

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.**

In the Matter of:)
)
Request for Review and/or Waiver of a)
Decision of the Universal Service)
Administrator) CC Docket No. 02-6
)
by)
)
Springfield City School District)
Springfield, OH)

TO: Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC20554

Springfield City School District ("Springfield" or "SCSD") respectfully requests that the Federal Communications Commission ("FCC" or "Commission") review a decision of the Administrator of the Universal Service Administrative Company ("USAC") relative to the denial of invoice extensions for FRNs 2259439, 2299504, 2299506, 2299511, 2299513, 2299515 and 2299520. SCSD further requests that the Commission grant it a Waiver allowing it extensions to file FCC Forms 472, Billed Entity Applicant Reimbursements ("BEAR"), for the FRNs. This Request for Review and Waiver is made pursuant to 54.719 through 54.723 of the Commission's rules.¹

¹47 C.F.R. §§ 54.719–54.723

Application Information

Billed Entity Number: 129994

FCC Form 471 Application Numbers: 832076

Funding Request Number Appealed: 2259439, 2299504, 2299506, 2299511, 2299513, 2299515 and 2299520

Administrator's Decision on Appeal: March 31, 2015

Service Providers: SBC Long Distance SPIN 143008823

Edline/Schoolworld SPIN 143030117

AT&T Mobility SPIN 143025240

Ohio Bell Telephone Co. SPIN 143001688

CenturyLink SPIN 143001157

Contact Information: Michele Scaduto
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USAC DECISION ON INVOICE EXTENSION APPEAL

Springfield City School District is seeking a Review and/or Waiver relative to a USAC Administrator's Decision on Appeal, which denied its appeal of invoice

extensions denials for FRNs 2259439, 2299504, 2299506, 2299511, 2299513, 2299515 and 2299520 stating:

Administrative procedures related to the payment of support for discounted services establish deadlines for applicants or service providers to submit invoices to USAC. The administrator provides an extension of the deadlines under certain conditions. Those conditions are documented in the Reference area on the USAC website. (See Invoice Extensions for more information.) Your request did not provide information that 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.

STATEMENT IN SUPPORT OF REQUEST FOR REVIEW AND WAIVER:

A. BACKGROUND FACTS

Springfield City School District ("SCSD") located in Springfield, Ohio serves the needs of roughly 7200 students, approximately 85% of which qualify for NSLP. The school district has always relied on E-rate funding to supplement its telecommunications and technology budget.

On October 27, 2014 SCSD, by and through its duly authorized E-rate consultant, Educational Funding Group, Inc., ("EFG") (CRN 16043587) submitted Invoice Extension Requests for the seven FY2012 FRNs listed above (USAC Case No. 22-687405).

The following discussion in support of this Request for Review and/or Waiver is broken down into two main sections, with Section 1 having two sub-sections.

B. DISCUSSION

SCSD is bringing forth three distinct issues to be addressed by the Commission in this Request for Review and/or Waiver.

ISSUE 1: Whether SCSD was entitled to invoice deadline extensions for the reasons originally provided USAC in its Requests for Invoice Deadline Extension filed on October 27, 2014

For the seven FRNs that are the subject of this Request for Review and/or Waiver, SCSD provided specific reason(s) to USAC supporting its requests for invoice extensions, to wit: that the extensions were needed due to reasons beyond the service providers' control. See Exhibit A. For the AT&T FRNs, the additional reason of needing third party documentation or certification was added. The guidance provided on the USAC website allows for extensions requested for these reasons, so SCSD cannot fathom why the invoice extension requests filed on October 27, 2014 were denied stating "Your request did not provide information that that satisfied those conditions" when the circumstances described by SCSD in its extension request(s) were clearly ones that met one or both standards. Despite the fact that this was argued by SCSD in its appeal to USAC, when the Administrator denied the appeal, it appears to have ignored this information, or applied a standard other than what is listed as guidance on the USAC website.

Section 1: FRNs 2259439, 2299504 and 2299506

(a) SCSD's Invoice Extension Requests for these three FRNs met USAC's Conditions for Extensions

The services for FRNs 2259439, 2299504 and 2299506 were provided pursuant to signed contracts between SCSD and AT&T/Ohio Bell Telephone Co. Although the contracts were properly signed by both parties, Ohio Bell never implemented the agreed upon contract rates and billed SCSD excessive sums, often many times what was provided for in the contract(s). Only recently did AT&T/Ohio Bell process a substantial credit, which spans multiple funding

years, and which was applied in a single lump sum. However, AT&T/Ohio Bell has never provided the details of the credit, and SCSD is therefore unable to determine which portion of the credit applies to which funding year. Because the details of the credit are essential to preparing accurate BEARs for FRNs 2299504, 2299506 and 2259439, SCSD has been unable to submit accurate invoices to USAC, which is one of the reasons it sought invoice deadline extensions for the FRNs. SCSD continues to diligently pursue the matter with Ohio Bell, but after numerous attempts to get the credit breakdown, Ohio Bell has failed to provide the information and the matter remains unresolved.

