

# Olympic Peninsula Consultants

**Jim Bennett, President**  
**P. O. Box 2239**  
**Forks, WA 98331**

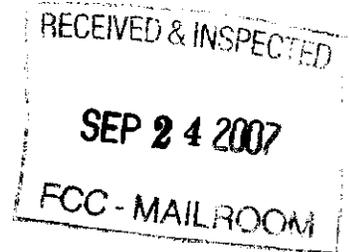
**jbennett@olynet.com**

**360-374-3310**

UBI# 601 824 014

EIN#91-1922126

September 21, 2007



Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

RE: Letter of Appeal Administrator's Decision on Appeal -- Funding Year 2002-2003

Detailed Contact Information:

Contact person: Jim Bennett  
PO Box 2239  
Forks, WA 98331-2239  
Phone: 360-374-3310  
E-mail: jbennett@olynet.com  
District: Port Angeles School District  
Entity Number: 145262  
Application Number: 291855  
Funding Request Number: 833009  
Funding Year: 2002-2003  
Correct SPIN#: 143025189  
Correct Service Provider: Capacity Provisioning Inc.

CC Docket No. 02-6

This is the fifth appeal filed on this FRN and the second with the FCC.

**REQUEST A WAIVER**

Identify which USAC action you are appealing: Administrator's Decision on Appeal -- Funding Year 2002-2003 dated September 5, 2007 Decision on Appeal -- Approved, Funding Denied.

"FCC rules require that all products and services for which an applicant request discounts on a FCC Form 471 must be competitively bid on an FCC Form 470. The Form 470 must include a complete description of the services for which discounts are sought, be posed on the web site for 28 days, and applicants must carefully consider all bids received before selecting a vendor, entering into an agreement or signing a contract, and signing and submitting a Form 471."

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FCC - MAILROOM

I believe that I have met the intent of the FCC rules by following the rules for Year 2002 as I understood them as stated in the July 1, 2002 Letter of Appeal to the Schools and Libraries Division:

According to CC Docket No. 96-45 Miscellaneous

1. "This service category for entries in this section should reflect the same category as the product or service being installed and maintained - Telecommunications Services, Internet Access, or Internal Connections."

2. The above FRN is for "Dark Fiber (excess capacity provided by service provider but "lit" by applicant)" "Services providers can lease fiber capacity that does not include modulating electronics to schools or libraries, if the applicant provides the electronics to modulate the fiber. The lease of such fiber cable for obtaining Telecommunications Services or Internet Access is eligible, if the applicant's electronics are located solely at eligible school or library sites, and if the conditions apply are described under the heading "Wide Area Network" in the relevant section (Telecommunications Services or Internet Access)

3. According to Wide Area Network (WAN) Fact Sheet  
Section "2. Examples of Discounts on Wide Area Networks  
Paragraph #3

"Assume that the computers of a school district and library system are connected among the various buildings in order to share access to the Internet. The connections between buildings are leased from a non-telecommunications provider such as a cable company, and are the most cost-effective means of accessing the Internet. The cost of leasing the connections is eligible for discounts as Internet Access."

A representative of the SLD called me to talk about Capacity Provisioning FRN saying that they were not a registered telecommunications provider. I asked at that time if I had selected the wrong service order and should it be Internet Access and she told me, no that I had selected the right service order.

From the information listed above, I feel that this is a valid service that should be supported by e-rate. Where I went wrong in the application process was that since this service was replacing T-1 lines and since the approved service list says, "reflect the same category as the product or service being installed and maintained". I felt this request should be Telecommunications Service and I see now that it should be Internet Access Service."

The Dark Fiber was listed on the Form 470 under Telecommunications where I thought it should be listed and so interested bidders could have bid on the service. In Year 2003 when Dark Fiber was no longer eligible, Lit Fiber was bid under Internet Access and the only bidder was Capacity Provisioning. I believe that the waiver should be granted as I in good faith tried to abide by the rules.

Other Attachments that apply to this appeal:

1. Attachment A - Administrator's Decision on Appeal dated September 5, 2007.
2. Attachment B - Letter of Appeal Dated May 15, 2007.
3. Attachment 1 - Administrator's Decision on SPIN Change May 9, 2007
4. Attachment 2 - Data Entry Correction dated May 1, 2007

5. Attachment 3 – Letter of Appeal dated July 1, 2002
6. Attachment 4 – Administrator's Decision on Appeal dated February 6, 2003
7. Attachment 5 – Letter of Appeal FCC dated March 3, 2003
8. Attachment 6 – FCC Decision on Appeal dated March 23, 2007
9. Attachment 7 – Revised Funding Commitment Decision Letter dated April 27, 2007
10. Attachment 8 – Original Form 470

Thank you for considering this request.

