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April 29, 2016

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street SW
Washington, DC 20554
ELECTRONICALLY FILED VIA ECFS

**Re CC Docket No. 02-6
In the matter of Request for Review of a Decision of the Universal
Service Administrator**

PETITION FOR RECONSIDERATION

of March USF Appeals Disposition Notice (DA 16-334 released 3/30/2016)
denying an 8/24/2014 appeal
of a 6/25/2014 Funding Commitment Decision Letter

Applicant STETSON SCHOOL (BEN 19)
Funding Application #987111
FRNs 2692813, 2692676, 2692868, and 2692833

Dear Ms. Dortch,

Applicant Stetson School (“Stetson”) respectfully petitions the Wireline Competition Bureau (“Bureau”) to reconsider its 3/30/2016 denial¹ of an 8/24/2014 appeal² of USAC’s decision to reduce the discount rate for each of the captioned funding requests from 90% to 20%, and prays for the relief stated below.

Background

The relevant chronology of the USAC Program Integrity Assurance Review process for the captioned funding application is as follows:

¹ *March (2016) USF Appeals Notice, Schools and Libraries Universal Service Support Mechanism* , CC Docket #02-6, Order DA 16-334 (Wireline Comp. Bur. 3/30/2016)

² See *Stetson School 8/24/2014 Request for Review of a Decision of the Universal Service Administrator, Schools and Libraries Universal Service Support Mechanism* , CC Docket #02-6.

Item #	Doc Date	Author	Affiliation	Requested Response Date	Description
1.	unknown	Eric Gazdaiski	USAC		(We are unable to find a record of an initial PIA Review Information Request, but we assume an initial information request was sent to Stetson.)
2.	5/14/2014	Eric Gazdaiski	USAC	5/22/2014	PIA Review information request reminder: Requesting Issue #1) Item 21 attachments; Issue #2) Discount rate support documentation; Issue #3) Residential facility eligibility documentation.
3.	5/20/2014	Zoltan Bardossy	Stetson		Requesting response due date extension to June 1.
4.	5/14/2014	Eric Gazdaiski	USAC	5/29/2014	Extended due date to May 29
5.	5/29/2014	Zoltan Bardossy	Stetson		Provided documentation to support Issue #1 and Issue #2. Requested additional time to respond re Issue #3. Although Mr. Bardossy believed at the time that the Issue #2 documentation was responsive, a subsequent examination does show that some information requested by the reviewer was not present in the response.
6.	5/29/2014	Eric Gazdaiski	USAC	6/5/2016	Extended due date to June 5.
7.	5/29/2014	Eric Gazdaiski	USAC		Requested additional documentation regarding NSLP participation.
8.	6/5/2014	Zoltan Bardossy	Stetson		Zoltan wrote and expressed some confusion about exactly what additional information should be provided.
9.	6/25/2014	(FCDL)	USAC		FCDL issued at 20% discount rate.

Mr. Bardossy did attempt to contact the Massachusetts Department of Elementary & Secondary Education (the agency which would be in a position to provide third-party verification of student NSLP participation), but despite multiple attempts the agency did not respond.

After USAC issued its adverse 6/25/2014 Funding Commitment Decision Letter setting the discount rate at twenty percent, Stetson on 8/24/2014 appealed to the Federal Communications Commission.

On 3/30/2016 the Bureau issued an order denying Stetson's appeal. As per the normal format of the "Streamlined Resolution" Public Notices, no detailed analysis was provided, but precedent was cited – in this case, the *Enterprise City Schools Order*³. *Enterprise City Schools* did in fact deny four specific appeals of (or waiver requests related to) USAC discount rate determinations; however,

³ See *Enterprise City Schools*, Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, 27 FCC Rcd 2372 (Wireline Comp. Bureau, 2012) (released 7/30/2014)

those cases have nothing in common with Stetson's circumstances. The specifics of the four *Enterprise City Schools* petitioners⁴ are:

- One petitioner sought a rule waiver setting its discount rate at 90% and making it eligible for Internal Connections funding (rather than at the lower figure based on NSLP figures).
- One petitioner sought a rule waiver setting its discount rate at 90% based on new NSLP data (which only became available after the funding application was filed) and making it eligible for Internal Connections funding, rather than leaving the discount rate at the lower figure based on NSLP data submitted on the funding application.
- One petitioner asked that the Priority Two threshold for the funding year be reduced from 86% to 85%, which change would have made the petitioner eligible for Priority Two funding.
- One petitioner asked that its discount rate remain at 80% after USAC determined that SLD systems had erroneously arrived at that rate; USAC had determined that the correct rate based on rule and NSLP data was actually 68%.

Analysis

In citing *Enterprise City Schools*, the Bureau erred by making its decision based on an order disposing of petitions from E-Rate applicants *not* similarly situated to Stetson. Instead, the Bureau should have made its decision based on precedent disposing of appeals by E-Rate applicants who *were* similarly situated to Stetson.

In the *Aberdeen School District 5*⁵, the Bureau addressed 44 appeals by petitioners appealing USAC decisions reducing an E-Rate applicant's claimed discount rate. In nine appeals the Bureau granted relief because it found that the petitioners demonstrated that they are eligible for the discount level they requested.

More relevant to Stetson's circumstances, in the matters of the remaining 35 appeals the Bureau *did not* find that petitioners had provided sufficient information to establish the claimed discount rate. Nevertheless, in these 35 cases the Bureau remanded the cases to USAC, and ordered USAC to provide them with "a limited 15-day opportunity to file additional documentation to support their calculations of the correct discount rates". It is for precisely this relief that Stetson prays.

⁴ See Appendix in *Enterprise City Schools Order*.

⁵ See *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Aberdeen School District 5 et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 2152 (Wireline Comp. Bur. 2012).

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We believe it may be helpful for us to cite here the circumstances of just one of those 35 appeals. In the case of an appeal by St. Rose Phillipine Duchesne⁶ (“St. Rose”), the petitioner plainly admitted that it had been unable to secure the information requested by the PIA Reviewer by the response deadline. Further, St. Rose admitted that in its subsequent appeal to USAC, material submitted with that appeal was deficient. Nevertheless, the Bureau granted St. Rose’s appeal. Similarly, the 34 other appeals each involved circumstances with some element of non-compliance with a USAC information request, but in each case the Bureau granted the requested relief; and in each case where the applicant had not yet produced the required documentation, the Bureau granted a 15-day “last chance” to produce responsive documentation supporting its claimed discount rate.

Stetson believes that it should be granted the same relief granted in *Aberdeen* to the 35 others similarly situated. Stetson further believes that by aggressively approaching the Massachusetts Department of Elementary & Secondary Education, it will be successful in securing and producing the information requested during the PIA Review⁷.

Relief requested

For the reasons stated in this letter, Stetson respectfully requests that the Bureau reconsider its initial decision, and that Stetson be granted the same relief granted to appellants in the *Atlantic City Schools Order*, i.e., remand to USAC with an order to grant Stetson a limited time opportunity to file additional documentation to support our calculations of the correct discount rate.

Sincerely,
STETSON SCHOOL



Zoltan Bardossy
IT Director

⁶ Letter from Richard Senturia filed 10/21/2010, *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6

⁷ Stetson will exercise its best efforts to secure responsive third party documentation in support of its claimed discount rate at the earliest possible date. In the event that responsive documentation is secured before the Bureau rules on instant petition, Stetson will file such documentation with the Bureau as a supplement hereto.