

**BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554**

IN THE MATTER OF:)
)
Request For Review of Decisions of) **CC Docket No. 02-6**
Universal Service Administrator)
)
TRENTON SPECIAL SCHOOL)
DISTRICT Trenton, Tennessee)

Request for Review

The Trenton Special School District (“Trenton”), pursuant to and in accordance with Sections 54.719 – 54.721 of the Federal Communication Commission’s (“FCC” or “Commission”) rules, hereby requests the FCC review and overturn the funding denial decision issued by the Universal Service Administrative Company (“USAC”) as administrator of the National Education Rate Program (“E-rate”). Trenton respectfully submits that under the circumstances there is good cause for the Commission to overturn the funding denial. In particular, Trenton¹ appeals the August 28, 2012 Funding Commitment Decision Letter². *See Exhibit 1, Funding Commitment Decision Letter.*³

In the Funding Commitment Decision Letter, the reason for denial of FRN 2382491 states:

“This FRN is denied because the Item 21 attachment was not received on or before the filing deadline. The Item 21 attachment is an FCC Form 471 Window filing requirement. Your Item 21 was received after the filing deadline. FCC Forms 471 with Item 21 Attachments that met the FCC 471 Window requirements have funding priority over applications received after the filing deadline. Given that funding demand for FCC Forms 471 filed within the window exceeds the amount available for commitment, we cannot consider this FRN for funding.”

¹ Trenton Special School District’s Billed Entity Number (BEN) is 128492.

² The Form 471 in question is 873251. The funding request number involved is: 2382491.

³ This Request for Review is timely filed in accordance with Sections 54.720 and 1.4 of the Commission’s Rules within 60 days of the appeal denial by USAC.

Upon receipt of the FCDL, Trenton filed the immediate appeal to USAC (dated September 11, 2012)⁴. USAC's adverse decision was dated October 23, 2012⁵. The SLD's denial decision is without merit. Trenton respectfully requests the Commission to overturn the denial and return FRN 2382491 for full review and funding. Any other action would be contrary to the spirit and the goals of the E-Rate program.

Background

Trenton Special School District is a small three school district serving approximately 1,400 K-12 grade students. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts on eligible telecommunications services, Internet access, internal connections, and basic maintenance of internal connections⁶. Under this regulatory authority, Trenton annually submits E-rate application(s) for eligible services. During the application period for the 2012-13 E-rate funding year, submitted 5 different applications for Priority One services, including 7 different funding requests. It is notable that there were no issues with any of the other Item 21 attachments to accompany those funding requests.

Item 21 Attachments

This Request for Review centers only on an issue with the denied FRN's Item 21 Attachment. Under current SLD guidance, "each funding request on the FCC Form 471...must include a description of the products and services for which services are sought."⁷ While for the majority of the E-rate program's existence, an applicant could

⁴ Please see attached Letter of Appeal to USAC

⁵ Please see attached USAC Appeal Decision letter

⁶ 47 C.F.R. §§ 54.502, 54.503

⁷ <http://www.usac.org/sl/applicants/step04/item-21.aspx> (retrieved December 19, 2012)

submit the Item 21 Attachment at any time after the filing of the FCC Form 471 until the point of application review, applicants were required in Funding Year 2011 by the FCC's *Sixth Report and Order*⁸ to ensure the filing of the Item 21 Attachment was coincident with the close of the FCC Form 471 filing window.⁹ Because this was a major program change, there was a high incidence of unintentional non-compliance and during Funding Year 2012, an Item 21 Attachment filing grace period was universally granted to all E-rate applicants until May 9, 2012 – a period well after the formal close of the FCC Form 471 application window.

Timeline

The Item 21 Attachment for Form 471 Application Number 873251 was entered on line on 3/20/12 along with all of Trenton's other Item 21 Attachments. There was no apparent error message with the online submission of this final Item 21 attachment so; Trenton assumed there was no problem.

June 8, 2012 – Trenton is contacted by PIA and realizes that the Item 21 attachment for FRN 2382491 was still in some sort of holding pattern... 'pending submission',¹⁰ Trenton did immediately submit a copy of what was pending online to the reviewer.

August 28, 2012 – Trenton receives its FCDL indicating that the FRN had been denied in its entirety due to an untimely Item 21 submission.

September 11, 2012 – Immediate appeal filed with USAC. During review of the appeal, it was discovered that in fact, Trenton did receive an Item 21 missing letter, but did not take notice of it as they were confident that all of the Item 21 attachments had been submitted in a timely fashion.

⁸ http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-10-175A1.pdf

⁹ Ibid.

¹⁰ See attached Item 21 attachment printed 6/18/12 from online submission system

Bishop Perry

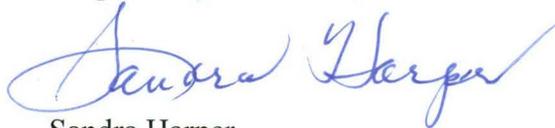
Much has been written and argued of the FCC's *Bishop Perry* decision, released May 19, 2006¹¹. In *Bishop Perry*, the FCC directed USAC to "provide all E-rate applicants with an opportunity to cure ministerial or clerical errors" within their E-rate applications. While the FCC decision focused primarily on the errors found in Forms 470 and 471, it would logically follow from the language of the decision that the FCC would expect similar treatment to easily correctable application process errors. Indeed, this case at hand was undoubtedly exactly what *Bishop Perry* had in mind when the FCC crafted the language of the decision and departed from significant Commission precedent.

Conclusion

Simply put, Trenton believed that all Item 21 Attachments had been submitted in a timely fashion and denial of this critical funding at this juncture for a purely procedural error that did not create waste, fraud or abuse of the program's resources would be completely counterproductive to the goals of the E-Rate program.

We respectfully request that the SLD's funding denial decision should be reversed and the funding request remanded to SLD for full consideration of funding.

Respectfully Submitted,



Sandra Harper
Director of Schools
Trenton Special School District
731-855-1191
harpers01@k12tn.net

¹¹ http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-06-54A1.pdf