



**SPECTRUM COMMUNICATIONS**  
**CABLING SERVICES, INC.**

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APR 23 2009

FCC Mail Room

Sent via Facsimile and U.S. Postal Service

April 17, 2009

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

RE: **THIRD REQUEST and in reference to:**

**The Appeal of the USAC denial of Hemet Unified School District's, Request for Service Delivery Extension Deadline for the E-Rate Program.**

**Request for Review: Docket No. 02-6**  
**Appeal of the Universal Service Administrative Company Decision**  
**Applicant name: Hemet Unified School District**  
**E-Rate Year 5 Projects**  
**Form 471 #: 295589**  
**FRN's: 792640, 792784, 792858, 819791**

Ms. Dortch,

Please find attached copies of our appeals to the Federal Communications Commission; dated July 9, 2008 and December 1, 2008, in reference to Hemet Unified School District ('Hemet') E-Rate funding year 5 (Form 471 No. 295589).

As of this writing, Hemet's E-Rate project has been on-hold for almost 12 months, and unable to be completed pending FCC decision to this matter.

As indicated in the attached copies of Spectrum Communications appeals, we have stopped E-Rate (FY5) work on Hemet's work – in the middle of the work schedule – pending FCC approval or denial of this request. This is pursuant to both FCC and State rules.

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Recently, FCC decisions have addressed those same questions raised here in Hemet's appeal; Tekoa Academy of Accelerated Studies<sup>1</sup>, Barberton City School District, *et al*<sup>2</sup>, and Archer Public Library, *et al.*<sup>3</sup>, Mineola Unified School District<sup>4</sup>. All of which were approved and remanded by the FCC.

Moreover, our request is consistent with FCC orders as set fourth in Bishop Perry<sup>5</sup>, and Academy of Academic Excellence.<sup>6</sup>

Additionally, Hemet's request to correct its mistake regarding its funding request would not, in and of itself, result in waste, fraud or abuse, or a failure to adhere to core program requirements.

The specific issue of this appeal is, does USAC have the authority to apply the Bishop Perry order to those requests for USAC review, *after the implementation window has closed?*

The primary basis for Hemet's appeal is that Hemet mistakenly omitted 4 FRN's on it request to USAC for delivery deadline extension, subsequently became aware of its mistake, and notified USAC of the error. Unfortunately not in time for USAC to have the authority to correct the problem without FCC intervention, because the implementation window had closed for that funding year. Hence, this appeal to the FCC.

Both Spectrum Communications and Hemet had hoped that the FCC would have provided a decision regarding this appeal "within six months" as stated in the Fifth Order.<sup>7</sup>

Currently we are finding it difficult to continue any performance of work, as well as completion, until the FCC makes its decision on this appeal. Hemet has subsequent E-Rate funding years that rely on the completion of the work contained within this appeal.

I beg the FCC to review this appeal as soon as possible.

If you have any questions or require further information, please contact me directly at (951) 529-6040. Conversely, you may contact the customer Mr. Richard Beck, Assistance Superintendent for Hemet, at (951) 765-5100.

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<sup>1</sup> See *Request for Review of the Decision of the Error! Reference source not found.* by Tekoa Academy of Accelerated Studies. File No. SLD-242830, CC Docket No. 02-6, FCC Order DA 08-2372.

<sup>2</sup> See *Request for Review of the Decision of the Error! Reference source not found.* by Barberton City School District, *et al.*, File No. SLD-400938, CC Docket No. 02-6, FCC Order 08-2382.

<sup>3</sup> See *Request for Review of the Decision of the Error! Reference source not found.* by Archer Public Library, *et al.*, File No. SLD-140961, CC Docket No. 02-6, FCC Order 08-2381.

<sup>4</sup> See FCC letter to Mel Blackwell, Vice President, Schools and Libraries Division; dated April 14, 2008, DA 08-872.

<sup>5</sup> See *Request for Review of the Decision of the Error! Reference source not found.* by Archer Public Library, *et al.*, File No. SLD-140961, CC Docket No. 02-6, FCC Order 08-2381.

<sup>6</sup> See *Request for Review of the Decision of the Error! Reference source not found.* by Academy of Academic Excellence, *et al.*, File No SLD-539076, 539722, CC Docket 02-6, FCC DA 07-1180.

<sup>7</sup> See *In the Matter of Schools and Libraries Universal Support Mechanism. CC Docket No. 02-6', FCC 04-190, "Fifth Report and Order"*, dated August 4, 2004.

Respectfully submitted,

A handwritten signature in black ink that reads "Robert Rivera, CP". The signature is written in a cursive style with a large initial 'R' and a small 'CP' at the end.

