

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In the matter of:)
)
Request for Review by)
East Meadow UFSD)
of Decision of Universal Service Administrator)
_____)

Docket Nos. 97-21 and 96-45

Ref.: Applicant: East Meadow UFSD
Billed Entity Number: 123835
471 Application Number: 208882
Funding Request Number: Not assigned

In this appeal, East Meadow Union Free School District asks the Commission to instruct the Schools and Libraries Division ("SLD") to accept a funding request that it had rejected for a failure to meet Minimum Processing Standards. The appeal is based on the precedent set in an earlier FCC decision (FCC 01-73, or the "Naperville" decision).

Background:

East Meadow UFSD's Form 471 for PY3 was filed by mail with the SLD in January 2000 within the application window period. The application included fourteen funding requests. Through simple oversight, the Item 22 reference on the last Block 5 was inadvertently left blank. As a result, this funding request was rejected by the SLD.

On June 16, 2000, we appealed this rejection on behalf of East Meadow UFSD (see Attachment 1). On June 22, 2001, the SLD denied the East Meadow appeal in full (see Attachment 2). Ironically, the SLD's decision relies — incorrectly, we believe — on the same FCC decision on which this appeal is based.

Argument:

The SLD's Administrator's Decision on Appeal – Funding Year 2000-2001 states — and we agree — that "In accordance with FCC Order 01-73 (Released February 27,

2001), FRNs or Forms 471 previously rejected for failure to complete Item 22 of Block 5 should be data entered and considered for funding if the following conditions are met:

- 1) The omitted information could be easily discerned by the SLD through examination of other information included in the application; and
- 2) The application is otherwise substantially complete.”

The SLD’s decision does not dispute the fact that the application is “otherwise substantially complete,” but denies the appeal “because the SLD could not easily determine the entity receiving the service.”

We argue, to the contrary, that the SLD could have easily determined that the FRN in question was for a shared service and that the discount rate specified was correct. Specifically, we note the following:

- 1) As in the Naperville case, East Meadow had checked the second box in Item 10a of Block 4 that it was “Applying for discounts on services shared by ALL schools in the district.”
- 2) Contrary to the SLD’s claim that “Item 21 does not list the specifics of who is receiving the service,” this information is clearly provided in the Block 5 attachment referenced by Item 21. As shown in Attachment 3, the Block 5 attachment included a two-page contract indicating (in the first sentence) that the service was for “1.544 Mbps (DS1) circuits to be provided between East Meadow ufsd and Verio.” Note:
 - a. The reference is to “circuits” -- plural. This is not one circuit for one site.
 - b. The service is for “East Meadow ufsd.” This is the school district itself, not an individual school.
 - c. The circuits connect to Verio, the district’s Internet service provider. A separate Block 5 for the Verio service (FRN 477823) is clearly and properly marked as a shared service. (Indeed, all the other FRNs for telecom and Internet access services correctly list Worksheet A-1 in Item 22b of the associated Blocks 5.)
- 3) Unlike the Naperville case, and as noted in the SLD’s decision, the discount shown in Item 23J of Block 5 is not a unique percentage clearly discernible as an aggregate shared rate. This is because every East Meadow school, as well as the district aggregate, is at a 40% discount rate. Assuming that the primary purpose of the Item 22 worksheet reference in Block 5 is to validate that the proper discount rate has been used, then there was no opportunity for a calculation error in East Meadow’s request.

Appeal request:

By this appeal, we ask the Commission to instruct the SLD to data enter and process this East Meadow UFSD Block 5 on a basis similar to the Commission's previous Naperville decision.

Respectfully submitted,

By: 

Winston E. Himsworth
E-Rate Central
1196 Prospect Avenue
Westbury, NY 11590
516-832-2881

On behalf of:
East Meadow UFSD
101 Carman Avenue
East Meadow, NY 11554
516-228-520052

Dated: July 13, 2001

Attachment: 1 – Original East Meadow appeal
2 – SLD appeal decision
3 – Subject Block 5 and associated attachment

E-RATE CENTRAL

E-Rate Central / Nassau BOCES
1196 Prospect Ave.
Westbury, NY 11590-2797
Tel: 516-832-2881 • Fax: 516-832-2877

WINSTON E. HIMSWORTH

June 16, 2000

Letter of Appeal

Schools and Libraries Division
Box 125 – Correspondence Unit
80 South Jefferson Road
Whippany, NJ 07981

FCD Letter:

Applicant Name:	East Meadow UFSD
Form 471 Application Number:	208882
Applicant's Form Identifier:	471-2000-01
Funding Request Number:	Not Assigned

E-Rate Administrators:

In a letter dated May 30, Problem Resolution rejected a Block 5 funding request for Bell Atlantic telecommunications services. The stated reason for the rejection was that the "Block 5, Items 22 A and B, Entity/Entities Receiving this Service are both blank."

