

**Before the  
Federal Communications Commission  
Washington, DC 20554**

**In the Matter of** )  
 )  
**Request for Waiver and/or Review of** ) **SLD Nos. 703513, et al.**  
**Decisions of the** )  
**Universal Service Administrator by** ) **CC Docket No. 02-6**  
 )  
**Lake Grove School** )  
**Mountain Lake Children’s Residence, Inc.** )  
**Lake Grove at Maple Valley, Inc.** )  
**Lake Grove – Durham School** )  
 )  
**Schools and Libraries Universal Service** )  
**Support Mechanism** )

**APPLICATION FOR REVIEW BY THE FULL COMMISSION**

**I. INTRODUCTION**

Now come the Lake Grove School, Mountain Lake Children’s Residence, Inc., Lake Grove at Maple Valley, Inc., and Lake Grove – Durham (hereinafter, “Entities”), and submit their application for review by the full commission pursuant to 47 C.F.R. § 1.115 of the September 13, 2012 decision of the Chief, Telecommunications Access Policy Division, Wireline Competition Bureau. That decision summarily rejected the Entities’ request for waiver and review of the Notification of Commitment Adjustment Letters dated August 12, 2011 issued by USAC seeking to recover funds disbursed under the E-rate program. The entities had requested waiver of the 60-day deadline to file for review pursuant to 47 C.F.R. § 1.3. As we shall describe below, the Entities take the position that they had shown that special circumstances warranted the waiver of the 60-day deadline to file for review.

## II. LEGAL ARGUMENT

Although 47 C.F.R. § 54.720 sets forth a 60 day deadline for appeals of USAC decisions, it is well-established that the Commission may waive that deadline for good cause shown. 47 C.F.R. § 1.3. In particular, the Commission may waive this deadline where the particular facts make strict compliance inconsistent with the public interest. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990). In this instance, the Entities can demonstrate that their failure to meet the deadline for review constituted a special set of circumstances warranting excusal of the 60 day deadline.

The underlying reason for the entities' missing the 60 day deadline was a set of circumstances truly beyond their control. By way of background, although the entities were separate corporations, they were provided management and legal services by Windwood Meadows, Inc. Windwood Meadows' CEO and legal counsel were the same individual. The original applications for e-rate services at issue here had been handled by a Joseph Schmukler, who oversaw the entities' technology needs.

At the time the Commitment Adjustment Letters of August 12, 2011 were received, they were referred to the CEO/ legal counsel for Windwood Meadows, Inc. for action. This former CEO/legal counsel failed to appeal or take any other action. The CEO/legal counsel for Windwood left his position in March, 2012, and did not notify the Windwood Board of Trustees or the Entities' Boards of his failure to appeal. In fact, the former CEO/legal counsel did not even disclose the fact that by October 12, 2011, USAC's Schools & Libraries Division had proceeded to issue Demand Payment Letters.

Further exacerbating the problem was the fact that by the time of the receipt of the Commitment Adjustment Letters of August 12, 2011, Mr. Schmukler had resigned his position.

Mr. Schmukler's departure from Windwood Meadows created a large informational gap. Indeed, the whereabouts of much of the documentation pertaining to the Commitment Adjustment Letters could not be ascertained.

The information gap created by Mr. Schmukler's departure would represent a serious hardship to Windwood Meadows in assessing its position and the viability of its appeal. In October, 2011, Mr. Schmukler's successor, Alfred Notarianni, attempted to obtain documentation from USAC in order to determine precisely what had happened. (Ex. 1.) This request went unanswered. Windwood's successor legal counsel made another attempt to obtain documentation in April, 2012. This, too, went unanswered for several months. (Ex. 2, Ex. 3.)

A review of the documentation ultimately provided by USAC demonstrates that the appeal did have merit. It appears that the challenge was triggered by the rate of expenditures for internal connections for FY2005. USAC seems to believe that the sums expended were not cost-effective for the relatively small number of students involved. Mr. Schmukler responded to these inquiries by letter dated May 4, 2006 regarding the Mountain Lake Academy. (Ex. 4.) The matter does not seem to have re-surfaced until 2011. Mr. Schmukler responded by June 4, 2011. That letter explained that the expenditures in question were clearly warranted, given the nature of the use of the position, the layout of the campuses, and also the student population. (Ex. 5.)