One of the conditions for extension listed on the USAC website is when “documentation requirements that necessitate third-party contact or certification”. SCSD fails to comprehend why the invoice extension requests filed for FRNs 2259439, 2299504 and 2299506 were dismissed “because current guidelines and procedures do not allow approval for the reasons submitted” when documentation requirements necessitating third-party contact or certification is *exactly* what SCSD needed to prepare accurate BEARs. Since SCSD satisfied this requirement, it fails to understand how USAC can list it as an acceptable reason on its website, yet deem it an unacceptable reason for granting invoice extensions for these three FRNs. Since the Administrator’s Decision on Appeal Explanation lacks specificity, it hinders SCSD’s ability to address the issue on appeal.

In addition to the third party certification, the Invoice Deadline Extension Requests for these three FRNs cited multiple personnel and other internal issues at the District as a basis for making the requests, and indicated that these were ‘circumstances beyond the service provider’s control’ (as listed on the USAC website as another condition for extensions), so USAC

should not have dismissed the invoice extension requests submitted on this basis and SCSD's appeal should not have been denied.

(b) USAC Processing of SCSD's Invoice Extension Requests for the AT&T FRNs was inconsistent, to the detriment of SCSD

The Invoice Deadline Extension Requests for FRNs 2259439, 2299504 and 2299506 were filed in one document together with Invoice Deadline Extension Requests for FRNs 2299508 and 2299510 (not part of this Request for Review). Since the document gave SCSD's supporting reasons in a single statement which applied to all five extension requests, it is impossible to understand how on January 16, 2015 USAC dismissed the three extension requests subject of this Request, but on February 19, 2015, approved extensions for the remaining two FRNs (2299508 and 2299510).

That extensions could be approved for two FRNs and the other three dismissed, leaves SCSD at a complete loss to comprehend how USAC could deem the reasons SCSD provided be sufficient to grant the extensions for FRNs 2299508 and 2299510 but insufficient to grant extensions for the three FRNs at issue in this Request. Not only is USAC's action fraught with inconsistency but it renders it impossible for SCSD to fathom USAC's rationale and therefore inhibits SCSD's ability to adequately address the appeal of the dismissed FRNs.

Further, despite SCSD having included it as part of its appeal, the Administrator's Decision on Appeal not only completely failed to address this issue, but gave as an explanation the incomprehensible statement that "Your appeal has not brought forth clear information establishing that those conditions were met but not considered."

Section 2: Whether SCSD was entitled to invoice deadline extensions for FRNs 2299511, 2299513, 2299515 and 2299520 for the reasons originally

provided USAC in its Requests for Invoice Deadline Extensions filed on October 27, 2014

SCSD's extension requests for these four FRNs supplied information that clearly met the "circumstances beyond the service provider's control" condition listed on the USAC website as a basis for requesting an extension. The Invoice Deadline Extension Requests for these four FRNs cited multiple personnel and other internal issues at the District as a basis for making the requests, and indicated that these were 'circumstances beyond the service provider's control, so USAC should not have dismissed the invoice extension requests submitted on this basis and SCSD's appeal should not have been denied.

The Administrator's Explanation that "Your appeal has not brought forth clear information establishing that those conditions were met but not considered" also applied to these FRNs, and SCSD is unable to fathom to what USAC is referring and is therefore unable to adequately address the issue in this Request.

ISSUE 2: Whether SCSD has presented special circumstances sufficient for the Commission to grant it a Waiver

In the situation described in Issue 1, Section 1, it is evident that SCSD is, and always has been, completely dependent on Ohio Bell to provide them with the detailed breakdown of the credit necessary to assure program compliance for the three Ohio Bell FRNs at issue in this portion of the within Request for Review and/or Waiver. SCSD has, and continues to make, diligent efforts to obtain the breakdown of the credit from Ohio Bell, but has had no response from them. Neither USAC nor the FCC provides guidance or recourse for an applicant who paid in good faith but cannot get the vendor to act and supply them with the correct paperwork necessary to prepare and submit accurate E-rate reimbursements. Given the behemoth

AT&T/Ohio Bell is in the telecom industry a "little guy" like SCSD has limited ability to get them to cooperate. This left SCSD faced with submitting a BEAR by the deadline, knowing it wasn't accurate, or seeking an extension so that it could continue working to obtain the information necessary to prepare an accurate BEAR, thus remaining compliant with program rules. Denying invoice extensions under these circumstances is not only punitive to the applicant, and contrary to public interest, but is financially detrimental to the district that made its best efforts to comply with all program rules in a timely manner. As for the other four FRNs subject of this request for Review, SCSD made its best efforts to obtain the information and documentation necessary to prepare accurate BEARs for these FRNs but for reasons that were clearly outside of the service providers' control, were unable to do so by the last date to invoice.

