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REQUEST FOR REVIEW AND REQUEST FOR WAIVER
before the
FEDERAL COMMUNICATIONS COMMISSION

CC Docket No. 02-06

DOCKET FILE COPY ORIGINAL

Re: Applicant Name: NORTHWEST ARCTIC BOROUGH SCHOOL DISTRICT

Billed Entity No.:	**145645**
Funding Year 2004:	**07/01/2004-06/30/2005**
Form 471 Application No.:	**406645**
Form 486 Application No.:	**296302**
Funding Request Nos.:	**1114396, 1114402, 1114410, 1114418, 1114424, 1114428, 1114430, 1114433, 1114437, 1114443, 1114456, 1114466, 1114473, 1114477, 1114480, 1114482, 1114485, 1114486, 1114488, 1114492, 1114494, 1114495**

ENTRY OF APPEARANCE

Andrena L. Stone of Jermain, Dunnagan & Owens, P.C., hereby enters her appearance in the above-styled action on behalf of the Northwest Arctic Borough School District. It is requested that copies of all documents be served on the undersigned at:

Andrena L. Stone
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Dated in Anchorage, Alaska this 24th day of August, 2005.

JERMAIN, DUNNAGAN & OWENS, P.C.

By: _____
Andrena L. Stone
Alaska Bar No. 9411127

CERTIFICATE OF SERVICE

This is to certify that on this 24th day of August, 2005, a true and correct copy of the foregoing was mailed, postage pre-paid, to:

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

_____
Jeanine M. Huston

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I. INTRODUCTION

Pursuant to 47 C.F.R. § 54.719(c), the Northwest Arctic Borough School District ("the District") seeks FCC review of SLD Administrator's Decision on Appeal – Funding Year 2004-2005. Exh. A. This request is based on SLD's decision to adjust the District's FY 04 Service Start Dates and reduce the funding request commitment amounts for violating the Form 486 120-day filing window, a decision SLD upheld on appeal. The District seeks an order from the Commission, consistent with federal law, that the District has provided sufficient proof of timely mailing its FCC Form 486. Assuming the Commission concludes that the Form 486 was timely filed, the District seeks remand to SLD for reinstatement of FY 04 funding commitment amounts.

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In the alternative, the District seeks a waiver of the 120-day deadline for filing the Form 486. A waiver is appropriate as the District acted in good faith to not only timely file its Form 486 but to file early, indeed months before the 120-day deadline was to run. Additionally, the District asks that the Commission recognize that SLD had in its files all information necessary to know the actual Service Start Dates for each of the applicable FRNs, even though the Form 486 was apparently not received. The $350,000 penalty imposed on the District for its failure to submit a verification form, when the relevant information to be verified was already contained within SLD's files, is unduly harsh. This penalty hinders rather than furthers the goal of the Form 486 which is to make sure that monies are provided for services actually received.

Enclosed for the Commission's consideration are the following documents:

Exhibit A: Administrator's Decision on Appeal, dated June 29, 2005

Exhibit B: Funding Commitment Decision Letter, dated August 3, 2004

Exhibit C: Affidavit of Karl Kowalski

Exhibit D: Affidavit of Rhonda Campbell

Exhibit E: FCC Form 486, dated September 3, 2004

Exhibit F: Form 486 Notification Letter, dated April 13, 2005

Exhibit G: eRateManager screen shot, dated September 3, 2004

Exhibit H: Emails from and to Service Provider, dated October 27, 2004

Exhibit I: Email from Della Mathis, dated September 24, 2004

Exhibit J: Email from Della Mathis, dated January 21, 2004; and Article from Council of School Attorneys, Legal Clips

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Exhibit K: Form 471 Application Number 406645

Exhibit L: Service Contract Nos. SAC-06-031-1 and SAC-06-031-2

II. FACTUAL BACKGROUND

The Northwest Arctic Borough School District provides K-12 educational services to 11 primarily Eskimo communities in Northwest Alaska. The District administrative office is located in Kotzebue, Alaska. The District has participated in the e-Rate program for 7 of 7 years and has never missed a deadline. The District has received five Item-25 reviews and an on-site audit, all finding the District to be compliant with Universal Service Program requirements.[1]

On August 3, 2004, SLD issued a Funding Commitment Decision Letter to the District for FY 2004. Exh. B. The FCDL approved all of the District's funding requests, as set forth in the FRN's identified above, in the total amount of $1,050,617.83.

On September 3, 2004, well before the 120-day deadline for filing Form 486, Karl Kowalski, the District's Director of Instructional Technology and Information Services, used eRateManager to create and complete the necessary Form 486. Exhs. C, E, and G. The actual Form 486 printed out from eRateManager was signed by Mr. Kowalski, the District's authorized person, on September 3, 2004. Exh. E. It was mailed by the District on that date via regular mail, United States Postal Service. Exhs. C and D.

In March 2005, the District was notified by its service provider that SLD showed no receipt of the District's Form 486. Upon contacting SLD and determining this to be

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[1] This information was provided to SLD in the District's appeal of April 7, 2005.

accurate, the District, through Mr. Kowalski, immediately sent a copy of the original Form 486 that had been retained by the District. The Form 486 was submitted for this second time on March 15, 2005. The Form 486 identified the Service Start Date for each of the applicable FRNs as July 1, 2004. Exh. E.

On April 13, 2005, SLD issued a Form 486 Notification Letter acknowledging receipt of the District's Form 486.[2] Exh. F. However, SLD's notice set forth a Service Start Date for each FRN of November 15, 2004, instead of the July 1, 2004, Service Start Date set forth on the Form 486. The penalty to the District of this decision by SLD was a reduction of funding in the approximate amount of $350,000.

The District's Form 471 Application Number 406645, and the accompanying FRNs, represent the second year of a multi-year service contract approved and funded through a Funding Year 2003 Form 471, Application Number 370080. For Funding Year 2003, service was approved pursuant to Form 486 Application Number 249054 with an effective Service Start Date of July 1, 2003. Because of that multi-year contract, there was no discontinuation of service by the service provider from Funding Year 2003 to Funding Year 2004.

III. SLD'S DECISION ON APPEAL

The District appealed SLD's decision to set the Service Start Dates on November 15, 2004, instead of July 1, 2004. In a letter dated June 29, 2005, SLD issued an Administrator's Decision on Appeal denying the District's efforts to seek reversal of the

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[2] The Form 486 was accurately completed and SLD's Notification did not advise the District of any errors in the Form.

adjusted Service Start Dates, and the corresponding funding reduction, for violating the Form 486 120-day deadline. Exh. A.

The basic premise of SLD's denial was that the District was unable to provide proof that the Form 486 was mailed within the 120-day filing deadline. SLD acknowledged that the District provided a screen shot of the eRateManager as proof that the form was created on September 3, 2004. SLD did not deny that the Form 486 was signed and dated on September 3, 2004. Further, SLD recognized that the District received reminders from both its Service Provider and the State E-Rate Coordinator in September and October, 2004, of the requirement to file the Form 486. Additionally, SLD recognized the District's position that those reminders would have prompted the District to file the Form 486 on time if it had not already done so. Nonetheless, this evidence, along with the assertion of Mr. Kowalski that the Form 486 was mailed on September 3, 2004, were not deemed to demonstrate proof of timely filing.

Although raised by the District, the Administrator's Decision on Appeal did not address or discuss the fact that the approved FRNs all represented recurring services that had begun July 1, 2003, and were continuing for a three year term pursuant to multi-year contracts.

IV. THE FORM 486 WAS TIMELY FILED

Enclosed with this appeal is the sworn and notarized Affidavit of Karl Kowalski. Exh. C. Mr. Kowalski testifies that on September 3, 2004, he created the Form 486, signed it, and directed his assistant, Rhonda Campbell, to mail the Form 486 to the Form 486 regular mail address: SLD-Form 486, P.O. Box 7026, Lawrence, Kansas 66044-

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7026. He explains that while the District typically sends such forms certified mail, return receipt requested, he did not do so in this instance because the District was submitting the form early, well before the 120-day deadline. Additionally, Mr. Kowalski explains the District's standard office procedures for mailing District mail via the United States Postal Service.

Also included with this appeal is the Affidavit of Rhonda Campbell. Exh. D. Ms. Campbell testifies that on September 3, 2004, she mailed the District's Form 486 by placing it in a properly addressed envelope, applying the required postage, and depositing it in the District's central mail drop. Both Mr. Kowalski and Ms. Campbell explain that mail placed in the mail drop is picked up twice daily by a District maintenance employee who delivers the mail to the United States Post Office in Kotzebue, Alaska.

