

New Hope Foundation
One Valentine Lane
Chapel Hill, NC 27516

December 21, 2012

VIA ELECTRONIC FILING

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

**Re: Appeal of USAC Decision On Appeal of Administrators Decision on Appeal in CC
Docket No. 02-6**

Applicant Name:	Pender County School District
Billed Entity Number:	127007
Funding Year	2012
Form 471 App. Number:	836862
Funding Request Numbers:	2388626

Dear Ms. Dortch:

Pender County School District of Pender County, North Carolina ("Pender County" or "District"), acting through counsel and pursuant to Sections 54.719-54.721 of the Commission's rules¹, hereby timely files this Request for Review or Waiver ("Appeal"). The Appeal requests Commission review of the adverse decision of the Administrator of the Universal Service Administrative Company ("USAC") denying the funding request(s) enumerated above for Funding Year 2012.²

More specifically, on October 23, 2012, USAC's Schools and Libraries Division ("SLD") issued a decision denying an appeal filed by Pender County with USAC. In its decision on appeal USAC held that its previously-issued determination to deny funds³ was justified based on findings that the District failed to properly provide sufficient evidence that the applicant made a clerical and ministerial error in the preparation of its FCC Form 471. Specifically the decision stated that the

¹ 47 C.F.R. §§ 54.719-54.721.

² Administrator's Decision on Appeal - Funding Year 2012 - 2013, Pender County School District (October 23, 2012), attached as Exhibit 1.

³Funding Commitment Decision Letter, August 13, 2012 ("FCDL").

Ms. Marlene H. Dortch
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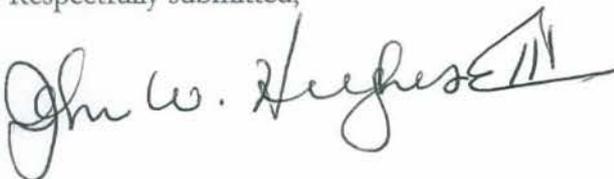
documentation provided by District to support the fact that a clerical and ministerial error was made at the time of the preparation of the applicant's FCC Form 471 does not support the requested removal of one entity from Block 4 of the FCC Form 471.

We respectively disagree with this decision. We responded upon the request of USAC reviewers on October 8, 2012 and included the documentation that was used to input the list of entities in Block 4 of FCC Form 471 at the time that Form was prepared, submitted, and certified. The documents offer positive proof that indeed a clerical and ministerial error was made at the time of the preparation of the form. Further we submitted to USAC a RAL correction form on August 1, 2012 notifying USAC of the error and requesting that the error be corrected. Such notification was made prior to the issuance of the FCDL.

Pender County is aggrieved by USAC's October 23, 2012 decision and submits that for various reasons outlined in its original August 28, 2012 appeal to USAC and others that the decision is unjustified and in error. Specifically, the decision regarding the fact of whether a clerical and ministerial error was made in the preparation of the applicant's FCC Form 471 is unwarranted and unjustified under the rules, policies and requirements governing the correction of clerical and ministerial errors.

Pender County will supplement this Appeal with a full discussion of the facts, the District's position and supporting arguments.

Respectfully submitted,



John W. Hughes III
Consultant to Pender County School District
New Hope Foundation
One Valentine Lane
Chapel Hill, NC 2716

Exhibit 1



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2012-2013

October 23, 2012

John Hughes
New Hope Technology Foundation
1 Valentine Lane
Chapel Hill, NC 27516

Re: Applicant Name: PENDER COUNTY SCHOOL DISTRICT
Billed Entity Number: 127007
Form 471 Application Number: 836862
Funding Request Number(s): 2388626
Your Correspondence Dated: August 28, 2012

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2012 Funding Commitment Decision Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 2388626
Decision on Appeal: **Denied**
Explanation:

