



## Albemarle County Public Schools

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August 17, 2004

### Request for Review

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

RE: Billed Entity Name: Albemarle County School District  
Billed Entity Number: 126474  
Form 471 Number: 376254  
Form 470 Application Number: 855950000433645  
Funding Request Number: 1031045  
Funding Year 6: 2003 – 2004  
CC Docket No. 02-6

To Whom It May Concern:

Albemarle County Public Schools (ACPS) requests the FCC review our denial of E-rate funding for Form 471 Number: 376254. This letter will outline what we believe to be errors on the part of the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) in changing our category of service from Telecom Services to Internal Communications. Therefore, ACPS respectfully asks the FCC to overturn SLD's decision and to fund the discounts for the requested services under the original filing category of Telecommunications Services as stated on the initial Form 471.

#### **ACTION**

ACPS received notification from the USAC via the Funding Commitment Decision Letter dated March 16, 2004 (Attachment #1), that the ACPS E-Rate funding request, itemized above, was denied in full. The reason given for denial was listed as: *"Category of service was changed from telecom to Internal Connections. Given demand, the funding cap will not provide for Internal Connections at your approved discount level to be funded."*

#### **RESPONSE**

On April 22, 2004, ACPS submitted a Request for Review to the SLD of the USAC (Attachment #2), appealing their decision and requesting they overturn the decision and fund discounts for the requested services.

*"We Expect Success"*

## **ACTION**

The USAC replied on June 18, 2004 via an Administrator's Decision on Appeal Letter (Attachment #3), indicating that language existed in the original contract, "Agreement for Sprint Lightlink Service (3/27/95)" (Attachment #4), between ACPS and Sprint-Centel of Virginia, which stated that *"ownership of these items (Routers and Hubs) will be billed as installed, and upon installation become the property of the County."*

## **RESPONSE**

ACPS believes these denials were made in error and through this appeal, requests the FCC overturn the SLD's decision and fund discounts for these requested services.

**POINT:** As outlined in section 1(p) of "Agreement for Sprint Lightlink Service (3/27/95)" between ACPS and Sprint-Centel of Virginia, *"It is understood and agreed that the Service is being provided to the County for its use during the term of this Agreement and that the County will not acquire any ownership interest in or to said Service. The County will own the facilities and equipment referred to in Sections 1(p) and 7(a)." Furthermore, as stated in 1(p) "Sprint-Centel of Virginia can also provide and install ancillary network equipment such as Routers, Hubs, MAU's, and can coordinate vendor training as specified below" (see Attachment #4, page 5 for equipment list). "Items will be billed as installed, and upon installation become the property of the County. Date of installation will be mutually agreed to by Sprint-Centel of Virginia and the County. Additional router services can be ordered at any time during the period of this contract at these prices."*

## **RESPONSE 1(p)**

The equipment listed in Section 1(p) was ancillary equipment, which was offered for purchase by Sprint-Centel of Virginia. ACPS did not purchase any ancillary equipment from Sprint-Centel of Virginia nor do we intend to exercise this option in the future. Therefore, as SLD changed our category of service from Telecom Services to Internal Connections based on this statement in the contract, "Agreement for Sprint Lightlink Service (3/27/95)" and ACPS clearly has not and will not exercise this option to purchase ancillary equipment, we request that SLD's denial be overturned and the category of Telecom Services be reinstated and all pertinent discounts applied.

## **RESPONSE 7(a)**

Furthermore, in reference to Section 7(a) (Attachment #4, page 9) "Agreement for Sprint Lightlink Service (3/27/95)", Sprint-Centel of Virginia outlines equipment and materials that ACPS is responsible for providing in order to ensure an environmentally suitable location to house the Sprint LightLink equipment and ensure adequate working space for Sprint-Centel personnel. The outlined equipment includes various types of conduit ACPS is to make available to Sprint-Centel of Virginia within the individual school buildings to facilitate proper installation. ACPS owns the cabling within our individual school buildings and readily makes it available to Sprint-Centel of Virginia for "hook-up" to their Sprint LightLink equipment. Therefore, as SLD changed our category of service based on this statement in the contract, "Agreement for Sprint Lightlink Service (3/27/95)" and Section 7(a) refers to conduit within our individual school buildings and not Routers and Hubs that would equate to the change in our category of service from Telecom Services to Internal Connections, we request that SLD's denial be overturned and the category of Telecom Services be reinstated and all pertinent discounts applied.

