



BEAVER AREA SCHOOL DISTRICT

855 SECOND STREET • BEAVER, PENNSYLVANIA 15009

Phone: 724-774-4010

Fax: 724-774-8770

DOCKET FILE COPY ORIGINAL

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



December 14, 2006

Re: Request for Review of Decision of Universal Service
Administrator, CC Docket No.02-6

Applicant Name: Beaver Area School District
Billed Entity Number: 125137
Form 471 Application No.: 526862
Funding Request Number: 1452308
Original FCDL Letter Date: August 15, 2006
SLD Appeal Decision Date: October 20, 2006

Service Provider: Sunesys, Inc.
SPIN: 143019764
Service Provider Contact: Walter Tustin
Service Provider phone: 267-927-2016
Service Provider Fax: 267-927-2090

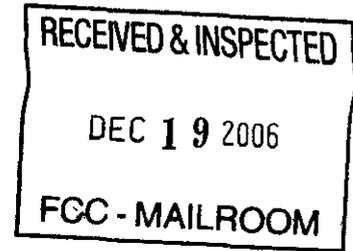
Introduction and Procedural History

The Beaver Area School District ("District" or "Applicant") appeals from the SLD's denial of funding approval for a Funding Request associated Gigabit Ethernet Telecommunication Service applied for during FY 2006. SLD denied funding for the Beaver Area School District appeal via a Letter dated October 20, 2006.

This funding request was originally denied by Funding Commitment Decision Letter, dated August 15, 2006 (attachment A). I contacted Ms. Ortegon the representative I had been dealing with from USAC on PIA questions to determine the reason for the denial. Ms. Ortegon could not provide the reason because the records had been moved. I appealed the denial under the assumption that the documentation necessary to determine eligibility was my incorrectly listing our consortium on the 471 instead of the school district (attachment B). USAC denied the appeal and explained the reason for the denial as failing to respond to

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REQUEST FOR REVIEW
Introduction and Procedural History

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Other technical considerations offered for consideration are:

1. In question for review was the Service Review and discount validation. Service review references the applicant incorrectly stated Internet Access on the Form 471 (526862), but did verify verbally with the PIA review official that it was a mistake and that the correct classification should have been Telecommunication Service, as noted in the Item 21 attachment and the correction/revision in the fax transmission of May 25, 2006.

In submitting its FY 2006 Form 471 application # 526862, the District's Item 21 attachment described the services contained in the FRN as a Gigabit Ethernet Wide Area Network Telecommunication Service between the District's high school and other schools. This matched the Form 470 (261330000578282) Request for Services.

Beaver Area School District was one of seven School Districts that applied for services and funding through the regional Intermediate Unit (IU-27). Beaver Area and the other Districts had executed Letters of Agency (LOA) with the IU 27 in accordance with Program guidelines, with appropriate authorizations and dated before the filing of IU-27's Form 470 (261330000578282). The Allowable contract Date (ACD) on the Form 470 was 02/13/2006. Beaver Area School District (and the other Districts) entered into a Contract for Services with Sunesys, Inc. (SPIN 143019764) on February 14, 2006, after the Allowable Contract Date, as per program Guidelines. The Beaver Area School District submitted a Form 471 (526862), dated February 14, 2006 and Certified; after entering into the Contract for Services.

It was after this submission that PIA noticed the Clerical error of the Applicant marking Internet Access on the Form 471 while correctly stating the description as Telecommunication Services on the Item 21 Attachment as requested on the Form 470. The applicant did verify the mistake and the correct category with the PIA review official verbally.

2. The PIA official also requested some information regarding discount validation; the District also responded with the appropriate information regarding the District's participation in the NSLP and information submitted and verified with enrollment and claim form information sent to the PA Department of Education.

Reasons In Support Of This Appeal

1. The Administrator Incorrectly Concluded That Program Rules Do Not Permit the SLD From Accepting New Information On Appeal Except Where An Applicant Was Not Given An Opportunity To Provide Information During The Initial Review Or An Error Was Made By The SLD.

The Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) uses its own guidelines, and not FCC-promulgated rules, for reviewing appeals. See <http://www.sl.universalservice.org/reference/AppealsSLDGuidelines.asp> ("The Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) reviews appeals of its decisions in accordance with guidelines established by the Schools and Libraries Programmatic Subcommittee of the USAC Board of Directors.")

Nevertheless, the Administrator incorrectly asserted in its decision on appeal that *FCC rules* prohibited the Administrator from considering new information submitted on appeal except under certain circumstances. In fact, this so-called program rule is *not* a regulation adopted by the FCC. Rather, it is a guideline that the SLD adopted: “Consistent with these guidelines, the SLD will not accept new information on appeal that is inconsistent with information in the file used during review.” The FCC regulations governing the Administrator’s processing of appeals are *silent* as to the standards that the Administrator shall apply in reviewing requests for reviews (appeals) of decisions.

The difference between FCC rules and regulations, and Guidelines posted by the Administrator to its web site, is a very important substantive distinction. USAC does not have authority to establish program rules – only the FCC has this authority. The Administrator’s appeal guidelines do not constitute program *rules* since these appeal guidelines were not promulgated by the FCC pursuant to the Administrative Procedures Act and are not found in the Code of Federal Regulations. Indeed, the FCC regulations governing the universal service support mechanisms including E-rate expressly prohibit the Administrator from making policy. Consequently, the Administrator erred in its appeal denial letter by program rules limited its consideration of new information on appeal.

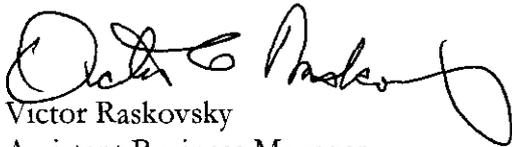
Consequently, this self-imposed restriction that the Administrator has imposed on its review of new information on appeals has no basis in FCC regulations and should not be used as a reason to excuse the Administrator from examining the merits of appeals.

2. The FCC Is Not Bound By SLD’s Appeal Guidelines, And 47 C.F.R. Section 54.723(a) And (b) Mandate That The FCC Must Use A De Novo Standard of Review For Evaluating The Merits of This Appeal.

The FCC is duty bound to consider the merits of this appeal on a de novo basis, according to 47 C.F.R. §54.723(a) and (b). This means that the FCC must conduct its own independent examination of the facts and record and draw its own conclusion as to whether discounts were properly denied for this FRN.

Beaver Area School District respectfully submits this appeal for funding as the District has followed the lengthy and arduous task of Program Compliance for all Filings, Submissions and Authorizations for all but possibly one calendar day of response with information during the PIA Review period. SLD would not review the corrected and revised information during the initial Appeal due to stated "program rules" of not allowing new information to be used during Appeal review.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Victor Raskovsky". The signature is fluid and cursive, with a large loop at the end.

Victor Raskovsky
Assistant Business Manager
Beaver Area School District
855 Second Street
Beaver, PA 15009

USAC

21-463979 (A)
Universal Service Administrative Company
Schools & Libraries Division

FUNDING COMMITMENT DECISION LETTER
(Funding Year 2006: 07/01/2006 - 06/30/2007)

August 15, 2006

Vic Raskovsky
INTERMEDIATE UNIT 27
Beaver Area School District
855 Second St
Beaver, PA 15009

Re: Form 471 Application Number: 526862
Billed Entity Number (BEN): 125137
Billed Entity FCC RN: 0011789591
Applicant's Form Identifier: 06-07 BVIUWAN

Thank you for your Funding Year 2006 application for Universal Service Support and for any assistance you provided throughout our review. The current status of the funding request(s) in the Form 471 application cited above and featured in the Funding Commitment Report(s) (Report) at the end of this letter is as follows.

- The amount, \$16,826.16 is "Denied."