- A Form 471 Receipt Acknowledgment Letter (RAL) was sent to Pender County School District on March 28, 2012. The RAL lists allowable clerical and ministerial error corrections to the FCC Form 471 including modifications to Block 4. Corrections may be submitted up to the time that funds are committed. The Funding Commitment Decision Letter was issued on August 13, 2012. On July 20, 2012, Pender County School District requested to correct a ministerial or clerical error by the removal of BEN 29695 North Topsail ES from Block 4 Worksheet No. 1495565 for FRN 2388626. During the appeal review process, Pender County School District was asked to confirm their request to remove this entity from Block 4, and provide supporting documentation to determine whether or not a ministerial and clerical error occurred. According to FCC Order (FCC 11-60), ministerial and clerical errors are defined as follows: "The applicant can

amend its forms to correct clerical and ministerial errors on their FCC Forms 470, FCC Form 471 applications, or associated documentation until an FCDL is issued. Such errors include only the kinds of errors that a typist might make when entering data from one list to another, such as mistyping a number, using the wrong name or phone number, failing to enter an item from the source list onto the application, or making an arithmetic error". After review of the supporting documentation used at the time of the filing of the FCC Form 471, it has been determined that it does not support the requested change, therefore your request to remove this entity is denied.

- Your appeal requests additional funds that were not included in the FCC Form 471 that you are appealing. FCC rules require that funding requests must be submitted via an FCC Form 471. *See* 47 C.F.R. sec. 54.504(a). Considerations for funding requests depend on the date the FCC Form 471 is received and the amount of funds available if it is received after the close of the filing window. *See* 47 C.F.R. sec. 54.507(g)(1)(i)-(v). The FCC directed USAC to allow applicants to amend their forms to correct clerical and ministerial errors on their FCC Forms 470, FCC Form 471 applications, or associated documentation until an FCDL is issued. Such errors include only the kinds of errors that a typist might make when entering data from one list to another, such as mistyping a number, using the wrong name or phone number, failing to enter an item from the source list onto the application, or making an arithmetic error. *See* In the Matter of Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Order, FCC 11-60 para. 5 (rel. April 14, 2011).
- The FCC's Bishop Perry Order directed USAC "to provide all E-rate applicants with an opportunity to correct ministerial and clerical errors on their FCC Form 470 or FCC Form 471, and an additional opportunity to file the required certifications" without posting new FCC Forms 470 and 471. *See* Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, et al., Schools and Libraries Universal Service Mechanism, File Nos. SLD-487170, et al., CC Docket No. 02-6, *Order*, 21 FCC Rcd 5316-5317, FCC 06-54 para. 23 (May 19, 2006) (Bishop Perry Order). As a result, USAC sends an applicant a Receipt Acknowledgement Letter (RAL) when the FCC Form 471 has been successfully data entered and provides the applicant with an opportunity to make allowable corrections to its FCC Form 471. *See* www.usac.org/sl.

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either USAC or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC website or by contacting

the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

JCAL



Universal Service Administrative Company

Schools and Libraries Division

FUNDING COMMITMENT DECISION LETTER
(Funding Year 2012: 07/01/2012 - 06/30/2013)

August 13, 2012

John Hughes
PENDER COUNTY SCHOOL DISTRICT
1 Valentine Lane
Chapel Hill, NC 27516

Re: Form 471 Application Number: 836862
Billed Entity Number (BEN): 127907
Billed Entity FCC RN: 0011966090
Applicant's Form Identifier: 2012 P2 redo

Thank you for your Funding Year 2012 application for Universal Service Support and for any assistance you provided throughout our review. The current status of the funding request(s) in the Form 471 application cited above and featured in the Funding Commitment Report(s) (Report) at the end of this letter is as follows.

- The amount, \$370,244.78 is "Denied."

Please refer to the Report following this letter for specific funding request decisions and explanations. The Universal Service Administrative Company (USAC) is also sending this information to your service provider(s) so preparations can begin for implementing your approved discount(s) after you file FCC Form 486, Receipt of Service Confirmation Form. A guide that provides a definition for each line of the Report is available in the Reference Area of our website.

NEXT STEPS

- Work with your service provider to determine if you will receive discounted bills or if you will request reimbursement from USAC after paying your bills in full
- Review technology planning approval requirements
- Review CIPA requirements
- File Form 486
- Invoice USAC using the Form 474 (service provider) or Form 472 (Billed Entity applicant) - as products and services are being delivered and billed

TO APPEAL THIS DECISION:

You have the option of filing an appeal with the SLD or directly with the Federal Communications Commission (FCC).

If you wish to appeal a decision in this letter to USAC, your appeal must be received by USAC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and (if available) email address for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Include the following to identify the letter and the decision you are appealing:
 - Appellant name,
 - Applicant name and service provider name, if different from appellant,
 - Applicant BEN and Service Provider Identification Number (SPIN),
 - Form 471 Application Number 836862 as assigned by USAC,
 - "Funding Commitment Decision Letter for Funding Year 2012," AND
 - The exact text or the decision that you are appealing.

