

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON DC 20554

In the matter of

)
)

Request for Waiver by

)
)

Long Beach Unified School District
Long Beach, CA

)
)
)

Schools and Libraries Universal Service
Support Mechanism

)
)
)

CC Docket No. 02-06

REQUEST FOR REVIEW OR WAIVER

Funding year 2017 (7/1/2017 to 6/30/2018)

Billed Entity Name: Long Beach Unified School District

Billed Entity No.: 143848

Form 471 Number: 161047836

Funding Request Numbers: 1699108645

I. Introduction and Background.

Long Beach Unified School District ("LBUSD"), through its E-rate consultant, Infinity Communications and Consulting, Inc. ("Infinity") respectfully requests a review of USAC's recent Funding Commitment Decision Letter and subsequent USAC Appeal denial reducing the funding for the LBUSD's SIP trunks, FRN 1699108645.

Per USAC's denial letter, "USAC has given you an opportunity to provide the appropriate additional documentation demonstrating the eligibility of the products and or services requested, and you failed to do so.....". We dispute this claim as we, in fact, provided ample supporting documentation in our USAC appeal including a formal response from our Service Provider stating their position that the service was an eligible service.

Background & Discussion

To significantly reduce their telecom costs, LBUSD switched from Centrex lines to SIP trunks after putting this service out to bid and signed a contract with Level 3. We then contacted the Service Provider and had them identify the components of the system that were E-Rate eligible and applied for E-Rate funding. And then again, during PIA, we reached out to Level 3 letting them know our PIA reviewer had taken the position that the IPVPN service was an ineligible component and we needed a response from Level 3 why they believed the IPVPN service was eligible. They responded stating, "Without the IPVPN with class of service bandwidth on both the primary and backup IPVPN Circuits, there would be nothing for us to create the Primary and backup SIP voice trunks and no way to deliver those calls. So basically, IPVPN is the physical network connection which delivers the SIP Voice calls to and from the LBUSD core PBX and backup PBX". We interpret this statement to mean the IPVPN is integral to the eligible service offering and without this component the SIP trunks won't work. See attached (1), original PIA question, (2) Level 3's PIA response, (3) Infinity USAC appeal, and (4) USAC Appeal denial.

III. Prayer for Relief

We respectfully request that the Request for Review be granted, consistent with the Bureau's previous decisions relating to these issues.

Generally, the Commission's rules may be waived if good cause is shown. 47.C.F.R. The Commission may exercise its discretion to waive a rule where the facts make strict compliance inconsistent with the public interest. *Norwest Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir 1990) (*Northwest Cellular*). In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *WAIT Radio v. FCC*, 418 F.2d

1153, 1159 (D.C. Cir. 969); *Northwest Cellular*, 897 F.2d at 1166. Waiver of the Commission's rules is appropriate only if both (i) special circumstances warrant a deviation from the general rule, and (ii) such deviation will serve the public interest. *NetworkIP, LLC v. FCC*, 548 f.3d 116, 125-128 (D.C. Cir. 2008; *Norwest Cellular*, 897 F.2d at 1166.

Respectfully submitted,



Fred Brakeman RCDD, CSI, CEMP
Chief Executive Officer
Infinity Communications and Consulting, Inc.

Attachment 1

Original PIA Question

Long Beach Unified SD- Yr19 Telco 1 - 161047836

Pending Inquiries

| <input type="checkbox"/> | Read | Notice | Name | Outreach Type | Assigned By | Title | Phone # | Assigned Date | Due Date | Extn. | Status |
|--------------------------|------|--------|------|---------------|-------------|-------|---------|---------------|----------|-------|--------|
|--------------------------|------|--------|------|---------------|-------------|-------|---------|---------------|----------|-------|--------|

No Pending Inquiries.