East Meadow does dispute the fact that this Item was unintentionally left blank and it fully recognizes the SLD's need to have submitted applications meet at least minimal standards. In this case, however, we believe that the one piece of information missing from the rejected Block 5 was so plainly obvious that the request could have been easily processed. Specifically, the FRN was for a shared telecommunications service that could only have referenced the application's single Block 4 Worksheet A-1 (as did every other telecommunications and Internet Access FRN in East Meadow's application). Further, Item 23 J properly showed the correct discount rate the Block 4 Worksheet.

Rejection of this FRN would mean a loss of discount to East Meadow of almost \$2000 — a seemingly large penalty to pay for a small, and easily correctable, clerical error. Knowing that the SLD is not in the practice of trying to find just any reason to deny funding, we respectfully request that this Block 5 be reinstated.

Please call us if you have any questions. Thank you for your consideration.

Sincerely,

Winston E. Himsworth
On behalf of East Meadow UFSD

E-MAIL: WHIMSWORTH@E-RATECENTRAL.COM

VISIT OUR WEBSITE AT WWW.E-RATECENTRAL.COM



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal - Funding Year 2000-2001

June 22, 2001

Winston E. Himsworth
RE: East Meadow School District
E-Rate Central/ Nassau BOCES
1196 Prospect Avenue
Westbury, NY 11590-2797

Re: Billed Entity Number: 123835
471 Application Number: 208882
Funding Request Number(s): 1 request not assigned
Your Correspondence Dated: June 16, 2000

After thorough review and investigation of all relevant facts, the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") has made its decision in regard to your appeal of SLD's Year Three Funding Commitment Decision for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 30-day time period for appealing this decision. If your letter of appeal included more than one Application Number, please note that, for each application for which an appeal is submitted, a separate letter is sent.

Funding Request Number: 1 request not assigned
Decision on Appeal: **Denied in Full**
Explanation:

- Your appeal letter states that Block 5, Item 22 was left blank unintentionally and you believe SLD could have processed the application. The FRN in question was for a shared telecommunications service that could have only referenced the application's single Block 4 Worksheet A-1.

- In accordance with FCC Order FCC 01-73 (Released February 27, 2001), FRNs or Forms 471 previously rejected for failure to complete Item 22 of Block 5 should be data entered and considered for funding if the following conditions are met:
 - 1) the omitted information could be easily discerned by SLD through examination of other information included in the application; and
 - 2) the application is otherwise substantially complete.

- After thorough review of your appeal it has been determined that your request does not meet the criteria listed above because **the SLD could not easily determine the entity receiving the service**. The discount for the entire application is 40%, but so is the discount for all the site specific entities. Item 21 does not list the specifics of who is receiving the services. Therefore, the SLD is unable to determine which entities are receiving the services. Consequently, the SLD will not data enter your request(s), and your appeal is denied in full.

If you believe there is a basis for further examination of your application, you may file an appeal with the Federal Communications Commission, Office of the Secretary, 445 12th Street, SW, Room TW-A325, Washington, DC 20554. Please cite CC Docket Nos. 96-45 and 97-21 on the first page of your appeal. Before preparing and submitting your appeal, please be sure to review the FCC rules concerning the filing of an appeal of an Administrator's Decision, which are posted on the website at <www.universalservice.org>. **You must file your appeal with the FCC no later than 30 days from the date on this letter for your appeal to be filed in a timely fashion.**

We thank you for your continued support, patience, and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

Entity Number	123835	Applicant's Form Identifier	471-2000-01
Contact Person	Bretton L. Hlmsworth	Phone Number	(516) 832-2883

Block 5: Discount Funding Request(s)

Block 5, page 14 of 14

Instructions: Use one Block 5 page for EACH service (Funding Request Number) for which you are requesting discounts.
 Make as many copies of this page as necessary, and number the completed pages to assure that they are all processed correctly.

FRN: [REDACTED] (to be assigned by administrator)

11 Category of Service (only ONE category should be checked) <input checked="" type="radio"/> Telecommunications Service <input type="radio"/> Internet Access <input type="radio"/> Internal Connections	15 Contract Number (if available; use "T" if tariffed services, "MTM" if month-to-month services as described in instructions)	1005
12 Form 470 Application Number (15 digits) 447640000150966	16 Billing Account Number (e.g., billed telephone number)	N/A
13 SPIN - Service Provider Identification Number (9 digits) 143001359	17 Allowable Contract Date (mm/dd/yyyy, based on Form 470 filing)	12/24/1999
14 Service Provider Name Bell Atlantic	18 Contract Award Date (mm/dd/yyyy)	01/11/2000
	19 Service Start Date (mm/dd/yyyy)	07/01/2000
	20 Contract Expiration Date (mm/dd/yyyy)	06/30/2007