The Commission has ruled that if an applicant can demonstrate proof of mailing in a timely manner, SLD is to treat the application as timely filed, even though it may be undisputed that SLD never actually received the application.[3] Indeed, SLD and the Commission have worked together to implement a policy designed to hold applicants harmless in the event of a failure of the postal system or courier to deliver the application within a reasonable period of time. A significant example of this policy change was the 2002 direction that FCC Forms 471 be considered filed when postmarked, not received.[4]

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[3] *See Request for Review by St. Vincent's Home School Fall River, Maine,* File No. SLD-335335, CC Docket No. 02-6, Order, FCC DA 04-306 (Wireline Comp. Bureau rel. Feb. 6, 2004).

[4] Instructions for FCC Form 471. The implementation of this policy change is discussed in *Request for Waiver by Alpine Unified Sch. Dist., Markleeville, Calif., et al.,* 17 F.C.C.R. 1718, 1720 (Common Carrier Bureau rel. January 31, 2002).

Similarly, the Form 486 Instructions provide at page 6, "When to File?" that the Form 486 must be postmarked no later than 120 days after the Service Start Date or receipt of the FCDL, whichever is later.

The Commission has relied upon federal court decisions to recognize that "evidence regarding mailing is an acceptable form of proof."[5] Specifically, in the FCC decision just quoted,[6] the Commission cited a 9th Circuit decision holding that a sworn statement is credible evidence of mailing,[7] a 6th Circuit decision that evidence of compliance with business custom will suffice to establish proof of mailing,[8] and a D.C. Cir. decision noting that "proof that mail matter is properly addressed, stamped, [and] deposited in an appropriate receptacle has long been accepted as evidence of delivery to the addressee."[9]

In instances that are distinguishable from this case, the Commission has rejected an affidavit as sufficient proof of mailing. This has occurred when the applicable rules *require* certified mail, return receipt requested, and the applicant was unable to provide

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[5] *Communications Vending Corp. of Ariz., Inc. v. Citizens Communications Co.*, 17 F.C.C.R. 24201, 24234 n.203 (Commission rel. Nov. 19, 2002).

[6] *Id.*

[7] *Schikore v. BankAmerica Supplemental Retirement Plan*, 269 F.3d 956, 964 (9th Cir. 2001).

[8] *Simpson v. Jefferson Standard Life Ins. Co.*, 465 F.2d 1320, 1324 (6th Cir. 1972).

[9] *Legille v. Dann*, 544 F.2d 1, 4 (D.C.Cir. 1976). The Commission also cited *Smith v. City of Chicago*, 242 F.3d 737, 741 (7th Cir. 2001). *See also United States v. Bowman*, 783 F.2d 1192, 1197 (5th Cir. 1986); *United States v. Ledesma*, 632 F.2d 670, 675 (7th Cir. 1980) ("Testimony as to office practice is sufficient proof of mailing."), *cert. denied*, 449 U.S. 998 (1980).

the certified mail receipt.[10] As explained by the Commission in an appeal involving a mandatory carriage request:

> ... In addition, although KFTL argues that standard operating procedure is evidence of mailing, the cases KFTL offers to support its assertion can be distinguished from the circumstances in the instant complaint. In the cases cited, the mailing of the documents at issue was accomplished by ordinary mail and there was no requirement that the materials be delivered via certified mail, return receipt requested. It was under those circumstances that the court found that circumstantial evidence was sufficient to establish proof of mailing. Under the Commission's rules applicable to this case, there is a specific requirement for mandatory carriage requests to be sent to the satellite carrier by certified mail, return receipt requested. Standard office practice is not sufficient to adduce that mandatory carriage request documents were actually mailed to and received by the intended party ...[11]

In the case of FCC Form 486, the FCC should follow federal decisions holding that testimony of mailing constitutes sufficient proof of mailing. Unlike the mandatory carriage decisions where a Commission rule requires mailing by certified mail, return receipt requested, there is no such requirement for FCC Form 486.

The Form 486 Instructions provide distinct addresses, one for those applicants utilizing regular mail, a separate address for those using "express delivery services or U.S. Postal Service, Return Receipt Requested[.]"[12] Indeed, the first address provided under "Where to File?" is the regular mail address which follows the direction "Please

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[10] *North Pacific International Television, Inc. v. DirectTV, Inc.*, 19 F.C.C.R. 4788 (Deputy Chief, Media Bureau rel. Mar 18, 2004).

[11] *Family Stations, Inc. v. DirectTV, Inc.*, 17 F.C.C.R. 2365, 2370-71 (Deputy Chief, Cable Services Bureau rel. Feb. 14, 2002); *see also Request for Review Winnebago Public Schools, Winnebago, Neb.*, 19 F.C.C.R. 2902 (Wireline Comp. Bureau rel. Feb. 20, 2004) (rejecting affidavit as sufficient proof of mailing Form 471).

[12] FCC Form 486 Instructions at 8.

submit this form to[.]"[13] Later in the instructions, manual (as opposed to electronic) filers are directed that the correct Form 486 be "submitted by regular mail, express delivery, or U.S. Postal Service Return Receipt Requested, or hand delivery."[14] Finally, the last page of the Instructions direct the Applicant to "Submit completed Forms 486 by mail to . . ." The first address provided, which was utilized by the District in this case, is then followed by a separate address for express delivery services or return receipt requested.[15]

In hindsight, the District should have utilized certified mail regardless of the fact that it was submitting its form months before the filing deadline. Had it done so, the District would have been able to provide readily acceptable proof of mailing to SLD. Nonetheless, the District utilized a form of filing that is not only expressly permitted by the Form 486 Instructions and the Form 486 itself, it utilized the form of filing that continuously appears as the first option for filers to use.

Because SLD and the FCC have determined that regular mail is an appropriate method for filing, they should also determine that routinely recognized proof of that mailing is sufficient to demonstrate that filing occurred on a timely basis. Unfortunately, for any billed entity in the position of the District that utilized the permitted method of filing via regular mail, there is no "postmark" to demonstrate proof of mailing absent receipt by SLD. As the federal courts have repeatedly held, that proof of mailing can be demonstrated by sworn testimony that the mail was properly addressed, contained correct

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[13] FCC Form 486 Instruction at 8.

[14] FCC Form 486 Instructions at 9.

[15] FCC Form 486 Instructions at 18.

postage, and was deposited in the U.S. Mail via standard office procedures. Absent the acceptance of such proof, those filers utilizing regular mail are denied the benefits of FCC's policy to hold applicants harmless in the event of a failure of the postal system.

Additionally, the District asks the Commission to consider other indicia of proof that exist in this case. In addition to the sworn affidavit testimony of Mr. Kowalski and his assistant Ms. Campbell, there is other corroborating evidence that the Form 486 was mailed well within the 120-day deadline. On October 27, 2004, the District received an email inquiry from its Service Provider regarding the status of the District's filing of its Form 486. On that same day, the District responded that it had already filed the Form 486 for those services. Exh. H. This statement by Mr. Kowalski was made months before he had any indication that SLD had not in fact received the Form 486 mailed on September 3, 2004, and provides persuasive corroboration of mailing. Finally, the District submitted to SLD a September 24, 2004 email from the State's e-Rate Coordinator, Della Mathis, reminding districts to submit their Forms 486. Exh. I. Had the District not already submitted its form, it certainly would have done so with this reminder.

The District completed its Form 486 on September 3, 2004. It signed the Form 486 and mailed it on that day. The District has been able to provide a copy of the original form that was mailed to SLD. The District provides sworn testimony that the Form 486 was mailed on September 3, 2004. The District also provides evidence of subsequent statements by Mr. Kowalski indicating that the form had been filed. The totality of this

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evidence supports the conclusion that the District's Form 486 was filed within the 120-day filing window.

V. A WAIVER IS APPROPRIATE IN THIS CASE

Assuming the Commission rejects the District's Request for Review, the District seeks a waiver of the 120-day deadline for Form 486 submission. The "120 day rule" requires that an applicant's FCC Form 486 be postmarked no later than 120 days after commencement of the service or the issuance of SLD's funding decision, whichever is later.[16] The Commission has authority to waive any provisions of its rules for good cause.[17]

Before discussing the merits of its waiver request, the District discusses the authority of the Commission to grant a waiver in this instance. The Form 486 at issue verified service start dates for two types of services, telecommunications and Internet access, thus requiring District certification of compliance with the Children's Internet Protection Act. As explained below, the 120-day CIPA deadline is only statutorily mandated for CIPA Funding Year One and is regulatory for each year following. Accordingly, the deadline can be waived in this instance.

