

Custer County School District No. C-1

P.O. Box 730 • Westcliffe, Colorado 81252-0730

Phone (719) 783-2291 Fax (719) 783-2334

Morris D. Ververs, Ed. D.
Superintendent

Harvey F. Goodman
Secondary Principal

Terri Wiebke
Head Teacher / Principal Intern

RECEIVED

Federal Communications Commission
Office of the Secretary
445 12th Street, S.W.
Room TW-A325
Washington, DC 20554

SEP 26 2001

September 24, 2001

FCC MAIL ROOM

DOCKET FILE COPY ORIGINAL

"In the matter of: Request for Review by Custer County School District C 1 of Decision of Universal Service Administrator"

USAC Application Number 243224
Funding Year 2001-2002

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Reference CC Docket Nos. 96-45 and 97-21.

Dear Commissioners,

1. We represent the Custer County School District C 1 on E-rate matters. Our interest in the matter presented is to ensure the best educational opportunities for Kindergarten through twelfth grade students of Custer County School District C 1 Westcliffe, Colorado. This is a mostly poor and very rural community. To the end of maximizing the limited educational funds we have available, we seek and are legally entitled to access Universal Service funding for our basic telecommunications services. At issue is over \$38,000, and it is important to us. Associated with the school district is a consultant who attempts to help our schools access the funds available through the E-rate program.

2. Full statement of relevant material facts with supporting affidavits and documentation.

On August 27, 2001 our school received a letter of Decision on Appeal from the USAC Administrator. Our appeal was rejected because their records showed that "your appeal was received more than 30 days after the date your Funding Commitment Decision Letter was issued." The date of the Certification Rejection Letter was July 23, 2001. The date the Appeal was Received was August 23, 2001. The letter from the USAC Administrator says: "If you wish to continue this process, you may submit a new appeal stating the impediment to your filing your appeal within the original time, to the FCC at the following address". These relevant facts will therefore be directed toward impediments to filing within the original time.

The first and significant impediment is that the events described occurred in the middle of

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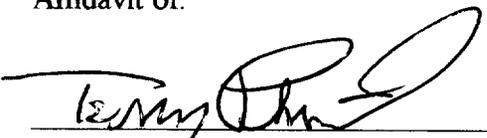
the summer, when everyone was on vacation at varying times, and when very small rural schools are staffed at minimum levels. Our Technical Coordinator responsible for E-rate is shared between two small districts and works from home, and our E-rate consultant lives about 250 miles away.

Our Year 4 Funding Commitment Decision from the SLD was dated July 23, 2001. It told us the funding requests had been denied because the SLD had not received an original Certification page for the form 470. That Certification should have been received by the SLD around January 1st, over six months prior, although this was the first time we knew it was missing. If you look on the attached USAC Administrators letter in the “re:” area, you will see the Administrator actually called that a “Certification-Rejection Letter”, rather than a funding commitment decision.

The letter from the SLD went to the consultant which was on vacation for two weeks. When he got back and saw it, he attempted to contact the Technical Coordinator which was then on a fishing trip for ten days. The consultant talked to the Superintendent but he didn't have access to the Tech Coordinators E-rate files, because the Tech Coordinator works from his home. When we finally got together, we decided that since the issue for not funding the application was only the lack of a certification letter rather than any problems with specific funding issues, we should quickly get a new original signed Certification page to the SLD. That meant driving back and forth 500 miles and even driving an extra 60 miles to get to a manned fed-ex station to get the appeal out on time. At least we thought we were on time. Then came the biggest impediment. Our consultant, who is signing this letter additionally as an attestation to this document, erred.

“In June, I helped with another appeal for another school on a different issue. The letter we were appealing was dated June 7th, so the appeal was due July 7th. (30 days). As we were hastily gathering and preparing documentation for the appeal at issue herein, I had in mind the Custer County letter date of July 23rd, and said to myself the appeal is due August 23rd. It was just a brain hiccup on my part as consultant. I forgot to do the “30 days hath September, April, June, etc., etc”. It was 31 days. This was not the fault of the schools. Please do not have them pay this hefty price for my mistake. I should add that as for myself, I and another person I hire to assist me, help several small, generally poor, rural schools through the very complex E-rate process. We charge a very low rate. We do it because we think it is important. We can do it because I work on other grants and technology projects with many of the same schools which allows me to do the E-rate also. Please grant them an affirmative answer.”