We also note that substantial hardship will result if the entities are not permitted to pursue their appeal. It is true that two of the entities in question, Lake Grove – Durham and Lake Grove – Maple Valley, are no longer active. However, the remaining two entities, Lake Grove School and the Mountain Lake Children's Residence, are still active and providing services to troubled children and youths. They are currently facing demands for reimbursement of hundreds of thousands of dollars that they are not in a position to pay, and which may ultimately threaten

their economic survival. The public interest can only be served by granting the Entities relief from the 60 day deadline in order to ensure their ability to continue providing their valuable services.

The Entities were thus placed in the position of missing the 60-day deadline through a truly unique set of circumstances, most glaringly, the failure of their managing service's legal counsel to comply with that 60-day deadline. The bureau summarily dismissed the request for waiver and review. We believe that the timeline for appeal should be waived, and the entities be permitted to present their appeals on the merits.

### **III. CONCLUSION**

For the above-referenced reasons, the Entities' request for waiver and review should have been granted.

Respectfully submitted,



---

Vicki J. Bejma #6498  
Robinson & Clapham  
155 South Main Street, Suite 402  
Providence, RI 02903  
(401) 331-6565  
(fax) 331-7888  
October 11, 2012

**Exhibit 1**

Windwood Meadow, Inc.

Moriches Road, Box 712  
Lake Grove, NY 11755  
(631) 585-8776

Douglas W. Burns,  
Comptroller

November 3, 2011

Melissa Morrell  
Technical Client Service Bureau  
Schools and Libraries Division

Dear Ms Morrell,

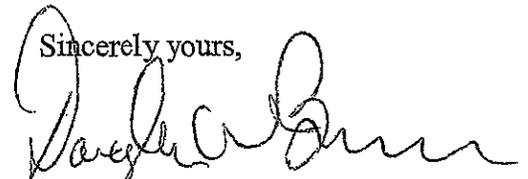
Please accept this letter as authorization for your organization to release any and all requested information to Alfred Notarianni. Mr. Notarianni is our new IT Director and is attempting to research previous years funding.

Windwood Meadow is the parent company and sole Corporate member for the following operating companies:

Lake Grove School	SPIN#143029098
Mountain Lake Children's Residence	SPIN#143029098
Lake Grove- Durham School	SPIN#143023310
Lake Grove at Maple Valley	SPIN#143029098

Thank you for your assistance and cooperation in this matter.

Sincerely yours,



Douglas W. Burns  
Comptroller

Here is your letter.

-----Original Message-----

From: alfred [mailto:alfred@genesysca.com]  
Sent: Thursday, November 03, 2011 7:37 PM  
To: Doug Burns  
Subject: FWD: USAC Schools and Libraries Division - Case# 22-283738

Doug,

Below is the letter I got. I think a letter on letterhead from each entity would suffice. Just note that I am the new IT Director and contact person.

Thanks,

Al

----- Original Message -----

From: SLD Problem Resolution Mailbox <sld-problem-resolution@vangent.com>  
Date: Wed, 2 Nov 2011 19:13:16 +0000

Alfred Notarianni,

You called the Schools and Libraries Division of USAC on 10/26/2011 and requested copies of Commitment Adjustment Letters. However, you are not the contact person for the Applicant nor the Service Provider on the forms. What is your relationship to the Applicant or Service Provider? We need written authorization to send copies of USAC correspondence to anyone who is not the contact person. In order to send you copies of these letters, we will need you to email or fax a Letter of Agency, or a written authorization on the Applicant's or Service Provider's letterhead stating that you are authorized to receive these letters. This letter will need to include the date, Billed Entity Number and/or SPIN, the Form 471 Application Numbers of the letters you need, a request for the letters, and the name, title, signature, and phone number of who is authorizing this. You can fax to 888-276-8736 to my attention, or email to sld-problem-resolution@vangent.com<mailto:sld-problem-resolution@vangent.com>. Please also include the case number. If you have any questions, I can be reached at 888-203-8100.

Thank you,

Melissa Morrell  
Technical Client Service Bureau  
Schools and Libraries Division

## Exhibit 2

## Vicki Bejma

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**From:** Vicki Bejma  
**Sent:** Tuesday, May 22, 2012 3:53 PM  
**To:** 'customersupport@usac.org'  
**Subject:** Windwood Meadow,  
**Attachments:** DOC052212-05222012155141.pdf

Please be advised that this office has been retained to assist Windwood Meadow in the review of the Revised Funding Commitment Decision Letters issued to its subsidiary entities, as listed below, for Funding Year 2005 and 2006. I would appreciate it if you could forward me copies of any and all communications related to said decision letters, including those communications leading up to the issuance of said Letters.