A. The 120-day Rule for CIPA Compliance is Statutorily Required Only for Funding Year One

The Commission has previously addressed whether or not it has authority to waive the Form 486 120-day deadline in light of CIPA certification requirements that became

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[16] FCC Form 486 Instructions at 8-12.

[17] 47 C.F.R. § 1.3.

effective beginning with Funding Year 2001. The Commission has recognized that the 120-day deadline is a purely regulatory requirement where the applicant seeks services for telecommunications only.[18] This is because CIPA compliance is required only for schools seeking discounted services for "Internet access, Internet service, or internal connections."[19] The Commission has indicated that it does not have authority to waive a statutory requirement and thus cannot grant a request to waive the Form 486 120-day rule where services beyond telecommunications are requested.[20] These cases, though, have involved Funding Year One requests.[21]

Congress has set forth the "timing of [CIPA] implementation" by mandating that CIPA certification be made:

> (I) with respect to the first program funding year under this subsection following such effective date, not later than 120 days after the beginning of such program funding year; and
>
> (II) with respect to any subsequent funding year, as part of the application process for such program funding year.[22]

---

[18] *See Eastern Lebanon County Sch. Dist., Newport News Public Schools, Newport New, VA, Federal-State Jt. Bd. on Universal Service, Changes to the Bd. of Dir. of the National Exchange Carrier Assoc., Inc.*, File Nos. SLD-220549, 220586, 231477, CC Docket Nos. 96-45, 97-21, FCC DA 03-844 (Wireline Comp. Bureau rel. March 24, 2003).

[19] 47 U.S.C. § 254(h)(5)(A)(ii).

[20] *East Lebanon*, DA 03-844 at 5 ("For applicants receiving discounts on Internet access or internal connections services, the October 28, 2001 deadline for certifications is a statutory requirement imposed by CIPA, and therefore cannot be waived."); *Request for Waiver by Republic Unified Sch. Dist., Belleville, Kansas*, 17 F.C.C.R. 24596, 24600-01 (Wireline Comp. Bureau rel. Dec. 6 2002) (denying request for waiver of Form 486 120-day rule and concluding, "We cannot grant a waiver from the October 28, 2001 deadline. Although the Commission has authority to waive regulatory requirements, it does not have authority to waive a requirement imposed by statute.").

[21] *See supra*, notes 18 and 20.

[22] 47 U.S.C. § 254(h)(5)(E)(i).

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The statute then goes on to explain that the 120-day requirement for the first program funding year is applicable to "schools with internet safety policy and technology protection measures in place[.]"[23] For those schools that cannot certify compliance by the first funding year, they must certify that they are undertaking such actions to meet certification requirements, or may seek a waiver for the second funding year. There is no 120-day requirement expressly set forth in the statute in either of these latter instances.[24]

Thus, the 120-day filing deadline is statutorily mandated only in an applicant's first funding year, as defined for CIPA purposes. After that, the timing of certification is "as part of the application process for such program funding year[.]" The Commission has, by regulation, determined that CIPA compliance will be done pursuant to Form 486. More specifically, "[f]or Funding Year 2003 and for subsequent funding years, billed entities shall provide one of the certifications required under [CIPA] on an FCC Form 486 in accordance with the existing program guidelines established by the Administrator."[25]

This application process is regulatory and administrative and thus its provisions can be waived by the Commission. The District's Form 486 for FY 04 represents its third funding year for purposes of CIPA and is thus outside the statutorily mandated 120-day rule. The District properly certified CIPA compliance on its Form 486. Exh. E.

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[23] 47 U.S.C. § 254(h)(5)(E)(ii)(I).

[24] 47 U.S.C. § 254(h)(5)(E)(ii)(II)-(III).

[25] 47 C.F.R. § 54.520(g).

This Form, while not received within the 120-day window, has been received within the appropriate funding year, thus meeting the mandate of annual CIPA certification.

B. A Waiver Should be Granted to the District

The District mailed its Form 486 in early September 2004, three months before the 120-day deadline was to run. Even though the District had three remaining months to resubmit its Form 486 and still be timely, it was unaware that SLD had not received the form. While the District had not received a written notification letter from SLD indicating receipt of the Form 486, it was well known at that time that SLD was not getting these notices of receipt out in a timely manner. Exh. J. Because of this generalized knowledge that SLD was experiencing difficulties or was otherwise delayed in processing Form 486s, no concern was triggered in the District's mind when the Notification of Receipt of Form 486 did not arrive.

Additionally, the District had elected to receive discounts on bills rather than to pay the bills in full and receive retroactive reimbursement. Because it had selected this option, after submission of the Form 486, billing for the discounts would have been between the Service Provider and SLD. Without notice by one of these entities that the Form 486 had not been received, the District remained in the dark about this fact. The District continued to believe that the form it had sent had been received by SLD. Unfortunately, it was not until six months later that it received notice from its service provider that SLD had no record of receiving the District's Form 486. Upon that notice, the District immediately forwarded a copy of its previously completed Form 486.

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The District recognizes that waivers are granted on a limited basis. However, the majority of both SLD's and the Commission's denials involve requests for waiver of filing deadlines for Form 471.[26] Unlike the strict approach taken to waiver requests involving Form 471, the Commission's decisions evince a willingness to take individual considerations into account when the delayed filing is related to the Form 486. In decisions involving Form 486, the Commission cites as the appropriate standard:

> A rule may be waived where the particular facts make strict compliance inconsistent with the public interest. In addition, the Commission may take into account considerations of hardship, equity, or effective implementation of overall policy on an individual basis. In sum, waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.[27]

FCC Form 486 is quite different in function and purpose than Form 471. Most FCC decisions deny waivers for applicants filing Form 471 applications outside the filing window. All Forms 471 that are filed within the window are considered as if they had arrived on the same day, and have priority over those received after the closing date of the window.[28] It is this relative weighting between competing districts that has led the Commission to conclude that the filing deadline for Form 471 must be strictly enforced;

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[26] The FCC has recognized that different forms evince different policies and functions. *See East Lebanon*, at 6, n.38 ("emphasiz[ing]" that the FCC Form 470 "is different in purpose, form and scope from the FCC Form 486").

[27] *Request for Waiver by Woodburn Sch. Dist., Woodburn, Oregon, Federal-State Jt. Bd. on Universal Service, Changes to the Bd. of Directors of the National Exchange Carrier Assoc., Inc.,* File No. SLD-240961, CC Docket Nos. 96-45 and 97-21, Order, FCC DA 03-3054 (Wireline Comp. Bureau rel. Oct. 6, 2003) (citing cases).

[28] *Request for Waiver by Alpine County Unif. Sch. Dist., Federal-State Jt. Bd. on Universal Service, Changes to the Bd. of Directors of the National Exchange Carrier Assoc., Inc.,* 17 F.C.C.R. 1718, 1719 (Common Carrier Bur. rel. Jan. 31, 2002).

to do otherwise would reward an applicant who failed to file the application in a timely manner.

The timing of the Form 486 filing, on the other hand, is specific to an individual Applicant's service start date or receipt of the FCDL. Its purpose is not to prioritize among competing applicants based on timely versus untimely submission. Applicants must submit Form 486 indicating that services have begun and specifying a start date before SLD will accept invoices from the service provider and issue disbursements for discounts on eligible services. As explained on the USAC website, the purpose of Form 486 is "to help the SLD ensure that it pays service providers only for services that have actually been delivered[.]" The Commission has granted waivers where the Applicant "made a good faith effort to comply with the deadline by filing its original FCC Form 486 early in the funding year and by filing the corrected version shortly after being apprised of the mistake."[29] Here, the District made a good faith effort to file its Form 486 early. There is no dispute that the District's Form 486 was properly completed. The "mistake" at issue, assuming the Commission rejects the District's argument above, is that the District has been unable to prove timely mailing. However, immediately upon notice that the form had not been received, the District promptly resubmitted its Form 486.

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[29] *Woodburn*, FCC DA 03-3054; *see also Request for Review by Eastern Lebanon County Sch. Dist., Federal-State Jt. Bd. on Universal Service, Changes to the Bd. of Directors of the National Exchange Carrier Assoc. Inc.*, File No. SLD-232946, CC Docket Nos. 96-45 and 97-21, Order, 18 FCC Rcd 5466 (Wireline Comp. Bur. 2003) ("First, we find it relevant that both Applicants made a good faith effort to comply with the deadline, by filing their original FCC Forms 486 early in the funding year and by filing their corrected versions shortly after being apprised of the rejection of the originals.").

