

Technology Services

wnyric
www.wnyric.org



Erie 1 BOCES Education Campus
355 Harlem Road, West Seneca, NY 14224-1892
Tel. (716) 821-7046 Fax (716) 821-7204

August 29, 2006

Letter of Appeal
FCC
Office of the Secretary
445 12th Street SW
Washington, DC 20554

Re: CC Docket No. 02-6

Appeal of Denial of FRN on E-rate Form 471

Billed Entity: Niagara Falls City School, BEN 124869

Funding Year 8: 07/01/2005 - 6/30/2006

Applicant Form Identifiers: 124869-1

Form 471 Application Numbers: 489138

Contact Name: Susan Melancon
Erie 1 BOCES
355 Harlem Road
West Seneca NY 14224
716 821 7455
smelancon@e1b.org

Funding Commitment Decision Letter: 4/12/06

Funding Commitment Decision: 0.00 – Invalid Telecom Carrier

Funding Commitment Decision Explanation: This FRN is a request for Telecommunication Service from a carrier that does not provide telecommunication on a common carriage basis.

FRNs: 1356036. Discounted amount \$26,250.03.

Please note that USAC has denied this appeal because it was submitted late. The Funding Commitment Decision Letter was issued on April 12, 2006, but the contact did not receive the letter until July 20, 2006, for reasons unknown. I respectfully request that you review this appeal.

Dear Sirs:

Regarding the above-named Funding Commitment Decision Letter dated April 12, 2006, we submit this Letter of Appeal.

The vendor, Adelphia Communication, has supplied a Broadband Gigabit Ethernet Service for the billed entity since September 2003, and continues to supply this service to date.

The vendor originally supplied this service through Adelpia Operations, Spin number 143024249 (Ineligible). The vendor currently supplies this service through Adelpia Telecommunication, Spin number 143024268 (Eligible).

For the past three years, Adelpia Communication instructed the district to request E-rate funding through Adelpia Operations, even though it was not eligible to provide telecommunication service on a Common Carrier Basis.

USAC also misled the District by approving the funding of ACC Operations in two previous Funding Years:

FY 2003 ACC Operations Funded \$22,235.21

FY 2004 ACC Operations Funded \$24,849.94

Going into FY 2005, neither the USAC nor Adelpia Communications informed the District that E-rate discounts for the current gigabit service should be requested using a different name and spin. What should have been a simple spin change during PIA has now developed into a \$26,250.03 loss for the district and an appeal that requires valuable time to process for all parties involved.

Conclusion

Niagara Falls City SD requests that the FCC give us the opportunity to change the spin number from Adelpia Operation, Spin Number 143024249 to Adelpia Telecommunication, Spin number 124024268, and that our request for E-rate discounts for broadband gigabit service be approved.

The USAC was aware they were no longer funding telecommunications for Adelpia Operations during the District's PIA review of April 3, 2006, but they never informed us of the same, nor did they suggest a spin change.

The District has followed all state and local procurement regulations and all FCC E-rate requirements to receive discounts for which we are eligible. We have constructed a vast technological network for our K-12 students in the Niagara Falls City Schools, and to deny this appeal would severely jeopardize the district's ability to maintain our current networking capacity. Denial of this appeal would inflict undue hardship on the district.

We respectfully request that you approve this appeal.

Thank you for your consideration.

Sincerely,



Susan C. Melancon, E-rate Contact
Niagara Falls City School District

USAC

Schools and Libraries Division
Correspondence Unit
100 South Jefferson Road
P.O. Box 902
Whippany, New Jersey 07981

TIME SENSITIVE MATERIAL

00194
PAT DOYLE
NIAGARA FALLS SCHOOL DISTRICT
355 HARLEM RD
WEST SENECA, NY 14224



IMPORTANT REMINDERS & DEADLINES

Billed Entity Number : 124869
Name of Billed Entity: NIAGARA FALLS SCHOOL DISTRICT

The following information is provided to assist you throughout the application process. We recommend that you keep it in an easily accessible location and that you share it with the appropriate members of your organization.

FCC REGISTRATION NUMBERS (FCC RNs) - Effective November 1, 2004, the FCC's Fifth Order (FCC 04-190 released August 13, 2004) requires E-rate program participants to have FCC Registration Numbers. Please continue to review our web site for additional guidance.

FORM 486 DEADLINE - The Form 486 must be postmarked no later than 120 days after the Service Start Date you report on the Form 486 or no later than 120 days after the date of the Funding Commitment Decision Letter, whichever is later. If you are required to have a Technology Plan, that plan must cover all 12 months of the funding year. You must indicate the name of the SLD-Certified Technology Plan Approver (TPA) prior to the commencement of discounted services for this funding year. You must indicate the name of the SLD-Certified TPA who approved your plan in your Form 486, and you must retain your approval letter and documentation of your monitoring of the progress toward your stated goals.

