

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Request for Review of a Decision of the) CC Docket No. 02-6
Wireline Competition Bureau by)
)
Tonasket School District 404) WCB Order DA 12-250
Tonasket, Washington)
)

PETITION FOR RECONSIDERATION SUPPLEMENT

In accordance with CFR 47, Section 1.106, Tonasket School District 404 (Tonasket) provides the Federal Communications Commission (Commission) with supplemental information subsequent to its Petition for Reconsideration received by the Commission on March 19, 2012 requesting reconsideration of a decision by the Wireline Competition Bureau (Bureau), DA 12-250, Released February 24, 2012.

Tonasket School District 404
Billed Entity Number: 145402
FCC Registration Number: 0009405978
Form 471 Number: 535250
Funding Request Numbers: 1480482, 1480573

Background

On February 24, 2012 the Wireline Competition Bureau issued a decision, known as a Global Order denying 26 E-Rate appeals from various E-Rate applicants and vendors. The two-page Global Order denied all appeals upholding Universal Service Administrative Company (Administrator) denials based on the sole justification that in each decision the Administrator

found that applicants sought support for ineligible products or service.¹ The services Tonasket applied and received discounts for are unquestionably and absolutely eligible for E-Rate support, contrary to the Global Order reasoning. Tonasket therefore provides this supplemental information that this Petition for Reconsideration is justified under CFR 47, Section 1.106(b)(2)(i) and (ii). Specifically, Tonasket had no reasonable way of knowing the Commission would determine services applied for, funded and paid were *ineligible* for funding. Eligibility of the service was never a question and was not necessary to address in the initial appeal.

Discussion

As shown in the Tonasket appeal to the Administrator and initial appeal to the commission, the FRN here under appeal have touched almost every nuance and obscure facet of the E-Rate program. The Commission has often cited the complexity of the E-Rate program when granting waivers throughout the 15 year history of the program. Tonasket showed that during the lifespan of these Fund Year 2006 FRN, waivers were requested and granted, Forms 500 utilized, delivery dates extended, service substitutions requested, reviewed by the Administrator and granted. Ultimately the FRN were funded and services discounted.

Years later, the Administrator sifted through old paperwork and determined these services, while eligible for support, were categorized in the wrong category of service and should have been denied. To be clear, Tonasket believes at the time it applied for eligible services, it applied in the correct category of service, completed all paperwork correctly and honestly, answered all questions from the Administrator correctly and honestly, and received proper discounts for eligible services. There was no waste, fraud, or abuse of program resources in this application. Finally, the Administrator reviewed the initial application, the service substitution,

¹ AllWays, Inc. DA 12-250, Rel. Feb 24, 2012 at 1.

waiver requests and approved the funding at every stage. It was not until years later that the Administrator retrospectively applied eligibility requirements that were not made clear with the 2006 Eligible Services List.

The question before the Commission with this Petition for Reconsideration is whether the Eligible Services List for 2006 was clear enough for applicants to determine the eligibility of voicemail service as Internet Access, Telecommunications or Internal Connections. Based on the evidence and multiple Administrator reviews, Tonasket believes there was sufficient ambiguous language that reasonable applicants and reviewers could conclude that voicemail service could be funded as Priority One (Internet Access or Telecommunications) even if equipment housing the voicemail service was located on the applicant premises.² Indeed, the record indicates that Administrator reviewers obtained and reviewed the actual vendor documentation which clearly stated how the voicemail services would be implemented and concluded the service was Internet Access. The voicemail service was a leased license service and funding was applied as such as part of Internet access.

As stated in appeals before the Administrator and Commission, Tonasket would never have purchased voicemail services without E-Rate discounts as the district could not afford to pay full price at the time of purchase. The economic landscape in Tonasket has deteriorated since 2006 with an unemployment rate of 12.6 percent and median family income far below the national average. Tonasket is in no position to pay this amount of money.

The Commission may waive requirements of program rules for good cause and in the public interest. While Tonasket believes the FRN here under appeal could reasonably be categorized as Internet Access based on the 2006 Eligible Services List and actions of numerous

² 2006 Eligible Services List, Page 63 for Voicemail:
http://www.usac.org/res/documents/sl/pdf/ESL_archive/EligibleServicesList_041206.pdf

Administrator reviewers, Tonasket asks the Commission to waive any inadvertent regulatory or policy violations as Tonasket did not intend to violate any regulation or policy when applying for and implementing this voicemail service.

Respectfully Submitted this 23rd day of July, 2012,

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