In this case, a waiver is also equitable because SLD possessed all information to know the actual service start dates, even if it did not timely receive the District's verification through Form 486. SLD had the relevant information because it requires it pursuant to an Applicant's Form 471.

The service start dates at issue were in the second year of multi-year contracts. SLD had in its possession those contracts and thus had information that would permit it to know that the services were continuing. The District's FCC Form 471, 471 Application No. 406645, contained consistent information for all FRNs submitted. Specifically, all FRNs were for eligible recurring charges for Internet Access[30] and Telecommunications Service.[31] All FRNs for Internet Access were based on Contract Number SAC-06-031-1; FRNs for Telecommunications Service were based on Contract No. SAC-06-031-2, both with Service Provider, GCI Communications Corp. All FRNs identified the "Contract Award Date: 02/02/2003" and the "Contract Expiration Date: 06/30/2006." Finally, all indicated a "Service Start Date of 07/01/2004." Exh. K.

The District provided to SLD both Service Contract No. SAC-06-031-1 ("Internet Access Service Agreement") and Service Contract No. SAC-06-031-2 (Distance Learning Circuit Agreement") in its Description of Services Requested, 471 # 406645, Attachment PY06-FY04-Attach3. Exh. L. The Internet Contract provides at Page 4: "This Service Agreement is for a term of 3 (three) years, commencing on July 1, 2003,

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[30] Internet Access services were requested in FRNs: 1114396, 1114402, 1114410, 1114418, 1114424, 1114428, 1114430, 1114433, 1114437, 1114443, and 1114456.

[31] Telecommunications Services were requested in FRNs: 1114466, 1114473, 1114477, 1114480, 1114482, 1114485, 1114486, 1114488, 1114492, 1114494, and 1114495.

and shall automatically renew for successive periods equal in length to the initial term unless terminated." The Telecommunications Contract provides at page 8: "This Service Agreement is for a term of 3 (three) years, commencing on July 1, 2003, and shall automatically renew for successive periods equal in length to the initial term unless terminated."

The Commission has recently granted waivers of filing deadlines in cases where the applicants submitted inaccurate information on their forms but SLD should have readily ascertained the error.[32] In this case, the verification of service start date was readily ascertainable because SLD requires this information to be submitted in the Applicant's Form 471. It has yet another form, Form 500, to be utilized by applicants if that service information is to be changed. The District never submitted a Form 500 and thus SLD had all information to know that the discounted services that had been approved in its August 3, 2004 FCDL were recurring services that began July 1, 2003, for a three-year term. In other words, SLD had all information to know that the "eligible entity participating in the universal support mechanism is receiving . . . service"[33] and the start date of that service.

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[32] *See Spokane Public Schools, Spokane, Wa*, File No. SLD-262911, FCC No. DA05-2178 (FCC rel. July 27, 2005); *Roosevelt Elementary SD No. 66, Phoenix, AZ*, File No. SLD-245714, FCC No. DA05-2177 (FCC rel. July 27, 2005).

[33] Form 486 Instructions at 1 ("This form is required to inform Fund Administrator, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company, that the eligible entity participating in the universal service support mechanism is receiving or is planning to receive services.").

At a minimum, the public policy interests in granting a waiver should take the above into consideration. SLD should be deemed to know information within its files when its own rules require multiple submissions of the same information. Ultimately, a waiver is appropriate if the underlying policy involved is furthered, rather than hindered, by the granting of a waiver. USAC explains the purpose of Form 486 "to help the SLD ensure that it pays service providers only for services that have actually been delivered[.]" A waiver in this case would pay for services actually delivered. On the other hand, application of the 120-day rule hinders this goal, leaving months of services uncompensated, despite the fact that funding for these services had been approved and SLD had all information to know those services were being delivered.

VI. CONCLUSION

As a result of SLD's decision, the District has lost funding for the period July 1, 2004, to November 14, 2004, for each FRN, in the total amount of approximately $350,000. This significant monetary is disproportionately penalizing when the facts and circumstances are considered:

1. The Form 486 was created on September 3, 2004.
2. The Form 486 was signed on September 3, 2004.
3. The District has provided affidavit testimony and other corroborating evidence that the Form 486 was mailed on that same date.
4. Unfortunately, the District is unable to provide documentary proof of that mailing, or of receipt of the Form 486 by SLD.

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5. The District's Form 471 Application for $1,050,617.83 had been approved by SLD on August 3, 2004.

6. There is no dispute that the service provider had been providing service continuously through a multi-year contract since July 1, 2003.

7. There has been absolutely no prejudice to SLD because SLD funding for the District was already committed and the actual services provided.

For these reasons, the District asks that the Commission grant this appeal and conclude that the District's Form 486 for FY04 was timely filed. In the alternative, the District hopes the Commission will conclude that a waiver is appropriate in light of its good faith attempts at compliance and the multi-year services at issue.

DATED at Anchorage, Alaska this 24th day of August, 2005.

JERMAIN DUNNAGAN & OWENS, P.C.

By: _____
Andrena L. Stone
Alaska Bar No. 9411127

CERTIFICATE OF SERVICE

This is to certify that on this 24th day of August, 2005, a true and correct copy of the foregoing was mailed, postage pre-paid, to:

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

Jeanine M. Huston

Jeanine M. Huston

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EXHIBIT A

Administrator's Decision on Appeal – Funding Year 2004-2005

June 29, 2005

Karl Kowalski
Northwest Arctic Borough School District
P.O. Box 51
Kotzebue, AK 99752

Re:	Applicant Name:	NORTHWEST ARCTIC BORO SCH DIST
	Billed Entity Number:	145645
	Form 471 Application Number:	406645
	Form 486 Application Number:	296302
	Funding Request Number(s):	1114396, 1114402, 1114410, 1114418, 1114424, 1114428, 1114430, 1114433, 1114437, 1114443, 1114456, 1114466, 1114473, 1114477, 1114480, 1114482, 1114485, 1114486, 1114488, 1114492, 1114494, 1114495
	Your Correspondence Dated:	April 07, 2005

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 Funding Year 2004 Form 486 Notification Letter for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-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 you will receive a separate letter for each application.

Funding Request Number(s):	1114396, 1114402, 1114410, 1114418, 1114424, 1114428, 1114430, 1114433, 1114437, 1114443, 1114456, 1114466, 1114473, 1114477, 1114480, 1114482, 1114485, 1114486, 1114488, 1114492, 1114494, 1114495
Decision on Appeal:	**Denied**

Explanation:

- On appeal, you seek reversal of the SLD's decision to adjust the Service Start Date and reduce the funding request commitment amounts for violating the Form 486 120-day deadline. In support of your request, you state that the District used

eRateManager online to create your Form 486 prior to mailing. Although you did not mail the Form 486 certified, you have included a screen shot of the eRateManager as proof that you created the Form 486 on September 3, 2004. You also include an email inquiry from your vendor where you advise your vendor that you have already filed the Form 486 for the services and an email reminder from your State E-rate Coordinator, dated September 24, 2004, advising you to file the Form 486. You assert that the e-mail inquiry from the vendor and the e-mail reminder from the Sate E-Rate Coordinator would have prompted you to file the Form 486 on-time if you had not already done so prior to these e-mails. Finally, you have included with your appeal a copy of the original Form 486.

- Upon thorough review of the appeal letter, the relevant facts, and supporting documentation, the SLD has determined that the Form 486 for these funding requests should have been filed within 120-days calculated from the issuance date of the Funding Commitment Decision Letter or the Service Start Date as indicated on the Form 486, whichever is later. It is your responsibility to ensure that all Forms are submitted to SLD in a timely and correct manner and to provide proof of mailing when needed. Since the documentation provided on appeal did not support proof of mailing, the FRN was justly processed in accordance with the rules of the Support Mechanism. You have failed to provide evidence on appeal that SLD has erred in its determination.

- The date of your Funding Commitment Decision Letter (FCDL) for Form 471 application 406645 was 08/03/2004. The Service Start Date reported on your Form 486 was 07/01/2004. The postmark date of your Form 486 was 03/15/2005. Since your FCC Form 486 was postmarked more than 120 days after your Service Start Date or the date of your FCDL, whichever is later, the SLD has revised your Service Start Date to the date 120 days before your Form 486 postmark date and reduced your funding commitment amount based on the adjusted Service Start Date.