If you have any additional questions, please contact me.

Sincerely,

Jim Bennett, President

*Attach A*

**Universal Service Administrative Company**  
Schools & Libraries Division

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**Administrator's Decision on Appeal - Funding Year 2002-2003**

September 5, 2007

Jim Bennett  
Re: Port Angeles School Dist 121  
P.O. Box 2239  
Forks, WA 98331

Re: Billed Entity Number: 145262  
471 Application Number: 291855  
Funding Request Number(s): 833009  
Your Correspondence Dated: May 15, 2007

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 Year 2002 Administrator's Decision on SPIN Change 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 for appealing this decision to the Federal Communications Commission ("FCC"). If your letter of appeal included more than one Application Number, please note that for each application for which an appeal is submitted, a separate letter is sent.

Funding Request Number: 833009  
Decision on Appeal: **Approved, Funding Denied**  
Explanation:

- During the Appeal Review, USAC thoroughly assessed the facts presented in the appeal letter, the relevant documentation on file, and the FCC Rules and Procedures before making its determination on your appeal. USAC has determined that the category of service for this funding request should be Internet Access as requested. Therefore, the appeal is approved. However, the Funding Year 2002 Form 470 Application Number 967730000369776 did not post for this service category, which is a violation of the 28 days competitive bidding requirements of this support mechanism. The record shows that Program Compliance contacted Olympic Peninsula Consultants and made them aware of the program violation. Olympic Peninsula Consultants was requested to verify if the referenced Form 470 was the establishing Form 470 for these services. Additionally, Olympic Peninsula Consultants was given an opportunity to cite an alternate Form 470 in order to correct the program's violation. In a fax dated August 27, 2007, Olympic Peninsula Consultants stated that the Form 470

Attach B

# Olympic Peninsula Consultants

**Jim Bennett, President**  
**P. O. Box 2239**  
**Forks, WA 98331**

**jbennett@olynet.com**

**360-374-3310**

UBI# 601 824 014

EIN#91-1922126

May 15, 2007

Letter of Appeal  
Schools and Library Division – Correspondence Unit  
100 S. Jefferson Rd.  
PO Box 902  
Whippany, NJ 07981

RE: Letter of Appeal for Port Angeles School District based on #1 When the appeal makes clear that USAC erred in its initial review.

**Detailed Contact Information:**

Contact person: Jim Bennett  
PO Box 2239  
Forks, WA 98331-2239  
Phone: 360-374-3310  
E-mail: jbennett@olynet.com  
District: Port Angeles School District  
Entity Number: 145262  
Application Number: 291855  
Funding Request Number: 833009  
Funding Year: 2002-2003  
Correct SPIN#: 143025189  
Correct Service Provider: Capacity Provisioning Inc.

Identify which USAC action you are appealing: Administrator's Decision on SPIN Change Dated May 9, 2007 – "The Funding Request referenced in your SPIN Change letter is categorized as a request for telecommunications services. According to program rules, only eligible telecommunications providers may provide such services. The replacement service provider you requested is not an eligible telecommunications provider. Therefore, your request is being denied" Attachment #1. I have also attached my May 1, 2007 Corrective SPIN Change request as Attachment #2.

On July 1, 2002 I appealed this very issue to the School and Library Division, Attachment #3.

On Feb. 6, 2003 I received Administrator's Decision on Appeal – Funding 2002-2003, Attachment #4. This document states that the appeal was "Approved, but Denied for Funding" "Your appeal has brought

Attach B

persuasive information that the service category for this funding request should be charged to Internet access. Unfortunately, the **SLD will be unable to provide discounts for your request** for the reason cited below. Upon review of the appeal, it was determined that you are listed as the contact person for the provider of services (Capacity Provisioning Inc. – SPIN# 143025189) and you are also listed as the contact person on the referenced Form 470 used to comply with the required 28-day bidding process for the services requested.”

On March 3, 2003 I filed an appeal with the FCC Office of Secretary on the issue of being an employee of Capacity Provisioning Inc. (which I was not). Attachment #5

On March 30, 2007 I received a positive response to my appeal from the FCC. Attachment #6.

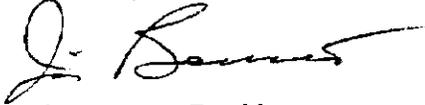
In reviewing your Feb. 6, 2003 Administrator’s Decision on Appeal letter you indicated that the appeal was approved and that the category of funding should be changed from Telecommunication to Internet Access. In this letter you also show Capacity Provisioning Inc. with the correct SPIN# 143025189. I don’t know where you got the SPIN# of 143014270 as shown in your April 27, 2007 Revised Funding Commitment Decision Letter. Attachment #7.

