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June 18, 2009

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
9300 East Hampton Drive
Capital Heights, MD 20743

Subject: Appeal of USAC Funding Decision – Docket 02-6

Request for Review

Applicant: Beth Rivka School
BEN 11986
Application NA
FRN NA
SPIN: Nextel 143000890
Verizon 143001359

On November 5, 2009 Beth Rivka School requested the addition of two FRNs during the application review process. The FCDL was not issued until March 2009. However, the school was told it was too late to make additions.

The appeal to USC was denied (attached) and the school was told "The rules of this support mechanism do not allow for an addition in FRNs subsequent to the Form 471 being committed for funding." The requested change was not made after funds were committed. The request for an addition was made in November 2008 funding was not committed until March 2009. That is four months after the request to add FRNs.

Furthermore the USAC denial stated, "Corrections can not be made to the Form 471 once an application has been committed unless there was an error on the part of USAC". Once again, the application was not committed for funding until March 2009 and the request was made in November 2008.

Finally USAC stated, "New funding requests can not be submitted through the appeals process".

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The Bishop Perry order allowed for these types of errors and omissions in the applications process. FRNs are added to applications during the review process for a variety of reasons other than USAC mistakes. These include splitting an FRN that was in a mixed bucket and creating an FRN if an amount is in dispute.

Beth Rivka respectfully requests the FCC to reconsider the USAC denial because the denial reasons stated by USAC have no validity or relationship to the facts stated in the initial appeal.

Beth Rivka additionally requests the FCC to allow Beth Rivka to add the requested funding to their 2008-2009 application.

If you require any additional information please let me know.

Sincerely,

Robert Sniecinski
RiverStone Partners, LLC
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Annandale, NJ 08801
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Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2008-2009

May 08, 2009

Robert Sniecinski
RiverStone Partners, LLC
106 Lilac Drive
Annandale, NJ 08801

Re:	Applicant Name:	BETH RIVKA SCHOOL
	Billed Entity Number:	11986
	Form 471 Application Number:	631977
	Funding Request Number(s):	1 Unassigned
	Your Correspondence Dated:	April 28, 2009

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 2008 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): 1 Unassigned
Decision on Appeal: **Denied**
Explanation:

- USAC has determined that the applicant submitted Form 471 Number 631977 with twenty-five (25) funding requests for Internal Connections and Basic Maintenance of Internal Connections from Communication Data & Security, Inc. On appeal, you have requested addition of two FRNs for Telecom services. The rules of this support mechanism do not allow for an addition in FRNs subsequent to the Form 471 being committed for funding. Corrections can not be made to the Form 471 once an application has been committed unless there was an error on the part of USAC. On appeal, you have failed to provide any evidence that USAC erred in its initial determination. Therefore, your appeal is denied.

- Your appeal requests additional funds that were not included in the FCC Form 471 that you are appealing. FCC rules require that funding requests must be

submitted via an FCC Form 471. *See* 47 C.F.R. sec. 54.504(c). New funding requests cannot be submitted through the appeals process. Considerations for funding requests depend on the date the FCC Form 471 is received and the amount of funds available if it is received after the close of the filing window. *See* 47 C.F.R. sec. 54.507(g). Consequently, USAC denies your appeal insofar as it requests funding that was not included in the FCC Form 471.

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

cc: Rabbi Lezell

Beth Rivka School

Appeal of USAC Funding Decision

Funding Commitment Decision Letter for Funding Year 2008

Appeal Date April 28, 2009

Appellant Name: Beth Rivka School

Applicant BEN: 11986

Application Number: 631977

FRNs: na

Service Providers:
Nextel 143000890
Verizon 143001359

Summary

Beth Rivka School forgot to add two telecommunications funding requests to their E rate application for funding year 2008. They did not realize this until one application was approved and the other was still in review.

On November 5, 2009 a request was sent to the PIA reviewer (see attached) to add two FRNs to their E rate application. One for Nextel in the amount $2,104.63 per month and one for Verizon NY in the amount of $1,905.11 per month.. The reviewer told me that I could not add a funding request "at this time". No reason was given.

The ombudsman for USAC told me that you can't add FRNs after the 471 is certified. However, during the review process applicants are offered the opportunity to add additional FRNs to accommodate funds that are in dispute.

The application was not approved until March so there was plenty of time to add the FRNs. The PIA decision seems counter to the intent of the Bishop Perry order and prior USAC practices.

Appeal

Beth Rivka respectfully requests USAC to consider the following:

1 – The Bishop Perry Order allows for the fact that applicants make errors and omissions in their E rate application process. It also allows for the correction of these mistakes. In this case the school made an omission in failing to include these two FRNs on the original application. PIA refused the request.

2 – During the review process additions can be made to E rate applications before a final funding decision is made. The request to add these FRNs was made in November, 2008. The application was not approved until March 2009. It was certainly not too late to add FRNs.

3 – In FCC ruling DA 08-872 (attached), Mineola Union Free School District was allowed to add FRNs to their application. A portion of the FCC ruling reads as follows:

In the past, the Commission has allowed applicants to correct similar mistakes, such as inadvertently leaving portions of the FCC Form 470 or FCC Form 471 blank, or making minor errors while completing the form.[1] Based on the foregoing, it appears that Mineola intended to include the additional two funding requests as part of its FY 2008 application. Additionally, correcting Mineola's mistake regarding its funding requests would not, in and of itself, result in waste, fraud or abuse, or a failure to adhere to core program requirements. Therefore, we direct USAC to allow Mineola to submit the additional two pages of its FY 2008 application and review Mineola's application in its entirety.

For the above reasons Beth Rivka respectfully requests USAC to add the additional requests to Beth Rivka School's 2008 E rate application.