  The "Form 486 must be postmarked no later than 120 days after the Service Start Date featured on the Form 486 or no later than 120 days after the date of the Funding Commitment Decision Letter, whichever is later." See 2004 Funding Commitment Decision Letter, Universal Service for Schools and Libraries, Receipt of Service Confirmation Form, OMB 3060-0853, Instructions at 6. Since your Form 486 was postmarked after the 120 day filing requirement, the SLD has modified your service start date. The facts present in this appeal do not justify waiving the 120 day filing requirement. Consequently, your appeal is denied.

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either the SLD or the FCC. For appeals that have been denied in full, partially approved, dismissed, or cancelled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options

for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

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

Schools and Libraries Division
Universal Service Administrative Company

EXHIBIT B

FUNDING COMMITMENT DECISION LETTER

(Funding Year 2004: 07/01/2004 - 06/30/2005)

August 3, 2004

Karl Kowalski
NORTHWEST ARCTIC BORO SCH DIST
PO BOX 51
KOTZEBUE, AK 99752-0051

Re: Form 471 Application Number: 406645
Funding Year 2004: 07/01/2004 - 06/30/2005
Billed Entity Number: 145645
Applicant's Form Identifier: PY7-FY05-471B

Thank you for your Funding Year 2004 E-rate application and for any assistance you provided throughout our review. Here is the current status of the funding request(s) featured in the Funding Commitment Report at the end of this letter.

- The amount, $1,050,617.83 is "Approved."

Please refer to the Funding Commitment Report on the page following this letter for specific funding request decisions and explanations.

The Important Reminders and Deadlines immediately preceding this letter are provided to assist you throughout the application process.

NEXT STEPS

- Review technology planning approval requirements
- Review CIPA Requirements
- File Form 486
- Invoice the SLD using the Form 474 (service providers) or Form 472 (Billed Entity)

FUNDING COMMITMENT REPORT

On the pages following this letter, we have provided a Funding Commitment Report for the Form 471 application cited above. The enclosed report includes a list of the Funding Request Number(s) (FRNs) from your application. The SLD is also sending this information to your service provider(s) so preparations can be made to begin implementing your E-rate discount(s) after you file your Form 486. Immediately preceding the Funding Commitment Report, you will find a guide that provides a definition for each line of the Report.

TO APPEAL THIS DECISION:

If you wish to appeal the decision indicated in this letter, your appeal must be received by the SLD or postmarked withing 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and e-mail address (if available) for the person who can most readily discuss this appeal with us.

2. State outright that your letter is an appeal. Identify which Funding Commitment Decision(s) you are appealing. Indicate the relevant funding year and the date of the FCDL. Your letter of appeal must also include the Billed Entity Name, the

Form 471 Application Number, and the Billed Entity Number from the top of your letter.

3. When explaining your appeal, copy the language or text from the Funding Commitment Report that is at the heart of your appeal, to allow the SLD to more readily understand your appeal and respond appropriately. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep copies of your correspondence and documentation.

4. Provide an authorized signature on your letter of appeal.

If you are submitting your appeal on paper, please send your appeal to: Letter of Appeal Schools and Libraries Division, Box 125 - Correspondence Unit, 80 South Jefferson Road, Whippany, NJ 07981. Additional options for filing an appeal can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We encourage the use of either the e-mail or fax filing options.

While we encourage you to resolve your appeal with the SLD first, you have the option of filing an appeal directly with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received by the FCC or postmarked within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, sent to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use either the e-mail or fax filing options.

NOTICE ON RULES AND FUNDS AVAILABILITY

Applicants' receipt of funding commitments is contingent on their compliance with all statutory, regulatory, and procedural requirements of the Schools and Libraries Universal Service Support Mechanism. Applicants who have received funding commitments continue to be subject to audits and other reviews that USAC and/or the FCC may undertake periodically to assure that funds that have been committed are being used in accordance with all such requirements. The SLD may be required to reduce or cancel funding commitments that were not issued in accordance with such requirements, whether due to action or inaction, including but not limited to that by the SLD, the applicant, or the service provider. The SLD, and other appropriate authorities (including but not limited to USAC and the FCC), may pursue enforcement actions and other means of recourse to collect erroneously disbursed funds. The timing of payment of invoices may also be affected by the availability of funds based on the amount of funds collected from contributing telecommunications companies.

Schools and Libraries Division
Universal Service Administrative Company

A GUIDE TO THE FUNDING COMMITMENT REPORT

A report for each E-rate funding request from your application is attached to this letter. We are providing the following definitions for the items in that report.

FORM 471 APPLICATION NUMBER: The unique identifier assigned to a Form 471 application by the SLD.

FUNDING REQUEST NUMBER (FRN): A Funding Request Number is assigned by the SLD to each Block 5 of your Form 471 once an application has been processed. This number is used to report to applicants and service providers the status of individual funding requests submitted on a Form 471.

FUNDING STATUS: Each FRN will have one of the following definitions:

1. An FRN that is "Funded" is approved at the level that the SLD determined is appropriate for this FRN. The funding level will generally be the level requested unless the SLD determines during the application review process that some adjustment is appropriate.

2. An FRN that is "Not Funded" is one for which no funds were committed. The reason for the decision will be briefly explained in the "Funding Commitment Decision Explanation." An FRN may be "Not Funded" because the request does not comply with program rules, or because the total amount of funding available for this Funding Year was insufficient to fund all requests.

3. An FRN that is "As Yet Unfunded" reflects a temporary status that is assigned to an FRN when the SLD is uncertain at the time the letter is generated whether there will be sufficient funds to make commitments for requests for Internal Connections at a particular discount level. For example, if your application included requests for discounts on both Telecommunications Services and Internal Connections, you might receive a letter with funding commitments for your Telecommunications Services funding requests and a message that your Internal Connect requests are "As Yet Unfunded." You would receive one or more subsequent letters regarding the funding decision on your Internal Connections requests.

SERVICES ORDERED: The type of service ordered from the service provider, as shown on your Form 471.

SPIN (Service Provider Identification Number): A unique number assigned by the Universal Service Administrative Company to service providers seeking payment from the Universal Service Fund for participating in the universal service support mechanisms. A SPIN is also used to verify delivery of services and to arrange for payment.

SERVICE PROVIDER NAME: The legal name of the service provider.

CONTRACT NUMBER: The number of the contract between the eligible party and the service provider. This will be present only if a contract number was provided on your Form 471.

BILLING ACCOUNT NUMBER: The account number that your service provider has established with you for billing purposes. This will be present only if a Billing Account Number was provided on your Form 471.

SERVICE START DATE: The date services were reported to start for this FRN on your Form 47

CONTRACT EXPIRATION DATE: The date the contract expires. This will be present only if a contract expiration date was provided on your Form 471.

SITE IDENTIFIER: The Entity Number listed in Form 471, Block 5, Item 22a. This will be present only for "site specific" FRNs.

ANNUAL PRE-DISCOUNT AMOUNT FOR ELIGIBLE RECURRING CHARGES: Eligible monthly pre-discount amount approved for recurring charges multiplied by number of months of recurring service approved for the funding year.

ANNUAL PRE-DISCOUNT AMOUNT FOR ELIGIBLE NON-RECURRING CHARGES: Annual eligible non-recurring charges approved for the funding year.

PRE-DISCOUNT AMOUNT: Amount in Form 471, Block 5, Item 23I, as determined through the application review process.

DISCOUNT PERCENTAGE APPROVED BY THE SLD: The discount rate that the SLD has approved for this service.

FUNDING COMMITMENT DECISION: This represents the total amount of funding that the SLD has reserved to reimburse your service provider for the approved discounts for this service for this funding year. It is important that you and your service provider both recognize that the SLD should be invoiced and the SLD may direct disbursement of discounts only for eligible, approved services actually rendered.

FUNDING COMMITMENT DECISION EXPLANATION: This entry provides an explanation of the amount in the "Funding Commitment Decision."

