

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC**

In the Matter of:)	
)	
Request for Review/Appeal)	
Request for Waiver)	
Of the Decision of the)	
Universal Service Administrator by)	
)	
Greater Johnstown CTC)	CC Docket No. 02-6
BEN Number: 17304)	
)	
Schools and Libraries Universal Service)	
Support Mechanism)	
)	
Wireline Competition Bureau)	

REQUEST FOR REVIEW/APPEAL AND/OR WAIVER

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

This is an appeal of a decision by the Universal Service Administrative Company (USAC) under the E-rate program (more formally known as the Schools and Libraries Universal Service Support Program) to deny Greater Johnstown CTC funds for the following:

USAC Administrator's Decisions on Appeal:

Date of Letter:	November 07, 2012
Funding Year 2012-2013:	July 1, 2012 – June 30, 2013
Applicant Name:	Greater Johnstown CTC
Billed Entity Number:	17304

In the alternative, this is a request for a waiver of the Commission's rule regarding the correction of a ministerial error through the Receipt Acknowledgement Letter (RAL) pursuant to the *Bishop Perry Middle School Order, 06-54* and the *Order FCC 11-60, released April 14, 2011* and to section 54.504(c)¹ of the Commission's rules to allow the petitioners to amend their original applications and associated Item 21 attachments submitted to USAC.

SLD Contact Information:

Rosemary Enos
Greater Johnstown CTC
31100 Solon Road
P.O. Box 39490
Solon, OH 44139
Phone: (216) 514-3336
Fax: (216) 514-3337

Funding Request Numbers Appealed:

Form 471 Application Number: 849833
Funding Request Number: 2309164, 2309167, 2309170, 2309173, 2309179

USAC's Reason for Denial:

“The application was submitted with Free and Reduced student count of 257 and Total student enrollment of 354. On appeal, the applicant referenced another application as support for a correction of discount from 80% to 90% on this application. However there was no RAL to request a correction of discount and the Funding Commitment Decision Letter was issued on July 10, 2012. Therefore, your appeal is denied.”

ISSUE:

Clerical errors occurred when filing the Form 471 FRNs and USAC decided that the subsequent RAL to correct the error was not filed in a timely manner.

¹ 47 C.F.R. § 54.504(c) (providing that applicants shall submit a completed FCC Form 471 application to USAC). The filing window may vary slightly from Funding Year to Funding Year. For example, in Funding Year 2005, the filing window opened on December 14, 2004, and closed on February 18, 2005. In Funding Year 2006, the filing window opened on December 6, 2005, and closed on February 16, 2006. See generally USAC website, *Schools and Libraries, Schools and Libraries Deadlines*, <http://www.universalservice.org/sl/tools/deadlines/default.aspx> (retrieved January 3, 2013).

RESPONSE AND REQUEST FOR REVIEW:

In the preparation of the Schools' Form 471 Number 849833, a ministerial error occurred when inputting data for the Block 4 "Discount Calculation Worksheet." The wrong data was typed into the Form 471 Number 849833. This error is very similar to the issue in the *Archer Public Library Request*, which resulted in the decision in *Archer Public Library, Archer City, TX, et al., DA 08-2378*.

The correct Block 4 data is the data used in the previous year (Fiscal Year (FY) 2011) Form 471 Block 4 Worksheets: Form 471 Number 810054, Block 4 Worksheet Number 1355890, Form 471 Number 818662, Block 4 Worksheet Number 1377665, Form 471 Number 820329, and Block 4 Worksheet Number 1380557; all of which were funded as submitted.

The worksheets listed above, reflect the numbers that should have been used in the current year (FY 2012) Form 471 Block 4 Worksheets, which are: **Total Number of Students = 336 and Number of Students Eligible for NSLP = 257**. This data was verified and certified by the School's Administrative Director on July 13, 2011 [**Attachment A**] in a letter of explanation and example of a survey to support a discount percentage of 90 percent. This letter and survey were sent to USAC in response to two separate PIA requests from July and October 2011, respectively. The October 2011 response is attached. [**Attachment A**]

The data for the discount percentage was determined by information obtained from an income survey during the 2010-2011 school year [**Attachment A**]. This data is not older than two years before the start of the Funding Year (FY 2012)

The numbers: **Total Number of Students = 336, and Number of Students Eligible for NSLP = 257** reflect a 90 percent shared discount for the Application and should be used for all FRNs being appealed here (FRNs 2309164, 2309167, 2309170, 2309173, and 2309179). This conclusion is consistent with the facts and reasoning as explained in the *Archer Order* cited above.