Close

Submitted Inquiries



| Name | Outreach Type | Answered By | Assigned Date | Answered Date |
|--------------------------------------|---|-------------------|-------------------------|------------------------|
| Other Issues | Modification Notification | Corrina Rodriguez | 5/17/2017 9:23 AM EDT | 5/17/2017 5:12 PM EDT |
| Other Issues | Modification Notification | Corrina Rodriguez | 5/16/2017 7:48 AM EDT | 5/16/2017 12:53 PM EDT |
| Eligibility of Products and Services | Modification Notification | Corrina Rodriguez | 5/4/2017 11:47 AM EDT | 5/5/2017 12:49 PM EDT |
| Duplicate Services | Regular 15-Day Incomplete Response Reminder | Corrina Rodriguez | 12/22/2016 11:07 AM EST | 12/22/2016 6:01 PM EST |
| Eligibility of the Entities | Regular 15-Day | Corrina Rodriguez | 12/9/2016 4:04 PM EST | 12/14/2016 8:31 PM EST |
| Other Issues | Selective Follow-up | Corrina Rodriguez | 11/28/2016 11:00 AM EST | 11/30/2016 3:16 PM EST |
| Eligibility of Products and Services | Regular 15-Day | Corrina Rodriguez | 11/3/2016 11:35 AM EDT | 11/23/2016 3:40 PM EST |
| Eligibility of Products and Services | Regular 15-Day | Corrina Rodriguez | 11/3/2016 11:35 AM EDT | 11/15/2016 9:38 PM EST |
| Eligibility of Products and Services | Regular 15-Day | Corrina Rodriguez | 11/3/2016 11:35 AM EDT | 11/15/2016 9:05 PM EST |
| Eligibility of Products and Services | Regular 15-Day | Corrina Rodriguez | 11/3/2016 11:35 AM EDT | 11/15/2016 8:34 PM EST |

1-10 of 14

Other Issues

Issue

We intend to modify FRN 1699108645 from \$6,609.24 a month to \$2,192.32, because there was an ineligible cost for IPVPN. Please see page 7 of bill provided - all cost are ineligible.

If you disagree with our determination and you have alternative information, please provide third party documentation to support your position (e.g. vendor bill, contract, service agreement, etc.). If you would like to provide any additional explanation to support your position, type your explanation and attach the explanation and/or documentation into your response by using the Add Document button. If you agree with the proposed action, click the "Submit" button to clear this item from your Pending Inquiries.

FRN 1699108645 Modification - DISAGREE

Close

Attachment 2

Level 3's Response

Corrina Rodriguez

From: Bluemer, Tom <Tom.Bluemer@Level3.com>
Sent: Wednesday, May 17, 2017 2:26 PM
To: Corrina Rodriguez
Cc: Ban, Amy; Tucker, Natalia; Churchill, Scott; Arellano, Nanette
Subject: Re: Long Beach Unified Erate Eligibility- ACTION Needed by EOB

No problem.

Sent from my iPhone

> On May 17, 2017, at 1:59 PM, Corrina Rodriguez <CRodriguez@infinitycomm.com> wrote:

>

> Thank you Tom!

>

> Corrina Rodriguez

> E-rate Department Manager

> Infinity Communications and Consulting Inc.

>

> -----Original Message-----

> From: Bluemer, Tom [mailto:Tom.Bluemer@Level3.com]

> Sent: Wednesday, May 17, 2017 1:24 PM

> To: Corrina Rodriguez <CRodriguez@infinitycomm.com>

> Cc: Ban, Amy <Amy.Ban@Level3.com>; Tucker, Natalia <Natalia.Tucker@Level3.com>; Churchill, Scott <Scott.Churchill@Level3.com>; Arellano, Nanette <Nanette.Arellano@Level3.com>

> Subject: Re: Long Beach Unified Erate Eligibility- ACTION Needed by EOB

>

> Hi Corrina,

> The IPVPN service is absolutely required for the SIP Voice Service we provide the LBUSD.

>

> Without The IPVPN with class of service bandwidth on both the primary and backup IPVPN Circuits, there would be nothing for us to create the Primary and backup SIP voice trunks and no way to deliver those phone calls.

>

> So basically the IPVPN is the physical network connection which delivers the SIP Voice calls to and from the LBUSD core PBX and backup PBX.

>

> I hope this is the kind of information that you were looking for.

>

> Thanks

> Tom

>

> Sent from my iPhone

>

>> On May 17, 2017, at 12:25 PM, Corrina Rodriguez <CRodriguez@infinitycomm.com> wrote:

>>

>> Hello Tom,

>>

>> The bill was provided by the district for the 7/1/2016 funding request. With Erate, it is always requested a year in advance.

