

January 25, 2008

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

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

Billed Entity Name Duquesne City School District
Billed Entity Number (BEN) 125213

Funding Request Numbers in This Appeal

Funding Request Numbers (FRN) 1067305
471 Application Number 389155

Funding Request Number 1097960
471 Application Number 401478

Funding Request Numbers 1098089, 1098106
471 Application Number 401517

Funding Year 2004

**APPEAL/REQUEST FOR REVIEW OF USAC DENIAL OF APPEAL DENYING
REQUESTS FOR INVOICE EXTENSION**

On September 12, 2007, the Applicant submitted the above-referenced requests for extension of the invoice deadline for four FY 2004 funding request numbers. The Applicant requested the extension on the basis that "Documentation requirements that necessitate third-party contact or certification; Natural or man-made disasters that prevent timely filing of invoices."

The Applicant explained why its request was submitted at this point in time, past the deadline¹ for submitting these invoices:

The District is financially distressed. In the fall of 2000, the State took control of the District and established a Board of Control to operate the District. The District had been applying for E-rate funding to help pay for its technology costs, but has experienced personnel turnover in recent years. The person who used to be responsible for handling E-rate for the District left the District and longer employed there. The District did not have other in-house E-rate expertise. Consequently, the District did not realize that it missed deadlines for submitting reimbursements for those FRNs where the District paid 100% of the charges up front. This oversight on our part rises to the level of a man-made disaster for a financially distressed district such as ours, where every dollar is desperately

¹ FRNs 1067305, 1098089 and 1098106 have a deadline of October 28, 2005 and FRN 1097960 has a deadline of January 30, 2006 according to the Data Retrieval Tool.

needed to support our ability to provide education to our students. Just today, the District retained the services of an E-rate consultant, who discovered the District's failure to file for reimbursements on the four above-referenced FRNs and the District immediately is filing this invoice extension request. The District requests the SLD's accommodation and forgiveness in failing to apply for reimbursements within the prescribed deadline, and respectfully requests that the SLD grant an invoice deadline extension at this time.

Despite the fact that the invoice extension request complied with SLD's published requirements, the SLD's September 25, 2007 denial letters simply stated that "Current deadline guidelines and procedures do not allow approval for the reason submitted." The Applicant then appealed to the SLD and the SLD summarily dismissed the appeals, stating:

Current deadline guidelines and procedures do not allow approval for the reason submitted. Invoice Deadline Extension requests should be filed by the end of the relevant invoice receipt period for the service category of the FRN requiring an extension (120 days after the end of the service delivery date). You did not demonstrate in your appeal that you filed an extension request in a timely manner. Therefore, the appeal is denied.²

Yet the reason that the Applicant submitted in support of its requests for invoice deadline extensions were exactly worded in the same way that two of the invoice extension reasons appear on the SLD's web site: "Documentation requirements that necessitate third-party contact or certification" and "Natural or man-made disasters that prevent timely filing of invoices."

Notably, there is no regulation or FCC Order that precludes granting the relief requested in this appeal. As USAC itself noted, there are deadline *guidelines and procedures* – **but not a regulation** relating to invoice extension requests. The applicant explained thoroughly why it did not meet the original invoice deadline and why it did not submit an extension before the original extension expired. SLD's rationale suggests no invoice extension will be granted if requested after the original invoice deadline. Yet, this is simply not true. The applicant also requested invoice deadline extensions of FY 2005 FRNs for which the original invoice deadline has already passed, and USAC granted these extensions. We are grateful that USAC exercised its discretion in our favor by granting the extensions for the FY 2005 FRNs and do not wish for this favorable decision to be revisited or rescinded in any way. We mention the invoice deadline extensions for FY 2005 FRNs only to illustrate the point that USAC does sometimes grant invoice extensions after the original invoice deadline has passed, despite the fact that its rationale for denying the FY 2004 invoice extension requests appears to state the contrary.

The only time frame at issue is an administrative deadline established by the SLD, governed by some internal USAC procedures and guidelines. In fact, the granting of this appeal would be keeping with the spirit of the FCC's Bishop Perry and Alaska Gateway appeal orders which excused applicants' failure to meet the deadline for filing a Form 470 and 471 certification and a Form 486 within the time prescribed by SLD's guidelines and procedures. Just like the situation with respect to the Form 486 deadline which is *not* prescribed by regulation, the deadline for submitting a Form 472 Billed Entity Applicant Reimbursement Form is *not* prescribed by regulation. The deadline is a SLD procedural requirement that can be extended on the basis of the various reasons set forth on the SLD's web site.

² The appeal denial letters were dated November 21, 2007. The 60 day appeal period mistakenly was computed based on the November 27th receipt date instead of the issuance dates of the letters. Applicant requests that the FCC waive the 60 day appeal period for good cause, because no party will be prejudiced by the applicant's minor delay in submitting this appeal. The 60 day appeal period ended on January 22, 2008 (since the 60th day, January 21, was a federal holiday). There is no adverse party associated with this request that would be prejudiced in any way by granting this waiver and granting the requested substantive relief in the public interest.

The SLD has an opportunity to grant this appeal and allow this financially distressed applicant to obtain the reimbursements of the E-rate dollars that it already expended. The funding for these four FRNs amounts to \$27,520 which is not a substantial amount when measured against the annual \$2.25 billion E-rate fund, but it is extremely important to this financially impoverished District.

In summary, the District requests that the SLD reconsider its denial of the invoice extensions for these four funding requests and to approve the invoice extensions.

Thank you for considering this request.

Respectfully submitted,

 /s/ Sheldon Burke
Interim Business Manager