This ministerial error occurred because Block 4 data was mistakenly copied from the wrong spreadsheet and was not noticed until the Funding Commitment Decisions Letter (FCDL)

was received². However, the survey data from FY 2011 is correct and valid and was used in the preparation of the FY 2012 Form 471 Number 849833.

Federal Communications Commission (FCC) precedent supports an appeal decision and/or waiver in favor of Applicant's position. Consider the following FCC precedent: In reviewing the *Bishop Perry, Ann Arbor Public Schools, Archer Public Library* decisions, the FCC makes the point that honest clerical or administrative errors must not prohibit getting funds to applicants in accordance with the Congressional mandate set forth in the Telecommunications Act of 1996. Therefore, typing information for the Block 4 data from the wrong spreadsheet is an honest clerical or administrative error which should not prohibit Johnstown CTC from receiving funding according to FCC precedent.

The FCC's decision in *Bishop Perry Middle School, 06-54* supports this position. In *Bishop Perry Middle School, 06-54*, the FCC granted 196 appeals of decisions by USAC concerning the schools and libraries universal service support mechanism for denying funding due to certain clerical or ministerial errors in the application, in this instance, a failure to timely file an FCC Form 471 and a failure to timely file a certification related to an FCC Form 470.

Further in support of this appeal and/or waiver, in *Ann Arbor Public Schools* the FCC permitted applicants to correct ministerial or clerical errors on their original FCC Forms 470 and 471 and other related forms or submissions to USAC district when it was only intended to serve a single elementary school. *Para 2, DA 10-2354. DA 10-2354, Ann Arbor Public Schools, Ann Arbor, MI, et al., Released: December 16, 2010*

In *Archer* the FCC concluded, consistent with precedent, that the mistakes at issue there were sufficiently similar to those in the *Bishop Perry Order*; and petitioners need to amend their original FCC Form 471 applications or Item 21 attachments submitted to USAC. As in the *Bishop Perry Order*, unintentional administrative or clerical errors can be corrected. *Archer Public Library, Archer City, TX, et al., DA 08-2378*. The error committed in the Greater

² Ministerial and clerical (M&C) errors are defined as data entry errors or mistakes applicants made on the FCC Form 470 or FCC Form 471. "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." Order FCC 11-60, released April 14, 2011

Johnstown CTC Block 4 Worksheet data in the Form 471 Application Number 849833 is a bona fide clerical error and should be given the same considerations.

Included is the RAL correction to the Block 4 Form 471 Number 849833, Worksheet Number 1441225 reflecting the correct data for the respective Block 4 Worksheet: Total Number of Students = 336, and Number of Students Eligible for NSLP = 257. **[Attachment B]**

Please accept this documentation to support a 90 percent discount of FRNs 2309164, 2309167, 2309170, 2309173, and 2309179 and fund based on the supported 90 discount amount.

CONCLUSION

Greater Johnstown CTC respectfully requests that the FCC grant this appeal and/or request for waiver, and that FRNs 2309164, 2309167, 2309170, 2309173, and 2309179, be funded at the 90 percent discounted amount as requested and documented in this appeal and/or request for waiver, since there has been no violation of FCC rules and there is evidence of bona fide ministerial error.

Respectfully Submitted by:

/s/ Rosemary Enos

Rosemary Enos
on behalf of Greater Johnstown CTC
Epic Communications
31100 Solon Road
P.O. Box 39490
Solon, OH 44139
Phone: (216) 514-3336
Fax: (216) 514-3337
rpenos@epicinc.org

January 4, 2013

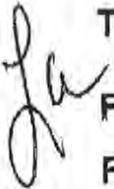
ATTACHMENT A

TRANSMISSION VERIFICATION REPORT

TIME : 10/19/2011 18:05
NAME :
FAX : 2165143337
TEL : 2165143336
SER.# : BROE9J929694

DATE, TIME 10/19 18:03
FAX NO./NAME 19735996579
DURATION 00:02:16
PAGE(S) 07
RESULT OK
MODE STANDARD
ECM

FAX COVER SHEET



To: Brittany D. Desiderio - Associate Manager-PIA Reviewer
Fax: 1-973-599-6579
From: Linda Alexander
Date: October 19, 2011
Pages: 7 (Including Cover)
RE: Greater Johnstown CTC - Application #818662

SLD Request

The Program Integrity Assurance (PIA) team is in the process of reviewing all Funding Year 2011 Form 471 Applications for schools and libraries discounts to ensure that they are in compliance with the rules of the Universal Service program. We are currently in the process of reviewing your Funding Year 2011 Form 471 Application. To complete our review, we need some additional information. The information needed to complete the review is listed below.

