

**OFFICE OF SUPERINTENDENT  
DELAWARE COMMUNITY SCHOOL CORPORATION**  
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Muncie, IN 47303  
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**Board of Education**

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Monday, August 10, 2015

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
9300 East Hampton Drive  
Capitol Heights, MD 20743

RE: CC Docket No 02-6 – Schools and Libraries Universal Service Support Mechanism  
WC Docket No. 13-184 – Modernizing the E-Rate Program for Schools and Libraries  
Request for Waiver  
Billed Entity Name: Delaware Community School Corporation  
Billed Entity Number: 130580  
471 Number: 999501, FRN : 2722084

Dear Ms. Dortch;

We request a waiver of section IV.C.2.c of FCC 14-99, the Report and Order and Further Notice of Proposed Rulemaking (adopted 7/11/2014, colloquially known as the 1<sup>st</sup> Modernization Order) and the first three paragraphs of section VI.F of FCC 14-189 the Second Report and Order and Order on Reconsideration (adopted 12/11/2014, colloquially known as the 2<sup>nd</sup> Modernization Order). The result of these sections is the elimination of support for cellular data service. We believe a wavier is warranted for two reasons.

1. Cellular data service is only provided to a limited number of key staff members. The cellular data service is deemed necessary to the performance of the staff members' jobs on applicant property. As the local agency, we believe that we best understand our community's goals and needs and we are always aware of our requirement to be a prudent guardian of the public's resources and to allocate our resources where they do the most public good. This is a belief supported by long standing practice in the E-Rate program and we believe best described in the FCC's own words; "The Commission has recognized that the applicant is the best entity to determine what technologies are most suited to meet the applicant's specific educational goals." (paragraph 30 of FCC 03-313, The Ysleta Order). The FCC's usurpation of that responsibility has resulted in overly broad assumptions that do not fit our local situation. It is also in direct conflict with Federal Regulation 47 USC §254(c)(1)(A) which requires the FCC to support services that are essential to education, public health, or public safety. The Delaware Community School Corporation has determined that these key staff members' job

performance is enhanced by cellular connectivity, both voice and data and so the Corporation provides this tool. The Corporation has been able to supply this tool to its staff largely due to the support provided by E-Rate.

2. The FCC rule requirement for cost effectiveness and price as a primary factor has not been violated. 47§54.503(c)(vi)(2)(ii)(B) does require that "all bids submitted for eligible products and service will be carefully considered, with price being the primary factor, and the bid selected will be for the most cost-effective service offering (with further reference to 47§54.511, which reiterates that selection of a provider of eligible services must revolve around cost-effective offerings). Neither of these sections require that eligible services be put in competition with each other, only that, once a local agency has determined that they need a service that is eligible for E-Rate support, that they run a fair and open competitive bidding process to determine which of the service providers has the most cost-effective solution for their needs. The presumption in the Modernization Orders that WiFi access is more cost-effective than cellular data service pits two types of service against each other, eliminating the local agency decision process.

### Summary

Loss of cellular data service due to the rollback of support for voice services and elimination of support for cellular data will decrease the safety of our students while on our property. We find pitting public safety against cost effectiveness the most baffling conflict between two FCC rules. In this time of hyper awareness of public safety, we suggest it is difficult for the FCC to justify prioritizing cost effectiveness over safety. We understand that the FCC cannot support duplicative services and we acknowledge that in everyday use, cellular data service looks very much like accessing WiFi networks. It would seem reasonable to compare the cost effectiveness of the two services if you do not consider the implications of various emergency situations. However, we believe section 254(c)(1)(A) requires the FCC to consider these emergency situations when determining the eligibility of a service for E-Rate support. The simple fact is that building WiFi networks are not reliable in emergency situations. Consider the simple example of a fire in a school building. The likelihood of the WLAN equipment remaining functioning and uncompromised by the combination of the fire and the fire suppression efforts is low. However, nearby cellular towers would remain unaffected by this emergency and the ability of a principal to use his cell phone to both call for emergency responders and email fellow district administrators for assistance would be a lifesaving necessity. The same would be true for equipment that is not on the premise of a building under assault by an active shooter. It is important to note that FBI statistics indicated that 60% of active shooter incidents end before the police arrive, making the [District or Library] staff the first line of defense against such a threat (Blair, J. Pete, and Schweit, Katherine W. (2014). A Study of Active Shooter Incidents, 2000 - 2013. Texas State University and Federal Bureau of Investigation, U.S. Department of Justice, Washington D.C. 2014). We would also like to point out that the FCC's own advice in severe weather (posted on the FCC website under "Preparedness, Response and Recovery; How to communicate during a severe weather emergency) recommends the use of cellular service, voice, texting, and data usage. We do not believe it serves the public interest by eliminating the use of tools for schools and libraries the Commission recommends to the general public.

