

**Before the  
Federal Communications Commission  
Washington, DC**

In the Matter of	)	
	)	
Request for Review of the Decision of	)	
the Universal Service Administrator	)	
or Waiver by	)	
	)	
Raymond School District	)	
Raymond, New Hampshire	)	
	)	
Schools and Libraries Universal Service	)	CC Docket No. 02-6
Support Mechanism	)	

To: Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12<sup>th</sup> Street SW  
Washington, D.C. 20554

**REQUEST FOR REVIEW OR WAIVER**

Raymond School District (“School District”), through its representative, E-Rate Elite Services, Inc. (EES), hereby respectfully requests that the Federal Communications Commission (“FCC” or “Commission”) review a decision of the Universal Service Administrative Company (“USAC”) that denied invoice deadline extension for FY 2012 FRN 2320438, and instruct USAC to grant the requested invoicing deadline extension. Alternatively, the School District requests that the Commission reach the same results by waiving its rules pursuant to §§ 54.719 through 54.723 of the Commission’s rules.<sup>1</sup>

At issue is the School District’s contention that circumstances, outside of its control and firmly under the control of the service provider, necessitated the invoice deadline extension request for FY 2012 FRN 2320438. Furthermore, the School District asserts that the invoice deadline extension request was submitted in compliance with the USAC invoice deadline extension procedures that were in place at that time.

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<sup>1</sup> 47 C.F.R. §§ 54.719 - 54.723

## Application Information

Billed Entity Number:	120914
FCC Form 471 Application Number:	824056
FRN Under Appeal:	2320438
Administrator's Decision on Invoice Deadline Extension Request:	January 16, 2015
Administrator's Decision on Appeal:	March 31, 2015
Service Provider:	Comcast
Service Provider Identification Number (SPIN):	143003990

### I. Facts

The Funding Commitment Decision Letter (FCDL) for the School District's FY 2012 471 Number 824056 was released by USAC on October 2, 2012. EES filed the Form 486 for FRN 2320438 on 2/6/2013, the Service Start Date. On April 23, 2013 an email and attached "Credit Request Memo" were sent to Comcast, requesting Comcast to invoice USAC directly and credit the School District's monthly bills for FRNs 2320438 and 2256559<sup>2</sup> (we would like to note that Comcast did invoice USAC and issue credits on the monthly bills for FRN 2256559).

In October 2014, prior to the invoicing deadline, EES noted that Comcast had not yet invoiced USAC and submitted an invoicing deadline extension request to USAC to allow for additional time for EES to work with Comcast to see if there were any issues preventing them from submitting a SPI.

On October 24, 2014 EES filed a request for invoice deadline extensions for FRN 2320438, citing the condition "that documentation requirements necessitated third party contacts and certification", which we believed to fit the situation.

On January 16, 2014, EES received notification from USAC that the request for invoice deadline extensions for the aforementioned FRNs was dismissed because "Current deadline extension rules and procedures do not allow approval for the reason submitted."

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<sup>2</sup> Copy attached – Exhibit A.

In response, EES filed an appeal with USAC to reconsider the decision to dismiss the invoice deadline extension requests. EES's appeal was subsequently denied on March 31, 2015 citing the denial reason that:

"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 deadline 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 satisfied those conditions..."<sup>3</sup>

## **II Discussion**

The School District and EES are submitting this Request for Review or Waiver to the Commission based on the following points:

- The request for invoice deadline extensions and subsequent appeal to USAC were made in good faith, and extraordinary circumstances existed that supported the request
- The request for invoice deadline extension was filed in accordance with the guidance posted on USAC's website

### Request Made in Good Faith and Extraordinary Circumstances

In accordance with the SPI invoicing process the School District paid 100% of the monthly bills for the services related to FRN 2320438. Comcast was notified of the School District's request for the services to be invoiced using the SPI process and to receive credits on its monthly bills. Furthermore, Comcast did invoice one of the FRNs via SPI as requested.

In the E-Rate Modernization Order, the Commission noted that:

"With respect to invoicing deadlines for earlier funding years, absent extraordinary circumstances justifying the failure to timely submit invoices, we expect the Bureau and USAC to deny any requests or appeals seeking an invoicing deadline extension of more than 12 months after the last date to invoice."<sup>4</sup>

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<sup>3</sup> Copy attached – Exhibit B.