The entities in question are:

Lake Grove School, Billed Entity Number: 13148, SPIN#143029098  
Mountain Lake Children's Residence, Inc, Billed Entity Number: 220466, SPIN#143029098  
Lake Grove at Maple Valley, Inc. Billed Entity Number: 220465, SPIN#143023310  
Lake Grove - Durham School, Billed Entity Number: 5671, SPIN#143029098

I attach an authorization letter from Windwood Meadow, Inc.

Thank you for your attention to this matter.

Vicki J. Bejma  
Robinson & Clapham  
123 Dyer Street, Suite 135  
Providence, RI 02903  
401-331-6565  
fax 401-331-7888  
[vbejma@smrobinsonlaw.com](mailto:vbejma@smrobinsonlaw.com)

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**Windwood Meadow, Inc.**

PO Box 712 Moriches Road  
Lake Grove, NY 11755  
(631) 585-8776

Douglas W. Burns, CFO

April 4, 2012

To whom it may concern:

Our company has recently retained the services of Robinson & Chapham, Attorneys at Law to assist us in the review, response and resolution of this inquiry. Please consider this correspondence authorization to release any all pertinent information/documentation to them.

This authorization request includes the following related entities. Windwood Meadow is the parent company and sole Corporate member for all of the below operating companies:

Lake Grove School, Billed Entity Number: 13148, SPIN#143029098

Mountain Lake Children's Residence, Inc, Billed Entity Number: 220466,  
SPIN#143029098

Lake Grove at Maple Valley, Inc. Billed Entity Number: 220465, SPIN#143023310

Lake Grove - Durham School, Billed Entity Number: 5671, SPIN#143029098

Thank you in advance for your cooperation. Should you require any additional information, please do not hesitate to contact me.

Sincerely,



Douglas W. Burns  
Chief Financial Officer

**Exhibit 3**

**Vicki Bejma**

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**From:** Johnnay Schrieber [jschrieber@usac.org]  
**Sent:** Friday, June 15, 2012 12:52 PM  
**To:** Vicki Bejma  
**Subject:** Correspondence between USAC and Lake Grove School representatives for FCC Form 471 App. No. 460941  
**Attachments:** 1 PIA Doc.pdf; 2 PIA Doc.pdf; 3 PIA Doc.pdf; 4 PIA Doc.pdf; 5 PIA Doc.pdf; 6 PIA Doc.pdf

Ms. Bejma:

As previously requested, please find attached the correspondence between USAC and Lake Grove Schools representatives regarding the requested application below:

Lake Grove School; Billed Entity Number: 13148, SPIN#143029098, Funding Year 2005, Form 471 App. No. 460942, FRN 1266475.

I will send separate emails for each of the requested applications. Copies of the FCC Form 471 applications are available on USAC's web site using the following link:  
[http://www.slforms.universalservice.org/Form471Expert/DisplayExt471\\_StartSearch.aspx](http://www.slforms.universalservice.org/Form471Expert/DisplayExt471_StartSearch.aspx).

Thanks,  
Johnnay

Johnnay D. Schrieber  
Associate General Counsel  
UNIVERSAL SERVICE ADMINISTRATIVE COMPANY  
2000 L Street, NW, Suite 200  
Washington, DC 20036  
Phone: (202) 423-2604  
Fax: (202) 776-0080

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**Vicki Bejma**

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**From:** Johnnay Schrieber [jschrieber@usac.org]  
**Sent:** Friday, June 15, 2012 12:55 PM  
**To:** Vicki Bejma  
**Subject:** Correspondence between USAC and Mountain Lake Children's Residence for FCC Form 471 App. No. 461957  
**Attachments:** 1 PIA Doc.pdf; 2 PIA Doc.pdf; 3 PIA Doc.pdf; 4 PIA Doc.pdf; 5 PIA Doc.pdf

Ms. Bejma:

As previously requested, please find attached the correspondence between USAC and Mountain Lake Children's representatives regarding the requested application below:

Mountain Lake Children's Residence, Inc., Billed Entity Number: 220466, SPIN#143029098, Funding Year 2005, Form 471 App. No. 461957, FRN 1269390.