Robert Rivera  
Spectrum Communications

Enclosures

Cc:

Richard Beck, Assistant Superintendent, Hemet Unified School District  
Emil Basilio, Director Information Services, Hemet Unified School District  
Julie Veach, Acting Chief, Wireline Competition Bureau

**Sent via Facsimile and U.S. Postal Service**

December 1, 2008

**Received & Inspected**

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

**APR 23 2009**  
**FCC Mail Room**

**RE: SECOND REQUEST FOR:**

**Petition for Immediate Relief, in the matter of;  
The Petition for Reconsideration of the Denial of Hemet Unified School  
District's Request for Service Delivery Extension Deadline for the E-Rate  
Program.**

**Request for Review: Docket No. 02-6  
Appeal of the Universal Service Administrative Company Decision  
Applicant name: Hemet Unified School District  
E-Rate Year 5 Projects  
Form 471 #: 295589  
FRN's: 792640, 792784, 792858, 819791**

Ms. Dortch,

On July 9, 2008, I sent the following request to your offices. I receive the FCC Daily Digest, and have yet to see this request for petition mentioned. So I must assume it has gotten lost.

As you will read below, we have stopped E-Rate (FY5) work on Hemet Unified School District – in the middle of the work schedule – pending FCC approval or denial of this request.

Since my writing of this petition there have been several decisions or orders from the FCC that are similar to our request, such as; Tekoa Academy of Accelerated Studies<sup>1</sup>, Barberton City School District, *et al.*<sup>2</sup>, and Archer Public Library, *et al.*<sup>3</sup>

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<sup>1</sup> See Request for Review of the Decision of the Universal Service Administrative Company by Tekoa Academy of Accelerated Studies, File No. SLD-242830, CC Docket No. 02-6, FCC Order DA 08-2372.

<sup>2</sup> See Request for Review of the Decision of the Universal Service Administrative Company by Barberton City School District, *et al.*, File No. SLD-400938, CC Docket No. 02-6, FCC Order 08-2382.

<sup>3</sup> See Request for Review of the Decision of the Universal Service Administrative Company by Archer Public Library, *et al.*, File No. SLD-140961, CC Docket No. 02-6, FCC Order 08-2381.

Moreover, our request is consistent with FCC orders set forth in Bishop Perry<sup>4</sup> and Academy of Academic Excellence<sup>5</sup>, whereas the direct issue here is if USAC has the authority to apply Bishop Perry to those requests for review *after the implementation window has closed*. This is meant to say, that clearly Hemet Unified School District mistakenly omitted 4 FRN's, became aware of its mistake, and notified USAC of the error, unfortunately not in time for USAC to have the authority to correct the problem without FCC intervention.

I have omitted the attachments for convenience, however, if you require the attachments please let me know and I will send them.

I respectfully ask for an FCC decision on this matter as soon as possible.

*My letter to your offices of July 9, 2008:*

I am writing this letter on behalf of the Hemet Unified School District ('Hemet') in regards to Hemet's request and subsequent denial for Service Delivery Deadline Extension ('extension') for the aforementioned FRN's.

On August 23, 2007, Hemet sent its initial request for Service Delivery Extension for its previously funded 471 number 295589. (Attachment A)

On November 8, 2007, Hemet realized that its request had mistakenly omitted 4 FRN's of the same Form 471 (295589), and sent a letter requesting that these additional FRN's (792640, 792784, 792858, and 819791) be included in their extension request. (Attachment B)

On November 13, 2007, USAC approved Hemet's request for extension, however, Hemet's letter of November 8<sup>th</sup>, apparently 'crossed in the mail' and USAC did not receive Hemet's request to add the additional 4 FRN's until after they had sent the extension approval.

On January 28, 2008, Spectrum Communications, Hemet's selected service provider, sent a letter of inquiry regarding the status of the approval for the additional 4 FRN's.

On February 15, 2008, both Hemet and Spectrum were notified that USAC had denied Hemet's request for extension on the additional 4 FRN's. The reason for denial was that the request appeared to USAC to have occurred after the delivery window had closed.

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<sup>4</sup> See Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, et al., Schools and Libraries Universal Service Support Mechanism, File No. SLD-48770, CC Docket No. 02-6.

<sup>5</sup> See Request for Review of the Decision of the Universal Service Administrative Company by Academy of Academic Excellence, et al., File No SLD-539076, 539722, CC Docket 02-6, FCC DA 07-1180.

On May 28, 2008, Spectrum Communications, Hemet's selected service provider, sent an appeal to the USAC providing additional information in support of Hemet's request to add the 4 omitted FRN's.