21 Description of This Service: You MUST attach a description of the service, including a breakdown of components and costs, plus any relevant brand names. Label this description with an Attachment #, and note number in space provided below.
 Attachment # 6

22 Entity/Entities Receiving This Service:
 a. If the service is site-specific (provided to one site and not shared by others), list the Entity Number of the entity from Block 4 receiving this service:
 b. If the service is shared by all entities on a Block 4 worksheet, list the worksheet number (e.g., A-1):

Recurring Charges					One-Time Charges			Total Charges		
A	B	C	D	E	F	G	H	I	J	K
Monthly \$ charges (total amount per month for service)	How much of the \$ amount in (A) is ineligible?	Eligible monthly pre-discount amount (A minus B)	# of months service provided in program year	Annual pre-discount \$ amount for eligible recurring charges (D x C)	Annual non-recurring (one-time) \$ charges	How much of the \$ amount in (F) is ineligible?	Annual eligible pre-discount \$ amount for one-time charges (F minus G)	Total program year pre-discount \$ amount (E + H)	% discount (from Block 4 Worksheet)	Funding Commitment \$ Request (J x I)
370.19		370.19	12	4,442.28	550.00		550.00	4,992.28	40%	1,996.91

Entity Number	123835	Applicant's Form Identifier	471-2000-01
Contact Person	Bretton L. Hlmaworth	Phone Number	(516) 832-2883

Attachment 6

Service Description: **T1 for Internet Access**

Service Provider: **Bell Atlantic**

Contract Status:

- Tariff or month-to-month. No contract needed.
- Contract signed after Allowable Contract Date
- State contract selected after Allowable Contract Date

Attachment # 6

Documentation included with Attachment:

- Contract (applicable pages) Contract # 1005
- Sample bill summary

Page 1 of 3

Main BTN _____
Customer Name East Meadow ofc _____
Product/Service Start-7/1/00 _____
Contract Expiration June 30, 2007 _____
Contract # 1605 _____

**DS1 Service Discount Plan Confirmation Letter
New Services**

Dear Valerie:

This is to confirm your order of 1/11/00 for 1- 1.544 Mbps (DS1) circuits to be provided between East Meadow ofc and Verio for a commitment period of 7 years. (See Appendix A for a list of circuit(s) and location(s).)

The Discount will become effective upon completion of the service, providing the Confirmation Letter, signed by both parties, is received by Bell Atlantic. If the signed Confirmation Letter is not received by Bell Atlantic by 2/1/00 (date), the request for discount will be considered withdrawn and service will continue to be billed at the full Tariff rate.

Pursuant to Section 7, Bell Atlantic Telephone Company Tariff FCC No. 1, when you request that circuits be provided under a 7 year Service Discount Plan, the Tariff provides that if you disconnect your service or cancel the Service Discount Plan during this commitment period, you are subject to a termination liability as described in Section 7.4.10 of said Tariff. In addition to the above, you are also liable for 100% of the applicable monthly rates for any month or fraction thereof remaining in the first three months of your commitment period if you disconnect during the first three months.

The applicable provisions of the Bell Atlantic Tariff FCC No. 1 constitute the contract between the parties hereto. The Tariff also contains additional terms - e.g., dealing with upgrades, additions of service, partial disconnects, use for switched services, and extensions of commitment periods - that are relevant to your order. If you desire additional information, please refer to the Tariff and speak to your Account Manager. The Tariff, of course, is the controlling document for your order; if anything contained in this letter is construed to be in conflict with said Tariff, the applicable Tariff provisions still prevail.

If the foregoing accurately reflects your order, please indicate your agreement thereto in the space provided below and return this document to me.

Signature (authorized representative of Customer)

Date of original agreement

1/3/97

Last Revision date of contract: 2/97

ACCEPTED AND AGREED

CUSTOMER

By: [Signature]
signature of authorized employee

Name: Valerie C. D'Annunzio
printed

Title: Director of Industrial

Address: 101 James Ave.
East Meadow, NY
11534

Tel: 516.228.5238

Date: 1/1/00

Bell Atlantic

By: [Signature]
signature of authorized employee

Name: Neil Stackel
printed

Title: CAR

Address: 100 Hicksville Rd
Merrick, NY

Tel: 516 77-2300

Date: 1/1/00

Contract subject to approval by Board.

T1 price:
East Meadow ufsd and Verio- \$370.19/mo
Install: \$550

Signature (authorized representative of Customer) [Signature]
Date of original agreement 3/97 Last Revision date of contract: 3/97