Schools and Libraries Division - Correspondence Unit
30 Lanidex Plaza West, PO Box 685, Parsippany, NJ 07054-0685
Visit us online at: www.usac.org/sl

08/13/2012

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3. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal, including any correspondence and documentation.
4. If you are the applicant, please provide a copy of your appeal to the service provider(s) affected by USAC's decision. If you are the service provider, please provide a copy of your appeal to the applicant(s) affected by USAC's decision.
5. Provide an authorized signature on your letter of appeal.

To submit your appeal to USAC by email, email your appeal to appeals@sl.universalservice.org. USAC will automatically reply to incoming emails to confirm receipt.

To submit your appeal to USAC by fax, fax your appeal to (973) 599-6542.

To submit your appeal to USAC on paper, send your appeal to:

Letter of Appeal
Schools and Libraries Division - Correspondence Unit
30 Lanidex Plaza West
PO Box 685
Parsippany, NJ 07054-0685

If you wish to appeal a decision in this letter to the FCC, you should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received by the FCC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. We strongly recommend that you use the electronic filing options described in the "Appeals Procedure" posted in the Reference Area of our website. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554.

OBLIGATION TO PAY NON-DISCOUNT PORTION

Applicants are required to pay the non-discount portion of the cost of the products and/or services to their service provider(s). Service providers are required to bill applicants for the non-discount portion. The FCC stated that requiring applicants to pay their share ensures efficiency and accountability in the program. If USAC is being billed via the FCC Form 474, the service provider must bill the applicant at the same time it bills USAC. If USAC is being billed via the FCC Form 472, the applicant pays the service provider in full (the non-discount plus discount portion) and then seeks reimbursement from USAC. If you are using a trade-in as part of your non-discount portion, please refer to our website for more information.

NOTICE ON RULES AND FUNDS AVAILABILITY

Applicants' receipt of funding commitments is contingent on their compliance with all statutory, regulatory, and procedural requirements of the Schools and Libraries Program. Applicants who have received funding commitments continue to be subject to audits and other reviews that USAC and/or the FCC may undertake periodically to assure that funds that have been committed are being used in accordance with all such requirements. USAC may be required to reduce or cancel funding commitments that were not issued in accordance with such requirements, whether due to action or inaction, including but not limited to that by USAC, the applicant, or the service provider. USAC, and other appropriate authorities (including but not limited to the FCC), may pursue enforcement actions and other means of recourse to collect improperly disbursed funds. The timing of payment of invoices may also be affected by the availability of funds based on the amount of funds collected from contributing telecommunications companies.

Schools and Libraries Division
Universal Service Administrative Company

FUNDING COMMITMENT REPORT
Billed Entity Name: PENDER COUNTY SCHOOL DISTRICT
BEN: 127007
Funding Year: 2012

Comment on RAL corrections: The applicant did not submit any RAL corrections.

Form 471 Application Number: 836862
Funding Request Number: 2388626
Funding Status: Not Funded
Category of Service: Internal Connections
Form 470 Application Number: 779540001019117
SPIN: 143027887
Service Provider Name: Enterprise Systems Corporation
Contract Number: N/A
Billing Account Number: 910-259-2187
Multiple Billing Account Numbers: N
Service Start Date: 07/01/2012
Service End Date: N/A
Contract Award Date: 03/20/2012
Contract Expiration Date: 09/30/2013
Shared Worksheet Number: 1495565
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-discount Amount for Eligible Recurring Charges: \$.00
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$416,005.37
Pre-discount Amount: \$416,005.37
Discount Percentage Approved by the USAC: 89%
Funding Commitment Decision: \$0.00 - Srvc/Discnt will NOT be funded
Funding Commitment Decision Explanation: DR: Given Program demand, the funding cap will not provide for Internal Connections and/or Basic Maintenance of Internal Connections at your approved discount level to be funded. Please see <http://www.universalservice.org/sl> for further details.

FCDL Date: 08/13/2012
Wave Number: 006
Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2013
Consultant Name: New Hope Technology Foundation
Consultant Number (CRN): 16054699
Consultant Employer: New Hope Technology Foundation