Affidavit of:



Terry Parrish, Strategist
Communications Technology Management, LLC

September 24, 2001

3. The question presented for review. When the FCC and SLD are making decisions on E-rate applications, is the objective of acting in the Public Interest an adequate reason to allow a one day waiver of the 30 day rule? We think so. It is a USAC's Form 470 Certification Page, the reason for our appeal initially, which gives the FCC guidance to answer the question presented. Therein the FCC set its criteria for approving applications for E-rate funding. In the small print following the signature portion of the sheet, in paragraph three the FCC states:

“The FCC is authorized under the Communications Act of 1934, as amended, to collect the personal information we request in this form. We will use the information you provide to determine whether approving this application is in the public interest.” (My emphasis, see attached signature sheet).

The objective is Public Interest, the method is the Rules. There are no differences between two parties in this case, which is where the rules would normally be sure to protect both interests. The delay has no negative effect on any party other than the school. Rather this appeal is a question of whether the method is more important, or the objective.

The question is whether this application is in the public interest. Absolutely. The applicant Custer County School District, is a rural, school and seeks funding for both traditional and emerging competitive telecommunications service providers. This is the essence of the 1996 Telecommunications Act and its Universal Service funding requirements. The public interest is best served by funding this application.

4. Relief sought. The USAC Administrator's Decision on Appeal (attached) rejected our appeal because “your appeal was received more than 30 days after the date that the relevant Funding Commitment Letter was issued. The FCC rules do not permit the SLD to consider your appeal.” This appeal is based upon the letter we received from the USAC. Based on the above quote we are seeking a waiver of one day of the FCC rule which does not permit the SLD to review our appeal. We are asking the FCC to authorize the SLD to review our appeal which it received one day late. If it is appropriate, the FCC may also review and approve our appeal which is attached, and return it to the SLD with directions for the SLD to continue to review our appeal or to approve it.

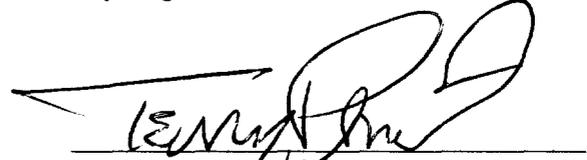
Relevant statutory or regulatory provision pursuant to which such is sought. The regulatory provision is contained within the attached Administrators Decision on Appeal. It states: “If you wish to continue this process, you may submit a new appeal, stating the impediment to your filing your appeal within the original time, to the FCC. . .”

As a final matter. We ask that the FCC recognize that this appeal is written by non-attorneys, and pray you afford us as liberal construction of the FCC rules and appeals as this process will allow.

To the best of our knowledge, all of the information set forth herein is true and correct. We sincerely thank you for your consideration and ask that you give us an affirmative answer.



Gery Di Domenico
Custer County School District C 1



Terry Parrish
Communications Technology Mgmt, LLC

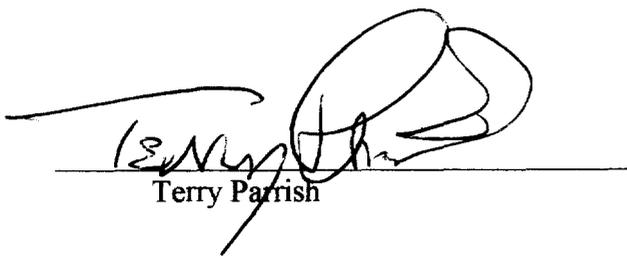
Attachments:

- USAC Administrator's Decision on Appeal
- Signature page from Form 470
- Copy of appeal and attachments sent to SLD August 23rd 2001

A copy of this request for review has also been served on the USAC Administrator on this date

SEPT 25, 2001.

Copy of Letter of Appeal to FCC
Schools and Libraries Division
Box 125 - Correspondence Unit
80 South Jefferson Road
Whippany, NJ 07981



Terry Parrish



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal

August 27, 2001

Morris Ververs
Custer County Consolidated School District C1
709 Main Street
Westcliffe, CO 81252

RECEIVED

SEP 26 2001

FCC MAIL ROOM

Re: Application Number: 243224
 Funding Year 2001-2002
 Date of Issuance of Form 471
 Certification- Rejection Letter: July 23, 2001
 Date Appeal Received: August 23, 2001