FUNDING COMMITMENT REPORT

Form 471 Application Number: 406645
Funding Request Number: 1114396 Funding Status: Funded
Services Ordered: Internet Access
SPIN: 143001199 Service Provider Name: GCI Communication Corp
Contract Number: SAC-06-031-1
Billing Account Number: NA
Service Start Date: 07/01/2004
Contract Expiration Date: 06/30/2006
Site Identifier: 117576
Annual Pre-discount Amount for Eligible Recurring Charges: $57,883.68
Annual Pre-discount Amount for Eligible Non-recurring Charges: $.00
Pre-discount Amount: $57,883.68
Discount Percentage Approved by the SLD: 80%
Funding Commitment Decision: $46,306.94 - FRN approved as submitted

Funding Request Number: 1114402 Funding Status: Funded
Services Ordered: Internet Access
SPIN: 143001199 Service Provider Name: GCI Communication Corp
Contract Number: SAC-06-031-1
Billing Account Number: NA
Service Start Date: 07/01/2004
Contract Expiration Date: 06/30/2006
Site Identifier: 117502
Annual Pre-discount Amount for Eligible Recurring Charges: $57,883.68
Annual Pre-discount Amount for Eligible Non-recurring Charges: $.00
Pre-discount Amount: $57,883.68
Discount Percentage Approved by the SLD: 90%
Funding Commitment Decision: $52,095.31 - FRN approved as submitted

Funding Request Number: 1114410 Funding Status: Funded
Services Ordered: Internet Access
SPIN: 143001199 Service Provider Name: GCI Communication Corp
Contract Number: SAC-06-031-1
Billing Account Number: NA
Service Start Date: 07/01/2004
Contract Expiration Date: 06/30/2006
Site Identifier: 117506
Annual Pre-discount Amount for Eligible Recurring Charges: $57,883.68
Annual Pre-discount Amount for Eligible Non-recurring Charges: $.00
Pre-discount Amount: $57,883.68
Discount Percentage Approved by the SLD: 90%
Funding Commitment Decision: $52,095.31 - FRN approved as submitted

Funding Request Number: 1114418 Funding Status: Funded
Services Ordered: Internet Access
SPIN: 143001199 Service Provider Name: GCI Communication Corp
Contract Number: SAC-06-031-1
Billing Account Number: NA
Service Start Date: 07/01/2004
Contract Expiration Date: 06/30/2006
Site Identifier: 117530
Annual Pre-discount Amount for Eligible Recurring Charges: $57,883.68
Annual Pre-discount Amount for Eligible Non-recurring Charges: $.00
Pre-discount Amount: $57,883.68
Discount Percentage Approved by the SLD: 80%
Funding Commitment Decision: $46,306.94 - FRN approved as submitted

FUNDING COMMITMENT REPORT

Form 471 Application Number: 406645
Funding Request Number: 1114424 Funding Status: Funded
Services Ordered: Internet Access
SPIN: 143001199 Service Provider Name: GCI Communication Corp
Contract Number: SAC-06-031-1
Billing Account Number: NA
Service Start Date: 07/01/2004
Contract Expiration Date: 06/30/2006
Site Identifier: 117532
Annual Pre-discount Amount for Eligible Recurring Charges: $57,883.68
Annual Pre-discount Amount for Eligible Non-recurring Charges: $.00
Pre-discount Amount: $57,883.68
Discount Percentage Approved by the SLD: 90%
Funding Commitment Decision: $52,095.31 - FRN approved as submitted

Funding Request Number: 1114428 Funding Status: Funded
Services Ordered: Internet Access
SPIN: 143001199 Service Provider Name: GCI Communication Corp
Contract Number: SAC-06-031-1
Billing Account Number: NA
Service Start Date: 07/01/2004
Contract Expiration Date: 06/30/2006
Site Identifier: 117533
Annual Pre-discount Amount for Eligible Recurring Charges: $57,883.68
Annual Pre-discount Amount for Eligible Non-recurring Charges: $.00
Pre-discount Amount: $57,883.68
Discount Percentage Approved by the SLD: 90%
Funding Commitment Decision: $52,095.31 - FRN approved as submitted

Funding Request Number: 1114430 Funding Status: Funded
Services Ordered: Internet Access
SPIN: 143001199 Service Provider Name: GCI Communication Corp
Contract Number: SAC-06-031-1
Billing Account Number: NA
Service Start Date: 07/01/2004
Contract Expiration Date: 06/30/2006
Site Identifier: 117544
Annual Pre-discount Amount for Eligible Recurring Charges: $57,883.68
Annual Pre-discount Amount for Eligible Non-recurring Charges: $.00
Pre-discount Amount: $57,883.68
Discount Percentage Approved by the SLD: 80%
Funding Commitment Decision: $46,306.94 - FRN approved as submitted

Funding Request Number: 1114433 Funding Status: Funded
Services Ordered: Internet Access
SPIN: 143001199 Service Provider Name: GCI Communication Corp
Contract Number: SAC-06-031-1
Billing Account Number: NA
Service Start Date: 07/01/2004
Contract Expiration Date: 06/30/2006
Site Identifier: 117550
Annual Pre-discount Amount for Eligible Recurring Charges: $57,883.68
Annual Pre-discount Amount for Eligible Non-recurring Charges: $.00
Pre-discount Amount: $57,883.68
Discount Percentage Approved by the SLD: 80%
Funding Commitment Decision: $46,306.94 - FRN approved as submitted

FUNDING COMMITMENT REPORT

Form 471 Application Number: 406645
Funding Request Number: 1114437 Funding Status: Funded
Services Ordered: Internet Access
SPIN: 143001199 Service Provider Name: GCI Communication Corp
Contract Number: SAC-06-031-1
Billing Account Number: NA
Service Start Date: 07/01/2004
Contract Expiration Date: 06/30/2006
Site Identifier: 117560
Annual Pre-discount Amount for Eligible Recurring Charges: $57,883.68
Annual Pre-discount Amount for Eligible Non-recurring Charges: $.00
Pre-discount Amount: $57,883.68
Discount Percentage Approved by the SLD: 90%
Funding Commitment Decision: $52,095.31 - FRN approved as submitted

Funding Request Number: 1114443 Funding Status: Funded
Services Ordered: Internet Access
SPIN: 143001199 Service Provider Name: GCI Communication Corp
Contract Number: SAC-06-031-1
Billing Account Number: NA
Service Start Date: 07/01/2004
Contract Expiration Date: 06/30/2006
Site Identifier: 117563
Annual Pre-discount Amount for Eligible Recurring Charges: $57,883.68
Annual Pre-discount Amount for Eligible Non-recurring Charges: $.00
Pre-discount Amount: $57,883.68
Discount Percentage Approved by the SLD: 90%
Funding Commitment Decision: $52,095.31 - FRN approved as submitted

Funding Request Number: 1114456 Funding Status: Funded
Services Ordered: Internet Access
SPIN: 143001199 Service Provider Name: GCI Communication Corp
Contract Number: SAC-06-031-1
Billing Account Number: NA
Service Start Date: 07/01/2004
Contract Expiration Date: 06/30/2006
Annual Pre-discount Amount for Eligible Recurring Charges: $84,163.68
Annual Pre-discount Amount for Eligible Non-recurring Charges: $.00
Pre-discount Amount: $84,163.68
Discount Percentage Approved by the SLD: 60%
Funding Commitment Decision: $50,498.21 - FRN approved as submitted

Funding Request Number: 1114466 Funding Status: Funded
Services Ordered: Telecommunications Service
SPIN: 143001199 Service Provider Name: GCI Communication Corp
Contract Number: SAC-06-031-2
Billing Account Number: NA
Service Start Date: 07/01/2004
Contract Expiration Date: 06/30/2006
Site Identifier: 117576
Annual Pre-discount Amount for Eligible Recurring Charges: $54,600.00
Annual Pre-discount Amount for Eligible Non-recurring Charges: $.00
Pre-discount Amount: $54,600.00
Discount Percentage Approved by the SLD: 80%
Funding Commitment Decision: $43,680.00 - FRN approved as submitted

FUNDING COMMITMENT REPORT

Form 471 Application Number: 406645
Funding Request Number: 1114473 Funding Status: Funded
Services Ordered: Telecommunications Service
SPIN: 143001199 Service Provider Name: GCI Communication Corp
Contract Number: SAC-06-031-2
Billing Account Number: NA
Service Start Date: 07/01/2004
Contract Expiration Date: 06/30/2006
Site Identifier: 117502
Annual Pre-discount Amount for Eligible Recurring Charges: $54,600.00
Annual Pre-discount Amount for Eligible Non-recurring Charges: $.00
Pre-discount Amount: $54,600.00
Discount Percentage Approved by the SLD: 90%
Funding Commitment Decision: $49,140.00 - FRN approved as submitted

Funding Request Number: 1114477 Funding Status: Funded
Services Ordered: Telecommunications Service
SPIN: 143001199 Service Provider Name: GCI Communication Corp
Contract Number: SAC-06-031-2
Billing Account Number: NA
Service Start Date: 07/01/2004
Contract Expiration Date: 06/30/2006
Site Identifier: 117506
Annual Pre-discount Amount for Eligible Recurring Charges: $54,600.00
Annual Pre-discount Amount for Eligible Non-recurring Charges: $.00
Pre-discount Amount: $54,600.00
Discount Percentage Approved by the SLD: 90%
Funding Commitment Decision: $49,140.00 - FRN approved as submitted