On June 20, 2008, Hemet received a USAC Administrator's Decision on its request for an extension to the abovementioned FRN's. Hemet's request was "denied in full". (Attachment C)

Hemet and Spectrum Communications appeal USAC's decision to deny Hemet's request for extension. This appeal is timely.

The basis for Hemet's appeal is that in its original request for an extension to USAC, Hemet mistakenly omitted 4 FRN's from its request. Subsequently, USAC approved Hemet's extension request minus the 4 missing FRN's.

In the time between Hemet's original request and USAC's approval, Hemet realized that it had omitted the additional 4 FRN's, and wrote USAC to inform them and request that these 4 FRN's be included in its extension request. It appears however, that these letters crossed in the mail, as Hemet had soon after received an extension approval minus the 4 omitted FRN's.

USAC requires FCC guidance in order to approve the additional 4 FRN's because Hemet had mistakenly omitted them in their original, and timely, request for extension, for which USAC had approved. However, because Hemet's did not realize their omission of the 4 FRN's until November 8<sup>th</sup> 2007, USAC is unable to grant extension on these without FCC approval because by that time the service delivery window had closed.

Hemet is in need of the additional 4 FRN's in order to complete their technology plans as provided to USAC in its original Form 471 request.

Granting this request serves the purpose of the E-Rate program. There are no additional budgeting requirements necessary, as these 4 FRN's were originally approved for funding in Hemet's initial Form 471 request.

In the past, the Commission has allowed applicants to correct similar mistakes, such as inadvertently leaving portions of the FCC Forms blank, or making minor errors.<sup>6</sup>

Hemet and Spectrum, respectfully asks the FCC to grant its request and extend the additional 4 FRN's which should have been included, but was mistakenly omitted, to the original extension request that was approved.

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<sup>6</sup> See Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, et al., Schools and Libraries Universal Service Support Mechanism, File Mo. SLD-48770, CC Docket No. 02-6.

See also, Mineola Union Free School District, FCC Form 471 No. 637705; DA 08-872

This Petition for Immediate relief is made because Spectrum Communications, the selected service provider for this funding request, can not complete the balance of the work as proposed by Hemet in its funding request.

Subsequently, this project is on hold until the FCC provides its decision to this request. If this request is not granted, Hemet may have to eliminate needed functionality to its technology goals.

Please forgive Hemet's oversight in its omission of the 4 FRN's to its request for service delivery extension.

Should you have any questions or require further information, please contact Richard Beck at (951) 765-5100 ext. 2401. Conversely, you may contact Robert Rivera at (951) 371-0549.

Respectfully Submitted,

Robert Rivera  
Spectrum Communications

Cc:

Richard Beck  
Asst. Superintendent, Hemet Unified School District

Mel Blackwell, Vice President SLD  
Universal Service Administrative Company

Mick Kraft, SLD  
Universal Service Administrative Company

Emil Basilio, Director Information Technology  
Hemet Unified School District

Encl.

Sent via Facsimile and U.S. Postal Service

Received by Secretary

APR 23 2009  
FCC Mail Room

July 9, 2008

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

**RE: Petition for Immediate Relief, in the matter of;  
The Petition for Reconsideration of the Denial of Hemet Unified School  
District's Request for Service Delivery Extension Deadline for the E-Rate  
Program.**

**Request for Review: Docket No. 02-6  
Appeal of the Universal Service Administrative Company Decision  
Applicant name: Hemet Unified School District  
E-Rate Year 5 Projects  
Form 471 #: 295589  
FRN's: 792640, 792784, 792858, 819791**

Ms. Dortch,

I am writing this letter on behalf of the Hemet Unified School District ('Hemet') in regards to Hemet's request and subsequent denial for Service Delivery Deadline Extension ('extension') for the aforementioned FRN's.

On August 23, 2007, Hemet sent its initial request for Service Delivery Extension for its previously funded 471 number 295589. (Attachment A)

On November 8, 2007, Hemet realized that its request had mistakenly omitted 4 FRN's of the same Form 471 (295589), and sent a letter requesting that these additional FRN's (792640, 792784, 792858, and 819791) be included in their extension request. (Attachment B)

On November 13, 2007, USAC approved Hemet's request for extension, however, Hemet's letter of November 8<sup>th</sup>, apparently 'crossed in the mail' and USAC did not receive Hemet's request to add the additional 4 FRN's until after they had sent the extension approval.

On January 28, 2008, Spectrum Communications, Hemet's selected service provider, sent a letter of inquiry regarding the status of the approval for the additional 4 FRN's.