Our records show that your appeal was received more than 30 days after the date your Funding Commitment Decisions Letter was issued (see dates above). The Federal Communications Commission (FCC) rules require applicants to submit appeals so USAC/SLD receives them within 30 days of the date that the relevant Funding Commitment Decision Letter was issued. (See "SLD Procedure for Post-Commitment Appeals" at <http://www.sl.universalservice.org/apply/10procpost.asp>.) The FCC rules do not permit the SLD to consider your appeal. If you wish to continue this process, you may submit a new appeal, stating the impediment to your filing your appeal within the original time, to the FCC at the following address:

Federal Communications Commission
Office of the Secretary
445 12th Street, S.W.
Room TW-A325
Washington, DC 20554

Schools and Libraries Division
Universal Services Administrative Company

25. Signature of authorized person	26. Date
27. Printed name of authorized person Morris D. Ververs	
28. Title or position of authorized person Superintendent	
29. Telephone Number (719) 783-2357 Ext. 223	

**Form 470 Application Number: 701770000255460
CUSTER COUNTY CONS SCH DIST C1
709 MAIN ST
WESTCLIFFE, CO 81252-**

Persons willfully making false statements on this form can be punished by fine or forfeiture, under the Communications Act, 47 U.S.C. Secs. 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. Sec. 1001.

NOTICE TO INDIVIDUALS: Section 54.504 of the Federal Communications Commission's rules requires all schools and libraries ordering services that are eligible for and seeking universal service discounts to file this Description of Services Requested and Certification Form (FCC Form 470) with the Universal Service Administrator, themselves or as part of a consortium. 47 C.F.R. § 54.504. The collection of information stems from the Commission's authority under Section 254 of the Communications Act of 1934, as amended, 47 U.S.C. § 254. The data in the report will be used to ensure that schools and libraries comply with the competitive bidding requirement contained in 47 C.F.R. § 54.504. All schools and libraries planning to order services eligible for universal service discounts must file this form themselves or as part of a consortium.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The FCC is authorized under the Communications Act of 1934, as amended, to collect the personal information we request in this form. We will use the information you provide to determine whether approving this application is in the public interest. If we believe there may be a violation or potential violation of a FCC statute, regulation, rule or order, your application may be referred to the Federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing the statute, rule, regulation or order. In certain cases, the information in your application may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC; or (b) any employee of the FCC; or (c) the United States Government, is a party of a proceeding before the body or has an interest in the proceeding.

If you owe a past due debt to the federal government, the taxpayer identification number (such as your social security number) and other information you provide may also be disclosed to the Department of the Treasury Financial Management Service, other Federal agencies and/or your employer to offset your salary, IRS tax refund or other payments to collect that debt. The FCC may also provide this information to these agencies through the matching of computer records when authorized.

If you do not provide the information we request on the form, the FCC may delay processing of your application or may return your application without action.

The foregoing Notice is required by the Privacy Act of 1974, Pub. L. No. 93-579, December 31, 1974, 5 U.S.C. § 552, and the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 44 U.S.C. § 3501, et seq.

Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing, and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the reporting burden to the Federal Communications Commission, Performance Evaluation and Records Management, Washington, D.C. 20554.

Please submit this form to:

**SLD - Form 470
P.O. Box 7026
Lawrence, KS 66044-7026
1-888-203-8100**

CTM
FILE

August 20, 2001

FROM: Custer County Consolidated School District C1
709 Main Street
Westcliffe, CO 81252

TO: Letter of Appeal
Schools and Libraries Division
Box 125 - Correspondence Unit
80 South Jefferson Road
Whippany, NJ 07981

1. Dear Representative,

This is a LETTER OF APPEAL - for Custer County Consolidated School District C1, Entity Number 142414 Regarding a Year 4 Funding Commitment Decision.

Form 470 Application Number **863530000321768**
and subsequent Form 471 Number 243224

The decision was not to fund any of the FRNs. The explanation was "The FRN references a Form 470 which has not been certified."

2. Contact Information:

Terry Parrish

15715 Parrish Road

Berthoud, CO 80513

Telephone (303)665-3420

Fax (303)651-7227

E-mail

parrish@direcpc.com

3. This letter is an APPEAL of the decision above based upon two distinctly different, but each independently appropriate reasons.

First, we are certain the appropriate certification was sent because we distinctly remember the occasion. We don't have a way to prove it. None the less, the SLD's processes associated with Certification led us to think that our 470 had been certified.