Funding Request Number: 1114480 Funding Status: Funded
Services Ordered: Telecommunications Service
SPIN: 143001199 Service Provider Name: GCI Communication Corp
Contract Number: SAC-06-031-2
Billing Account Number: NA
Service Start Date: 07/01/2004
Contract Expiration Date: 06/30/2006
Site Identifier: 117530
Annual Pre-discount Amount for Eligible Recurring Charges: $54,600.00
Annual Pre-discount Amount for Eligible Non-recurring Charges: $.00
Pre-discount Amount: $54,600.00
Discount Percentage Approved by the SLD: 80%
Funding Commitment Decision: $43,680.00 - FRN approved as submitted

Funding Request Number: 1114482 Funding Status: Funded
Services Ordered: Telecommunications Service
SPIN: 143001199 Service Provider Name: GCI Communication Corp
Contract Number: SAC-06-031-2
Billing Account Number: NA
Service Start Date: 07/01/2004
Contract Expiration Date: 06/30/2006
Site Identifier: 117533
Annual Pre-discount Amount for Eligible Recurring Charges: $54,600.00
Annual Pre-discount Amount for Eligible Non-recurring Charges: $.00
Pre-discount Amount: $54,600.00
Discount Percentage Approved by the SLD: 90%
Funding Commitment Decision: $49,140.00 - FRN approved as submitted

FUNDING COMMITMENT REPORT

Form 471 Application Number: 406645
Funding Request Number: 1114485 Funding Status: Funded
Services Ordered: Telecommunications Service
SPIN: 143001199 Service Provider Name: GCI Communication Corp
Contract Number: SAC-06-031-2
Billing Account Number: NA
Service Start Date: 07/01/2004
Contract Expiration Date: 06/30/2006
Site Identifier: 117532
Annual Pre-discount Amount for Eligible Recurring Charges: $54,600.00
Annual Pre-discount Amount for Eligible Non-recurring Charges: $.00
Pre-discount Amount: $54,600.00
Discount Percentage Approved by the SLD: 90%
Funding Commitment Decision: $49,140.00 - FRN approved as submitted

Funding Request Number: 1114486 Funding Status: Funded
Services Ordered: Telecommunications Service
SPIN: 143001199 Service Provider Name: GCI Communication Corp
Contract Number: SAC-06-031-2
Billing Account Number: NA
Service Start Date: 07/01/2004
Contract Expiration Date: 06/30/2006
Site Identifier: 117544
Annual Pre-discount Amount for Eligible Recurring Charges: $54,600.00
Annual Pre-discount Amount for Eligible Non-recurring Charges: $.00
Pre-discount Amount: $54,600.00
Discount Percentage Approved by the SLD: 80%
Funding Commitment Decision: $43,680.00 - FRN approved as submitted

Funding Request Number: 1114488 Funding Status: Funded
Services Ordered: Telecommunications Service
SPIN: 143001199 Service Provider Name: GCI Communication Corp
Contract Number: SAC-06-031-2
Billing Account Number: NA
Service Start Date: 07/01/2004
Contract Expiration Date: 06/30/2006
Site Identifier: 117550
Annual Pre-discount Amount for Eligible Recurring Charges: $54,600.00
Annual Pre-discount Amount for Eligible Non-recurring Charges: $.00
Pre-discount Amount: $54,600.00
Discount Percentage Approved by the SLD: 80%
Funding Commitment Decision: $43,680.00 - FRN approved as submitted

Funding Request Number: 1114492 Funding Status: Funded
Services Ordered: Telecommunications Service
SPIN: 143001199 Service Provider Name: GCI Communication Corp
Contract Number: SAC-06-031-2
Billing Account Number: NA
Service Start Date: 07/01/2004
Contract Expiration Date: 06/30/2006
Site Identifier: 117560
Annual Pre-discount Amount for Eligible Recurring Charges: $54,600.00
Annual Pre-discount Amount for Eligible Non-recurring Charges: $.00
Pre-discount Amount: $54,600.00
Discount Percentage Approved by the SLD: 90%
Funding Commitment Decision: $49,140.00 - FRN approved as submitted

FUNDING COMMITMENT REPORT

Form 471 Application Number: 406645
Funding Request Number: 1114494 Funding Status: Funded
Services Ordered: Telecommunications Service
SPIN: 143001199 Service Provider Name: GCI Communication Corp
Contract Number: SAC-06-031-2
Billing Account Number: NA
Service Start Date: 07/01/2004
Contract Expiration Date: 06/30/2006
Site Identifier: 117563
Annual Pre-discount Amount for Eligible Recurring Charges: $54,600.00
Annual Pre-discount Amount for Eligible Non-recurring Charges: $.00
Pre-discount Amount: $54,600.00
Discount Percentage Approved by the SLD: 90%
Funding Commitment Decision: $49,140.00 - FRN approved as submitted

Funding Request Number: 1114495 Funding Status: Funded
Services Ordered: Telecommunications Service
SPIN: 143001199 Service Provider Name: GCI Communication Corp
Contract Number: SAC-06-031-2
Billing Account Number: NA
Service Start Date: 07/01/2004
Contract Expiration Date: 06/30/2006
Annual Pre-discount Amount for Eligible Recurring Charges: $54,600.00
Annual Pre-discount Amount for Eligible Non-recurring Charges: $.00
Pre-discount Amount: $54,600.00
Discount Percentage Approved by the SLD: 60%
Funding Commitment Decision: $32,760.00 - FRN approved as submitted

EXHIBIT C

REQUEST FOR REVIEW AND REQUEST FOR WAIVER
before the
FEDERAL COMMUNICATIONS COMMISSION

CC Docket No. 02-06

Re: Applicant Name: NORTHWEST ARCTIC BOROUGH SCHOOL DISTRICT
Billed Entity No.: 145645
Funding Year 2004: 07/01/2004-06/30/2005
Form 471 Application No.: 406645
Form 486 Application No.: 296302
Funding Request Number(s): 1114396, 1114402, 1114410, 1114418, 1114424, 1114428, 1114430, 1114433, 1114437, 1114443, 1114456, 1114466, 1114473, 1114477, 1114480, 1114482, 1114485, 1114486, 1114488, 1114492, 1114494, 1114495

AFFIDAVIT OF KARL KOWALSKI

STATE OF ALASKA)
) ss:
SECOND JUDICIAL DISTRICT)

Karl Kowalski, being first duly sworn, states and alleges as follows:

1. I am employed by the Northwest Arctic Borough School District, Billed Entity #145645, as its Director of Instructional Technology and Information Services. I am responsible for preparation of required forms for the Schools and Libraries Universal Service Program.

2. On or about August 13, 2004, the District received a Funding Commitment Decision Letter dated August 3, 2004, approving the District's FY 2004 funding requests in the amount of $1,050,617.83.

3. On September 3, 2004, I used eRateManager online to create the District's FCC Form 486. I decided to print and mail the Form 486 rather than submit it electronically because electronic submission requires re-entry of all the data and is thus more time intensive.

4. After completing the form on eRateManager, I printed it out and signed it as the District's authorized person. The Form 486 was completed and signed by me on September 3, 2004.

5. Upon signing the Form 486, I instructed my assistant, Rhonda Campbell, to make a copy of the Form 486 and mail the original to the address designated in the Form 486 Instructions: SLD-Form 486, P.O. Box 7026, Lawrence, Kansas 66044-7026. I advised her that it could be sent regular mail as I had prepared the document well before the 120-day deadline.

6. The District has in place standard procedures for the mailing of documents to be sent through the United States Postal Service. While the District serves students in eleven (11) rural communities, the District administrative office is located in Kotzebue, Alaska, where the Technology Department is housed. The District office in Kotzebue contains a central mail drop that consists of an internal mail bin where all mail to be sent via the United States Postal Service is deposited. Once mail has been addressed and stamped, it is placed in the central mail drop. Approximately two times each work day, an employee from the District's Maintenance Department collects all mail in the central mail drop and delivers it to the United States Postal Service office in Kotzebue, Alaska.

7. To the best of my knowledge, the Form 486 that I prepared and signed on September 3, 2004, was properly addressed, stamped, and delivered to the United States Postal Service in Kotzebue, Alaska on September 3, 2004, following utilization of the District's standard operating procedures for mailing.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

DATED at Kotzebue, Alaska this 23 day of August, 2005.