Please refer to the Report on the page following this letter for specific funding request decisions and explanations. The Universal Service Administrative Company (USAC) is also sending this information to your service provider(s) so preparations can begin for implementing your approved discount(s) after you file Form 486 (Receipt of Service Confirmation Form). A guide that provides a definition for each line of the Report precedes the Report.

A list of Important Reminders and Deadlines is included with this letter 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 USAC using the Form 474 (service provider) or Form 472 (Billed Entity) - as products and services are being delivered and billed

TO APPEAL THIS DECISION:

If you wish to appeal a decision in this letter, your appeal must be received by USAC 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) email 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 Identification Number (SPIN),
 - Form 471 Application Number 526862 as assigned by USAC,
 - "Funding Commitment Decision Letter for Funding Year 2006," AND
 - The exact text or the decision that you are appealing.

FUNDING COMMITMENT REPORT
Billed Entity Name: INTERMEDIATE UNIT 27
BEN: 125137
Funding Year: 2006

Form 471 Application Number: 526862
Funding Request Number: 1452308
Funding Status: Not Funded
Category of Service: Internet Access
Form 470 Application Number: 261330000578282
SPIN: 143019764
Service Provider Name: Sunesys, Inc.
Contract Number: SUNBAWAN2006
Billing Account Number: 7247744010
Service Start Date: 07/01/2006
Contract Expiration Date: 06/30/2011
Site Identifier: 125144
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-discount Amount for Eligible Recurring Charges: \$33,652.32
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00
Pre-discount Amount: \$33,652.32
Discount Percentage Approved by the USAC: N/A
Funding Commitment Decision: \$0.00 - Insufficient documentation
Funding Commitment Decision Explanation: Applicant has not provided sufficient documentation to determine the eligibility of this item.

FCDL Date: 08/15/2006
Wave Number: 017
Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2007



BEAVER AREA SCHOOL DISTRICT

(B)

855 SECOND STREET • BEAVER, PENNSYLVANIA 15009

Phone: 724-774-4010

Fax: 724-774-8770

Letter of Appeal
Schools and Libraries Division – Correspondence Unit
100 South Jefferson Road
Wippany, New Jersey 07981

September 6, 2006

Fax 973 599 6542

Subject: Appeal of Funding Commitment Decision Letter, Form 471 # 526862

Beaver Area School District wishes to appeal Funding Commitment Decision Letter on our Form 471 # 526862 because we do not understand what document needs to be provided.

1. Our point of contact is:

Victor G. Raskovsky
BASD
855 Second St
Beaver PA 15009

Phone # 724 774 4022, Fax#724 774 8770, Email:

2. This letter is to appeal the FCD that states there is insufficient documentation.

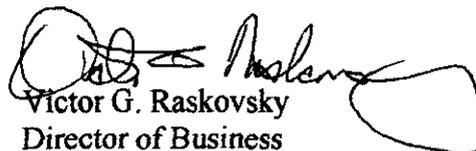
Appellant Name:	Beaver Area School District
BEN:	125144 or 125137 (see below)
SPIN:	143019764
Form 471	526862
FCDL	Attached

Our appeal is against the decision that there is insufficient documentation. I have provided answers to the questions presented from the PIA Initial Review. I have called PIA and the Client Service Bureau to inquire about the insufficient documentation. Both offices explained that they could not determine the documentation from their records and recommended that I appeal to find what is missing and if I can submit it.

I should point out that the BEN: number may be the cause of some problem. BASD BEN number is 125144, however I used the BEN of our Intermediate Unit (125137) to start the request because this is a program being done in concert with 12 other schools through our Intermediate Unit. Using there BEN is most likely an error.

Please identify what documentation is missing and advise me of any corrective action that could reverse this funding decision.