**POINT:** Computers in ACPS are connected and share information among the various buildings and use the network for data transmission and for Internet access. These connections between the buildings are leased from Sprint-Centel of Virginia, a telecommunications provider, as outlined in a multi-year lease agreement, "Agreement for Sprint Lightlink Service (3/27/95)" between ACPS and Sprint-Centel of Virginia. ACPS has since that time upgraded the available bandwidth at each of our existing 28 school locations from 10 MB to 100MB, transported through a GB backbone, in "Addendum #14 to Agreement for Sprint Lightlink Service (2/5/03)", (see Attachment #4).

## **RESPONSE**

ACPS is aware that the SLD program rules require amortization over a period of at least 3 years when up-front costs exceed \$500,000. Therefore, as outlined in Item 21, Attachment 1 of 471 Application Number: 376254 (Attachment #5), we submitted the annual pre-discount amount for eligible non-recurring charges of \$253,352.00: a 4-year amortization of the \$1,013,406.00 infrastructure costs for service provider upgrades at our schools. This one time charge was for installation of Service Provider Equipment at the schools and Service Provider Central Office Equipment, allowable under the Federal Communications Commission Brooklyn Library Decision. All equipment meets the following criteria:

- The equipment is provided by Sprint-Centel of Virginia, and ownership will not transfer to ACPS in the future;
- ACPS has no contractual right to exclusive use of the equipment;
- Up-front, non-recurring charges are less than 67% of total charges (recurring plus non-recurring charges);
- The equipment will not be used by ACPS for any purpose other than receipt of the eligible Telecommunication Services of which it is a part;
- There is no contractual or technological restriction for exclusive use of the equipment by ACPS;
- The Local Area Network (LAN) for data communications of ACPS is functional without dependence on the equipment; and
- Responsibility for maintaining the equipment rests with Sprint-Centel of Virginia, not ACPS.

## **CLOSING**

For further clarification, Mark Roberson, K-12 Account Manager with Sprint-Centel of Virginia, has provided an affidavit (Attachment #6) outlining his perception of the relationship between ACPS and Sprint-Centel of Virginia. Furthermore, Charlie C. Williams, Engineer I with Sprint-Centel of Virginia, has also provided an affidavit (Attachment #7) including a thorough listing of Sprint equipment currently installed in all school buildings.

In conclusion, ACPS respectfully asks the FCC, through this appeal, to fund the discounts for the requested services under the original filing category of Telecommunications Service as stated on the initial Form 471 Number: 376254. Thank you for your consideration and please contact me at (434) 872-4569 or [dstowell@albemarle.org](mailto:dstowell@albemarle.org), if you have any questions or require further clarification.

Sincerely,

*Debby Stowell*

Debby Stowell  
Management Analyst

Attachment #1: Funding Commitment Decision Letter (March 16, 2004)  
Attachment #2: Request for Review to the Schools and Libraries Division (April 22, 2004)  
Attachment #3: Administrator's Decision on Appeal Letter (June 18, 2004)  
Attachment #4: Agreement for Sprint Lightlink Service (3/27/95)  
Attachment #5: Item 21, Attachment 1 of 471 Application Number: 376254  
Attachment #6: Affidavit of Mark Roberson, K-12 Account Manager, Sprint-Centel of Virginia  
Attachment #7: Affidavit of Charlie C. Williams, Engineer I, Sprint-Centel of Virginia