On February 15, 2008, both Hemet and Spectrum were notified that USAC had denied Hemet's request for extension on the additional 4 FRN's. The reason for denial was that the request appeared to USAC to have occurred after the delivery window had closed.

On May 28, 2008, Spectrum Communications, Hemet's selected service provider, sent an appeal to the USAC providing additional information in support of Hemet's request to add the 4 omitted FRN's.

On June 20, 2008, Hemet received a USAC Administrator's Decision on its request for an extension to the abovementioned FRN's. Hemet's request was "denied in full". (Attachment C)

Hemet and Spectrum Communications appeal USAC's decision to deny Hemet's request for extension. This appeal is timely.

The basis for Hemet's appeal is that in its original request for an extension to USAC, Hemet mistakenly omitted 4 FRN's from its request. Subsequently, USAC approved Hemet's extension request minus the 4 missing FRN's.

In the time between Hemet's original request and USAC's approval, Hemet realized that it had omitted the additional 4 FRN's, and wrote USAC to inform them and request that these 4 FRN's be included in its extension request. It appears however, that these letters crossed in the mail, as Hemet had soon after received an extension approval minus the 4 omitted FRN's.

USAC requires FCC guidance in order to approve the additional 4 FRN's because Hemet had mistakenly omitted them in their original, and timely, request for extension, for which USAC had approved. However, because Hemet's did not realize their omission of the 4 FRN's until November 8<sup>th</sup> 2007, USAC is unable to grant extension on these without FCC approval because by that time the service delivery window had closed.

Hemet is in need of the additional 4 FRN's in order to complete their technology plans as provided to USAC in its original Form 471 request.

Granting this request serves the purpose of the E-Rate program. There are no additional budgeting requirements necessary, as these 4 FRN's were originally approved for funding in Hemet's initial Form 471 request.

In the past, the Commission has allowed applicants to correct similar mistakes, such as inadvertently leaving portions of the FCC Forms blank, or making minor errors.<sup>1</sup>

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<sup>1</sup> See Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, et al., Schools and Libraries Universal Service Support Mechanism, File Mo. SLD-48770, CC Docket No. 02-6.

Hemet and Spectrum, respectfully asks the FCC to grant its request and extend the additional 4 FRN's which should have been included, but was mistakenly omitted, to the original extension request that was approved.

This Petition for Immediate relief is made because Spectrum Communications, the selected service provider for this funding request, can not complete the balance of the work as proposed by Hemet in its funding request.

Subsequently, this project is on hold until the FCC provides its decision to this request. If this request is not granted, Hemet may have to eliminate needed functionality to its technology goals.

Please forgive Hemet's oversight in its omission of the 4 FRN's to its request for service delivery extension.

Should you have any questions or require further information, please contact Richard Beck at (951) 765-5100 ext. 2401. Conversely, you may contact Robert Rivera at (951) 371-0549.

Respectfully Submitted,

Richard Beck  
Asst. Superintendent, Hemet Unified School District

Robert Rivera  
Spectrum Communications

Cc:

Mel Blackwell, Vice President SLD  
Universal Service Administrative Company

Mick Kraft, SLD  
Universal Service Administrative Company

Emil Basilio, Director Information Technology  
Hemet Unified School District

Encl.



**School District**

**Dr. Philip O. Pendley**  
Superintendent

**District Administration  
Office**

2350 W. Latham Ave.  
Hemet, CA 92545  
(951) 765-5100  
Fax: (951) 765-5115

**Governing Board**

Mike Cook  
Gregg Figgins  
Charlotte Jones  
David Peters  
Phyllis Petri  
Bill Sanborn  
Joe Wojcik

August 23, 2007

Service Delivery Deadline Extension Request  
Schools and Libraries Division  
Box 125 — Correspondence Unit  
80 South Jefferson Road  
Whippany, NJ 07981

**RE: E-Rate Year 5 Projects 471 # 295589**  
**FRN's: 792586, 792600, 792630, 792670, 792795, 792797,**  
**792804, 792819, 792824, 792830, 792846, 792868, 792870,**  
**792877, 792903, 792911, 792913, 792939, 792959, 819737,**  
**819857, 820036**

Dear Extension Request Reviewer:

Hemet Unified School District is requesting a deadline extension request for E-Rate 471 application number 295589 including the above referenced FRNs. The work associated with these FRNs is being provided by Spectrum Communications, E-Rate SPIN: 143010165.

