



**CHESTER UPLAND SCHOOL DISTRICT  
OFFICE OF GENERAL COUNSEL**

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Chester, PA 19013  
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FILED/ACCEPTED

DEC - 6 2007

Federal Communications Commission  
Office of the Secretary

CC Docket No 02-6  
SLD-431150  
E-rate appeal

**FAX COVERSHEET**

To: Mark Maydell

From: Dena Lefkowitz, Esq.

Fax: (202) 418-7361

Pages: 10

Phone: (610) 447-3825

Date: December 6, 2007

Re: Form 471 Appeal 431150

cc:

Urgent: \_\_\_\_\_ For Review: \_\_\_\_\_ Please Comment: \_\_\_\_\_ Please Reply: \_\_\_\_\_

**- IMPORTANT MESSAGE -**

Attached please find correspondence dated February 14, 2006 advising the Federal Communications Commission of CUSD's appeal in the above-referenced matter which may have been misplaced due to the filing of two appeals - #429627 and 431150. If you need further assistance, please do not hesitate to contact me.

*Michele K. Ardes  
Legal Assistant to Dena Lefkowitz, Esquire  
Office of General Counsel  
Chester Upland School District  
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No. of Copies rec'd \_\_\_\_\_  
List ABCDE \_\_\_\_\_

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**CHESTER UPLAND SCHOOL DISTRICT**

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02-6

**BOARD OF CONTROL**

*Michael F. X. Gillin, Chairman*

*Telephone: (610) 565-2211*

*Adriane M. Irving, Secretary*

*Telephone: (610) 447-7718*

**FILED/ACCEPTED**

**DEC - 6 2007**

Federal Communications Commission  
Office of the Secretary

February 14, 2006

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

Dear Sir or Madam:

The Chester Upland School District is appealing with supporting documentation the Universal Service Administrative Company (USAC) denial letter (attached) dated December 13, 2005.

It has come to the School District's attention that your office was due information concerning an appeal of our e-rate denial for the 2004-05 school year. The School District submits this letter of explanation as to where the School District stands concerning this most unfortunate situation at the Chester Upland School District (billing entity #126090).

Please accept the District's apology for not completing this filing in a timely fashion. Unfortunately, the gentleman who was totally responsible for all e-rate matters since its inception during the 1998-99 school year has not been to work or available for approximately the past six weeks and has now applied for a medical leave of absence for the next two months. Please be advised that since the discovery of the denial of the e-rate application and subsequent letter appeal, the program is now managed by the district's business office under the direction of Tom Josiah, Assistant Business Manager who reports to the Business Manager.

In order to fully understand our situation at the Chester Upland School District, of Copies rec'd  
the School District submits the following background information: List ABCDE

- The Chester Upland School District has been declared an Empowerment District (academically) since the 2000-2001 school year by the Pennsylvania Department of Education.
- The Chester Upland School District has been declared a distressed district (financially) since June 1994 by the Pennsylvania Department of Education.
- As a result of both of these above actions, the regular school board of directors has been replaced by a three member Board of Control since the 1994-95 school year. These three positions are, and have been filled by the Governor of Pennsylvania and/or the Court of Common Pleas of Delaware County.
- The Chester Upland School District ranks among the lowest performing school district's in the Commonwealth of Pennsylvania per the rankings of the Pennsylvania Department of Education's P.S.S.A testing examinations. The most recent data concludes that the Chester Upland School District ranks five hundred (500) out of the five hundred and one (501) school districts.
- The Chester Upland School District currently has approximately 86% of our students who qualify for free and reduced lunches which speaks to the economic status of our student body.
- A search of our data indicates that approximately 97% of our student body is comprised of minority students.
- The district has not increased its real estate taxes in the past ten (10) years.
- Approximately 25% of the district pupils are identified as special education students, which is considerably more than the state average. As a result, the School District expends an extraordinary amount on these students (estimated in our 2005-06 final year budget at approximately \$19,500,000).
- The number of students who attend charter schools is approximately 2,304, which will cost the School District approximately \$20,300,000 as is indicated in the 2005-06 budget.
- As a result of our past history, the Pennsylvania Department of Education signed a contract and placed the Chester Upland School District under the management of the Edison Corporation, which is a private educational management firm based in New York City.

They managed all but one of our elementary schools, all three middle schools, and Chester High School from the 2001-02 school year through the 2004-05 school year.