CHILDREN'S INTERNET PROTECTION ACT (CIPA) - Please review the CIPA guidance in the Form 486 Instructions, Section II, "IMPACT OF CIPA REQUIREMENTS ON FORM 486."

INVOICE DEADLINE - Invoices must be postmarked no later than 120 days after the last date to receive service - including extensions - or 120 days after the date of the Form 486 Notification Letter, whichever is later. Invoices should not be submitted until the invoiced products and services are being delivered and billed, and (for BEAR Forms) the provider has been paid.

OBLIGATION TO PAY NON-DISCOUNT PORTION - Applicants are required to pay the non-discount portion of the cost of the products and/or services. Service providers are required to bill applicants for the non-discount portion. The FCC has stated that requiring applicants to pay their share ensures efficiency and accountability in the program. FCC 04-190 concluded that a presumptively reasonable timeframe for a beneficiary to pay its non-discount share is 90 days after the completion of services. If you are using a trade-in as part of your non-discount portion, please refer to the web site for more information.

DOCUMENTATION RETENTION - FCC rules require that documents demonstrating compliance with the statute and Commission rules must be retained for a period of at least five years after the last day of service delivered. See "Document Retention Requirements" in FCC 04-190 for a descriptive list of many of the documents you must retain.

SUSPENSION AND DEBARMENT - Persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the Schools and Libraries Support Mechanism are subject to suspension and debarment from the program.

FREE SERVICES ADVISORY - Applicants and service providers are prohibited from using the Schools and Libraries Support Mechanism to subsidize the procurement of ineligible or unrequested products and services, or from participating in arrangements that have the effect of providing a discount level to applicants greater than that to which applicants are entitled.

Complete program information - including more information on these reminders - is posted to the SLD section of the USAC web site at www.sl.universalservice.org. You may also contact the SLD Client Service Bureau by e-mail using the "Submit a Question" link on the web site, by fax at 1-888-276-8736 or by phone at 1-888-203-8100.



FUNDING COMMITMENT DECISION LETTER
(Funding Year 2005: 07/01/2005 - 06/30/2006)

April 12, 2006

PAT DOYLE
NIAGARA FALLS SCHOOL DISTRICT
355 HARLEM RD
WEST SENECA, NY 14224

Re: Form 471 Application Number: 489138
Funding Year 2005: 07/01/2005 - 06/30/2006
Billed Entity Number: 124869
Billed Entity FCC RN:
Applicant's Form Identifier: 124869-1

Thank you for your Funding Year 2005 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, \$161,559.72 is "Approved."
- The amount, \$91,226.66 is "Denied."

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

- Work with your service provider to determine if you will receive discounted bills or if you will request reimbursement from USAC after paying your bills in full
- Review technology planning approval requirements
- Review CIPA Requirements
- File Form 486
- Invoice the SLD using the Form 474 (service provider) or Form 472 (Billed Entity) - as products and services are being delivered and billed

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 a decision in this letter, your appeal must be received by the SLD or postmarked within 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 (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 letter and the decision you are appealing:
 - Appellant name,

- Applicant name and service provider name, if different from appellant,
 - Applicant BEN and service provider SPIN,
 - Form 471 Application Number as assigned by the SLD,
 - "Funding Commitment Decision Letter for Funding Year 2005," 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.
 4. If you are the applicant, please provide a copy of your appeal to the service provider(s) affected by the SLD's decision. If you are the service provider, please provide a copy of your appeal to the applicant(s) affected by the SLD's decision.
 5. Provide an authorized signature on your letter of appeal.

To submit your appeal to the SLD by e-mail, use the "Submit a Question" feature on our web site at www.sl.universalservice.org. Click "Continue," choose "Appeals" from the Topics Inquiry on the lower portion of your screen, and click "Go" to begin your appeal submission. The system will prompt you through the process. The SLD will automatically reply to incoming e-mails to confirm receipt.

To submit your appeal to the SLD by fax, fax your appeal to (973) 599-6542.

To submit your appeal to the SLD on paper, send your appeal to:

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

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. We strongly recommend that you use either the electronic filing options described in the "Appeals Procedure" posted in the Reference Area of our web site. 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.

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 the Universal Service Administrative Company (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 improperly 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 (ERN): A Funding Request Number is assigned by the SLD to each Block 5 of your Form 471. 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 ERN will have one of the following definitions:

1. An ERN that is "Funded" is approved at the level that the SLD determined is appropriate for this ERN. 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 ERN 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 ERN 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 ERN that is "As Yet Unfunded" reflects a temporary status that is assigned to an ERN 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 Connections requests are "As Yet Unfunded." You would receive one or more subsequent letters regarding the funding decision on your Internal Connections requests.

CATEGORY OF SERVICE: The type of service ordered from the service provider, as shown on your Form 471.

FORM 470 APPLICATION NUMBER: The Form 470 Application Number associated with this ERN from Block 5, Item 12 of the 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 Service Start Date for this ERN from Block 5, Item 19 of your Form 471.