I will send separate emails for each of the requested applications. Copies of the FCC Form 471 applications are available on USAC's web site using the following link:  
[http://www.slforms.universalservice.org/Form471Expert/DisplayExt471\\_StartSearch.aspx](http://www.slforms.universalservice.org/Form471Expert/DisplayExt471_StartSearch.aspx).

Thanks,  
Johnnay

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**Vicki Bejma**

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**From:** Johnnay Schrieber [jschrieber@usac.org]  
**Sent:** Friday, June 15, 2012 12:58 PM  
**To:** Vicki Bejma  
**Subject:** Correspondence between USAC and Lake Grove at Maple Valley representatives for FCC Form 471 App. No. 460951  
**Attachments:** 1 PIA Doc.pdf; 2 PIA Doc.pdf; 3 PIA Doc.pdf; 4 PIA Doc.pdf

Ms. Bejma:

As previously requested, please find attached the correspondence between USAC and Lake Grove at Maple Valley representatives regarding the requested application below:

Lake Grove at Maple Valley, Inc. Billed Entity Number: 220465, SPIN#143023310, Funding Year 2005, Form 471 App. No. 460951, FRN 1266459

I will send separate emails for each of the requested applications. Copies of the FCC Form 471 applications are available on USAC's web site using the following link:  
[http://www.slforms.universalservice.org/Form471Expert/DisplayExt471\\_StartSearch.aspx](http://www.slforms.universalservice.org/Form471Expert/DisplayExt471_StartSearch.aspx).

Thanks,  
Johnnay

Johnnay D. Schrieber  
Associate General Counsel  
UNIVERSAL SERVICE ADMINISTRATIVE COMPANY  
2000 L Street, NW, Suite 200  
Washington, DC 20036  
Phone: (202) 423-2604  
Fax: (202) 776-0080

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## Vicki Bejma

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**From:** Johnnay Schrieber [jschrieber@usac.org]  
**Sent:** Friday, June 15, 2012 1:00 PM  
**To:** Vicki Bejma  
**Subject:** Correspondence between USAC and Lake Grove-Durham School Representatives for FCC Form 471 App. No. 460976  
**Attachments:** 1 PIA Doc.pdf; 2 PIA Doc.pdf; 3 PIA Doc.pdf; 4 PIA Doc.pdf

Ms. Bejma:

As previously requested, please find attached the correspondence between USAC and Lake Grove-Durham School representatives regarding the requested application below:

Lake Grove - Durham School, Billed Entity Number: 5671, SPIN#143029098, Funding Year 2005, Form 471 App. No. 460976, FRN 1266581.

I will send separate emails for each of the requested applications. Copies of the FCC Form 471 applications are available on USAC's web site using the following link:  
[http://www.slforms.universalservice.org/Form471Expert/DisplayExt471\\_StartSearch.aspx](http://www.slforms.universalservice.org/Form471Expert/DisplayExt471_StartSearch.aspx).

Thanks,  
Johnnay

Johnnay D. Schrieber  
Associate General Counsel  
UNIVERSAL SERVICE ADMINISTRATIVE COMPANY  
2000 L Street, NW, Suite 200  
Washington, DC 20036  
Phone: (202) 423-2604  
Fax: (202) 776-0080

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## Vicki Bejma

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**From:** Johnnay Schrieber [jschrieber@usac.org]  
**Sent:** Friday, June 15, 2012 1:04 PM  
**To:** Vicki Bejma  
**Subject:** Correspondence between USAC and Lake Grove School Representatives for FCC Form 471 App. No. 507510  
**Attachments:** 1 PIA Doc.pdf; 2 PIA Doc.pdf; 3 PIA Doc.pdf; 4 PIA Doc.pdf; 5 PIA Doc.pdf; 6 PIA Doc.pdf; 7 CER Doc.pdf; 8 CER Doc.pdf; 9 CER Doc.pdf; 10 CER Doc.pdf

Ms. Bejma:

As previously requested, please find attached the correspondence between USAC and Lake Grove Schools representatives regarding the requested application below:

Lake Grove School, Billed Entity Number: 13148, SPIN#143029098, Funding Year 2006, Form 471 App. No. 507510, FRN 1421395.