Spectrum has encountered circumstances beyond their control that related to the District's timetable for associated modernization projects and construction delays at the school sites. The timing for the completion of these projects will not allow the associated E-Rate work to be completed by Spectrum Communications by the current September 30<sup>th</sup> deadline. I have attached a copy of Spectrum's notice to the District for your review.

I greatly appreciate your time and consideration in granting the District's request. Please do not hesitate to contact me directly if you have any further questions related to this matter.

Sincerely,

Richard Beck, Assistant Superintendent  
Business Services



## School District

**Dr. Philip O. Pendley**  
Superintendent

**District Administration  
Office**

2350 W. Latham Ave.  
Hemet, CA 92545  
(951) 765-5100  
Fax: (951) 765-5115

**Governing Board**

Mike Cook  
Gregg Figgins  
Charlotte Jones  
David Peters  
Phyllis Petri  
Bill Sanborn  
Joe Wojcik

November 8, 2007

Ms. Lorraine Hunsinger  
Service Delivery Deadline Extension Request  
Schools and Libraries Division- Correspondence Unit  
100 South Jefferson Road  
P.O. Box 902  
Whippany, NJ 07981  
(973) 581-5122 voice  
(973) 599-6572 fax

RE: Hemet Unified School District  
E-Rate Year 5 Projects  
Form 471: 295589  
FRN: 792586, 792600, 792630, 792670, 792795, 792797,  
792804, 792819, 792824, 792830, 792846, 792868,  
792870, 792877, 792903, 792911, 792913, 792939,  
792959, 819737, 819857, 820036  
792640\*, 792784\*, 792858\*, 819791\*

In reference to request for Service Deadline Extension Request on  
behalf of Hemet Unified School District

Dear Ms. Hunsinger,

I am writing in reference to the above mentioned FRN numbers. On  
August 23, 2007, Hemet Unified School District requested a deadline  
extension request for E-Rate 471 application number 293389.

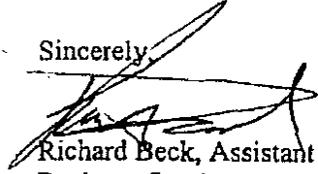
After reviewing the FRN's listed on our original letter of August 23,  
2007, it became apparent that we had only asked for 25 FRN's, when our  
request should have included the additionally listed 4 FRN's (noted above  
with an asterisk).

Please allow this letter to reaffirm our request for a deadline service  
extension, including the omitted FRN's listed above. Also, please find  
enclosed a copy of the District's original request of August 23, 2007.

We believe that this request meets the Federal Communications  
Commission ('FCC') requirements for service delivery extension, and is  
in the best interest of Hemet Unified School District and the Universal  
Service program.

I greatly appreciate your time and consideration in granting the District's request. Please do not hesitate to contact me directly if you have further questions related to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Richard Beck', written over the word 'Sincerely'.

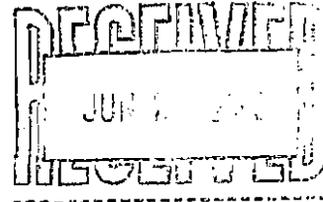
Richard Beck, Assistant Superintendent  
Business Services

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**Administrator's Decision on Implementation Extension Appeal**

June 20, 2008

Robert Rivera  
Spectrum Communications Cabling Services, Inc.  
226 North Lincoln Avenue  
Corona, CA 92882



Re: Your appeal of the denial of your implementation extension request

471 Application Number: 295589  
Funding Request Number(s) 792640, 792784, 792858, 819791  
Correspondence Dated: April 14, 2008

After thorough review and investigation of all relevant facts, the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal.

Funding Request Number(s): 792640, 792784, 792858, 819791  
Decision on Appeal: **Denied in full**  
Explanation:

FCC Rules related to the payment of support for discounted services establish deadlines for service providers to deliver services/products to the applicant. The FCC provides an extension of this deadline under certain conditions. Those conditions are documented in the Reference area on the USAC website. (See Service Delivery Deadlines and Extension Requests for more information.). In accordance with FCC Report and Order (FCC 01-195) released on June 29, 2001, in order to provide additional time to implement contracts or agreements with service providers for non-recurring services, applicants must submit documentation to the Administrator requesting relief on or before the original non-recurring services deadline.

Your appeal has not brought forth clear information establishing that application for relief was made prior to this deadline. Therefore, your appeal is denied.

If you believe there is a basis for further examination of your application, 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

above 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 USAC/Schools and Libraries web site or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

Thank you for your continued support of and participation in the E-rate program.

Schools and Libraries Division  
Universal Service Administrative Company

cc:

Richard Hartline  
Hemet Unified School District  
2350 West Latham Avenue  
Hemet, CA 92545-3654