>>

>> Per USAC the IPVPN is ineligible. Oddly, it was not advised of this in the past years, but each year we have a new reviewer that come up with different findings.

>>

>> Per the reviewer the IPVPN is ineligible. I am in need for you or someone from your team to provide documentation or an email should suffice on this specific service Erate eligibility and function to prove its eligibility. Unfortunately, when USAC advises of modifications, they don't give us much time to respond and since this application has been delayed on the funding approval I believe they are trying to move on funding this application immediately.

>>

>> I have done some research on your website, and to me it looks eligible but to ensure my findings are correct, a simple definition of service and functionality from the vendor will be needed to respond back to PIA and disagree with their intent to allocate the IPVPN charges.

>>

>> Corrina Rodriguez
>> E-rate Department Manager
>> Infinity Communications and Consulting Inc.

>>

>> -----Original Message-----

>> From: Bluemer, Tom [mailto:Tom.Bluemer@Level3.com]
>> Sent: Wednesday, May 17, 2017 12:09 PM
>> To: Corrina Rodriguez <CRodriguez@infinitycomm.com>
>> Cc: Ban, Amy <Amy.Ban@Level3.com>; Tucker, Natalia <Natalia.Tucker@Level3.com>; Churchill, Scott <Scott.Churchill@Level3.com>; Arellano, Nanette <Nanette.Arellano@Level3.com>
>> Subject: Re: Long Beach Unified Erate Eligibility- ACTION Needed by EOB

>>

>> Corrina,

>> I am confused about what you are asking me for here.

>> The bill you have attached is from 2015.

>>

>> We have been billing for this same dual IPVPN service to deliver SIP voice for 3 years now without issue.

>>

>> What is the problem?

>>

>> Also,

>> I am out of the office all day today and would not be able to look into any of this further until I am back in the office tomorrow.

>>

>> Tom Bluemer

>>

>> Sent from my iPhone

>>

>> On May 17, 2017, at 11:45 AM, Corrina Rodriguez <CRodriguez@infinitycomm.com<mailto:CRodriguez@infinitycomm.com>> wrote:

>>

>> Good Afternoon,

>>

>> I have received a review from USAC today and they have advised that they are requesting to allocate \$3,302.84 from Long Beach Unified's Erate request from FY19 (2016-2017) for an ineligible IPVPN service which is shown on the districts billing. (see page 7 of the attached)

>>

>> Can you please provide me information on the eligibility of this service? I need a response by EOB today, or the reviewer will move forward with this allocation.

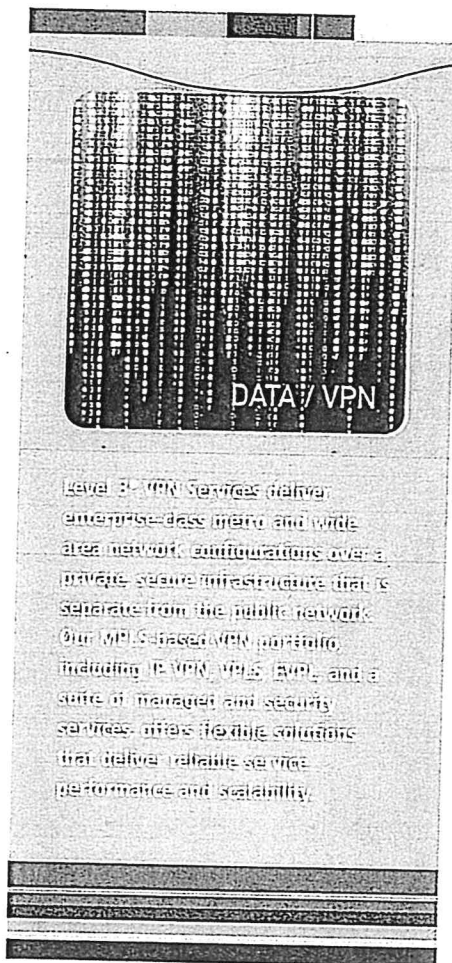
>>

>> Corrina Rodriguez

>> E-rate Department Manager

>> Infinity Communications and Consulting Inc.

