

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of the Appeal of)	File No. SLD -
)	
the Decision of the)	
)	
Universal Service Administrator by)	
)	
)	
Macedonia Elementary School)	
)	CC Docket No. 02-6
)	CC Docket No. 96 - 45
)	CC Docket No. 97 - 21

Appeal
Request for Expedited Relief

January 8, 2010

Ms. Marlene H. Dortch
Secretary, Federal Communications Commission
445 12th Street, S.W., Washington, D.C. 20554

This is an appeal from a decision by the Administrator of the USAC, Schools and Libraries Division.

(1) FORM 486 Letter Appealed

Exhibit A

Form 486 Application Number:	626340
Form 471 Application Number:	635248
Funding Year:	07/01/2008-06/30/2009
BEN:	31861

Date of Funding Denial Notice:	December 2, 2009
Date of Appeal:	January 8, 2010

(2) SLD Contact Information

Currie A. Sutton
Macedonia Elementary School (Barnwell 19 School District)

Ste 260-27600 Chagrin Blvd.
Cleveland Ohio 44122-4449
Tel. (216) 514-3336
Fax. (216)514-3337

(3) **Funding Request Numbers Appealed**
1757462

(4) **USAC's Reason for Funding Denial**

Funding is denied because:

"Service Start Date Change Explanation: 120 -Day Deadline" Changed

(5) **Law and Argument**

Facts:

- The USAC incorrectly computed the Service Start Date.
- The "Funding Commitment Decision Letter 6/3/2009.
- Applicant's Form 486 was filed electronically with the USAC on October 22, 2009. **Exhibit B¹**
- Applicant's Form 486 Notification Letter reflects start date of 7/13/2009.
- Applicant's doe not agree with the USAC's start date of July 13, 2009.
- If an applicant misses the window for timely filing a 486, the certification date is 120 days of submission of the 486 and that creates the start date.

Exhibit C

- Based on the certification date of October 22, 2009, the Service Start date is June 24, 2009.

¹ In *Archer Public Library, et al.*, the Commission granted appeals in denying funding to the petitioners, for failure to timely submit FCC Forms 471 with associated item 21 attachments, due to clerical and/or ministerial errors.

Therefore:

Since October 22, 2009 is the certification date, the USAC should have calculated the time period (120 days) as follows:

22 days in October
30 days in September
31 days in August
31 days in July
6 days in June

The start date should reflect June 24th, 2009 **(giving Applicant six (6) days in the funding year, 2008-2009)**

Applicant is requesting that this Commission grant Applicant **six (6) days in the funding year, 2008-2009.**² The FRN Amount is \$107,234.76 undiscounted; Invoice amount is \$28,300.00, which is what the Applicant is asking the FCC to grant herein.

The Commission stated in *Bishop Perry Middle School* that, "under certain circumstances, rigid adherence to certain E-rate rules and requirements that are "procedural" in nature does not promote the goals of section 254 of the Act – ensuring access to discounted telecommunications and information services to schools and libraries – and therefore does not serve the public interest." See *Request for Review of a Decision of the Universal Service Administrator by Gayville-Volin School District 63-1, Schools and Libraries Universal*

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The FCC has stated that "[r]igid adherence to the rule[s] ***does not further the purposes of the statutory goal mandated by Congress of preserving and advancing universal service for schools and libraries. ***granting these appeals should have minimal effect on the Universal Service Fund (USF or the Fund). FCC 07-35, File Nos. SLD-425151, 425211, 425303, 425352, 426285, et al. **Granting Applicant 6 days will have no impact on the Fund. No misuse of funds is involved here.**

Service Support Mechanisms, File No. SLD-471545, CC Docket No. 02-6, Order, 21 FCC Rcd 9274 (Wireline Comp. Bur. 2006); *Request for Review of Richmond County School District, Schools and Libraries Universal Service Support Mechanisms*, File Nos. SLD-451211, 452514, 464649, CC Docket No. 02-6, Order, 21 FCC Rcd 6570 (Wireline Comp. Bur. 2006).