- The Chester Upland School District suffered greatly from a revolving door of administrators, internally and on the School District's Boards of Control since July 1994. Over the past twelve years, the School District had a total of: five (5) Chairmen of the Board of Control, ten (10) different members of the Board of Control, and eight (8) different Superintendents of Schools.
- To further exasperate this revolving door predicament, the School District replaced the following top management positions: Superintendent of Schools, Chief Academic Officer, Business Administrator, Controller, Federal Programs Coordinator, Payroll Supervisor, and Director of Human Resources. All of the aforementioned positions were replaced within the last year and a half.
- In order to comply with the Pennsylvania School Code and adopt a balanced budget for the current 2005-06 fiscal year, the School District laid off 42 teachers and 24 support personnel.
- As a result of the School District's poor financial position, the district petitioned the Delaware County Court of Common Pleas in May of 2005 to secure the Court's permission to issue approximately \$15 million of unfunded debt (permission was granted) in order to have school remain open through the 2004-05 school year and begin the 2005-06 school year.
- In July of 2005, the School District took advantage of the favorable market conditions and refinanced several outstanding bond issues which will help the District through the next few fiscal years by reducing the annual projected debt service payments.
- The School District implemented a total freeze on all expenditures except if permission is directly granted by the Superintendent of Schools or by the Business Administrator beginning in January 2006. This is the second school year that such a freeze was initiated.
- The district is currently considering two different proposals from outside management firms to replace all district maintenance and custodial employees. If their financial proposals can meet with certain provisions of existing labor contracts which must be taken into consideration under the laws of the Commonwealth of PA.

The aforementioned history supports the School District's argument that the failure to grant the appeal will have dire consequences on the students of Chester Upland School District when the school district in fact budgeted for the e-rate services and paid for them within the 2004-2005 fiscal year.

The denial stated that based on their thorough review of the appeal they determined that Chester Upland School District did not demonstrate that funds were secured in order to pay our portion of the E-rate charges.

The School District attaches its audit report for the fiscal year 2005. As documented in our audit report, page 23 reflects in the General Fund that the district secured funding that totaled \$82,708,202. These revenues are used to pay for our overall operating expenditures for the General Fund as also reflected on page 23.

The School District's e-rate eligible expenditures are part of the regular recurring operating expenditures. The district has phone service, which is provided by both Verizon, Inc. and AT&T, Inc for local calls and long distance calls, respectively. These expenditures are charged throughout the various departments, i.e. instruction or support services, based on where the phone service is being provided.

IBS Communications services expenditures are being charged to the support services section. IBS services communication is charged with providing us with connectivity to the Internet. The School District has Internet services, which is being provided by IBS Communications.

Suncoys, Inc. expenditures are being charged to the support services section. Suncoys, Inc. leases fiber optic lines to the School District, which provides the district with connectivity. The district has a network that is supported by these fiber optic wires.

Cingular Wireless expenditures are being charged to either the instruction or support services departments depending upon where the school district personnel are working. The district has wireless phone services to facilitate communication with school district employees.

As indicated above, these services that the School District has been denied funding for are valid school district expenditures that the School District has and that are supported by the district's overall budget as reflected on page 23 of the audit report. In further support that funds were available and payments were made to the service providers, the School District has attached copies of these bills that were paid in the fiscal year 2005.

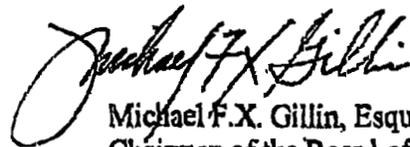
As one could surmise from all of the above, the Chester Upland School District is and has been in a very troubling fiscal situation for quite a few years. A denial of the district's appeal would have a deleterious effect on the basic everyday operations and education of deserving students in the Chester Upland School District. If this final appeal were to be denied, the Chester Upland School District would have to expend an

unanticipated amount of approximately \$390,000 from the general fund. The result would be that the students and our struggling educational programs, which are both showing great signs of improvement, would once again suffer as a result of the total mismanagement of this e-rate program. Once again, the School District has taken steps to rectify the management of the district's e-rate program.

The Chester Upland School District thanks you in advance and appreciates any assistance that the district may get from your department in securing the funding commitments that have been denied.

Please do not hesitate to call Tom Josiah, CGFM, CPA, Assistant Business Manager, with any questions at 610.447.3583.

Very truly yours,



Michael F.X. Gillin, Esquire  
Chairman of the Board of Control

MFXG/gs  
Enclosures

cc: Adriene M. Irving, Secretary Board of Control  
Dr. Gloria Grantham, C.E.O.  
Eugene A. Cresta, Business Manager  
Thomas Josiah, Assistant Business Manager  
Leo A. Hackett, Esquire, Solicitor

Larry F. Jennings  
Chester-Upland School District  
1720 Melrose Avenue  
Chester, PA 19013-5897

Billed Entity Number: 126090  
Form 471 Application Number: 431150  
Form 486 Application Number:

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

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

December 13, 2005

Larry F. Jennings  
Chester-Upland School District  
1720 Melrose Avenue  
Chester, PA 19013-5897

