-18, almost 3 months later than the date appearing on the RFCDL. Jennifer advised opening a CSB case and sending the case number to her. ***(see Attachment E dated 06-12-18)***

A Client Service Bureau Case # 239628 was created see with screen shots of the News Feed,verifying the information. CSB directed Carteret to file an appeal***.(see Attachment E-1 dated 6-12-18)***

On July 24, 2018, Carteret filed an appeal #116500 stating the RFCDL date was 3/28/18 but the actual notification of the denial was received by Carteret on June 12, 2018. ***(see Attachment F dated 07-24-18)***

On September 18, 2018, USAC denied the appeal with comments: “Those conditions are documented in the USAC website at: http://www.usac.org/sl/applicants/before-youre-done/ delivery-extension.aspx. Your request did not provide information that satisfied those conditions. Your appeal has not brought forth clear information establishing that those conditions were met but not considered. Therefore, your appeal is denied.” ***(see Attachment G and Attachment G-1 dated 09-18-18)***

The Commission issued an Order overturning funding denials for Pribilof School District, Alaska citing numerous technical problems with EPC and Administator errors with Fund Year 2016 applications.[[2]](#footnote-2) Like Pribilof, Carteret was improperly served notice of an Administrator decision in the News Feed section of EPC. Also, based on subsequent correspondence with the Administrator, it appears the EPC system failed to deliver the RFCDL from appeal number 116500 in a timely manner.

The Commission has also held on that service delivery for one-time charges could be extended for numerous reasons. First, if the Funding Commitment Decision Letter is issued after March 1 of the relevant fund year, an automatic one-year extension is granted. In this case, the Funding Commitment Decision Letter was issued on January 4, 2017, less than 60 days before an automatic one-year extension would have been granted. Second, delays beyond the control of the service provider warrant extension.[[3]](#footnote-3) Clearly, the decision by Carteret to avoid classroom disruption during installation was out of control of the service provider.

**Mystery Appeal**

While reviewing the documentation and preparing to appeal the USAC denials, the NC State E-rate Coordinator, working with Carteret, noticed a USAC-generated appeal filed on behalf of Carteret showing a status of “In Review” in EPC. This appeal # 75451 was filed by USAC on 10/10/2017 and the related FRN’s include the same FRNs as those here under appeal. The Narrative block of the Appeal # 75451, it states, “An appeal record has been created on your behalf due to potential system error that may have impacted the funding amount for the submitted Category Two funding request.” ***(see Attachment H dated 10-10-17)***

On October 24, 2018, Client Service Bureau Case # 252725 was created by the NC State Coordinator, asking for a clarification of the reason for the Appeal # 75451, created by USAC. The CSB agent responded by stating, “An appeal record has been created on your behalf due to potential system error that may have impacted the funding amount for the submitted Category Two funding request.” Obviously, this answer was simply copied and pasted from the appeal language and did not provide clarification. To date, a clarification of this appeal has not been provided by USAC. It is unknown if the USAC-filed appeal is related to the other appeal filed by the Carteret, which was denied, even though all the appeals reference exactly the same Category Two FRNs. ***(see Attachment I dated 10-24-18)***

On October 26, 2018, NC State Coordinator emailed Inna Malashenok at USAC. The email described the unsatisfactory answer given by CSB Agent to the question of what the USAC-generated appeal # 75451 was for. Inna’s reply is included in the email response, stating that an appeal should be filed. To date, neither the State Coordinator nor Carteret knows the reason USAC filed Appeal # 75451 on behalf of Carteret, nor do we have any idea when a resolution can be expected. ***(see Attachment J,dated 10/26/18)***

**Fund Year 2016 E-Rate Administration**

Fund Year 2016 was the first year the Administrator utilized the E-Rate Productivity Center (EPC) online portal for virtually all communication between the Administrator and applicants. The Commission has noted in a series of Orders that EPC rollout was plagued with technological issues and has granted relief to a multitude of Fund Year 2016 applicants.[[4]](#footnote-4)

The Commission noted that delays with processing Fund Year 2016 Post-Commitment requests resulted in missed invoice deadlines and granted relief to affected applicants. The Carteret Form 500 was in Administrative review for nine months causing hardship and lost income to both applicant and service provider.[[5]](#footnote-5) Administrator decision was improperly posted in the News Feed section and was not timely delivered to Carteret.