CONTRACT EXPIRATION DATE: The Contract Expiration Date for this ERN from Block 5, Item 20b of your Form 471. 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" ERNs.

NUMBER OF MONTHS RECURRING SERVICE PROVIDED IN FUNDING YEAR: The number of months of service that has been approved in the funding year. This will be present only for recurring services.

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."

FCDL DATE: The date of this Funding Commitment Decision Letter (FCDL).

WAVE NUMBER: The wave number assigned to FCDLs issued on this date.

FUNDING COMMITMENT REPORT
Billed Entity Name: NIAGARA FALLS SCHOOL DISTRICT
BEN: 124869
Funding Year: 2005

Form 471 Application Number: 489138
Funding Request Number: 1356036
Funding Status: Not Funded
Category of Service: Telecommunications Service
Form 470 Application Number: 177840000
SPIN: 143024249
Service Provider Name: ACC Operations, Inc. *143024268*
Contract Number: N/A
Billing Account Number: N/A
Service Start Date: 07/01/2005
Contract Expiration Date: 11/21/2012
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-discount Amount for Eligible Recurring Charges: \$35,000.04
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00
Pre-discount Amount: \$35,000.04
Discount Percentage Approved by the SLD: N/A
Funding Commitment Decision: \$0.00 - Invalid Telecom Carrier
Funding Commitment Decision Explanation: This FRN is a request for
Telecommunications Service from a carrier that does not provide telecommunications on
a common carriage basis.

FCDL Date: 04/12/2006
Wave Number: 043

Funding Request Number: 1356037
Funding Status: Funded
Category of Service: Telecommunications Service
Form 470 Application Number: 864910000
SPIN: 143001192
Service Provider Name: AT&T Corp.
Contract Number: T
Billing Account Number: 1000-807-7587
Service Start Date: 07/01/2005
Contract Expiration Date: 06/30/2006
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-discount Amount for Eligible Recurring Charges: \$3,244.20
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00
Pre-discount Amount: \$3,244.20
Discount Percentage Approved by the SLD: 75%
Funding Commitment Decision: \$2,433.15 - FRN approved as submitted

FCDL Date: 04/12/2006
Wave Number: 043

FUNDING COMMITMENT REPORT
Billed Entity Name: NIAGARA FALLS SCHOOL DISTRICT
BEN: 124869
Funding Year: 2005

Form 471 Application Number: 489138
Funding Request Number: 1356038
Funding Status: Not Funded
Category of Service: Basic Maintenance of Internal Connection
Form 470 Application Number: 864910000
SPIN: 143005886
Service Provider Name: Ronco Communication & Electronics, Inc.
Contract Number: N/A
Billing Account Number: N/A
Service Start Date: 07/01/2005
Contract Expiration Date: 06/30/2008
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-discount Amount for Eligible Recurring Charges: \$.00
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$86,635.50
Pre-discount Amount: \$86,635.50
Discount Percentage Approved by the SLD: N/A
Funding Commitment Decision: \$0.00 - Srvc/Discnt will NOT be funded
Funding Commitment Decision Explanation: Given demand, the funding cap will not provide for Internal Connections/Basic Maintenance of Internal Connections at your approved discount level to be funded. Please see www.universalservice.org/sl/ for further details.

FCDL Date: 04/12/2006
Wave Number: 043

Funding Request Number: 1356040
Funding Status: Funded
Category of Service: Telecommunications Service
Form 470 Application Number: 864910000
SPIN: 143001359
Service Provider Name: Verizon New York Inc.
Contract Number: T
Billing Account Number: 212 X00-0230 145 2
Service Start Date: 07/01/2005
Contract Expiration Date: 06/30/2006
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-discount Amount for Eligible Recurring Charges: \$184,308.72
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00
Pre-discount Amount: \$184,308.72
Discount Percentage Approved by the SLD: 75%
Funding Commitment Decision: \$138,231.54 - ERN approved as submitted

FCDL Date: 04/12/2006
Wave Number: 043

FUNDING COMMITMENT REPORT
Billed Entity Name: NIAGARA FALLS SCHOOL DISTRICT
BEN: 124869
Funding Year: 2005

Form 471 Application Number: 489138
Funding Request Number: 1356042
Funding Status: Funded
Category of Service: Telecommunications Service
Form 470 Application Number: 864910000
SPIN: 143000677
Service Provider Name: Verizon Wireless
Contract Number: MTM
Billing Account Number: N/A
Service Start Date: 07/01/2005
Contract Expiration Date: 06/30/2006
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-discount Amount for Eligible Recurring Charges: \$27,860.04
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00
Pre-discount Amount: \$27,860.04
Discount Percentage Approved by the SLD: 75%
Funding Commitment Decision: \$20,895.03 - FRN approved as submitted

FCDL Date: 04/12/2006
Wave Number: 043