Second, our school submitted two 470s in year four, one of which was certified while the one being appealed herein was not. Since the Certification portion has no effect on the correctness and validity of the essential information on a Form 470, we believe the one certification page should suffice to cover the entire 470 process. Regardless, we have searched the web for any time limit on submitting the 470 Certification and found none, so we have attached a new form 470 Certification for the respective year four 470. This should complete the SLD files for audit purposes, and allow us to move forward in funding our service needs.

4. At issue are all of the FRN's associated with Form 471 Application Number 243224
FRN's are: 596994, 597347, 597401, 597451, 597619, 597800, 598279, 598333, 598426.

5. This is the fourth year which Custer County School District has made application for funds

to the SLD. In the first three years we were either successful, or are still in the act of working our way through a very complex and constantly changing process. We've seen that realization of funding comes through diligence, accompanied by many telephone calls to the SLD who have answered a myriad of our questions. We appreciate that the process has also been very complex for the SLD staff, as they have had to alter the SLD processes and implement new forms to meet audit and accounting requirements. Please know that we have not taken the process lightly and consider the funding an essential enhancement to our educational opportunities in a very poor rural community. To our school, the \$38,844 at issue is in this appeal, is a big deal. There are two solid reasons to approve our appeal.

FIRST, we are certain the appropriate certification was sent to the SLD, but don't know what happened to it afterwards. We have no way of knowing what happened to it when it got to the SLD, and had no reason to suspect that our Form 470 would not be Certified.

The SLD's processes associated with Certification led us to think that our 470's had been certified. We received a "Form 470 Receipt Notification Letter" less than a week after we had posted our 470 and sent the Certification page, which among other things stated that the SLD had NOT yet received our signed Certification page. Not surprising since we had only sent it a few days prior and during the Christmas rush. When the 28 day waiting period was finished we filled out our Form 471. The Box below is from the associated form 471.

Block 5: Discount Funding Request(s)

FRN: 596994	
11. Category of Service: Internet Access	12. 470 Application Number: 863530000321768
13. SPIN: 143005441	14. Service Provider Name: Zero Error Networks, L.L.C.dba Amigo.Net
15. Contract Number: MTM	16. Billing Account Number: 719-783-2357
17. Allowable Contract Date: 01/02/2001	18. Contract Award Date:
19a. Service Start Date: 07/01/2001	19b. Service End Date: 06/30/2002
20. Contract Expiration Date:	
21. Attachment #: A	22. Block 4 Worksheet No.: 270363
23a. Monthly Charges: \$3,500.00	23b. Ineligible monthly amt.: \$0.00
23c. Eligible monthly amt.: \$3,500.00	23d. Number of months of service: 12
23e. Annual pre-discount amount for eligible recurring charges (23c x 23d): \$42,000.00	
23f. Annual non-recurring (one-time) charges: \$0.00	23g. Ineligible non-recurring amt.: \$0.00
23h. Annual pre-discount amount for eligible non-recurring charges (23f - 23g): \$0.00	
23i. Total program year pre-discount amount (23e + 23h): \$42,000.00	
23j. % discount (from Block 4): 60	
23k. Funding Commitment Request (23i x 23j): \$25,200.00	

When you get to the Form 471 Block 5, you begin filling in service data. First you fill in box 11 with the category of service. Next you enter the 470 Application Number (highlighted above). There is a pause while the computer checks for a valid 470 Application Number, and the same 470 allowable contract date. If you either make a type-0 inputting the Application number, or if 28 days have not passed since the posting date of the 470, the SLD computer will not let you go further. We entered the correct 470 application number as you can see. Since 28 days had to

have passed without the SLD receiving the 470 Certification page, why didn't the computer check the Application Status on the 470 and stop us at the time. It should have told us why. Then we could have sent another one immediately. A combination of the computer accepting the 470 number, along with receiving a 471 approval and certification letter, left us absolutely no reason to think the 470 certification had never been posted.

The SECOND reason to approve our appeal is that the SLD has a Form 470 Certification page on file on a different Form 470. Our school district posted two 470's this year. Why two? Because two years ago a representative at the SLD 800 number recommended that we post our internal wiring applications separate from our basic service applications. The reason was to keep from holding up the funding process for basic services during the time while the final percentage level was set for internal wiring. It made sense to us since that was exactly what had happened to many schools during years two and three.

Of our two FY4 - 470's, the one for internal wiring was certified (470 Application Number 112790000310234, copy of front page attached) while the 470 for basic services being appealed herein (863530000321768) was not. Since the Certification portion has no effect on the correctness and validity of the essential information on a Form 470, but rather is to assure we are authorized to post a 470 (which is after all only a wish list) we believe the certification page the SLD has received on one 470 should suffice to cover the entire 470 process.