Cellular data service has been on the eligible service list since 2003. We understand that the goals of the two modernization orders have been to shift the focus of the program to providing support for driving more bandwidth to and into eligible schools and libraries. We also understand that when the first order was passed July, 2014, there were distinct concerns about the availability of funding. This concern was addressed by the increase to funding approved by the December, 2014 Order, aptly demonstrated by FY 2015 demand. The very limited funding we are requesting for staff cellular data plans will not increase the FY 2015 demand estimate by a significant percentage.

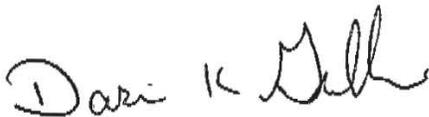
#### **Request for Wavier of FCC Rules**

It is important to remember that the FCC is required to direct USAC to run the E-Rate program within ALL of the federal rules governing the Universal Services Fund, and while the Modernization Orders of July 11, 2014 and December 11, 2014 both spell out the reasons why the current FCC Board presupposes supplying data service to devices on campus is most cost effectively supplied by WiFi, neither of these orders address the necessity of supplying data service to the devices of limited number of Key Staff members while on campus during an emergency that shuts down the local network. Federal Regulation 47 USC §254(c)(1)(A) requires the FCC to support services that are essential to education, public health, or public safety and it is important to remember that this regulation predates both Modernization Orders and nothing in either Modernization Order amends, curtails, or in any way ameliorates the need to conform with 47 USC §254(c)(1)(A). As a result, we are requesting this waiver of paragraphs 151-153 of FCC 14-99 and paragraphs 156-159 of FCC 14-189 in order to continue to support for our key staff members' cellular data service and that the FCC direct USAC to review their denial of funding for FRN 2722084 in light of such a waiver.

Thank you for your time and consideration. You are hereby authorized to contact our E-Rate Consultant, Darsey Carnal, if you have any questions concerning this waiver request or require additional information. Her contact information is as follows:

Darsey Carnal  
AdTec, Inc. (ERate Consultant No. 16024741)  
Phone: 317-581-0169  
Email: [darsey@adtecerate.com](mailto:darsey@adtecerate.com)

Thank you,



Darin Gullion, EDD., Assistant Superintendent, Delaware Community School Corporation

**CC:**

The Honorable Daniel Coats  
1650 Market Tower  
10 West Market Street  
Indianapolis, IN 46204

The Honorable Joe Donnelly  
115 N Pennsylvania Street,  
Suite 100  
Indianapolis, IN 46204

The Honorable Luke Messer  
50 N. 5<sup>th</sup> Street  
Richmond, IN 47374

ATTACHMENTS: Exhibit A: FCDL



Schools and Libraries Division

**FUNDING COMMITMENT DECISION LETTER**  
(Funding Year 2015: 07/01/2015 - 06/30/2016)

July 17, 2015

Darsey Carnal  
DELAWARE COMM SCHOOL CORP  
115 WEST MAIN STREET, P.O. BOX 97  
AdTec-Administrative & Technical Consulting  
CENTERVILLE, IN 47330

*Re: Auto Darin request*

Re: FCC Form 471 Application Number: 999501  
Billed Entity Number (BEN): 130580  
Billed Entity FCC Registration Number (FCC RN): 0005276449  
Nickname: 2015 366 cd

Thank you for your Funding Year 2015 application for Universal Service Support and for any assistance you provided throughout our review. The current status of the funding request(s) in the FCC Form 471 application cited above and featured in the Funding Commitment Report(s) (Report) at the end of this letter is as follows.

- The amount, \$2,948.32 is "Denied."

Please refer to the Report following this letter for specific funding request decisions and explanations. The Universal Service Administrative Company (USAC) is also sending this information to your service provider(s) so preparations can begin for implementing your approved discount(s) after you file FCC Form 486, Receipt of Service Confirmation and Children's Internet Protection Act and Technology Plan Certification Form. A guide that provides a definition for each line of the Report is available in the Guide to USAC Letter Reports in the Reference Area of our website.

**NEXT STEPS**

- Work with your service provider to determine if you will receive discounted bills or if you will request reimbursement from USAC after paying your bills in full.
- Review Children's Internet Protection Act (CIPA) requirements.
- File FCC Form 486.
- Invoice USAC using the FCC Form 474, Service Provider Invoice (SPI) Form, or FCC Form 472, Billed Entity Applicant Reimbursement (BEAR) Form, as products and services are being delivered and billed.