>>



Level 3 MPLS/IP VPN Service

Designed for Performance, Security and Productivity

The Level 3® MPLS/IP VPN service delivers worldwide any-to-any connectivity over a variety of connection types. Our MPLS/IP VPN services provide the capabilities enterprises need to decrease network costs, deploy diversity options, and improve connectivity among geographically dispersed locations. The services further economies of scale by supporting converged services — voice, video and data — on a single local connection. By incorporating market-leading features, the Level 3 MPLS/IP VPN service is designed for privacy and security, while allowing you to view and manage application performance through our world-class portal.

Business Solutions

- **Service Where You Need It:** The MPLS/IP VPN offering is available in more than 60 countries and more than 500 global markets reaching North America, Europe, Asia, Middle East and Latin America, to accommodate your business expansion.
- **Buy What You Need:** Efficient and flexible options, such as multiple bandwidth increments and usage-based billing, allow customers to choose the right bandwidth and billing profile to balance application demands and budgets.
- **Security of an MPLS Architecture:** Our service leverages our global MPLS network to create private customer paths across the Level 3 backbone. Each customer is completely isolated from other customers' domains, resulting in a security level comparable to Layer 2 networks such as VPLS, ATM or Frame Relay.
- **Maximize Your Investment:** Maximum cost effectiveness can be realized from converged services. The Level 3® MPLS/IP VPN, Virtual Private LAN Service (VPLS), Ethernet Virtual Private Line (EVPL), Dedicated Internet Access (DIA), VoIP, Video, and Collaboration services are all available across a single access circuit and port.
- **Optimize Your Network:** Advanced performance, security and managed services help improve overall service efficiency, increase network scalability to meet changing business dynamics, and extend WAN security to enterprise locations and mobile users.

Technical Features / Capabilities

- Six class of service (CoS) levels can be dynamically combined and leveraged to prioritize network traffic and manage bandwidth to best meet your unique business needs.
- An optional usage-based billing model for greater flexibility makes MPLS/IP VPN the right choice for backup and disaster recovery implementations.
- Granular speeds and access options enable support of a wide range of interfaces, from T-1 through Gigabit Ethernet, including MLPPP or tiered ports to right-size your network.
- Multicasting allows you to better manage your bandwidth, resulting in a reduced load on the sending location.
- Standard end-to-end SLAs combine with the ability to view, measure and validate metrics including: availability, packet delivery, delay, and delay variation.
- The MPLS/IP VPN solution runs both IPv6 and legacy IPv4 on the same port and within the same VPN, so you can migrate to IPv6 at your own pace.

Performance, Security, and Managed Services

- Application Performance Management — Monitor and respond to end-to-end network and application metrics through a network probe on premises and reports in our uCommandSM portal.
- Level 3[®] Managed Router service — Provides turnkey management of WAN routers, including CPE fulfillment, installation, configuration, monitoring, maintenance and technical expertise.

- Level 3SM Managed Firewall service — Protect against unauthorized access by separating the VPN from external networks (Internet) when deployed as network-based solution; customer premises-based firewalls offer additional access protection among sites on the WAN.
- Level 3SM Secure Access capabilities — Extend our security to your enterprise sites or end-users' mobile devices around the globe. Our managed authentication ensures only approved users access the VPN, and encryption technology protects your data as it traverses the network end-to-end.

Why Choose Level 3 for MPLS/IP VPN service?

- A Trusted Provider You Can Rely On: Level 3 is a proven and trusted provider offering reliable services and responsive customer support
- A Leader in Technology: Level 3 owns and operates one of the largest, technology-leading fiber optic networks in the world. We co-authored the original standard used to define the MPLS protocol and deployed one of the first national MPLS networks
- Customer-Oriented Solutions: Our solutions provide performance across a comprehensive portfolio to give you a reliable one-stop resource that caters to your unique network needs.



ABOUT LEVEL 3

As a leading international provider of fiber-based communications services, we are dedicated to helping our customers keep pace with the demands of an increasingly network-driven world.

We couple a broad service portfolio with a scalable and efficient network to deliver a suite of solutions built for the future.

To find out how Level 3 can be your single-provider solution for all of your business-critical needs, contact us today.

1.877.313.6133

www.level3.com

www.level3.com

Attachment 3

Infinity USAC Appeal



June 13, 2017

Letter of Appeal
Schools and Libraries Division – Correspondence Unit
30 Lanidex Plaza West
PO Box 685
Parsippany, NJ 07054-0685

Re: Letter of Appeal of the Funding Commitment Decision on FY2016-2017 Long Beach Unified School District Form 471 App 161047836, FRN 1699108645.