We do however understand the SLD's need to complete its own audit requirements and can understand that a certification form needs to be placed in each of the files for completeness. We have searched the web for any time limit on submitting the 470 Certification and found none. Therefore we have attached a new form 470 and Certification with a new original signature and date, for the respective year four 470 at issue in this appeal. This should complete the SLD files for audit purposes, and allow us to move forward in funding our service needs.

As a last element for discussion, we realize that there are bugs to be worked out when implementing any new system, especially one as complex as this. Making it more complex is not the solution. When the SLD found, apparently only recently according to the July 23rd funding non Commitment Letter, that the 470 had no certification page, why didn't they call us or send a letter? We would have quickly remedied the problem. Instead we have been forced into a time consuming process of appeal which is delaying access to essential educational services.

Thank you for your consideration. This school serves a poor rural community and region, the type that the Universal Service Fund was set up to help support. An affirmative decision is vital to us. I welcome a call if you have further questions.

Sincerely,

Gery Di Domenico (719)783-2357

Enclosures

New Signed Form 470 and Certification

Front page of other 470 showing it is already CERTIFIED

no technology plan needed; application requests basic local and long distance telephone service only.

21. Status of technology plans (If representing multiple entities with mixed technology plan status, check both a and b):

technology plan(s) has/have been approved by a state or other authorized body.

technology plan(s) will be approved by a state or other authorized body.

no technology plan needed; application requests basic local and long distance telephone service only.

22. I certify that the services the applicant purchases at discounts provided by 47 U.S.C. Sec. 254 will be used solely for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value.

23. I recognize that support under this support mechanism is conditional upon the school(s) or library(ies) I represent securing access to all of the resources, including computers, training, software, maintenance, and electrical connections necessary to use the services purchased effectively.

24. I certify that I am authorized to submit this request on behalf of the above-named entities, that I have examined this request, and to the best of my knowledge, information, and belief, all statements of fact contained herein are true.

25. Signature of authorized person: 

26. Date (mm/dd/yyyy): 12/11/2000

27. Printed name of authorized person: Gery Di Domenico

28. Title or position of authorized person: Technology Coordinator

29. Telephone number of authorized person: (719) 583-2271 ext 228

470 APP #
863530000321768



470

**Schools and Libraries Universal Service
Description of Services Requested
and Certification Form**

Estimated Average Burden Hours Per Response: 5.0 hours

This form is designed to help you describe the eligible telecommunications-related services you seek so that this data can be posted on the Fund Administrator website and interested service providers can identify you as a potential customer and compete to serve you.

Please read instructions before completing.

(To be completed by entity that will negotiate with providers.)

Block 1: Applicant Address and Identifications
(School, library, or consortium desiring Universal Service funding.)

Form 470 Application Number: 112790000310234	←
Applicant's Form Identifier: geryd@ccs	
Application Status: CERTIFIED	← OTHER 470
Posting Date: 11/20/2000	
Allowable Contract Date: 12/18/2000	
Certification Received Date: 11/27/2000	

1. Name of Applicant: CUSTER COUNTY CONS SCH DIST C1			
2. Funding Year: 07/01/2001 - 06/30/2002		3. Your Entity Number 142414	
4. Applicant's Street Address, P.O.Box, or Route Number			
a. Street 709 MAIN ST			
City WESTCLIFFE	State CO	Zip Code 5Digit 81252	Zip Code 4Digit
b. Telephone number (719) 783- 2357		c. Fax number (719) 783- 2334	
d. E-mail Address			
5. Type Of Applicant (Check only one box)			
<input type="checkbox"/> Library (including library system, library branch, or library consortium applying as a library)			
<input type="checkbox"/> Individual School (individual public or non-public school)			
<input checked="" type="checkbox"/> School District (LEA;public or non-public[e.g., diocesan] local district representing multiple schools)			
<input type="checkbox"/> Consortium (intermediate service agencies, states, state networks, special consortia)			
6a. Contact Person's Name: Gery Di Domenico			
6b. Street Address, P.O.Box, or Route Number (if different from Item 4)			
<input checked="" type="checkbox"/> 709 MAIN ST			
City WESTCLIFFE	State CO	Zip Code 5Digit 81252	Zip Code 4Digit