Re: Applicant Name: CHESTER-UPLAND SCHOOL DISTRICT  
Billed Entity Number: 126090  
Form 471 Application Number: 431150  
Funding Request Number(s): 1197752, 1198396, 1198533  
Your Correspondence Dated: September 30, 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 Funding Commitment Decision 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): 1197752, 1198396, 1198533  
Decision on Appeal: Denied  
Explanation:

- On appeal, you provide copies of the Information Communication Expenditure Analysis for the year ending June 30, 2005, and the Vendor Status from Budgetary Accounting System to demonstrate that you secured access to funds needed to pay your portion of the E-rate share.
- Upon thorough review of the appeal and the relevant facts and documentation, it was determined that Chester Upland School District did not demonstrate that funds were secured in order to pay their portion of the E-rate charges. During the Selective review, you were requested on October 5, 2004 and October 13, 2004, to provide a copy of the operating budget for 2004-2005 showing both revenues and expenses indicating from where the District's portion of E-rate is coming on both the revenues and expenses sides of the budget. In the response provided to

SLD on October 27, 2004, you provided a budget report for the period ending on May 31, 2004. In subsequent responses on January 21, 2005 and January 25, 2005 to further SLD's inquiries on January 10, 2005 and January 18, 2005 about the budget, you provided budget information for the year ending on June 30, 2004. Please note that the funding year for 2004-2005 ends on June 30, 2005. On May 4, 2005, you were asked again to provide a finalized operating budget for Funding Year 2004-2005. In the response of May 11, 2005, you provided a Funding Year 2004-2005 approved budget with no indication from where the District's portion of E-rate share is coming. On June 6, 2005, you were emailed a follow-up request regarding the budget that documents the District's E-rate expenditures after confirmation of summer availability. You confirmed receipt of request via phone on the same day. On June 14, 2005, your extension request was granted with additional 7 days. As of June 22, 2005, you failed to respond to the SLD's inquiries; consequently violating the 7-day procedure for providing the requested budget documentation. Based on the documentation you submitted during Selective review, SLD supports the denial of the FRNs since you failed to provide the requested budget documentation after numerous requests.

On appeal, you provide copies of the Information Communication Expenditure Analysis for the year ending June 30, 2005, and the Vendor Status from Budgetary Accounting System as proof of having secured the funds to pay for the District's share of E-rate. Program rules do not permit the SLD to accept new information on appeal, except where an applicant was not given an opportunity to provide information during their initial review or an error was made by the SLD. Since you did not respond to SLD's repeated requests within the applied 7-day procedure time frame, you have failed to provide on appeal evidence that SLD has erred in its initial decision.

- During the review of your Form 471, SLD sought additional information from you and notified you that this information needed to be provided within 7-days. You did not provide this information within 7 days or within any extended timeframe we agreed upon, or the information that you provided was insufficient to complete your Form 471 application.
- SLD reviews Form 471 applications and makes funding commitment decisions in compliance with FCC rules. See 47 C.F.R. § 54.500 *et. seq.* To conduct these reviews, SLD 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, Order, 18 FCC Rcd. 4520, DA 03-764, ¶ 6 (rel. Mar. 13, 2003). (*Marshall County*) One such measure is that applicants are required to respond to SLD's requests for the additional information necessary to complete their application within 7 days of being contacted. *Id.*; SLD section of the USAC web site, Reference Area, "Deadline for Information Requests," [www.sl.universalservice.org/reference/deadline.asp](http://www.sl.universalservice.org/reference/deadline.asp) This procedure is necessary to prevent undue delays during the application review process. See *Marshall*

**County ¶ 6.** If applicants do not respond within this time period, SLD reviews the application based on the information before it.

- SLD's review of your application indicated that the information you provided during the Item 25 review was not sufficient to demonstrate that, at the time you submitted your Form 471 application, you had secured access to these funds. In your appeal, you did not demonstrate that at the time you submitted your Form 471 application, you had secured access to these funds. Consequently, SLD denies your appeal.
- FCC rules require applicants to certify that, at the time they submit the FCC Form 471, they have secured access to all of the resources, including computers, training, software, maintenance, and electrical connections necessary to make effective use of the products and services purchased as well as to pay the non-discounted charges for eligible products and services. 47 C.F.R. § 54.504(b); FCC Form 471, Block 6 Item 25. SLD reviews this certification by conducting an Item 25 "necessary resources" review. The FCC has emphasized the importance of conducting this review to protect the integrity of the schools and libraries support mechanism. *Request for Review by New Orleans Public Schools, 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, Order, 16 FCC Rcd. 16,653, DA 01-2097 (rel. Sep. 18, 2001). This rule requires the applicant to pay its service provider the full cost of the non-discounted portion owed to the service provider from the funds budgeted within that funding year.

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 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 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