Entity: Long Beach Unified School District
BEN: 143528
Form 471: 161047836
FRN: 1699108645
Funding Year: 7/1/2016-6/30/2017
FCDL Date: May 22, 2017

Attached:

Attachment 1- LOA
Attachment 2- Form 471 App 161047836 FCDL Data
Attachment 3- PIA Modification Notification and Response
Attachment 4- FRN 1699108645 Modification – DISAGREE
Attachment 5- FRN 1699108645 Billing

Infinity Communications and Consulting is submitting this letter of appeal on behalf of Long Beach Unified School District (see Attachment 1- LOA) regarding the Funding Commitment Decision made on May 22, 2017 for a modification made to FRN 1699108645 regarding an eligible component.

Background:

On 5/17/2017, we received a PIA modification request advising the intent to reduce FRN 1699108645 from \$6,609.24 a month to \$2,192.32 a month because there was an ineligible cost for IPVPN. (See Attachment 3- PIA Modification Notification and Response)

On 5/17/2017, we submitted a response to the modification notification stating that we disagree (see Attachment 4- FRN 1699108645 Modification - DISAGREE). As it was advised by the Vendor, SPIN 143021460, Level 3, the IPVPN service is required for the SIP Voice Service they provide the LBUSD. "Without the IPVPN with class of service bandwidth on both the primary and backup IPVPN Circuits, there would be nothing for us to create the Primary and backup SIP voice trunks and no way to deliver those phone calls.

So basically, the IPVPN is the physical network connection which delivers the SIP Voice calls to and from the LBUSD core PBX and backup PBX."

On 5/22/2017, we received the FCDL Data (see Attachment 2- Form 471 App 161047836 FCDL Data) showing the FRN being reduced from \$6,609.24 a month to \$2,192.

PO BOX 999 • BAKERSFIELD, CA. • 93302
PHONE: 661.716.1840 • FAX: 661.716.1841
WWW.INFINITYCOMM.COM

I request, on behalf of Long Beach Unified School District, that the Form 471 Application #161047836, FRN 1699108645 reduction modification and eligibility of service be reviewed with the supporting documentation provided. (see Attachment 4- Attachment 4- FRN 1699108645 Modification – DISAGREE and Attachment 5- FRN 1699108645 billing)

We look forward to a prompt resolution to this matter. If additional documentation is required regarding this matter, please do not hesitate to contact our office.

Corrina Rodriguez
District Erate Consultant

Attachment 4

USAC Appeal Denial

| Post-Commitment Rationale (FRN Level) | Funding | Funding | Comments (FRN) |
|--|---------|---------|----------------|
| <p>Your FCC Form 471 application included costs for the following ineligible products and or services: IVPN service. USAC has given you an opportunity to provide the appropriate additional documentation demonstrating the eligibility of the products and/or services requested and you failed to do so. Accordingly, your funding request was reduced in accordance with USAC's determination. In your appeal, you did not show that USAC's determination was incorrect. Consequently, your appeal is denied.</p> <p>FCC rules provide that funding may be approved only for eligible products and services. See 47 C.F.R. secs. 54.502. The USAC website contains a list of eligible products and services. See Eligible Services List posted in the Reference Area of the SLD section of the USAC website. FCC rules further require that if 30% or more of the applicant's funding request includes ineligible products and/or services, then the funding request must be denied, otherwise the funding request will be reduced accordingly. See 47 C.F.R. sec. 54.504(b). The FCC's Aiken County Public Schools Order directed USAC to permit the applicant 15 calendar days from the date of receipt of notice in writing by USAC to revise its funding request to remove the ineligible services or allow the applicant to provide additional documentation to show why the services are eligible. See Requests for Review of the Decisions of the Universal Service Administrator by Aiken County Public Schools, Aiken, South Carolina, et al., Schools and Libraries Universal Service Support Mechanism, File Nos. SLD-397612, et al., CC Docket No. 02-6, Order, 22 FCC Rod 8735, FCC 07-61 para. 11 (May 8, 2007).</p> | Funded | Funded | |