The Commission has recognized that a rule may be waived where the particular facts make strict compliance inconsistent with the public interest. See *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); and *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969). In addition, the Commission has recognized that it may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. It has deemed a waiver to be appropriate if special circumstances warrant a deviation from the general rule, where such deviation would better serve the public interest than strict adherence to the general rule. *WAIT*, supra. SCSD asserts that based on the facts of this matter, strict compliance with the invoice extension guidelines to which USAC is referring, is inconsistent with the public interest and SCSD stands to suffer financial hardship if the guidelines are strictly enforced. The district believes that, based on the special circumstances presented herein, it would be equitable that for FRN 2259439, 2299504, 2299506, 2299511,

2299513, 2299515 and 2299520, the Commission grant SCSD a waiver of USAC's invoice extension rules and respectfully requests that it do so.

It is also important to note that the rules and procedures that appear to have been applied by the Administrator in denying SCSD's appeal were not in effect at the time SCSD's invoice deadline extension requests was submitted. The changes implemented by the E-rate modernization Order regarding invoice filing deadlines (47 C.F.R. §54.514,) did not go into effect until December 18, 2014 and SCSD's invoice deadline extension requests were submitted on October 27, 2014, prior to the effective date, and in compliance with the invoice deadline guidelines and procedures in effect at that time. SCSD's requests for invoice extensions should have been decided based on the rules in effect at the time they were filed and those in effect for FY2012, not by subsequently implemented rule changes. Further, by USAC rendering inconsistent and incomprehensible explanation(s), SCSD's ability to comprehend the standard applied by USAC is severely hindered and leaves it unable to adequately address the issue in this Request for Review and/or Waiver.

CONCLUSION

Throughout its application process, SCSD acted in good faith and demonstrated compliance with E-rate program rules and regulations. It followed all core E-rate program requirements and committed no fraud, abuse or waste of E-rate funds. Under the circumstances presented, for USAC to deny SCSD invoice extensions for FRN 2259439, 2299504, 2299506, 2299511, 2299513, 2299515 and 2299520 is against the public interest and will create financial hardship for the school district which serves a significant number of low income students.

Therefore, for the reasons contained herein and to better serve the public interest and the interests of the students of Springfield City School District, Springfield respectfully requests that the Commission:

1. Grant its Request for Review of USAC's denial of the invoice deadline extensions for FRN 2259439, 2299504, 2299506, 2299511, 2299513, 2299515 and 2299520;
2. Grant its Request for a Waiver of the invoice deadlines for FRN 2259439, 2299504, 2299506, 2299511, 2299513, 2299515 and 2299520;
3. Issue an Order to USAC to grant an invoice extension for FRN 2259439, 2299504, 2299506, 2299511, 2299513, 2299515 and 2299520;
4. Remand the FRNs to USAC for further processing;
5. Issue guidance as to how to get a non-responsive vendor(Ohio Bell) to provide the documentation necessary for an applicant (SCSD) to prepare its BEAR; and
6. Waive any procedural rules necessary to effectuate the Commission's resultant Orders.

Thank you for your consideration.

Respectfully submitted,

/s/Michele Scaduto

Michele Scaduto
Educational Funding Group, Inc.
E-rate Consultant to Springfield City School District

EXHIBIT A

October 27, 2014

Invoice Deadline Extension Request
Schools and Libraries – Correspondence Unit
100 South Jefferson Road
P.O. Box 902
Whippany, NJ 07981

Case # Generated by “Submit a Question”: **22-687405**

Billed Entity Number: 129994
Funding Year: July 1, 2012 through June 30, 2013
Application Number: 832076
FRN(s): 2259439, 2299504, 2299506, 2299508 and 2299510
Service Provider: AT&T (The Ohio Bell Telephone Company)
Service Provider SPIN: 143025240

RE: Invoice Deadline Extension Request

The district has had several Priority 2 projects underway during the past two years and resources have been severely curtailed while this work is taking place. Thus, it is taking much longer than anticipated to both obtain the invoices from archive and to review them to ensure compliance with program rules; namely, that reimbursement is requested only for eligible services.

