

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

December 12, 2012

In the Matter of

Schools and Libraries Universal Service
Support Mechanism

Request for Review of a Decision of the
Universal Service Administrator by

Christ the King Prep

CC Docket No. 02-6

Request for Review

Applicant: Christ the King Prep

Billed Entity Number: 16045410

For 471: 858585

FRN: 2336624

Submitted by:

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Introduction

This is an appeal of USAC's denial concerning FRN 2336624. USAC denied the appeal because (1) "...the request for changes and corrections was received after the FCDL was issued..." (2) "...your appeal requests additional funds..."

Argument

1 – We contend this is an M&C error on the part of the applicant and the PIA reviewer.

2 – The applicant made a mistake in entering the amount requested on the 471 application. However, when provided with a copy of the contract, the reviewer should have identified the error.

3 - The reviewer viewed the contract as an annual contract when it is actually a monthly contract. When provided with a copy of the contract, the PIA reviewer failed to notice that the total FRN amount calculated on the application was a monthly amount not an annual one, even though this is clear from the contract provided. Additionally, line 23c of the 471 Application does not restrict the contract to a monthly amount. Based on the contract, the application should have been calculated on the annual amount of \$29,280.00.

4 – Per precedent established by the FCC in the Bishop Perry Order, the PIA reviewer failed to "... USAC shall inform applicants promptly in writing of any and all ministerial or clerical errors that are detected in their applications, along with a clear and specific explanation of how the applicant can remedy those errors."

5 - The FCC has issued various other orders relating to clerical and ministerial errors on the part of applicants. These orders offer relief to the applicants in the form of FCC waivers of existing rules. These Orders include: Bishop Perry Order (FCC 06-54), the Ann Arbor Public Schools Order (DA 10-2354) and FCC 11-60 issued on April 14th, 2011.

In paragraph 23 of the Bishop Perry Order, "As of the effective date of this Order, we require USAC to provide all E-rate applicants with an opportunity to cure ministerial and clerical errors on their FCC Form 470 or FCC Form 471, and an additional opportunity to file the required certifications. Specifically, USAC shall inform applicants promptly in writing of any and all ministerial or clerical errors that are detected in their applications, along with a clear and specific explanation of how the applicant can remedy those errors."

We contended that by the PIA reviewer requesting a copy of the maintenance contract, with "Monthly" clearly marked next to the contract amount, the reviewer should have caught the clerical error and afforded us, the required 15 days, and the opportunity to correct that error.

By failing to provide us with the required 15 days to correct our clerical error, the application was approved for the much lower amount.

USAC argues that the request for the correction was not made prior to the FCDL. We contend that by sending in the contract, which clearly shows the error, we did make this argument before the FCDL was issued.

We believe an error was made on the part of the PIA reviewer and that this error is an error that can be corrected.

We argue that if the case was reversed and the contract was actually a yearly contract and we filed it as a monthly contract, the PIA reviewer would have noticed and reduced our FRN accordingly.

USAC makes the argument that our appeal requests additional funds that were not included in the FCC Form 471. We can't argue with this, they are correct because an error was made by PIA in not identifying the error and not allowing us time to correct the error.

We believe there is precedent to allow these types of changes. In the Aberdeen School District Order, DA 12-300, the FCC granted 35 requests for review because the FCC found that good cause exists to grant their requests for review. Some of these applicants filed with one discount percentage, a lower one, and were given the opportunity to submit additional documentation to adjust their discount percentage to a higher percentage. We argue that there is no difference if you raise the FRN amount, or if you raise the discount percentage amount. Both are additional funds that were not included in the FCC Form 471.

6 - The Ann Arbor Decision (DA 10-2354) further supports that mistakes happen in the E Rate application and review process and offer applicants relief from these mistakes.

Specifically, we find that the petitioners inadvertently made ministerial or clerical errors while completing their FCC forms, while responding to USAC requests for additional information during the application review process, or while making requests for service substitution.⁵ These errors include: failing to timely notify USAC to correct a USAC clerical error,⁶ entering the wrong FCC Form 470 number, wrong billed entity number, or wrong billed entity number/worksheet number on their FCC Form 471;⁷ entering the wrong name or service provider identification number (SPIN);⁸ entering the wrong expiration date for a contract;⁹ erroneously characterizing the purchase and installation of equipment as a recurring service;¹⁰ making a calculation error;¹¹ entering the monthly charge as the annual charge;¹² entering the discounted annual price rather than the pre-discount annual price;¹³ entering the amount that a service provider was mistakenly temporarily charging rather than the contracted monthly rate;¹⁴ miscalculating its discount rate;¹⁵ failing to separately list a building where equipment was to be located;¹⁶ failing to enter a request for telecommunications service that was clearly indicated on its item 21 attachment;¹⁷ basing its block 5 funding requests on the wrong FCC Form 471 block 4 worksheet;¹⁸ selecting the wrong term or service;¹⁹ selecting the wrong category of service in its FCC Form 471; ²⁰ making a typographical error in recording the cost of ineligible equipment in response to a USAC request for additional data;²¹ failing to follow the correct procedure for modifying its FCC Form 471;²² mistakenly providing the wrong documentation concerning a purchase; ²³ and describing the service it purchased as for its entire district when it was only intended to serve a single elementary school.²⁴ In addition, one applicant omitted a service from a service substitution request,²⁵ and another entered the wrong application number on the certifications it submitted and apparently failed to press the submit button to submit its otherwise completed application.²⁶

7 – Mistakes happen and the FCC and USAC have established precedent to correct these mistakes.

8 – We contend the PIA reviewer failed to identify the error and offer the applicant an opportunity to make the necessary corrections.

9 – The contract clearly states that the term is for the 2012-2013 funding year and the monthly amount of the contract is \$2,440.00. This equates to an annual funding request of \$29,280.00.

Summary

The PIA reviewer made a mistake in not identifying the discrepancy between the amount on the application and the amount supported by the contract provided during PIA review. The PIA reviewer failed to provide the applicant an opportunity to correct the error. The contract clearly shows the highlighted amount as monthly amount and line 23c of the 471 Application clearly shows the request is for a 12 month period.

There is no waste fraud and abuse just a simple mistake for which there is a clear remedy.

We request this application be sent back to PIA for further reviewed based on the documentation originally submitted.

Thank you,



Kristin Sniecinski