Copies of the FCC Form 471 applications are available on USAC's web site using the following link: <http://www.slforms.universalservice.org/Form471Expert/DisplayExt471 StartSearch.aspx>.

Thanks,  
Johnnay

Johnnay D. Schrieber  
Associate General Counsel  
UNIVERSAL SERVICE ADMINISTRATIVE COMPANY  
2000 L Street, NW, Suite 200  
Washington, DC 20036  
Phone: (202) 423-2604  
Fax: (202) 776-0080

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**Exhibit 4**

May 4, 2006

Marc Nurnberger  
Schools & Libraries Division  
Program Integrity Assurance

To follow please find the information requested to complete your post commitment review of our Funding Year 2005 Form 471 application. I trust that our detailed explanations and additional information provided will justify the requests contained in our application and allow for a favorable determination.

The Basic Maintenance service will

- repair and upkeep the networking hardware listed on the contract which are all E-Rate eligible
- provide basic technical support and configuration changes to the network
- maintain the wire and cable installed

We feel that in order to properly understand the schools requests in the application you need to understand what Mountain Lake Children's Residence (MLCR) truly is. MLCR is not a traditional school. It is a Special Education Residential school. It is also not a 9-3 special ed school but rather a 24/7, 365 day a year school. The reason for this is because our student population is not the traditional one. Our students are comprised of those suffering from learning disabilities, PINS (Persons In Need of Supervision) students and DSS (Department Social Services) referred. These students have severe educational, emotional and behavioral limitations that require them to be in a separate supervised area. MLCR is located on a 100 acre campus with multiple buildings spaced far apart from one another as well as recreational areas all there to rehabilitate, reeducate and change the lives of young boys who have in their past been scarred emotionally and sometimes physically. Due to their state, the parameters and guidelines of their education are dramatically different than those of other schools. It requires not only the traditional classroom and teaching methods but also each student that warrants it has one on one help from teachers and mentors who learn with them subject matters outside of the classroom walls in the outdoors to allow them not to be impatient or feel locked up. Our goal is to take these young charges and educate them, guide them and allow them to be contributing members of society instead of being the contributors to society's problems. This is a Herculean task and our annual budget is now at 4.5 million dollars and we are a non-profit institution. We also always keep an eye on the future to allow for student population growth. MLCR has seen vividly how much of a difference computer technology makes towards the improvement and growth of our students. Considering our remote location as well, we approached this opportunity with much thought and deliberation to ensure a cost effective solution and a proper environment that would not go down and be down for weeks. This is something that would make a tremendous detriment towards our student's progress.

Why are 6 switches with 144 ports appropriate and cost effective for a school of 35 students?

Why are 6 switches for \$762.00 each appropriate and cost effective for a school of 35 students?

Due to the large size of our campus (100 acres) and the distance between the buildings, as well as the length of the buildings themselves, this necessitated fiber optic runs and a wiring closet in each of those buildings with a total of 6 switches, one for each wiring closet. We chose the most cost-effective switches able to accept **fiber-optic modules**. Unfortunately, the industry is not manufacturing cost-effective switches with less than 24 ports in each, that's why we chose the 24 port switches. For comparison, the price for a 24-port switch with fiber optic capabilities varies from \$506 to \$2350, and for a 12-port switch with fiber optic capabilities from \$401 to \$1650. As you can see, the per-port price for a 24-port switch is almost 50% lower than that of a 12-port switch. We chose middle-of-the-line devices to provide adequate reliability and return on investment. In addition, the school currently has 46 students and 16 teachers (nearly **double** the amount of users than SLD may be aware of) involved in the educational component of the school who utilize the network. Considering our plans for substantial future growth as well as our present needs, financially it was not cost effective to do anything but the 24-port switch.

Why is wireless capability being requested in addition to the 144 network ports?

Why are 11 wireless access points appropriate for a school of 35 students?

Due to the nature of the student body (as detailed above) their scholastic instruction cannot be restricted to the 4 walls of the classroom. The emotional limitations of the students warrants capabilities outside the classroom walls and therefore the school needs and has requested a wireless infrastructure in parallel with the wired infrastructure. (This is something by the way that all institutions of higher learning have implemented or are beginning to and is becoming fairly standard) MLCR requested 11 wireless access points to provide adequate coverage for the places of educational instruction taking place on their 100-acre campus. Each access point only allows for 150 feet from the point of origin

Why are 3 file servers being required for a school of 35 students?