**Conclusion**

Carteret received a late FCDL, leaving only 269 days to complete cabling installation for 17 rural schools and less than 60 days before an automatic extension would have been granted. The appropriate Form 500 and Invoice Deadline request were timely submitted. Subsequent appeals were timely filed from the date of proper notification. The reason for extension requests were based on the need to complete installation during times when the students were not in the buildings and out of the service provider’s control.Working with the service provider’s schedule, the work was completed, and invoiced within the invoice deadline. Without the service delivery deadline extension approved, the invoice payments were rejected.

Carteret respectfully requests the Commission overturn Administrator denials and direct the Administrator to extend invoice deadlines for the FRN here under appeal. We ask this based on Commission precedent citing the disasterous rollout of EPC for Fund Year 2016 and associated problems with review, notification and unexplained Administrator-generated appeals.

Alternatively, and in the public interest, Carteret asks the Commission to waive any procedural rule violations and grant this request. There was absolutely no waste, fraud or program abuse with these funding requests.

This appeal is timely filed within the 60 days of the Administrator decision.

Sincerely,

Wes Rinehart, CeCTO, CISSP, CWSP Jeannene Hurley, Lead NC State Coordinator

Wide Area Network Engineer and Rebecca Martin, NC State Coordinator, Region 2  
Carteret County Public Schools North Carolina Department of Public Instruction

List of Supporting Documents for FCC Appeal

Carteret County Schools BEN# 127022 FY 2016-17

Form 471 # 161046170

FRN 1699103751 Undisbursed: $15,958.77

FRN 1699103696 Undisbursed: $13,266.77

FRN 1699103772 Undisbursed: $16,265.39

FRN 1699103779 Undisbursed: $ 7,401.08

**$52,892.01**

Attachment A DATE: 01/4/17 FCDL for FRN#s (see highlighted FRN’s in pink)

Attachment B DATE: 09/29/17 Form 500 # 72161 requesting service delivery

deadline extension filed by Wes Rinehart,

Carteret County Schools.

Attachment C DATE: 06/12/18 News Feed,showing denial of request for

Form 500 # 72161 and RFCDL (dated 3/28/18)

Attachment C-1 DATE: 06/12/18 RFCDL Report from EPC system showing

disparity of dates;

Attachment D DATE: 06/12/18 Form 500 Status as shown in EPC system;

disparity of dates

Attachment E DATE: 06/12/18 Email sent to Jennifer Hung, office of Jeff

Walsh, by NC State Coordinator Rebecca Martin

asking for assistance in determining why the RFCDL was dated 3/28/18 but the RFCDL was not sent to Carteret County until 06/12/18. Ms. Hung advice was to file a CSB Case.

Attachment E-1 DATE: 06/12/18 CSB Case # 239628 stating that RFCDL

denial of Form 500 was received 6/12/18 but notice was dated 3/28/18 – with screen shots

of the proof

DATE: 07/5/18 CSB CSB Case # 239628 was escalated to USAC

Management

DATE: 07/16/18 CSB Case # 239628 closed – advised to file an

appeal

Attachment F DATE: 07/23/18 Appeal # 116500 filed with screen shots of data

showing RFCDL date in News Feed of 6/12/18 but date on RFCDL 3/28/18 – which was

past 60-day appeal date.

Attachment G DATE: 09/18/18 Denial of Appeal #116500.

Attachment G-1 DATE: 09/18/18 RFCDL Notice denial of Appeal 116500

Attachment H DATE: 10/10/17 Appeal # 75451 filed by USAC on behalf

of Carteret County Schools, stating “an appeal record has been created on your

behalf due to a potential system error that

may have impacted the funding amount for the submitted Category Two funding

request.” The status as of today, November 5, 2018 is “in review”.The 4 FRN’s currently being appealed were included in the USAC-generated appeal.