I request that you abide by your Feb. 6, 2003 Decision on Appeal letter and change the Category of Service to Internet Access change the SPIN on your April 27, 2007 Revised Funding Commitment Decision Letter SPIN# to 143025189, Capacity Provisioning Inc., allow me to file a Form 486, a BEAR form and finally get this matter resolved after three appeals.

Thank you for considering this request.

If you have any additional questions, please contact me.

Sincerely,



Jim Bennett, President

Attach #1



**Universal Service Administrative Company**  
Schools & Libraries Division

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**Administrator's Decision on SPIN Change**

May 9, 2007

Olympic Peninsula Consultants  
Jim Bennett  
P. O. Box 2239  
Forks, WA 98331

Subject: Port Angeles School District 121

Re:   Application Number:           291855  
      Funding Request Number(s):   833009  
      Funding Year:                2002-2003

After thorough review and investigation of your letter seeking approval to change Service Provider Identification Number (SPIN) and service provider for the funding year listed above, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company has made the following determination on each Funding Request Number that was included in your inquiry for the above referenced Application Number.

The following explanation is provided to inform you of the reason for our denial decision on Funding Request Number(s): **833009**

The Funding Request referenced in your SPIN Change letter is categorized as a request for telecommunications services. According to program rules, only eligible telecommunications providers may provide such services. The replacement service provider you requested is not an eligible telecommunications provider. Therefore, your request is being denied.

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 or service provider name, if different than appellant,
  - applicant BEN and service provider SPIN,

Attch #1

- **Form 471 application number 291855** as assigned by the USAC,
  - Funding Request Number(s) (FRNs) you are appealing if provided in the letter,
  - **Funding Commitment Decision Letter (Funding Year 2002: 07/01/2002 – 06/30/2003), 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 an applicant, please provide a copy of your appeal to the service provider(s) affected by the USAC's decision. If you are a service provider, please provide a copy of your appeal to the applicant(s) affected by the USAC's decision.
  5. Provide an authorized signature on your letter of appeal.

To submit your appeal to USAC by email, email your appeal to [appeals@sl.universalservice.org](mailto:appeals@sl.universalservice.org). USAC will automatically reply to incoming emails to confirm receipt.

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

To submit your appeal to us on paper, send your appeal to:

Letter of Appeal  
Schools and Libraries Division - Correspondence Unit  
100 S. Jefferson Road  
P. O. Box 902  
Whippany, NJ 07981

For more information on submitting an appeal to USAC, please see the "Appeals Procedure" posted on our website.

**While we encourage you to resolve your appeal with USAC 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 date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. We strongly recommend that you use the electronic filing options described in the "Appeals Procedure" posted on our website. 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.**

Thank you for your continued patience and cooperation during this process.

Schools and Libraries Division  
Universal Service Administrative Company

Attach # 2

# Olympic Peninsula Consultants

**Jim Bennett, President**  
**P. O. Box 2239**  
**Forks, WA 98331**

**jbennett@olynet.com**

**360-374-3310**

UBI# 601 824 014

EIN#91-1922126

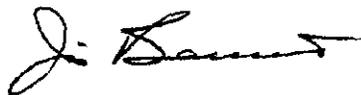
May 1, 2007

Data Entry Corrections  
Schools and Libraries Division  
Box 125 - Correspondence Unit  
80 S. Jefferson Rd  
Whippany, NJ 07981

RE: Corrective SPIN Change

1. Submitter of request: Jim Bennett
2. Billed Entity Number: 145262
3. Funding Request Number (FRN): 833009
4. Form 471 Application Number: 291855
5. Applicant Name: Port Angeles School District
6. Applicant Contact: Jim Bennett
7. Applicant Phone: 360-374-3310
8. Applicant E-mail address: jbennett@olynet.com
9. Original SPIN: 143014270 - As shown on funding commitment letter
10. Original Service Provider: AT&T Wireless Services of Washington, Inc. This SPIN number is no longer active so I could get the following information
11. Original Service Provider Contact: ?
12. Original Service Provider Phone: ?
13. Original Service Provider E-mail address: ????
14. New SPIN: 143025189
15. New Service Provider: Capacity Provisioning Inc.
16. New Service Provider Contact: Craig Johnson
17. New Service Provider Phone: 360-565-8400
18. New Service Provider: E-mail address: craig@cpifiber.com
19. Reason for change: This FRN has been under appeal with the FCC since 2002 and I just received the funding commitment letter for the FRN. When I filed the original Form 471, I had to use an interim SPIN number 143666666 for Capacity Provisioning Inc. When I filed the appeal with the FCC, I used their correct SPIN number of 143025189 and I have no idea where the 143014270 SPIN number came from.
20. No services have been provided by AT&T Wireless Services of Washington under this FRN.