We need 3 servers because they cannot be combined: the school has a Novell based network and requires 1 NDS/DNS/Email Server (Novell), and 2 Terminal servers (Microsoft). Since a Terminal Server replaces multiple workstations (all programs for all users run in its memory), it is not advisable to put more than 15-20 people on one Terminal Server, therefore at least 3 servers are needed to provide adequate functionality for the school's network.

MLCR was looking for a service provider that would not only have technical expertise and understand the demanding needs of our school but one that would commit to servicing us in a remote location that experiences extremely harsh winters and storms that could bring the system down at any given time and require us to have a provider available on call at all times to repair and resolve any issue. At the same time we sought a cost

effective solution for the school. While this was a tall order we felt that VIP Technologies fit that bill. Our response to the cost effectiveness of the switches is just one demonstration that while on the surface it might have seemed superfluous, in reality due to our schools vast campus and location as well as the complexity of the student body there was a strong necessity and financially it made more sense than any other option.

We understand your concerns and hope we have satisfied your individual questions regarding our applications cost effectiveness. Bearing this in mind and some of the points we have previously mentioned namely the remoteness and the harsh weather conditions that the school experiences (for weeks we can undergo minus zero temperatures) we designed a stable and extremely strong network for our students. As mentioned previously our budget is close to 4.5 million dollars for our students a number that on the surface may seem high but every staff member on the campus knows that every penny is needed and used wisely. Likewise our application for technology is one that reflects the legitimate needs of the students and school and we believe that we have created the balance between strong technology and cost effectiveness.

Our students are educationally and emotionally handicapped and need all the help and assistance they can get. To that end we have done our part by creating and building this campus, supplying a one to three student to teacher ratio as well as one on one mentoring and tutoring. Please join us in continuing our work and honor the commitment that you have already made to us. As we anticipate implementing this as soon as possible we look forward to a quick and favorable response.

Sincerely,

Joseph Schmukler  
CIO of IS  
Lake Grove Schools

USAC/Confidential/Proprietary

**Exhibit 5**

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**From:**  
**Sent:**  
**To:**  
**Subject:**  
**Attachments:**

**From:** Joe Schmukler [mailto:[joe@windwoodmeadow.org](mailto:joe@windwoodmeadow.org)]  
**Sent:** Friday, June 04, 2010 2:12 PM  
**To:** Squire, Heather  
**Cc:** Lisa Loggia; Lisa Loggia  
**Subject:** Review Concerns

Heather,

Please see attached document in response to your concerns listed below.

Thank you,  
Joseph Schmukler

*Application 460976 – FRN 1266581.*

- a) The cost per student of \$2,999.28 is considered excessive and not cost effective.*
- b) The number of students per switch at 8 is considered not cost effective.*
- c) The cost per 350' fiber cable run at \$16,250.00 is considered excessive and not cost effective.*
- d) The amount of \$24,750.00 for network administrator training is considered excessive and not cost effective.*

*Application 460951, FRN 1266459:*

- e) The cost per student of \$3,693.56 is considered excessive and not cost effective.*
- f) The number of students per switch at 7 is considered not cost effective.*
- g) The cost per 350' fiber cable run at \$16,250.00 is considered excessive and not cost effective.*
- h) The amount of \$24,750.00 for network administrator training is considered excessive and not cost effective.*

Application 461957, FRN 1269390:

- a) *The cost per student of \$7,910.31 is considered excessive and not cost effective.*
- b) *The number of students per server at 8 is considered not cost effective.*
- c) *The number of students per switch at 5 is considered not cost effective.*
- d) *The cost per 350' fiber cable run at \$16,250.00 is considered excessive and not cost effective.*
- e) *The amount of \$24,750.00 for network administrator training is considered excessive and not cost effective.*

Application 460942, FRN 1266475

- a) *The number of switches per student at 10.2 is considered excessive and not cost effective.*
- b) *The cost per 350' fiber cable run at \$16,250.00 is considered excessive and not cost effective.*
- c) *The cost per student of \$3,756.29 is considered excessive and not cost effective.*
- d) *The amount of \$24,750.00 for network administrator training is considered excessive and not cost effective.*

