

David L. Wilner  
P.O. Box 2340  
Novato, CA 94948-2340  
Tel.: 415-898-1200  
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Representative for the  
Oakland Unified School District

November 20, 2001

VIA OVERNIGHT MAIL

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

In the Matter of: Request for Review by Oakland Unified School District of Decision of Universal Service Administrator Pursuant to FCC Docket Nos. 96-45 and 97-21

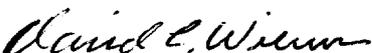
Dear Sir/Madam:

Enclosed please find the following for filing:

1. The request of the Oakland Unified School District for review of the USAC decision referenced herein.
2. Proof of service to show that the fund administrator has been sent a copy of the District's request for review via First Class Mail.

If you require anything further, please contact the undersigned. Thank you.

Sincerely,

  
David L. Wilner

No. of Copies rec'd 0  
List A B C D E

David L. Wilner  
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In the Matter of: Request for Review by Oakland Unified School District of Decision of Universal Service Administrator Pursuant to FCC Docket Nos. 96-45 and 97-21

**Funding Request No. 453945**

Dear Sir/Madam:

The Oakland Unified School District ("District") respectfully requests review of the decision by USAC to deny funding to the District for AT&T Local (formerly Teleport Communications Group or TCG) Centrex service and related usage charges (Exhibit 1, page 2). The Centrex system is used to provide basic telephone service to approximately 3,500 users located at more than 110 District locations in Oakland, California. The pre-discount cost for the Centrex service was approximately \$536,755 for year 3 of the funding program. Because the District would receive a 76% discount on the service, the actual loss in funding for year 3 would be \$407,934.

Grounds for Review

**Late Filed Letter**

Due to unexpected delays, the attached letter from Pacific Bell (Exhibit 2) was not sent to USAC until October 26, 2001, the same date that the District's appeal in this matter was denied. Therefore, the letter did not receive consideration as part of the decision making process. The District had advised USAC that the letter was forthcoming (Exhibit 3). According to the letter, Pacific was the only vendor that could have bid on the Centrex service when the Form 470 was posted on SLD's Web site. However, as stated in the letter, because there was a uniform numbering plan requirement, Pacific decided not to bid.

Pacific did offer to provide the Centrex service in 1997 when an RFP was circulated to qualified vendors. This was the bid process required by state and local law. AT&T Local and Pacific were the only two bidders. AT&T Local won the bid because it had the lowest rates. Therefore, the District did obtain a multi-year contract for the services at the lowest possible rates. The fact that the wrong date was inadvertently placed on the 470 application should not bar the District from receiving funding in this particular instance.

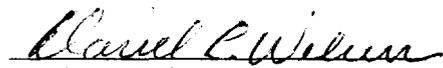
### **Public Policy**

When Congress established the E-Rate program, the goal was, among other things, to provide funding to school districts to help pay for their telecommunications services. This District is definitely in need of such assistance due to the demographics involved. It is essential that the District receive the E-Rate funding in order to provide equal educational opportunities to its students.

### **Conclusion**

There is no question that the E-Rate application process is extremely complicated. That is why so many school districts have found it necessary to file appeals with the fund administrator and the Common Carrier Bureau of the FCC. A review of the decisions in many of these instances shows that technical errors are preventing school districts from receiving much needed E-Rate funding. This is contrary to the spirit of the E-Rate program. In this instance, the District obtained the service at the lowest possible rate. Therefore, the objective of the 28-day competitive rule was met and the District should receive its funding.

Sincerely,

  
David L. Wilner

Copy: R. Clague, OUSD



**Universal Service Administrative Company**  
Schools & Libraries Division

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

October 26, 2001

Eugene Stovall, Network Coordinator  
Oakland Unified School District  
Technology Services Department  
314-East 10<sup>th</sup> Street Room 211  
Oakland, CA 94606

Re: Billed Entity Number: 144227  
471 Application Number: 202873  
Funding Request Number(s): 453942, 453945, 453948  
Your Correspondence Dated: June 15,16,19, 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 to the Federal Communications Commission ("FCC"). 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: 453942

Decision on Appeal: **Approved in full**

Explanation:

- Your appeal has brought forth information indicating that this funding request should be approved.