In *Acorn Public Library District Order*, this Commission stated that "we find that Minford's late-filing of its application by only two days is not likely to impede USAC's ability to administer the E-rate program. *** because the violation, in this instance, is procedural, not substantive, a complete rejection of Minford's application is not warranted. ***there is no evidence of waste, fraud, or abuse of E-rate funds or a failure to adhere to core program requirements. We thus find it in the public interest to waive the FCC Form 471 application filing window deadline in this case. *** we remand the underlying application to USAC for further action consistent with this order." *File No. SLD-637390, DA 09-1567, Para 4*

It should be noted that the school district was on summer vacation during the time that the funding commitment decision letter was mailed; and did not know the rules for filing the Form 486. With that in mind, the *Bishop Perry Order* is cited as precedent. There this Commission stated:

****these appeals involve applicants whose staff members inadvertently failed to file the application forms in a timely manner. Another group of petitioners state that they were unable to comply with the filing deadline due to staff illness or relatives of staff members who were ill. Other petitioners claim that the rules and instructions for filing an FCC Form 471 are vague and unclear and that the resulting misunderstandings led to forms being filed after the filing window.

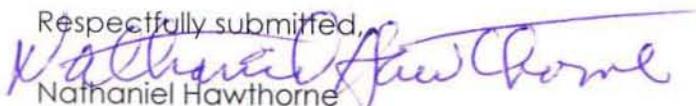
Based on the facts and circumstances of these specific cases, we find that good cause exists to waive the deadline for filing the FCC

Form 471 found in section 54.507 of the Commission's rules. Under Bureau precedent deadlines have been strictly enforced for the E-rate program, including those pertaining to the FCC Form 471. We nevertheless find that good cause exists to waive the deadline in these cases. *** these applicants claim that staff mistakes or confusion resulted in the late filing of their FCC Form 471s. We note that the primary jobs of most of the people filling out these forms include school administrators, technology coordinators and teachers, as opposed to positions dedicated to pursuing federal grants, especially in small school districts. Even when a school official has learned how to correctly navigate the application process, unexpected illnesses or other family emergencies can result in the only official who knows the process being unavailable to complete the application on time. Given that the violation at issue is procedural, not substantive, we find that the complete rejection of each of these applications is not warranted. Notably, at this time, there is no evidence of waste, fraud or abuse, misuse of funds, or a failure to adhere to core program requirements. Furthermore, we find that denial of funding in these cases would inflict undue hardship on the applicants." *Bishop Perry Middle School File Nos. SLD-487170, et al. FCC 06-54*

Conclusion:

The Applicant is requesting that 6 days in the e-rate year be granted. The FRN amount is \$107,234.76 undiscounted; Invoice amount is \$28,300.00, which is what the Applicant is asking the FCC to grant herein.

Respectfully submitted,


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Attorney for
Barnwell 19 School District
Macedonia Elementary School

Cc: Barnwell 19 School District
Macedonia Elementary School

Exhibit A



FORM 486 NOTIFICATION LETTER
(Funding Year 2008: 07/01/2008 - 06/30/2009)

December 2, 2009

CURRIE A. SUTTON
MACEDONIA ELEMENTARY SCHOOL
27600 CHAGRIN BLVD-STE 260
CLEVELAND, OH 44122-4449

Re: Form 486 Application Number: 626340
Applicant's Form 486 Identifier: BARNWELL#2

This letter is to notify you that the Universal Service Administrative Company (USAC) has received and accepted an FCC Form 486, Receipt of Service Confirmation Form, from you. This notification is to confirm the information that you provided. This information is being shared with the service provider whose SPIN you identified on each Funding Request Number (FRN).

You may be receiving this letter to revise or correct a previous Form 486 Notification Letter. The information contained in this letter supersedes any previous notification you may have received, including, but not limited to, a previously adjusted Service Start Date or previously reduced funding commitment.

NEXT STEPS

Discuss with your service provider whether you would like discounts on your bills or to pay your bills in full and be reimbursed for discounts.

Invoice USAC before the invoice deadline using the applicant invoice (BEAR Form - FCC Form 472) for reimbursements after paying the bills in full or the service provider invoice (SPI Form - FCC Form 474) for discounts. Whichever method you choose, you must pay your non-discount portion, as stated in Program rules. Program rules also require that participants maintain all documentation for at least five years after delivery of discount service.

