

OHIO PUBLIC LIBRARY INFORMATION NETWORK



2323 W. 5th Avenue, Suite 130 • Columbus, Ohio 43204 • Phone (614) 728-5252 • Fax (614) 728-5256

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July 25, 2006

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

DOCKET FILE COPY ORIGINAL

Request for Waiver

of "Certified – Out of Window"

decisions regarding FCC Forms 471

:	Numbers	461776
:		461802
:		461910
:		462126

E-rate Funding Year

: FY2005

Billed Entity:

: Number 148487

Ohio Public Library Information Network

Referencing:

Schools and Libraries Universal Service
Support Mechanism

: CC Docket No. 02-6

Bishop Perry Order

: CC Docket No. 06-54

INTRODUCTION

The Ohio Public Library Information Network (OPLIN) would like to formally submit a Request for Waiver of a deadline decision by the Universal Service Administrative Company (USAC), for E-rate Funding Year 2005, referencing CC Docket Nos. 02-6 (Universal Service Support Mechanism) and 06-54 (Bishop Perry Order) to support this Waiver Request.

Specifically, the Ohio Public Library Information Network requests a waiver of the "Certified – Out of Window" status of Form 471 Application Numbers 461776, 461802, 461910, and 462126 for Billed Entity Number 148487 (OPLIN).

BACKGROUND

The Ohio Public Library Information Network procures broadband data circuits, Internet access, and network management for all public library systems in the state of Ohio. Through OPLIN and terminals in public libraries, Ohio residents receive access to electronic information over robust Internet connections, regardless of their location.

Providing this Internet access costs OPLIN several million dollars each year, so OPLIN has applied for E-rate discounts for this public library service since Funding Year 1998. In Funding Year 2005 an unfortunate set of circumstances led to an oversight by an OPLIN staff member, resulting in the loss of all E-rate discounts for that year. Four Form 471 applications were completed in their entirety online,

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but the required paper certification was not mailed before the USAC deadline due to confusion over *responsibility for that task; there was no intent to ignore the deadline. When this ministerial oversight* was discovered, the paper certifications were mailed within a week of the deadline, but OPLIN nevertheless received "Funding Year 2005 Form 471 Certification Postmarked Outside of Window" notifications for all four Form 471 applications (attached). No appeals were filed because, as CC Docket 06-54 notes (paragraph 14), "Under Bureau precedent deadlines have been strictly enforced for the E-rate program, including those pertaining to the FCC Form 471," so filing appeals seemed pointless. As a result, OPLIN was denied \$1,180,379 in funding commitments in support of Ohio's public libraries.

DISCUSSION

A careful reading of the recently released Bishop Perry Order (CC Docket 06-54) leads OPLIN to believe that the FCC may consider the mitigating circumstances in this case and allow us the opportunity to ask USAC to review their decision.

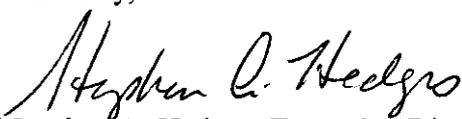
USAC has chosen to address CC Docket 06-54 in part by allowing applicants in Funding Year 2006 who did not mail Form 471 certifications before the deadline to submit those certifications now. OPLIN contends that this does not completely satisfy the intent of the Bishop Perry Order, and that relief should also be available to applicants denied funding in other Funding Years for identical reasons.

In particular, the Bishop Perry Order points out that providing "relief from these types of errors in the application process will promote the statutory requirements of section 254(h) of the Communications Act of 1934, as amended (the Act), by helping to ensure that eligible schools and libraries actually obtain access to discounted telecommunications and information services" (paragraph 2) and that such errors do not constitute instances of waste, fraud, or abuse. The Order also states that a "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" (paragraph 6). These statements are true for any point in the history of the E-rate program, and not just for Funding Year 2006.

The Bishop Perry Order notes that "denial of funding in these cases would inflict undue hardship on the applicants" (paragraph 14); certainly the loss of \$1.18 million has been a hardship on OPLIN and its supported Ohio public libraries. The Order also points out that remedying such hardships will have a minimal effect on the Universal Service Fund, "because the monies needed to fund these appeals have already been collected and held in reserve" (paragraph 2).

In light of these statements and the mitigating circumstances, the Ohio Public Library Information Network respectfully requests a waiver of the "out of window" status of the certifications for the Forms 471 cited above, and an opportunity to complete the certification process.

Sincerely,



Stephen A. Hedges, Executive Director
Ohio Public Library Information Network
hedgesst@oplin.org

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Universal Service Administrative Company

Schools & Libraries Division

**FUNDING YEAR 2005 FORM 471 CERTIFICATION
POSTMARKED OUTSIDE OF WINDOW**

April 8, 2005

Donald Nuss, Jr.
The Ohio Public Library Information Network
2323 W 5TH AVE. SUITE 130
COLUMBUS, OH 43204

**Re: Applicant's Form Identifier: FY05Data-T1
Form 471 Application Number: 461776**

Dear Donald Nuss, Jr.:

We are sending this letter to thank you for your recent Form 471 application. Your Form 471 Certification was postmarked on 02/25/2005, which is AFTER the 2005-2006

filing window closed at 11:59 p.m. EST on Friday, February 18, 2005.

Program rules require us to hold your application pending final review of those applications that were filed within the filing window. We will post an announcement on the SLD section of the USAC web site at www.sl.universalservice.org once we determine if funding applications that were submitted within the application filing window will fully utilize all the funds available for this Funding Year.

For more information about the processing of 2005-2006 applications, about funding for applications filed after the close of the filing window or about plans for the 2006-2007 application process, please visit our web site or call the Client Service Bureau at 1-888-203-8100.

TO APPEAL THIS DECISION:

If you wish to appeal the decision indicated in this letter, your appeal must be received 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. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and (if available) e-mail address for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Include the following to identify the decision letter and the decision you are appealing:
 - Appellant name,
 - Applicant name,
 - BEN,
 - Application number as assigned by the SLD,
 - Name of the letter and funding year (both are located at the top of the letter),AND
 - The exact text or the decision that you are appealing.
3. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal, including any correspondence and documentation.

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April 8, 2005

Donald Nuss, Jr.
The Ohio Public Library Information Network
2323 W 5TH AVE. SUITE 130
COLUMBUS, OH 43204

Re: Applicant's Form Identifier: FY05Data-DS3
Form 471 Application Number: 461802

Dear Donald Nuss, Jr.:

We are sending this letter to thank you for your recent Form 471 application. Your Form 471 Certification was postmarked on 02/25/2005, which is AFTER the 2005-2006

filing window closed at 11:59 p.m. EST on Friday, February 18, 2005.

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The Ohio Public Library Information Network
2323 W 5TH AVE. SUITE 130
COLUMBUS, OH 43204

**Re: Applicant's Form Identifier: FY05Diag
Form 471 Application Number: 461910**

Dear Donald Nuss, Jr.:

We are sending this letter to thank you for your recent Form 471 application. Your Form 471 Certification was postmarked on 02/25/2005, which is AFTER the 2005-2006

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Donald Nuss Jr.
The Ohio Public Library Information Network
2323 W 5TH AVE. SUITE 130
COLUMBUS, OH 43204

**Re: Applicant's Form Identifier: FY05WWW
Form 471 Application Number: 462126**

Dear Donald Nuss Jr.:

We are sending this letter to thank you for your recent Form 471 application. Your Form 471 Certification was postmarked on 02/25/2005, which is AFTER the 2005-2006

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