Since the Administrator's Decision on Appeal approves additional funding for your application, SLD will issue a new Funding Commitment Decision Letter to you and to each service provider that will provide the services approved for discounts in this letter. SLD will issue the Funding Commitment Decision Letter to you as soon as possible. The Funding Commitment Decision Letter will inform you of the precise dollar value of your approved funding request. As you await the Funding Commitment Decision Letter, you may share this Administrator's Decision on Appeal with the relevant service provider(s).

Funding Request Numbers: 453945, 453948

Decision on Appeal: **Denied in full**

Explanation:

- You have stated on appeal that both funding requests fall into the category of eligible contract renewals and meet the SLD guidelines since the OUSD entered into a contract with Teleport Communications Group in May of 1996 and with BBN Telecom Inc. in April of 1996. You state that the OUSD then submitted a Form 470 on January 15, 1997, which identified the existence of both signed pre-existing contracts on Block 3, Line 10 of the form. The OUSD then received funding for both requests in Year One. You state that you submitted to SLD a Funding Year Two Form 470 (521140000122212) for both contract renewals with Teleport Communications Group and BBN Telecom Inc. (which eventually became GTE Internetworking) in accordance with the SLD/FCC guidelines. You close by stating that since this Funding Year Two Form 470 (521140000122212) was properly submitted for the contract renewals both funding requests have met all the required SLD/FCC guidelines and therefore, should be approved.
- After thorough review of the appeal, it was determined from the original support documentation (attachment twenty-one) submitted with the Form 471 and the additional documentation provided during the initial review process, that you signed a contract/made arrangements for new services prior to the end of the 28-day waiting period. You listed the Funding Year Three Form 470 (268560000263360) as the establishing Form 470 for both funding requests on your Form 471 (Block 5, Item 12). This Form 470 has an Allowable Contract Date of January 3, 2000. It can therefore not be the establishing Form 470 for the contract renewals with award dates of January 11, 1999 (Teleport Communications Group, Inc.) and February 1, 1999 (BBN Telecom Inc.) as indicated on the Form 471, Blocks 5, Item 18. On May 12, 2000, you provided additional written documentation to the SLD - indicating that the Funding Year Two Form 470 (521140000122212) should be cited as the establishing form for both funding requests listed. You have also stated on appeal that this Form 470 is the establishing Funding Year Two form for both requests.
- According to the Form 470 (521140000122212) which you cited during the initial review process and also on appeal as the establishing form for the funding requests listed above, the earliest date that contracts for new services or contract renewals may be signed (Allowable Contract Date) is February 11, 1999. As per the additional support documentation that was submitted to the SLD on January 10, 2001 (during the appeal review process), both contract renewals were signed prior to this date. The contract renewal for Teleport Communications Group was signed on January 11, 1999. The contract renewal for BBN Telecom Inc. (GTE Internetworking) was signed on February 1, 1999. You have not claimed that this Form 471 relates to a different Form 470 other than the Form 470 indicated above. Consequently, SLD denies your appeal because your application did not comply with the competitive bidding requirement that your Form 470 be posted on the website for 28 days prior to your

signing a contract for renewal of services or entering into an agreement for new services.

- You signed a contract renewal/made arrangements for new services prior to the expiration of the 28-day posting period. FCC rules require that except under limited circumstances, all Forms 470 received be posted on the website for 28 days, and that applicants carefully consider all bids received before selecting a vendor, entering into an agreement or signing a contract, and signing and submitting a Form 471. *See* 47 C.F.R. §§ 54.504; 54.511(a), (c). FCC rules further require that the Administrator send the applicant a confirmation when the Form 470 has been posted, and inform the applicant of the date after which the applicant may sign a contract with the vendor it selects. *See* 47 C.F.R. § 54.504(b)(4). These competitive bidding requirements help ensure that applicants receive the lowest pre-discount price from vendors. *See Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order on Reconsideration, 12 FCC Rcd 10095, 10098 ¶ 9 (1997).

