**Before the**

**Federal Communications Commission**

**Washington, D.C. 20554**

In the Matter of )

)

)

Schools and Libraries ) CC Docket No. 02-6

Universal Service Support Mechanism )

)

Request for Review and/or Waiver by )

the Orange Elem (MA) School District ) 471 Application No. 960449

of Funding Decision by the ) FRNs 2644971, 2673391

Universal Service Administrative Company )

**REQUEST FOR REVIEW AND/OR WAIVER**

**BY ORANGE ELEMENTARY SCHOOL DISTRICT**

**OF FUNDING DECISION BY THE**

**UNIVERSAL SERVICE ADMINISTRATIVE COMPANY**

Orange Elementary School District (BEN 120173) respectfully requests a review of the denial in the Administrator’s Decision on Appeal-Funding Year 2014, dated October 5, 2018 (Attachment A). The original appeal refers to the Recovery of Improperly Disbursed Funds (RIDF) Letter issued for FRN 2644971 and FRN 2673391for FY2014. This RIDF letter, dated June 18, 2018, issued the following Funding Commitment Adjustment Explanation:

*You received disbursements after your invoice deadline. For recurring services, invoices must be submitted no later than 120 days after the last day to receive service or 120 days after the FCC Form 486 Notification Letter date, whichever is later. Services must be delivered within the fund year. Your invoice was received after the invoice deadline. Therefore, USAC must seek recovery of improperly disbursed funds on the amount of $3,455.52/$159.92.*

Orange Elementary School District originally submitted a timely Form 472 (BEAR form) for both FRN 2644971 and FRN 2673391 on August 7, 2015 (Attachment B). Although the BEAR forms were filed by the applicant within the appropriate timeline, and before the invoice filing deadline, they were not timely certified as necessary by the vendor, thus qualifying both FRNs for consideration under the *Jefferson-Madison decision*. Subsequent BEAR forms were filed on August 23, 2017 after an approved extension. These were certified by the vendor and approved for payment by USAC. (Attachment C)

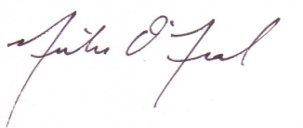
The FCC’s Fifth Order and Report allows flexibility when seeking repayments of funds. According to paragraph 19, “recovery may not be appropriate for violation of all rules regardless of the reason for their codification… Likewise recovery may not be appropriate for violation of procedural rules codified to enhance operation of the e-rate program.” This is not an instance where the outcome violated rules that undermined “statutory requirements or substantive policy goals of the program” as indicated in paragraph 29 of the same FCC document.

Nor is it a case of wasteful, fraudulent or abusive activity towards the E-rate program by Orange Elementary School District. The district tried unsuccessfully to access funding for Internet services via the BEAR form process on timely filed Form 472 claims. Then, when provided an extension by USAC to do so, filed additional forms to receive reimbursement for their E-rate eligible services and then later was told they must return those funds.

Therefore, we respectfully ask that the USAC Administrator’s Decision on Appeal be overturned and the Recovery of Improperly Disbursed funds be withdrawn so that the school district can keep the funds they were awarded. The RIDF letter appears to be an error on USAC’s part and to punish the applicant would not work within the spirit of the program. In addition, the funds have already been disbursed to the school district and the budget for this year has already been established. It would be extremely difficult for the school district to try to repay the funds at this time. This would fail to serve the public interest of the community.

Should you have any questions or require additional information please do not hesitate to contact me.

Warmest regards,



Nichole O’Neal

President

O’Neal Consulting

888-416-8389

noneal@ocerate.com