Application 507510, FRN 1421395

- a) *The cost of maintenance per cable drop at \$78.00 is considered excessive and not cost effective.*
- b) *The cost of maintenance per fiber cable run at \$1,716.00 is considered excessive and not cost effective.*

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June 4, 2010

USAC, Schools and Libraries Division  
Special Compliance  
30 Lanidex Plaza West  
Parsippany, NJ 07054

Dear Heather Squire,

I am responding to your special request for alternative information for the following applications and funding requests as we believe strongly that they should not be denied:

Lake Grove School FY 2005 App # 460942, - FRN 1266475 for Internal Connections  
Lake Grove School FY 2006 App# 507510 - FRN 1421395 for Basic Maintenance

Lake Grove at Maple Valley FY 2005 App# 460951 -- FRN 1266459 for Internal Connections

Lake Grove Durham FY 2005 App# 460976 -- FRN 1266581 for Internal Connections

Mountain Lake Children's Residence FY 2005 App# 461957 -- FRN 1269390 for Internal Connections

#### **BACKGROUND OF LAKE GROVE**

Lake Grove Experience encompasses five special education schools, all located in the northeastern states of New York, Connecticut, and Massachusetts. Lake Grove schools accommodate diverse student populations, all with behavioral, learning, and/or social dysfunctions or disabilities.

**Lake Grove School at Durham** is located in Durham, Connecticut, on a 55-acre campus.

**Lake Grove School at Maple Valley** is located in Wendell, Massachusetts, on a 15-acre campus.

**Lake Grove School** is located in Lake Grove, New York, on a 75-acre campus in Long Island.

**Mountain Lake Children's Residence** is located in the Adirondack Mountains of Northern New York, on a 45 - acre campus.

Our schools are residential treatment facilities for boys and girls ages 10 to 22. The students have various diagnosis such as, sexually abusive behaviors, emotionally disturbed and serious psychiatric diagnosis. Our schools programs are 365-day a year with a full academic program on each campus. The students are

referred to us from various organizations such as The Department of Social Services and/or the court system. All of our campuses have multiple buildings and requires a large staff to support the supervision necessary for the high-risk population. All of our students are provided supervision 24-hours a day, 7-days a week, 365 days per year. The program supervision is structured to ensure that each student is provided a safe and secure environment in which to learn and thrive. The residential, educational, clinical, and recreational components of the program are provided in multiple buildings throughout the campuses.

Our technology plan is one that reflects the legitimate needs of the students and we believe that we have created the balance between strong technology and cost effectiveness. When compared to a mainstream school, our costs may appear high, but the educational needs of our students are also very high. Our history of fiscal responsibility has enabled us to adequately provide our students with opportunities to learn and grow. It is our hope that you will look favorably upon our request to provide our students with the necessary tools they need to learn.

It is obvious that USAC/SLD is unaware of our schools student body, curriculum and physical campuses.

1. The costs per student that are mentioned ranging from \$2999.28 – \$7910.31 are erroneous from 2 standpoints.

A) The requested equipment could be used for numerous years which will serve numerous times the amount of students bringing it to a much lower amount than listed. In addition, and more important, the equipment is not only for the students but for dozens of staff members and teachers as well. Being that these are special ed schools the student to teacher ratio can be 12 to 1 to 1 (12 students to 1 teacher and 1 aid) or sometimes as low as 4 to 1.

So in reality the number of both teachers and students being served is dramatically different than the numbers that were figured by USAC. Which of course brings the actual cost per person down drastically.

B) A comparison cannot be made to our special students backgrounds; kids who have been abandoned, abused and sometimes worse that I can't even delineate. These students obviously have very special needs. Needless to say, the average tuition for a public school student is \$6,000 while for a Special Ed student it is between \$60,000.00 and \$100,000.00. Taking that into consideration, the costs for these special ed students listed while costly are reasonable and consistent with the overall costs required for the schooling of Special Ed students.

2. Our students are sometimes prone to violent outbursts. Extreme measures had to be taken to insure that the hardware would not be damaged as a result of their outbursts. (Please see below special requirements by JCAHO due to the student type) As you could

well imagine, we understood that students could have damaged cable runs and fiber termination points that were secure but certainly not impervious to our students rage. As such, besides for the sensitive and highly costly nature of the components installed, the basic maintenance was especially costly because the likelihood of malfunction increased exponentially not simply thru wear and tear and age but due to the special nature of the children we serve. Numerous times students did indeed yank out and damage cable termination points as well as jacks, face plates and patch cables. The maintenance costs have been understandably higher than the norm because of this.