<sup>4</sup> *Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 8870 (2014), ¶ 242

We feel circumstances such as that described above meet the Commission's intent with respect to the establishment of invoicing deadlines in the E-Rate Modernization Order<sup>5</sup>, and further suggest the situation described above represents the type of extraordinary circumstances, one in which the SPI invoicing process is largely outside the control of the applicant, described by the Commission.

#### Invoice Deadline Extension Request Filed in Accordance with Posted Guidance

Per USAC's website<sup>6</sup>, and included in the Administrator's Decision on Appeal, there are a number of conditions under which invoice deadline extensions may be granted. Included in this list is "Documentation requirements that necessitate third-party contact or certification". It is our belief that this condition fits this situation because the service provider was required to submit the SPI Forms to USAC in order for the School District to receive its E-Rate discounts for FRN 2320438.

It appears that USAC's dismissal of the October 24, 2014 invoice deadline extension request because "Current deadline extension rules and procedures do not allow approval for the reason submitted" as well as the subsequent appeal denial because:

"...invoicing deadlines for earlier funding years, absent extraordinary circumstances justifying the failure to timely submit invoices, we expect the Bureau and USAC to deny any requests or appeals seeking an invoicing deadline extension of more than 12 months after the last date to invoice..."

are directly related to guidance and rule changes stated in the E-rate Modernization Order.

We respectfully suggest that the rules and procedures noted in USAC's dismissal and denial reasons noted above were not in effect at the time the invoice deadline extension request was submitted to USAC. Paragraph 240 of the E-rate Modernization Order states:

"We adopt a rule allowing applicants to seek and receive from USAC a single one-time invoicing extension for any give funding request, provided the extension request is made no later than what would otherwise be the deadline for submitting invoices: 120 days after the last day to receive service, or the date of the FCC form 486 notification letter."<sup>7</sup>

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<sup>5</sup> *Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 8870 (2014), ¶ 242

<sup>6</sup> <http://www.usac.org/sl/applicants/step07/invoice-extensions.aspx>

<sup>7</sup> *Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 8870 (2014), ¶ 240

This ruling codified USAC's existing invoice filing deadline; however, the amended rule, 47 C.F.R. §54.514, did not become effective until December 18, 2014.<sup>8</sup> Notwithstanding, the invoice deadline extension was submitted within the relevant invoice period, in compliance with the invoice deadline guidelines and procedures cited by USAC in its appeal denial reason.

### **III Conclusion**

Throughout its application process, the School District has complied with all E-Rate program rules and regulations. No waste, fraud, or abuse of E-Rate funds has occurred, and it would serve the public interest for the Commission to grant the requested invoice deadline extension for FRN 2320438 and would alleviate financial hardship for the School District. Furthermore, we believe there were no violations of E-Rate program rules or regulations that warranted denial of the invoice deadline extension or the subsequent appeal. Therefore, we respectfully request that the Commission grant this appeal and find that the School District's invoice deadline extension request for FRN 2320438 was submitted in compliance with the invoice deadline guidelines and procedures that were in place at the time of the requests.

Alternatively, the Commission has previously established that a rule may be waived where the particular facts make strict compliance inconsistent with the public interest.<sup>9</sup> In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.<sup>10</sup> Therefore, in the event that the Commission does find that the School District's invoice deadline extension request for FRN 2320438 was not submitted in compliance with the invoice deadline guidelines and procedures that were in place at the time of the request, we request that the Commission grant the School District a waiver of the invoice deadline for FRN 2320438.

Respectfully submitted,



Christopher Lenhardt, CFE  
E-Rate Elite Services, Inc.

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<sup>8</sup> Modernization of the Schools and Libraries "E-Rate" Program, 79 Fed. Reg. 68632 (November 18, 2014)(to be codified at 47 C.F.R. pt. 54).

<sup>9</sup> Northeast Cellular Telephone Co. v. FCC, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (Northeast Cellular)

<sup>10</sup> WAIT Radio v. FCC, 418 F.2d 1153, 1159 (D.C. Cir. 1969); Northeast Cellular, 897 F.2d at 1166