Respectfully,


Victor G. Raskovsky
Director of Business

1 Attachment



Universal Service Administrative Company
Schools & Libraries Division

(c)

Administrator's Decision on Appeal – Funding Year 2006-2007

October 20, 2006

Victor G. Raskovsky
Beaver Area School District
855 Second Street
Beaver, PA 15009

Re: Applicant Name: INTERMEDIATE UNIT 27
Billed Entity Number: 125137
Form 471 Application Number: 526862
Funding Request Number(s): 1452308
Your Correspondence Dated: September 06, 2006

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 USAC's Funding Year 2006 Funding Commitment Decision Letter for the Application Number indicated above. This letter explains the basis of USAC'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): 1452308
Decision on Appeal: **Denied**
Explanation:

- Upon thorough review of the appeal letter and the relevant documentation, USAC has determined that you failed to respond to the Program Integrity Assurance (PIA) inquiries in a timely manner. PIA made initial contact with you on May 9, 2006, via phone, email, and fax, requesting you to provide service review and discount validation information within 7 days. PIA initiated a second request on May 17, 2006, via email and fax, requesting you to provide the same information within 7 days. As of May 25, 2006, you failed to provide a response to PIA. Per program rules, if there is insufficient documentation to determine the eligibility of a service or an entity, the service and entity are deemed ineligible. You have failed to provide evidence on appeal that USAC erred in its original decision. Consequently, the appeal is denied.

- USAC reviews Form 471 applications and makes funding commitment decisions in compliance with FCC rules. See 47 C.F.R. sec. 54.500 et. seq. To conduct these reviews, USAC has put in place administrative measures to ensure the prompt resolution of applications. See Request for Review by Marshall County School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of National Exchange Carrier Association, Inc., CC Docket Nos. 96-45 and 97-21, 18 FCC Rcd. 4520, 4522, Order, DA 03-764 para. 6 (rel. Mar. 13, 2003). (Marshall County) One such measure is that applicants are required to respond to USAC's requests for the additional information necessary to complete their application within 7 days of being contacted. Id.; SLD section of the USAC website, Reference Area, "Deadline for Information Requests," www.usac.org/sl This procedure is necessary to prevent undue delays during the application review process. See Marshall County para. 6. If applicants do not respond within this time period, USAC reviews the application based on the information before it.

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either USAC or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, 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 section of the USAC website 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

(D)



BEAVER AREA SCHOOL DISTRICT

855 SECOND STREET • BEAVER, PENNSYLVANIA 15009

Phone: 724-774-4010

Fax: 724-774-8770

FACSIMILE TRANSMITTAL LEAD SHEET

DATE: 25 May 06

ATTENTION: JACKI O

COMPANY: USAC

FAX NO. 973 599 6523

TOTAL PAGES (including this Cover Sheet): 6

FROM: Dick Paszkowski

BEAVER AREA SCHOOL DISTRICT

FAX NO: (724)-774-8770

SUBJECT: Apply # 526862

COMMENTS: _____

CONFIDENTIAL NOTICE: The information contained in the facsimile message, and in any accompanying documents is confidential and is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or the taking of any action in reliance of this information, is strictly prohibited. If you have received this facsimile message in error, please immediately notify us by telephone at (724)774-4021 to arrange for the proper person to receive. Thank you.



BEAVER AREA SCHOOL DISTRICT

855 SECOND STREET • BEAVER, PENNSYLVANIA 15009

Phone: 724-774-4010

Fax: 724-774-8770

USAC, Schools & libraries Division
Ms. Jacqueline Ortegon

Fax 973 599 6523

May 25, 2006

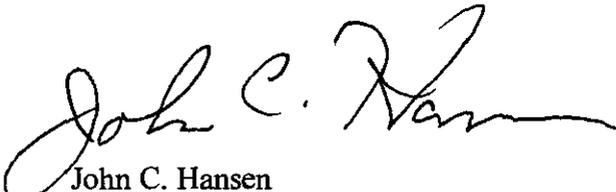
Subject: Application Numbers **526862**

Ms. Ortegon,

1. The bandwidth of the Internet access is fiber optic cable at 1000Mbps- Gigabit Ethernet
2. FRN 1452308 is for Internet Access.
3. Block 5, #10 was filled in error and should be taken out.