If you believe there is a basis for further examination of the decision to deny your funding requests, you may appeal to the Administrator as long as it is in writing and **received by the Administrator at the address below within 30 days from the date on this letter**. While we encourage you to resolve your appeal with the Administrator first, you have the option of filing an appeal directly with the Federal Communications Commission (FCC): FCC; Office of the Secretary; 445 12th Street, SW; Room TW-A325; Washington, DC 20554. Please note that the FCC no longer accepts hand delivered or messenger filings at this location. 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 web site at [www.sl.universalservice.org](http://www.sl.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. The FCC will dismiss without consideration appeals received after the 30-day deadline.**

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

Schools and Libraries Division  
Universal Service Administrative Company

Entity Number 144227  
 Contact Person EVGAUE STOVALL

Applicant's Form Identifier OUSS 3  
 Phone Number 510-879-8197

**Block 5: Discount Funding Request(s)**

Block 5, page 3 of \_\_\_\_\_

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 # \_\_\_\_\_ (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 ITT classified services, ITFC, or other monthly services as described in instructions) <u>OUSS-0US986</u>
12 Form 470 Application Number (15 digits) <u>268560000263360</u>	16 Billing Account Number (e.g. billed telephone number) <u>OUSS-0USS01</u>
13 SPIN - Service Provider Identification Number (9 digits) <u>143000067</u>	17 Allowable Contract Date (mm/dd/yyyy, based on Form 470 filing) <u>N/A</u>
14 Service Provider Name <u>TCG (A747 Local)</u>	18 Contract Award Date (mm/dd/yyyy) <u>01-11-99</u>
	19 Service Start Date (mm/dd/yyyy) <u>07-01-00</u>
	20 Contract Expiration Date (mm/dd/yyyy) <u>01-11-03</u>

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 # 4A-4F

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): A-1

23 Calculations										
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)
<u>\$ 44,729<sup>62</sup></u>	<u>0</u>	<u>\$ 44,729<sup>62</sup></u>	<u>12</u>	<u>\$ 536,755<sup>44</sup></u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>\$ 536,755<sup>44</sup></u>	<u>76%</u>	<u>\$ 407,934<sup>13</sup></u>

*Devised*

Entity Number 144227 Applicant's Form Identifier 0USD3  
 Contact Person EUGENE STOVALL Phone Number 510-879-8197

**Block 5: Discount Funding Request(s)**

Block 5, page 5 of     

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.

**FUNDING REQUEST NUMBER** 92530000284256

11 Category of Service (only ONE category should be checked) <input type="radio"/> Telecommunications Service <input type="radio"/> Internet Access <input checked="" type="radio"/> Internal Connections	15 Contract Number (if available, use T-1 leased services, MTM (monthly) month services or other per instructions) <u>N/A</u>
12 Form 470 Application Number (15 digits) <u>92530000284256</u>	16 Billing Account Number (e.g. billed telephone number) <u>0USD</u>
13 SPIN - Service Provider Identification Number (3 digits) <u>143008496</u>	17 Allowable Contract Date (mm/dd/yyyy based on Form 470 filing) <u>01-17-00</u>
14 Service Provider Name <u>PACIFIC BELL NETWORK INTEGRATION</u>	18 Contract Award Date (mm/dd/yyyy) <u>01-17-00</u>
	19 Service Start Date (mm/dd/yyyy) <u>07-01-00</u>
	20 Contract Expiration Date (mm/dd/yyyy) <u>12-01-01</u>
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 # <u>6A-6D</u>	
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): <u>A-1</u>	

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)
<del>0</del>	<del>0</del>	<del>0</del>	12	<del>0</del>	\$ 197,405	<del>0</del>	\$ 197,405	\$ 197,405	76%	\$ 150,027.80

*Approved*  
 FCC Form 57 - September 1999

Pacific Bell Telephone Company  
2700 Watt Avenue  
Room 3473  
Sacramento, California 95821

Bob Campbell  
Vice President  
Government/Education/Medical

Exhibit 2

PACIFIC BELL



*cc: Roger Koehne*

October 26, 2001

George McDonald  
Director of Operations  
Schools and Libraries Division  
2120 L Street, N.W., Suite 600  
Washington, D.C. 20037

Dear Mr. McDonald,

The following should not be construed as tacit support of AT&T Local Services (formerly Teleport Communications Group) as much as the support of a beleaguered school district.