Sincerely,



Jim Bennett, President

Attach #3

# Olympic Peninsula Consultants

Jim Bennett, President  
P. O. Box 2239  
Forks, WA 98331

[jbennett@olynet.com](mailto:jbennett@olynet.com)

360-374-3310

July 1, 2002

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

Re: Appeal

Contact Information:

Year 5

Jim Bennett  
PO Box 2239  
Forks, WA 98331  
360-374-3310  
Fax 360-374-3310  
[jbennett@olynet.com](mailto:jbennett@olynet.com)

Port Angeles School Dist 121                      Billed Entity # 145262  
Form 471 # 291855                                      FRN # 833009  
Service Provider SPIN 143025189 Capacity Provisioning Inc.  
Funding Commitment Decision Letter Dated July 16, 2002  
Service Start Date 7/01/2001  
Funding Commitment Decision: \$0.00 – Invalid Telecom Provider  
Funding Commitment Decision Explanation: This FRN is a request for  
Telecommunications Service from a provider that does not provide telecommunications  
on a common carriage basis.

Explanation of Appeal:

According to CC Docket No. 96-45 Miscellaneous

1. "This service category for entries in this section should reflect the same category as the product or service being installed and maintained – Telecommunications Services, Internet Access, or Internal Connections."

Attach # 3

2. The above FRN is for "Dark Fiber (excess capacity provided by service provider but "lit" by applicant)" "Services providers can lease fiber capacity that does not include modulating electronics to schools or libraries, if the applicant provides the electronics to modulate the fiber. The lease of such fiber cable for obtaining Telecommunications Services or Internet Access is eligible, if the applicant's electronics are located solely at eligible school or library sites, and if the conditions apply are described under the heading "Wide Area Network" in the relevant section (Telecommunications Services or Internet Access)

3. According to Wide Area Network (WAN) Fact Sheet  
Section "2. Examples of Discounts on Wide Area Networks"  
Paragraph #3

"Assume that the computers of a school district and library system are connected among the various buildings in order to share access to the Internet. The connections between buildings are leased from a non-telecommunications provider such as a cable company, and are the most cost-effective means of accessing the Internet. The cost of leasing the connections is eligible for discounts as Internet Access."

A representative of the SLD called me to talk about Capacity Provisioning FRN saying that they were not a registered telecommunications provider. I asked at that time if I had selected the wrong service order and should it be Internet Access and she told me, no that I had selected the right service order.

From the information listed above, I feel that this is a valid service that should be supported by e-rate. Where I went wrong in the application process was that since this service was replacing T-1 lines and since the approved service list says, "reflect the same category as the product or service being installed and maintained". I felt this request should be Telecommunications Service and I see now that it should be Internet Access Service.

I request that you change the Services Ordered from Telecommunication to Internet Access since all of the application requirements have been met in the application process and fund this FRN in the amount of \$10,651.40.

Thank you for your consideration. If you need additional information, please contact me at the above listed e-mail address or phone number.

Sincerely,

Jim Bennett, President

Attch #4



Universal Service Administrative Company  
Schools & Libraries Division

**Administrator's Decision on Appeal - Funding Year 2002-2003**

February 6, 2003

Jim Bennett  
Re: Port Angeles School Dist 121  
PO Box 2239  
Forks, WA 98331

Re: Billed Entity Number: 145262  
471 Application Number: 291855  
Funding Request Number(s): 833009  
Your Correspondence Dated: July 1, 2002

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 Year Five Funding Commitment Decision 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 for each application for which an appeal is submitted, a separate letter is sent.

Funding Request Number: 833009  
Decision on Appeal: **Approved, but Denied for Funding**  
Explanation:

- You have stated on appeal that you received a Funding Commitment Decision Letter dated July 16, 2002 stating that this request for discounts was denied because "The FRN is a request for Telecommunications service from a provider that does not provide Telecommunications on a common carriage basis". You claim that you classified the funding request in the wrong service category. You further stated that the category of service should have been identified as Internet access. You would like the category of service changed to Internet access and have discounts be provided for this funding request.
- Your appeal has brought persuasive information that the service category for this funding request should be changed to Internet access. Unfortunately, the SLD will be unable to provide discounts for your request for the reasons cited below.

Attch #4

can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site,  
[www.sl.universalservice.org](http://www.sl.universalservice.org).

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

Schools and Libraries Division  
Universal Service Administrative Company

CC: Jim Jones  
Port Angeles School Dist 121  
216 E 4th St  
Port Angeles, WA 98362 - 3200