Attached are the documents requested to verify our NSLP numbers and discount percentage as presented in prior verifications.

Best wishes,


John C. Hansen
Superintendent, Ed.D.



BEAVER AREA SCHOOL DISTRICT

855 SECOND STREET • BEAVER, PENNSYLVANIA 15009

Phone: 724-774-4010

Fax: 724-774-8770

USAC, Schools & libraries Division
Ms. Jacqueline Ortegon

Fax 973 599 6523

April 25, 2006

Subject: Application Numbers **536578** and **536858** + 526862

Ms. Ortegon,

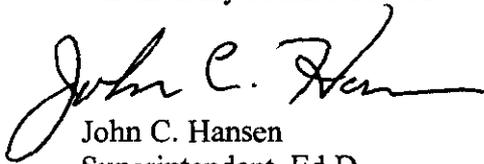
1. The FCC number for Beaver Area School District (Entity# 125144) is **0003167343**
2. The school lunch information requested for the 4 schools, for March 2006 is as follows:

<u>Entity Name</u>	<u>Enrollment</u>	<u>Free and Reduced.</u>	<u>F&R %</u>
Middle School	313	37	12%
Dutch Ridge	669	81	12%
College Square	379	72	19%
High School	738	81	11%
Total	2099	271	13%

3. The erate application form 471 contained our enrollment for September 2005 (as shown below) and the difference represents the increase of applications and tuition students added since September.

<u>Entity Name</u>	<u>Enrollment</u>	<u>Free and Reduced.</u>	<u>F&R %</u>
Middle School	314	26	8%
Dutch Ridge	656	72	11%
College Square	375	56	15%
High School	656	59	8%
Total	2039	213	10.4%

4. A copy of our initial enrollment to PA Department of Education (September 2005) and our monthly claim form for March 2006 are attached.


John C. Hansen
Superintendent, Ed.D.

a encl

MFR ≈ 20 = BAACS

Pennsylvania Department of Education
Bureau of Budget and Fiscal Management
Division of Food and Nutrition

333 Market Street, 4th Floor
Harrisburg, PA 17126-0333
(800) 331-0129

Monthly Claim Form for Reimbursement
National School Lunch, School Breakfast, Afterschool Snack and Special Milk Programs

Monthly Claim Form			
Sponsor Name	Agreement Number	Month Claimed	Revision No.
BEAVER AREA SD	127-04-120-3	Mar 2006	0

Submission Type:	Original	Received Date:	4/12/2006
Authorized Signature:	Tracy Main		

	Lunch	Breakfast		Afterschool Snacks		Special Milk
		Regular	Severe Need	Regular	Area Eligible	
Meals Served to Children						
Paid	15094	582	0	0		
Free	2661	785	0	0	0	
Reduced	821	104	0	0		
Totals	18576	1471	0	0		

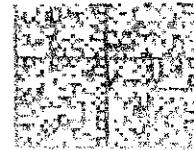
	Lunch	Breakfast		Afterschool Snacks		Special Milk
		Regular	Severe Need	Regular	Area Eligible	
Eligible Children						
Paid	1761	1761	0	0		0
Free	211	211	0	0	0	0
Reduced	60	60	0	0		
Total Eligible	2032	2032	0	0		0

	Lunch	Breakfast		Afterschool Snacks		Special Milk
		Regular	Severe Need	Regular	Area Eligible	
Program Information						
Sites Claimed	3	3	0	0	0	0
Days Meals or Milk Served	23	23	0	0	0	0
Enrollment	2032	2032	0	0	0	0

Additional Lunch Reimbursement for Breakfast Participation
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*Seasons
Greetings*



HASLER

\$1.19

12/14/2006

35000 From 15000

US POSTAGE

BEAVER AREA SCHOOL DISTRICT
855 Second Street
Beaver, PA 15009

TO:

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY
445 12TH STREET
SW WASHINGTON, DC 20554

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DEC 19 2006
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