Karl Kowalski, Director
Instructional Technology and Information Services

SUBSCRIBED AND SWORN to before me this 23rd August, 2005.

Notary Public in and for Alaska
My Commission Expires: 03-01-06

EXHIBIT D

REQUEST FOR REVIEW AND REQUEST FOR WAIVER
before the
FEDERAL COMMUNICATIONS COMMISSION

CC Docket No. 02-06

Re: Applicant Name: NORTHWEST ARCTIC BOROUGH SCHOOL DISTRICT
Billed Entity No.: 145645
Funding Year 2004: 07/01/2004-06/30/2005
Form 471 Application No.: 406645
Form 486 Application No.: 296302
Funding Request Number(s): 1114396, 1114402, 1114410, 1114418, 1114424, 1114428, 1114430, 1114433, 1114437, 1114443, 1114456, 1114466, 1114473, 1114477, 1114480, 1114482, 1114485, 1114486, 1114488, 1114492, 1114494, 1114495

AFFIDAVIT OF RHONDA CAMPBELL

STATE OF ALASKA)
) ss:
SECOND JUDICIAL DISTRICT)

Rhonda Campbell, being first duly sworn, states and alleges as follows:

1. I am employed by the Northwest Arctic Borough School District. My work location is the District administrative office in Kotzebue, Alaska, where I work as a Secretary II. In this capacity, I provide support services to the District's Department of Instructional Technology and Information Services and report directly to Karl Kowalski, Director, Instructional Technology and Information Services. I provide assistance to Mr. Kowalski in mailing required forms for the Schools and Libraries Universal Service Program.

2. On September 3, 2004, Mr. Kowalski provided me with a completed and signed copy of the District's FCC Form 486. He asked that I make a copy of the Form 486 and mail the original. I specifically recall this instance as Mr. Kowalski usually instructs me to send FCC e-Rate forms certified mail, return receipt requested. He indicated that in this instance the Form 486 was a verification form that could be sent regular mail because the District was filing it well before the deadline.

3. I made a copy of the original, signed Form 486 for the District's files. I then prepared a mailing envelope for the original, utilizing the address instructed by Mr. Kowalski from the Form 486: SLD-Form 486, P.O. Box 7026, Lawrence, Kansas 66044-7026. I deposited the original form into the mailing envelope and applied the proper postage.

4. District mail that is to be sent regular mail via the United States Postal Service is deposited in a central mail drop in the District's office. Twice each day, an employee from the District's maintenance department collects the mail from the central mail drop and delivers it to the Kotzebue Post Office.

5. I placed the properly addressed and stamped FCC Form 486 in the District's central mail drop on September 3, 2004, the same day I was directed by Mr. Kowalski to mail the form. To the best of my knowledge, all mail placed in the central mail drop on September 3, 2004 was picked up and delivered to the United States Postal Service, Kotzebue, Alaska.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

DATED at Kotzebue, Alaska this 23rd day of August, 2005.

Rhonda Campbell

Rhonda Campbell

SUBSCRIBED AND SWORN to before me this 23rd August, 2005.

Notary Public in and for Alaska
My Commission Expires: 03-01-06

EXHIBIT E

FCC Form
486

Do Not Write In This Area

Approval by OMB
3060-0853

Schools and Libraries Universal Service
Receipt of Service Confirmation Form

FCC Form 486: To be completed by the Billed Entity
Please read instructions before completing.

Estimated Average Burden Hours For First Submission: 15.0 hours
For Subsequent Submissions: 1.5 hours

Applicant's Form Identifier P Y 7 - 4 8 6 A (Create your own code to identify THIS Form 486.)	Form 486 Application # _____ (To be inserted by Fund Administrator)

Block 1: Billed Entity Information

1. Name of Billed Entity

N O R T H W E S T A R C T I C B O R O S C H D I S T

2. Billed Entity Number

1 4 5 6 4 5

3. Funding Year

2 0 0 4

4. Complete Mailing Address of Billed Entity
Street Address, P.O. Box or Route Number

P O B O X 5 1 ,

City

K O T Z E B U E

State Zip Code

A K 9 9 7 5 2

Telephone Number

9 0 7 4 4 2 3 4 7 2

Extension

Fax Number

9 0 7 4 4 2 2 5 9 1

Email Address

k k o w a l s k i @ n w a r c t i c . o r g

0 4 8 6 0 1 0 1 0 3

Entity Number	145645	Applicant's Form Identifier	7-486A
Contact Person	Karl Kowalski	Phone Number	9074423472

5. Contact Person Information

Contact Person Name

K a r l K o w a l s k i

Street Address, P.O. Box or Route Number

P O B o x 5 1 , 7 4 4 T h i r d S t r e e t

City

K o t z e b u e

State Zip Code

A K 9 9 7 5 2

Check the box next to the preferred mode of contact. (At least one box MUST be checked.)

Telephone Number	Extension	Fax Number
9 0 7 4 4 2 3 4 7 2		9 0 7 4 4 2 2 5 9 1

X Email Address

k k o w a l s k i @ n w a r c t i c . o r g

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: 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 form will be used to inform the Schools and Libraries Division of the Universal Service Administrative Company that a billed entity, and/or the schools and libraries that it represents, has begun or has planned to begin to receive service after receiving a funding commitment approval pursuant to FCC Form 471.

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 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 an 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 in a proceeding before the body or has an interest in the proceeding. In addition, consistent with the Communications Act of 1934, FCC regulations and orders, the Freedom of Information Act, 5 U.S.C. § 552, or other applicable law, information provided in or submitted with this form or in response to subsequent inquiries may be disclosed to the public.

If you do not provide the information requested on the form, your application may be returned without action or your application may be delayed.

The foregoing Notice is required by 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 15.0 hours for the first submission and 1.5 hours for subsequent submissions, 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.

0 4 8 6 0 1 0 2 0 3

Entity Number	145645	Applicant's Form Identifier	-486A
Contact Person	Karl Kowalski	Phone Number	9074423472

Block 2: Early Filing Information and CIPA Waiver Requests

6a. Early Filing

CHECK THE BOX BELOW IF THE FRNS ON THIS FORM 486 ARE FOR SERVICES STARTING ***ON OR BEFORE*** JULY 31 OF THE FUNDING YEAR.

The Funding Requests listed in Block 3 have been approved by SLD as shown in my Funding Commitment Decision Letter (FCDL). I have confirmed with the service provider(s) featured in those Funding Requests that these services will start on or before July 31 of the Funding Year.

Remember: Early filing using Item 6a is an option if and ONLY if services will start within the month of July of the relevant Funding Year, all relevant certifications in Block 4 can be accurately made, and the Form 486 is postmarked on or before July 31 of the Funding Year.

6b. CIPA Waiver

CHECK THE BOX BELOW IF YOU ARE REQUESTING A WAIVER OF CIPA REQUIREMENTS FOR THE SECOND FUNDING YEAR AFTER APRIL 20, 2001 IN WHICH YOU HAVE APPLIED FOR DISCOUNTS IF YOU AS THE BILLED ENTITY ARE THE ADMINISTRATIVE AUTHORITY.

I am providing notification that, as of the date of the start of discounted services, I am unable to make the certifications required by the Children's Internet Protection Act, as codified at 47 U.S.C. § 254(h) and (l), because my state or local procurement rules or regulations or competitive bidding requirements prevent the making of the certification(s) otherwise required. I certify that the schools or libraries represented in the Funding Request Number(s) on this Form 486 will be brought into compliance with the CIPA requirements before the start of the Third Funding Year after April 20, 2001 in which they apply for discounts.

6c. CIPA Waiver for Libraries for Funding Year 2004

CHECK THE BOX BELOW IF YOU ARE REQUESTING A WAIVER OF CIPA REQUIREMENTS FOR FUNDING YEAR 2004 IF YOU AS THE BILLED ENTITY ARE THE ADMINISTRATIVE AUTHORITY FOR THE LIBRARY(IES) REPRESENTED ON THIS FORM 486.

I am providing notification that, as of the date of the start of discounted services in Funding Year 2004, I am unable to make the certifications required by the Children's Internet Protection Act, as codified at 47 U.S.C. § 254(h) and (l), because my state or local procurement rules or regulations or competitive bidding requirements prevent the making of the certification(s) otherwise required. I certify that the libraries represented in the Funding Request Number(s) on this Form 486 will be brought into compliance with the CIPA requirements before the start of the Funding Year 2005.

0 4 8 6 0 1 0 3 0 3