TO APPEAL THE SERVICE START DATE/FUNDING COMMITMENT CHANGE DECISION

If you wish to appeal the Service Start Date change(s) and/or funding commitment adjustment(s) indicated in this letter, your appeal must be received by USAC 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. 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,
 - Form 486 Number 626340 and FRN(s) as assigned by USAC,
 - "Form 486 Notification Letter for Funding Year 2008", 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. 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 South Jefferson Road
P.O. Box 902
Whippany, NJ 07981

You have the option of filing an appeal with USAC or 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.

A guide to the data reported in our letter reports is posted in the Reference Area of our website. Complete Program information, including invoice deadlines is also posted on our website. You may also contact our Client Service Bureau by email using the "Submit a Question" link on our website, toll-free by fax at 1-888-276-8736, or toll-free by phone at 1-888-203-8100.

Schools and Libraries Division
Universal Service Administrative Company

FORM 486 NOTIFICATION LETTER REPORT
(Funding Year 2008)

Funding Request Number: 1757462
Form 471 Application Number: 635248
Service Provider Name: Systems & Services, LLC
Service Provider Identification Number: 143006687
Billing Account Number: N/A
Service Start Date: 07/13/2009*
Service Start Date Change Explanation: 120-DAY 486 DEADLINE
Adjusted Funding Commitment: \$0.00

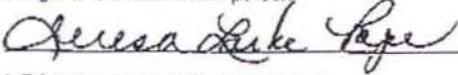
Exhibit B

Do Not Write In This Area

Application ID : 626340

Entity Number	31851	Applicant's Form Identifier	BARNWELL#2
Contact Person	CURRIE A. SUTTON	Phone Number	216-682-0169

I certify that I am authorized to submit this receipt of service confirmation on behalf of the above-named Billed Entity, that I have examined this request, and that, to the best of my knowledge, information, and belief, all statements of fact contained herein are true.

12. Signature of authorized person	13. Date	
	10/22/2009 4:23:20 PM	
14. Printed name of authorized person		
TERESA LARKE POPE		
15. Title or position of authorized person		
SUPERINTENDENT		
16a. Street Address, P.O. Box, or Route Number		
297 PASCALLAS STREET		
City		
BLACKVILLE		
State SC Zip Code 29817 -		
16b. Telephone number of authorized person	Extension	16c. Fax number of authorized person
803-284-5605		803-284-4417
16d. Email address of authorized person		

Please submit this form to:

SLD Form 486
P. O. Box 7026
Lawrence, Kansas 66044-7026

For express delivery services or U.S. Postal Service, Return Receipt Requested, send this form to:

SLD Forms
ATTN: SLD Form 486
3833 Greenway Drive
Lawrence, Kansas 66046
888-203-8100



0486010603

Exhibit C

**Universal Service for Schools and Libraries
Receipt of Service Confirmation Form**

**Instructions for Completing the
Schools and Libraries Universal Service
Receipt of Service Confirmation Form**

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FCC NOTICE FOR INDIVIDUALS REQUIRED BY THE PRIVACY ACT AND THE PAPERWORK REDUCTION ACT

Part 54 of the Commission's Rules authorizes the FCC to collect the information on this form. Failure to provide all requested information will delay the processing of the application or result in the application being returned without action. Information requested by this form will be available for public inspection. Your response is required to obtain the requested authorization.

The public reporting for this collection of information is estimated to range from 1 to 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the required data, and completing and reviewing the collection of information. If you have any comments on this burden estimate, or how we can improve the collection and reduce the burden it causes you, please write to the Federal Communications Commission, AMD-PER, Paperwork Reduction Act Project (3060-0853), Washington, DC 20554. We will also accept your comments regarding the Paperwork Reduction Act aspects of this collection via the Internet if you send them to PRA@fcc.gov. PLEASE DO NOT SEND YOUR RESPONSE TO THIS FORM TO THIS ADDRESS.

Remember - You are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number or if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-0853.

