

**FCC APPEAL
CC Docket No. 02-6**

**APPEAL OF USAC Administrator's Appeal of:
FY 2011-2012 Form 471 – 799605
FRN: 2210034
FY 2012-2013 Form 471 – 862622
FRN: 2348837
FY 2013-2014 Form 471 – 896524
FRN: 2436320**

Decision Letter date on the above decisions: February 5, 2015

Individual Filing the Appeal:

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Billed Entity #: 16035230

Name: Daytop Preparatory Academy-New Jersey

Reason for the Appeal:

**During a Program Compliance Review it was found that the contract date of the original contract for services was prior to the Allowable Contract Date
On February 5, 2015, USAC made the decision to DENY the appeal to them on the Contract Date of the 2011-2012 contract with Paetec/Windstream.**

USAC determined that the Official Contract date was: 2/1/2011 rather than the Date of 3/15/2011.

Reason for the confusion in the dates is explained in the “Contract eMail exchange.pdf”. Daytop-New Jersey was going through an administrative change and during the process the right hand was unaware of the left hand in relation to eRate. Mr. Michael Buonauro, the director of technology was working directly with me on the applications. The administration was changing from Daytop-New York handling both New York and New Jersey to each state handling their own. During that process, Laura Taverna, CFO sent an eMail to Paetec stating they were the vendor selected to be the service provider for the 2011-2012 School year – a 36 Month contract. At the same time, Mr. Buonauro was evaluating bids received and sent an eMail to Paetec on March 15, 2011 stating the same. It was our contention that the official contract date should have been March 15, 2011 not the previous dated eMail from the CFO. The CFO did not understand the eRate process and did not convey the eMail to Mr. Buonauro until this review took place.

As a result of the Program Compliance Review taking place in 2014 and the belief that the contract was entered into appropriately it directly impacted each funding year of the contract.

It is the District's contention that they went through the competitive bidding process and entered into the contract on March 15th, 2011 and that that contract was good through June 30, 2014. The funding years of 2012-13 and 2013-14 used that contract as the basis for the FRNs requested. It is our belief that the FCC should NOT penalize the schools involved and reverse the decision by USAC on the contract date and subsequent Demand Letters for the return of funding for each of those years.

Daytop-New Jersey provides educational services to students in an alternative setting for drug-addicted youth. The cost to the school will be immense if the decision remains "DENIED". The return of over \$100,000.00 in funds will cause a severe hardship. We believe that all of the steps were followed to the intent and letter of the program – no intentional act was made by the District. It was simply an administrative error made during a state of transition. All previous filings and contracts and award letters were handled by Mr. Buonauro. As the consultant, I had only the information from him as a guideline for the filling of the Form 471's.

I believe that the documents being provided to you –the FCC- demonstrate the confusion and provides appropriate documentation that will allow for the USAC decision to be overturned.

The intent of the program has always been to assist schools not punish them. The District fully complied with the procedures for entering into a contract after a competitive bidding process of 28 days. The fact that an administrative error occurred during a change over of responsibilities did not impact the decision of the provider selected in 2011 and then referenced in the 2012 & 2013 applications.

Thank you for your consideration of this matter. Please overturn the decision by USAC for the FRNs for the funding years of 2011, 2012 & 2013.

Sincerely,

**D. Jim Earle
Consultant
Daytop- New Jersey
Entity # 16035230**

Attachments: PAETEC agreement_2011.pdf; Contract eMail exchanges.pdf & (J) Paetec_Windstream contract.pdf