3. With regard to the costs of the fiber cable runs:

The fiber runs had to be run underground through 4 inch pvc thru conduit. The fiber was buried 30 inches underground below grade in this conduit, requiring a much costlier install compared to a regular in-building job.

The wiring had to be installed in conduit so it would not be within the students reach as required by JCAHO (Joint Commission on Accreditation of Healthcare Organizations); to run conduit requires excavation and backfills requiring backhoes; once again this was done to ensure the safety of the students.

The Lake Grove School runs were done thru aerial which required heavy equipment and bucket trucks, and due to the layout of existing trees and landscaping was very time consuming and complex.

After reviewing the above we are sure you recognize the added costs involved.

4. Switches: Our schools are Residential facilities (our students live there all year) with instruction for our students taking place in multiple buildings there were switches installed in each of the buildings resulting in the higher number of switches.

5. Training: The network was extremely sophisticated and complex necessitating the number of days requested. This was for us to be able to receive basic instruction and the ability to run the network. Additionally, once again, due to security and possible hacking concerns we set up two separate networks to insure continuity and backup which contributed to the complexity of understanding and running the networks. In reality we could have used more time. In regards to the cost, any other highly experienced company would have probably charged us more. So we are sure that for 12 days of training the costs were reasonable.

Regarding your referenced FCC order: There was absolutely no direction or even mention made on the USAC/SLD website or any references about this subject nor did you publicize the FCC order referenced.

The FCC clearly writes that they have not enunciated any bright-line standards for determining when particular services are not considered cost-effective!! The FCC does mention that if it's 2 or 3 times greater than the prices available from commercial vendors that would be a factor for a basis for denial, absent extenuating circumstances.

First of all, even though we only received one bid, given the above, we are absolutely certain that it was impossible to have a vendor do this job for two or even three times less

then the bid received and accepted. We don't know of any other vendor capable of accepting the responsibility as well as actually living up to our high standards needed for our network and our students. The vendor delivered on what was contracted and we emphatically state given our first hand knowledge of the circumstances the charges were made in a financially responsible fashion

Secondly, if there were ever extenuating circumstances, our schools particular set of circumstances would qualify by far, as detailed above.

Most confusing to us however, is the fact that USAC thoroughly reviewed this application already, asking us any and all questions. We complied by sending everything they requested, including the Item 21 Attachments spelling out in detail the entire scope of work and their costs - hiding nothing.

The review period took place over a stretch of over 7 months.....over 7 months - There certainly appeared to be extensive time to review the stated concerns and decide not to approve it if they saw fit.

However, USAC issued the funding commitment decisions stating that our applications were approved.

USAC obviously had their established protocol in determining cost effectiveness and their own decision states the obvious unmistakable conclusion. That given our circumstances, USAC deemed our requests cost effective!

However, we believe the points while objectively irrefutable, are unnecessary.

Because after reviewing the FCC order in great detail, the Ysleta order was written specifically regarding pre commitment.

Nowhere does it say that USAC can reverse a funding commitment decision (barring fraud which is not alleged here) after it has been already implemented subsequent to thorough review. In law this is referred to as double jeopardy and is upheld in every court of the land.

This current decision of USAC to deny these funding requests occurs to us as having no basis in any FCC rulings and with all due respect seems totally arbitrary.

So, only after receiving official approval from USAC did we go ahead with the projects.

Lake Grove is extremely appreciative of all the hard work that USAC has done in helping not only us but all the schools that have benefited from this grant.

However, we believe, that no group has benefited more so then our students. They have benefited enormously in their skills in giving them the chance they need to overcome their harsh backgrounds and severe handicaps and succeed in life.

We appreciate your understanding in this matter and we look forward to our ongoing partnership with USAC in giving our students the funding they need. Because believe me, they need all the help they can get.

Our children are relying on you... please don't let them down.

Please feel free to contact me should you require any further information. I can best be reached by email at [joe@windwoodmeadow.org](mailto:joe@windwoodmeadow.org) or by phone at 631.716.2109.

Thank you.

Sincerely,

Joseph Schmukler  
CIO of IS  
Lake Grove School  
Lake Grove Durham  
Lake Grove at Maple Valley  
Mountain Lake Children's Residence