Additionally, only after the funding year ended did the district determine that the contracts covering the services provided under FRNs 2259439, 2299504, 2299506 and 2299508 were not implemented by the vendor. The failure to implement resulted in the district being billed at significantly higher amounts than they should have been. Despite diligently trying to get the billing issues corrected, the problem is taking an extraordinarily long time to resolve, yet the resolution is essential so that an accurate BEAR for the correct (lower) amounts can be prepared and submitted to USAC.

Because we are unable to submit an accurate BEAR to USAC prior to the 10/28/14 deadline, we hereby request an invoice deadline extension on FRNs 2259439, 2299504, 2299506, 2299508 and 2299510. The reasons necessitating this extension request are beyond the service provider’s control.

Sincerely,

/s/ *Michele Scaduto*

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October 27, 2014

Invoice Deadline Extension Request
Schools and Libraries – Correspondence Unit
100 South Jefferson Road
P.O. Box 902
Whippany, NJ 07981

Case # Generated by “Submit a Question”: **22-687405**

Billed Entity Number: 129994
Funding Year: July 1, 2012 through June 30, 2013
Application Number: 832076
FRN(s): 2299511
Service Provider: CenturyLink
Service Provider SPIN: 143001157

RE: Invoice Deadline Extension Request

The district has had several Priority 2 projects underway during the past two years and resources have been severely curtailed while this work is taking place. Thus, it is taking much longer than anticipated to both obtain the invoices from archive and to review them to ensure compliance with program rules; namely, that reimbursement is requested only for eligible services.

Because we are unable to submit an accurate BEAR to USAC prior to the 10/28/14 deadline, we hereby request an invoice deadline extension on FRN 2299511. The reasons necessitating this extension request are beyond the service provider's control.

Sincerely,

Sincerely,

/s/ Michele Scaduto
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October 27, 2014

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Whippany, NJ 07981

Case # Generated by “Submit a Question”: **22-687405**

Billed Entity Number: 129994
Funding Year: July 1, 2012 through June 30, 2013
Application Number: 832076
FRN(s): 2299513
Service Provider: SBC Long Distance
Service Provider SPIN: 143008823

RE: Invoice Deadline Extension Request

The district has had several Priority 2 projects underway during the past two years and resources have been severely curtailed while this work is taking place. Thus, it is taking much longer than anticipated to both obtain the invoices from archive and to review them to ensure compliance with program rules; namely, that reimbursement is requested only for eligible services.

Because we are unable to submit an accurate BEAR to USAC prior to the 10/28/14 deadline, we hereby request an invoice deadline extension on FRN 2299513. The reasons necessitating this extension request are beyond the service provider's control.

Sincerely,

/s/ Michele Scaduto

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October 27, 2014

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Whippany, NJ 07981

Case # Generated by “Submit a Question”: **22-687405**

Billed Entity Number: 129994
Funding Year: July 1, 201 through June 30, 2013
Application Number: 832076
FRN(s): 2299515
Service Provider: AT&T Mobility
Service Provider SPIN: 143025240

RE: Invoice Deadline Extension Request

The district has had several Priority 2 projects underway during the past two years and resources have been severely curtailed while this work is taking place. Thus, it is taking much longer than anticipated to both obtain the invoices from archive and to review them to ensure compliance with program rules; namely, that reimbursement is requested only for eligible services.

Because we are unable to submit an accurate BEAR to USAC prior to the 10/28/14 deadline, we hereby request an invoice deadline extension on FRN 2299515. The reasons necessitating this extension request are beyond the service provider's control.

Sincerely,

/s/ Michele Scaduto

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October 27, 2014

Invoice Deadline Extension Request
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Case # Generated by "Submit a Question": **22-687405**

Billed Entity Number: 129994
Funding Year: July 1, 2012 through June 30, 2013
Application Number: 832076
FRN(s): 2299520
Service Provider: Edline / Schoolworld
Service Provider SPIN: 143030117

RE: Invoice Deadline Extension Request

The district has had several Priority 2 projects underway during the past two years and resources have been severely curtailed while this work is taking place. Thus, it is taking much longer than anticipated to both obtain the invoices from archive and to review them to ensure compliance with program rules; namely, that reimbursement is requested only for eligible services.

Because we are unable to submit an accurate BEAR to USAC prior to the 10/28/14 deadline, we hereby request an invoice deadline extension on FRN 2299520. The reasons necessitating this extension request are beyond the service provider's control.

Sincerely,

/s/ Michele Scaduto

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