I of V.

FRN 2227186 is a request for basic maintenance. Please answer the following questions:

- What is the complete make and model of the "Cisco 2600 Series?"
- What is the complete make and model of the "3com Linkbuilder FMS II 3C16670?"
- What is the category of the cabling?
- What is the complete make and model of the "Cisco 515 PIX?"

Response

FRN 2227186 - please see the response to the items listed above.

FAX COVER SHEET

La
To: Brittany D. Desiderio - Associate Manager-PIA Reviewer
Fax: 1-973-599-6579
From: Linda Alexander
Date: October 19, 2011
Pages: 7 (Including Cover)
RE: Greater Johnstown CTC – Application #818662

SLD Request

The Program Integrity Assurance (PIA) team is in the process of reviewing all Funding Year 2011 Form 471 Applications for schools and libraries discounts to ensure that they are in compliance with the rules of the Universal Service program. We are currently in the process of reviewing your Funding Year 2011 Form 471 Application. To complete our review, we need some additional information. The information needed to complete the review is listed below.

I of V.

FRN 2227186 is a request for basic maintenance. Please answer the following questions:

- What is the complete make and model of the "Cisco 2600 Series?"
- What is the complete make and model of the "3com Linkbuilder FMS II 3C16670?"
- What is the category of the cabling?
- What is the complete make and model of the "Cisco 515 PIX?"

Response

For FRN 2227186, please see the response to the items listed above:

- Cisco 2621XM
- 3com Linkbuilder FMS II 3C16670 Superstack II 3300 24 Port
- Cisco PIX 515E

SLD Request

II of V.

FRN 2233295 is a request for basic maintenance. Please answer the following questions:

- Please provide the complete makes and models of all equipment associated with this FRN.

Response

Please see the table below for the list of equipment that is covered by the off-site basic maintenance of Internal Connections in FRN 2233295:

Make and Model Number	QTY
Switches	
Cisco 4500 4500 Model: WS-X4548-GB-RJ45V	5
Cisco 2960 Model: WS-C2960S-48FPS-L	10
Cisco 5508 WLAN Controller: AIR-CT5508-25-K9	1
Cisco 802.11 WAP: AIR-LAP1142N-A-K9	2
Cisco 2921/K9: Cisco2921/K9	1
Cisco 2-Port Multiflex Trunk: VVIC3-2MFT-G703	1
District Fiber Backbone Drops	
	12
Firewall Equipment	
Cisco ASA 5510: ASA5510-SEC-BUN-K9	1

SLD Request

III of V.

FRN 2227246 is a request for basic maintenance. Please answer the following questions:

- Please provide the complete makes and models of all equipment associated with this FRN.
- Please provide all components included with the PBX.
- Are any telephone sets, automatic call distribution, music on hold, paging or intercom included?

Response

Please see the table below for the list of equipment and components in the PBX that is covered by the off-site basic maintenance of Internal Connections in FRN 2227246:

Make and Model Number	QTY
Comdial PBX with Expansion Cabinet P/N DXP+	1
PBX Analog Expansion Cards P/N DXIST-16	5
PBX Digital Expansion Cards P/N DXDST-16	4
PBX Line Cards P/N DXTCO-LP8	4
Fax Switch for analog lines	6
Comdial CO 8port Analog Voicemail	1
Comdial BBLDX Battery Backup for Comdial PBX System	1

There are not any telephone sets, automatic call distribution, music on hold, paging or intercom included in this request.

SLD Request

IV of V.

Based upon review of your FY2011 Form 471 application, we were not able to validate your requested discount percentage of **90%** for **GREATER JOHNSTOWN CTC**. In order to validate this discount percentage, please provide the appropriate documentation as described in the options listed below.

Option 1. If the school participates in the National School Lunch Program (NSLP), please provide a signed copy (preferably by the Principal, Vice-Principal, Superintendent or Director of Food Services) of a Reimbursement Claim Form that the school sends to the state each month as part of their participation in the program. Make sure that the following three items are identified on the claim form :

- a. The entity name
- b. The total number of students enrolled at the entity
- c. The total number of students eligible for participation in the Free or Reduced Lunch Program for the entity

If the school district fills out an aggregate claim form for the school, please provide a signed letter on school letterhead from a school official (preferably the Superintendent or other chief school official) that lists the enrollment and Free/Reduced information for each school in the district. The enrollment and Free/Reduced information provided in your letter should match the information that appears on the claim form.

