

Before the
Federal Communications Commission
FURTHER ADDENDUM TO SPRING COVE SCHOOL DISTRICT PETITION
FOR RECONSIDERATION

SPRINGCOVESCHOOL DISTRICT
Schools and Libraries Universal Service
Support Mechanism

File Nos. *SLD-735147, et al.*

CC Docket No. 02-6

ORDER, DA 11-1240

This is a request for permission to add a supplement to a petition for reconsideration regarding the denial of funding for web hosting services for Spring Cove School District. It is in the public interest to review this amendment, as the discussion below will underscore an inconsistency in the way the USAC is making eligibility determinations for web hosting services.

The USAC awarded Spring Cove funding for webhosting service for the 2006 and 2007 E-rate years. Then in 2009, the funding for webhosting for 2006 and 2007 was completely revoked. Web hosting licenses were cited as the explanation, as such licenses are described as ineligible. But upon examination of how the USAC funds web hosting, it is not clear that the distinction between eligible and ineligible features in the webhosting context is a meaningful one. Actually, the distinction is unreasonable.

The reason why has to do with an example the SLD provided of how an ineligible web hosting service can be, in effect, funded. The example can be found in the “Schools and Libraries News Brief”, dated April 10, 2009. The example is as follows:

“A school subscribes to an online student information system (SIS) for \$1000 per month. The application portion of the service was and will remain ineligible. But typically, such a

service would also include supporting public or private webhosting capability. As a result, many of the providers of these services had worked out an allocation formula with the SLD making a percentage of the service eligible. Somewhat surprisingly, this percentage was often as high as 80-90% (or in this example, making \$800-900 per month eligible).”

If an applicant can get ineligible services 80-90% funded because of the underlying webhosting capability that facilitates the ineligible services, isn't the FCC, in effect, funding all aspects of webhosting, regardless of the eligibility of various web hosting features?

Stated another way, if the web hosting capability underlying web hosting services accounts for 80-90% of such services, how can any web hosting service be described as being over 30% ineligible?

The example above involving student information systems seems to suggest that the webhosting capability underlying a web hosting service is responsible for the majority of the web hosting functionality. The applications needed to facilitate ineligible services such as student information systems appear to only account for 10-20% of the functionality of a web hosting service.

The example involving SIS (student information systems) seems to blur the line between what is eligible and ineligible in the web hosting context. Would it not be more efficient to simply fund all web hosting services that can be used to facilitate education?

It seems unfair that some applicants who ask for student information systems (SIS) in the webhosting context would be turned down, while others who work out a cost-allocation methodology with the SLD to separate eligible from ineligible web hosting features would be

able to, in effect, get student information systems 80-90% funded based on the underlying web hosting capability that facilitates student information systems.

It also seems unfair, unreasonable and unlawful, that an applicant like the Spring Cove School District, who applies for funding for a license to use web hosting services, would be completely turned down because the district failed to work out a cost allocation formula with the SLD before applying for funding. How can a license for web hosting services be over 30% ineligible when 80% of what the license pays for is the web hosting capability that supports various web hosting applications or features?

A web hosting license enables an E-rate applicant to use the underlying webhosting capability that is eligible, and which may be, in a practical sense, responsible for 80-90% of the functionality of the web hosting service. In other words, all E-rate applicants applying for web hosting services must pay for licenses, and part of the license fee pays for the eligible web hosting capability that facilitates the use of all web hosting services. License fees enable users to take advantage of features that are eligible (e.g., bandwidth, FTP, and disk storage for applicant provided content) and ineligible (e.g., software applications that support the use of web hosting services).

If the underlying webhosting capability of a web hosting service comprises 80-90% of the functionality of the web hosting service, how can the USAC arrive at the conclusion that an applicant who is applying for a license to use web hosting is asking for services that are over 30% ineligible? It cannot, except in an unreasonable and unlawful manner. If the underlying webhosting capability forms 80-90% of ineligible services, then it seems an applicant asking for funding for a license to use webhosting is asking for services that are 80-90% eligible.

CONCLUSION¹

On this basis, and as previously stated, the motion for declaratory judgment must be granted reversing the decisions of the USAC not to provide web hosting funding for Spring Cove for the 2006 and 2007 E-rate years. Any other conclusion would be unreasonable and unlawful.

Respectfully submitted,

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¹While not explicitly discussed, Aiken County Public Schools para. 11, is relevant but only adds to the confusion in light of the Administrator's guidance. "*Additional Processing Directives for USAC*. As of the effective date of this Order, when USAC has reason to believe that an applicant's funding request includes ineligible services, USAC shall: (1) inform the applicant promptly in writing of deficiencies in its funding request, and (2) permit the applicant 15 calendar days from the date of receipt of notice in writing by USAC to revise its funding request to remove the ineligible services or allow the applicant to provide additional documentation to show why the services are eligible. USAC shall advise an applicant, where there is a disagreement about the eligibility of a service, to resubmit the request for the service at issue in a separate funding request. If the applicant does not remove the ineligible services from the funding request, USAC should reject the entire funding request in accordance with the 30 percent rule. USAC shall apply this directive to all applications beginning in Funding Year 2007 and to all appeals pending with USAC as of the effective date of this Order. The 15-day period should provide sufficient time for applicants to modify their funding requests to remove ineligible services. Further, if USAC assists applicants in removing ineligible services from funding requests prior to issuing its funding commitment decisions, USAC should be able to reduce administrative costs that it would otherwise spend on appeals of the funding requests it denies. Therefore, we believe providing applicants with an additional opportunity to remove ineligible services from their funding requests will improve the administration of the Fund and the efficiency of the E-rate program." FCC 07-61, Released: May 8, 2007

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