Attachment I DATE: 10/24/18 CSB Case # 252725 created by NC State

Coordinator, Rebecca Martin, asking for clarification for Appeal # 75451, filed by USAC.

DATE: 10/25/18 CSB Case #252725 agent responses:

*“Thank you for contacting USAC Client Service Bureau regarding Appeals. Appeal# 75451 was created due to a potential system error that may have impacted the funding amount for the submitted Category Two funding request*

*for funding year 2016. I will escalate this appeal being that is still pending. There is no need for you to submit an appeal*

*as USAC already did it on your behalf. If you have any questions Update this case or contact us at (888)-203-8100.Thank you, Sabrina Glover Universal Service Administrative*

*Company (USAC) Client Service Bureau (888) 203-8100”*

DATE: 10/26/18 An additional response to the CSB Case

# 252725 was posted: “*Appeal #75451 is still in the review process. If additional*

*information is needed, the Applicant will be contacted. We do not have an estimated completion date available at*

*this time.”* The case was closed by the agent.

DATE: 10/26/18 A request by NC State Coordinator, Rebecca

Martin,requesting that the CSB Case # 252725 be reopened – and asking a follow-up question:

“I really did not receive a clear answer as to WHAT IS THIS APPEAL FOR? 4 of the FRN's associated with this case have been denied on a previously submitted appeal from Carteret County and there is a limited amount of time to submit an appeal to the FCC for service delivery deadline and invoicing extension. Before we submit an FCC appeal, we want to know WHAT IS THIS APPEAL FOR? Please find out. Thank you in advance for a clear reply.”

The case has been closed.

Attachment J DATE: 10/26/18 E-mail sent to Inna Malashenok at USAC by NC

State Coordinator, Rebecca Martin, asking Ms. Malashenok for a clarification on the USAC-filed appeal – per the CSB Case # 252725, stating dissatisfaction of the CSB Agent’s answer.

DATE: 10/26/18 Inna Malashenok’s email reply to Rebecca

Martin.

1. Streamlined Resolution of Requests Related to Actions by the Universal Administrative Company, DA 17-385, rel. April 28, 2017 granting a Service Delivery Extension citing “…extensions of the deadline for service implementation when applicants demonstrated they were unable to complete implementation on time for reasons beyond the service providers’ control…” (footnote 12) CC Docket 02-6. Administrator Website “Before You’re Done” “Service Delivery” Extensions: “The applicant requested an extension because the service provider was unable to complete delivery and installation for reasons beyond the service provider's control.” [↑](#footnote-ref-1)
2. Pribilof School District, FCC 18-118, Rel. August 8, 2018, CC Docket 02-6 at 13: (1)

   petitioners demonstrate that their requests for waiver of the deadline to appeal a USAC decision were

   late-filed because of the same EPC notice issue faced by Pribilof [↑](#footnote-ref-2)
3. Annette Islands School District, DA 12-323, Rel. March 5, 2012 at 1; Streamlined Resolution DA 17-385, Rel. April 28, 2018; 47 C.F.R. § 54.507(d), CC Docket No. 02-6. [↑](#footnote-ref-3)
4. Pribilof School District, FCC 18-118, Rel. August 8, 2018 at 3: “Funding year 2016 was the first year E-Rate applicants were required to use the EPC portal.” “…due to unexpected issues with rollout

   of EPC, USAC extended the filing window and, for the first time, created a second filing window for a

   subset of applicants.”; Jemez Pueblo Tribal Consortium, DA 17-1179, Rel. December 7, 2018 at 4: “USAC’s issuance of funding year 2016 funding commitment decision letters (FCDL) was, however, significantly delayed due to technical and operational challenges.” [↑](#footnote-ref-4)
5. DA 18-188, Rel. February 26, 2018, CC Docket 02-6 at 2: “We take this action in response to the extraordinary circumstances created by technological system issues that delayed USAC’s issuance of post-commitment RFCDLs for funding year 2016.” [↑](#footnote-ref-5)