THE FOREGOING NOTICE IS REQUIRED BY THE PRIVACY ACT OF 1974, PUBLIC LAW 93-579, DECEMBER 31, 1974, 5 U.S.C. 552a(e)(3) AND THE PAPERWORK REDUCTION ACT OF 1995, PUBLIC LAW 104-13, OCTOBER 1, 1995, 44 U.S.C. SECTION 3507.

I. INTRODUCTION

The FCC Form 486 *Receipt of Service Confirmation Form* is used by the Billed Entity who filed an FCC Form 471, *Services Ordered and Certification Form*, on behalf of an eligible school, school district, library (outlet/branch, system), or a consortium of those entities. The Form 486 informs USAC when the Billed Entity and/or the eligible entities that it represents is receiving, is scheduled to receive, or has received service in the relevant Funding Year from the named service provider(s). Receipt of a properly completed Form 486 by USAC triggers the process for USAC to receive and process invoices.

III. FILING REQUIREMENTS AND GENERAL INSTRUCTIONS

A. Who Must File the Form 486

The Billed Entity representing a school, school district, library (outlet/branch, system), or a consortium of those entities who completed and submitted the Form 471 to which this Form 486 relates, must file the Form 486 with USAC. Your FCDL from USAC cites your Billed Entity Number, which you must also record in Block 1, Item 2 of this form. If you received multiple FCDLs approving discounts for the same Billed Entity Number, in general you may choose to complete one Form 486 encompassing all of them (see "When, Where and How Many Forms 486 to File?" below).

B. When, Where, and How Many Forms 486 to File

When:

You may file a Form 486 no earlier than the receipt of an FCDL from USAC.

The complete Form 486 – with Certification – MUST be received by USAC, submitted online or postmarked no later than 120 days after the Service Start Date featured on the Form 486 or no later than 120 days after the date of your FCDL, whichever is later, in order to receive discounts retroactively to the Service Start Date. If the Form 486 is postmarked later than the deadline, the date 120 days before the Form 486 postmark date will become the start date for discounted services on those FRNs featured on the Form 486. USAC will not provide discounts for the services rendered prior to the new start date and will reduce the funding commitment for the relevant FRN as appropriate.

For more information on when to file a Form 486 for recurring or non-recurring services, please see the Specific Instructions for Block 3, Item 7(E), Funding Year Service Start Date, later in these instructions.

Program rules require that recurring services be delivered during the Funding Year. Funding years begin on July 1 and end on the following June 30. In general, non-recurring services must be delivered and installed between July 1 of the relevant Funding Year and September 30 following the June 30 close of that Funding Year. Invoices must be postmarked no later than 120 days after the last date to receive service or 120 days after the date of the Form 486 Notification Letter, whichever is later. However, program rules allow certain participants to receive extensions of the deadline for delivery and/or installation of non-recurring services. Rules also allow for extensions of the invoicing deadlines. In some cases, these extensions must be requested by the applicant or service provider and approved by USAC. Consult the "Schools & Libraries Deadlines" page on the website for complete information on Service Delivery and Invoice Deadlines and Extension Requests, and other Program deadlines.

Guidance on when to file in certain specific situations is provided below:

1. EARLY FILING: For those FRNs for services where the date of the FCDL and the Service Start Date featured on the Form 486 are both before July 31 of the Funding Year, you have the option to file Form 486 early — that is, in advance of services starting — if certain conditions are met. If the Form 486 is filed in this manner, it must be received by USAC or postmarked on or before July 31 of the Funding Year.

You may be eligible to file the Form 486 on or before July 31 of the Funding Year if:

- you have received your FCDL **and**
- you have confirmed with the named service provider that the services you ordered will start on the Service Start Date, which must be in July of the Funding Year **and**
- you are able to accurately make all of the relevant certifications in Block 4 in advance of the date of the start of discounted services.

This option is at the discretion of the Billed Entity; it has the merit of facilitating the provision of discounts on bills as soon as possible and means that USAC is authorized to begin payments on invoices submitted by your service provider for services delivered and installed on or after the Service Start Date.

For early filing complete your Form 486 – including the certification(s) in Items 8 and 11 – and postmark the Form 486 on or before July 31 of the Funding Year. Early filers must also check Item 6a.