Pacific Bell has worked with the Oakland Unified School District for a number of years, and has partnered to provide their existing data Wide Area Network. In 1997, Pacific Bell lost a significant contract to TCG for the Metropolitan Centrex Contract for the school district. This contract was for over 5,000 lines of Centrex, was for a term of five years, and was a difficult loss for Pacific Bell.

Oakland Unified School District went through the E-Rate process in the second funding year, and by all accounts, did not wait the proper interval (28 days) between the posting of the Form 470, and the filing of the Form 471. This technical error on the part the school district did not materially affect Pacific Bell's decision to not respond to the Form 470.

In fact, the technical design of the Wide Area Centrex, and the specific requirements of a common number plan to accommodate a dialing plan were the key factors in Pacific Bell's decision to non-respond to the Form 470 RFP.

To that end, Pacific Bell would not be opposed to a resolution of the Oakland Unified School District's appeal to provide the discount to the school district. Pacific Bell did not respond to the Form 470, and was likely the only competitor to TCG that could have provided the Wide Area Centrex that the District required. In that a contract had already been signed, and the Centrex already provisioned, Pacific Bell was not in a position to benefit the customer by providing a service that would be superior and cost less.

Please reconsider the appeal that Oakland Unified School District currently has on the table. This district serves over 56,000 students, and needs the kind of relief that Congress had in mind when the SLD program was rolled out. It is our position that the mistake made was technical, and did not violate the spirit of the E-Rate program. Accordingly, we ask that Oakland be given the monies that would accompany the appeal of Request Number 268560000263360.

Sincerely,

*Robert Campbell*

Robert Campbell  
Vice President  
Pacific Bell

# EQUITABLE AUDIT™

Telecommunications Audits

Exhibit 3

## MEMORANDUM

### VIA FACSIMILE

TO: George McDonald, USAC  
FROM: David Wilner  
DATE: September 19, 2001  
SUBJECT: OUSD Year 3 Appeal For AT&T Local Funding

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Re: Billed Entity Number: 144227  
471 Application Number: 202873  
Funding Request Number: 453945

Mr. McDonald - The purpose of this memo is to inform you that the District will forward to you for consideration a letter from Pacific Bell in support of the District's appeal in this matter. The letter will state that Pacific Bell was the only other bidder for the Centrex service in question and lost the bid to AT&T Local (formerly Teleport Communications Group or TCG) as part of the required bid process pursuant to California law.

We will offer this letter for consideration because it supports the District's contention on this subject as set forth in our memo to you dated June 27, 2001 (see the attached, paragraph 3). Once again, thank you for the time and consideration you have given to the District's appeal - DW.

Copy: R. Clague, OUSD

PROOF OF SERVICE BY MAIL

I, Marie A. Wilner, certify that the following is true and correct:

I am a citizen of the United States, State of California, am over eighteen years of age, and am not a party to the within cause.

My business address is P.O. Box 2340, Novato, California, 94948-2340.

On November 20, 2001, I deposited a true copy of the foregoing REQUEST FOR REVIEW BY OAKLAND UNIFIED SCHOOL DISTRICT OF DECISION OF UNIVERSAL SERVICE ADMINISTRATOR PURSUANT TO FCC DOCKET NOS. 96-45 AND 97-21 in a sealed envelope with first class postage thereof fully prepaid in a mailbox regularly maintained by the United States Government in the City of Novato, California addressed to the following:

Administrator  
Schools and Libraries Division  
Universal Service Administrative Company  
Box 125 - Correspondence Unit  
80 South Jefferson Road  
Whippany, NJ 07981

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Dated this 20th day of November, 2001, at Novato, California.

By: Marie A. Wilner  
Marie A. Wilner