**TO APPEAL THIS DECISION:**

If you wish to appeal a decision in this letter to USAC, your appeal must be received by USAC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and email address for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Include the following to identify the USAC decision letter (e.g., FC DL) and the decision you are appealing:
  - Appellant name,
  - Applicant name and service provider name, if different from appellant,
  - Applicant BEN and Service Provider Identification Number (SPIN),
  - FCC Form 471 Application Number 999501 and the Funding Request Number (ERN) or Numbers as assigned by USAC,
  - "Funding Commitment Decision Letter for Funding Year 2015," AND
  - The exact text or the decision that you are appealing.

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- 3. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal, including any correspondence and documentation.
- 4. If you are the applicant, please provide a copy of your appeal to the service provider(s) affected by USAC's decision. If you are the service provider, please provide a copy of your appeal to the applicant(s) affected by USAC's decision.
- 5. Provide an authorized signature on your letter of appeal.

We strongly recommend that you use one of the electronic filing options. To submit your appeal to USAC by email, email your appeal to [appeals@sl.universalservice.org](mailto:appeals@sl.universalservice.org) or submit your appeal electronically by using the "Submit a Question" feature on the USAC website. USAC will automatically reply to incoming emails to confirm receipt.

To submit your appeal to USAC by fax, fax your appeal to (973) 599-6542.

To submit your appeal to USAC on paper, send your appeal to:

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

For more information on submitting an appeal to USAC, please see "Appeals" in the Schools and Libraries section of the USAC website.

**OBLIGATION TO PAY NON-DISCOUNT PORTION**

Applicants are required to pay the non-discount portion of the cost of the products and/or services to their service provider(s). Service providers are required to bill applicants for the non-discount portion. The FCC stated that requiring applicants to pay their share ensures efficiency and accountability in the program. If USAC is being billed via the FCC Form 474, the service provider must bill the applicant at the same time it bills USAC. If USAC is being billed via the FCC Form 472, the applicant pays the service provider in full (the non-discount plus discount portion) and then seeks reimbursement from USAC. If you are using a trade-in as part of your non-discount portion, please refer to Disposal or Trade-in of Equipment posted in the Reference Area of our website for more information.

**NOTICE ON RULES AND FUNDS AVAILABILITY**

Applicants' receipt of funding commitments is contingent on their compliance with all statutory, regulatory, and procedural requirements of the Schools and Libraries Program. Applicants who have received funding commitments continue to be subject to audits and other reviews that USAC and/or the FCC may undertake periodically to assure that funds that have been committed are being used in accordance with all such requirements. USAC may be required to reduce or cancel funding commitments that were not issued in accordance with such requirements, whether due to action or inaction, including but not limited to that by USAC, the applicant, or the service provider. USAC, and other appropriate authorities (including but not limited to the FCC), may pursue enforcement actions and other means of recourse to collect improperly disbursed funds.

Schools and Libraries Division  
 Universal Service Administrative Company

Schools and Libraries Division/USAC

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FUNDING COMMITMENT REPORT  
Billed Entity Name: DELAWARE COMM SCHOOL CORP  
BEN: 130580  
Funding Year: 2015



Comment on RAL corrections:  
The applicant did not submit any RAL corrections.

FCC Form 471 Application Number: 999501  
Funding Request Number: 2722084  
Funding Status: Not Funded  
Service Type: Internet Access  
FCC Form 470 Application Number: 432120001279961  
SPIN: 143000677  
Service Provider Name: Verizon Wireless (Cellco Partnership)  
Contract Number: MTM  
Billing Account Number: 781024555-00001  
Service Start Date: 07/01/2015  
Service End Date: 06/30/2016  
Contract Award Date: N/A  
Contract Expiration Date: N/A  
Shared Worksheet Number:  
Number of Months Recurring Service Provided in Funding Year: 12  
Annual Pre-discount Amount for Eligible Recurring Charges: \$4,211.88  
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00  
Pre-discount Amount: \$4,211.88  
Discount Percentage Approved by the USAC: 70%  
Funding Commitment Decision: \$0.00 - Ineligible Services/Products  
Funding Commitment Decision Explanation: DR1: Thirty percent or more of this FRN includes a request for cellular data plans redundant to the Wi-Fi network, which is an ineligible service(s) based on Program rules. <><><><><> DR2: Per the FCC Order 14-99, individual data plans and air cards are ineligible unless applicants can demonstrate either that installing a wireless local area network is not physically possible or that individual data plans are the most cost-effective option. You have not demonstrated that either of the two exceptions applies to services requested in FRN 2722084. Therefore, FRN is denied since services requested are ineligible.

FCDL Date: 07/17/2015  
Wave Number: 008  
Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2016  
Consultant Name: Darsey Carnal  
Consultant Registration Number (CRN): 16024741  
Consultant Employer: AdTec-Administrative& Technical Consulting