

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

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|---|---|------------------------------------|
| Request for Review or Waiver of |) | |
| A Decision of the Schools and Libraries |) | Administrator Correspondence Dated |
| Division from Guilford Preparatory |) | November 8, 2012 |
| Academy, Greensboro, North Carolina |) | |
| |) | |
| Schools and Libraries Universal Service |) | CC Docket No. 02-6 |
| Support Mechanism |) | |

Request for Review or Waiver

In accordance with Sections 54.719 through 54.721 of the Commission’s Rules, Guilford Preparatory Academy (Guilford), through its consultant, requests Federal Communications Commission (Commission) review of a decision by the Schools and Libraries Division of the Universal Service Administrative Company (Administrator) to deny E-Rate funding for the library.

Form 471 Numbers: 807347, 805384
Funding Request Numbers: 2191422, 2184617
Billed Entity Number: 16063039
Applicant Name: Guilford Preparatory Academy

Reason for Denial:

“USAC determined that your SPIN change request did not comply with the FCC’s operational SPIN change requirements...the applicant may not change to a different service provider unless (1) there is a legitimate reason to change providers... (2) the newly selected service provider received the next highest point value in the original bid evaluation...”

“The applicant also informed USAC that SPIN 143004824 BellSouth Telecommunications, LLC was not the second highest bidder in the original competitive bidding process for services requested...”

Background

After posting a Form 470, waiting the required 28 days and evaluating all responses, Guilford entered into a contract with Windstream to provide Voice over IP telephone service and

broadband service to Guilford beginning July 1, 2011. However, Windstream experienced significant delays with the installation (email included as Attachment 1) resulting in no service being delivered during the fund year. Through no fault, Guilford was forced to continue service with the incumbent service provider, AT&T (BellSouth) as Windstream worked through technical issues related to the installation. Because Windstream was unable to timely connect the contracted service, Guilford continued service with the incumbent service provider.

It was impossible to select the second highest point winner because the VOIP solution proposed by the second highest point recipient required higher bandwidth than was available. *It was not technically feasible to receive service from either vendor because of the construction delays* (emphasis added). The proposed service from Windstream would have provided the necessary bandwidth; however, because of the delays, sufficient bandwidth was not available and therefore VOIP service was simply not possible.

Discussion

Guilford is at a complete loss to understand why the Administrator did not approve this SPIN change request and denied the Administrator appeal. This is contrary to clear Commission instruction in the Sixth Report and Order.

The Administrator, based on Commission issued Q and A with the Sixth report and Order, released September 28, 2010, changed the criteria for reviewing SPIN change requests where the new service provider was unable to commence timely service. The new policy allows SPIN changes to the incumbent provider regardless of bid evaluation criteria:

Q: When an applicant is transitioning from one provider to another, there may be a delay in the transition. Given the SPIN change clarification discussed above, may applicants continue to split the FRN and switch back to their previous service provider until the new provider is able to provide service, even if the previous provider was not the second highest bidder?

A: Yes. An applicant may switch back to the previous service provider; however, the amount of funding that the service provider receives cannot exceed the amount that was initially requested on the applicant's FCC Form 471.¹

In an email dated June 27, 2012 – three days before the end of the E-Rate Fund Year - the Windstream E-Rate representative acknowledged that installation had not been completed and recommended that Guilford initiate a SPIN change to AT&T for the entire fund year (Attachment 1). Without question, Guilford experienced delays transitioning from AT&T to Windstream. The delays were unforeseen and through no fault of Guilford.

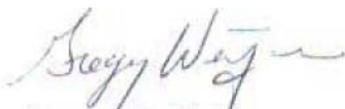
Conclusion

Guilford entered into a contract with Windstream fully intending to begin services on July 1, 2011. Unintended and unforeseen construction delays forced Guilford to continue service with the incumbent provider for the entire fund year.

The Commission clearly and unambiguously clarified acceptable reasons for SPIN changes with the Sixth Report and Order Guidance Order, released on December 15, 2010. The FRN here under appeal clearly fall within the scope of the Guidance Order and the SPIN change should have been granted

Guilford asks the Commission to overturn the unfortunate Administrator decision and restore badly needed funding to Guilford, a 90 percent discount school.

Respectfully submitted this Fourth day of January 2013,



Greg Weisiger

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¹ WIRELINE COMPETITION BUREAU PROVIDES GUIDANCE FOLLOWING SCHOOLS AND LIBRARIES UNIVERSAL SERVICE SUPPORT PROGRAM SIXTH REPORT AND ORDER, DA 10-2356, Rel. December 15, 2010. CC Docket No. 02-6