Option 2. If the discount percentage was determined by information obtained from an income survey or application (NSLP Lunch Application forms cannot be used as survey or application instruments), please provide the following information on school letterhead signed by a chief school official (such as the Principal, Vice Principal, Superintendent or Director of Food Services):

- a. Total number of students enrolled at the school
- b. Total number of surveys/applications sent out
- c. Total number of surveys/applications returned
- d. Total number of students qualified for participation in NSLP based upon the information provided in the returned surveys/applications
- e. Are the surveys/applications and results kept on file? Yes No
 - a. If so, for how long are they kept on file?
- f. A statement that confirms that only students who meet the Income Eligibility Guidelines of the National School Lunch Program have been included in Column 5 of Item 9a of Block 4 of the Form 471

*Provide a sample copy of a FILLED OUT SURVEY OR APPLICATION with the child's personal information crossed out for confidentiality. **Be advised that in order for a survey to be acceptable it must contain the family's name, student's name, the size of the family and the income level of the family.***

Option 3: (non-public schools):: If the discount percentage was determined by information obtained from a financial aid form, please provide the following information in writing on school letterhead signed by a school official (such as the Principal, Vice Principal, Superintendent, or chief school official:

- a. Total number of students enrolled*
- b. A statement that confirms "all students have access to financial aid forms*
- c. A statement that confirms that financial aid applicants are required to submit Federal Tax forms to document family income*
- d. A statement that confirms the number of students who meet the NSLP Income Guidelines*
- e. A statement that confirms the number and percentage of eligible students that supports the requested E-Rate discount level*
- f. A statement that confirms the school keeps all completed financial aid application on file.*
- g. A statement that confirms that only students who meet the Income Eligibility Guidelines of the National School Lunch Program have been included in Column 5 of Item 9a of Block 4 of the Form 471*

The school must submit one completed financial aid application, with personal information blackened out. The financial aid application must have been completed within two years of the start of the fund year.

Option 4: Provide a letter from your State Department of Education (on state letterhead and signed by a chief official at the State Department of Education) verifying that the total student enrollment and the free and reduced figures you provided are accurate.

Option 5: Provide a letter from your State Food/ or Nutrition Service Authority officials (on state letterhead and signed by a chief official of the State or Nutrition Service Authority) verifying the total student enrollment and the free and reduced figures you provided are accurate.

Option 6: If the discount percentage was determined using a different method than any of the methods identified above, please clearly describe and explain the survey method that was used and provide all relevant data , forms, or other tools that were used during the survey process.

Response

In response to Option 2 above: Please see the attached response with the certification letter and a filled out survey sent to USAC in July 2011 (2 pages).

SLD Request

V of V.

*Based upon our review of your FY 2011 Form 471 application **818662** for the Billed Entity **GREATER JOHNSTOWN CTC**, the associated FCC Registration Number ("FCC RN") on this application is **0013178165**.*

Is the number provided correct? Yes___ No___

Response

Yes, the number provided is correct.

Any additional questions, please do not hesitate to contact me.

Linda Alexander, email: lalexander@epicinc.org

Tel: 216.682.0169

Fax: 216.514.3337

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Greater Johnstown Career and Technology Center

July 13, 2011

PIA Reviewer
Program Integrity Assurance
USAC, Schools & Libraries Division
Phone: 973-581-5199
Fax: 973-599-6579

To whom it may concern,

Regarding FCC Forms 471 FY 2011 Applications for Greater Johnstown Career and Technology Center.

Please see the list of schools below indicating the information obtained from an income survey/application for each school referenced below.

School	(a)* Students Enrolled	(b)* Surveys / Applications Sent	(c)* Surveys / Applications Returned	(d)* # of F&R per Returned Surveys / Applications:
Greater Johnstown CTC	336	336	183	140

(e) Yes, the survey/applications and results are kept on file for 10 years.

Attached is a copy of a filled out survey of the school.

I certify that only those students who meet the Income Eligibility Guidelines of the National School Lunch Program have been included in the Column 5, Item 9a, of Block 4 of my FY2011 the Form 471 Application(s).

Sincerely,

John S. Augustine II
Administrative Director
Greater Johnstown Career and Technology Center

E-Rate Family Survey for 2010-2011

Please complete the information below to the best of your knowledge. If you have any questions, please feel free to contact your child's principal. Please complete the information requested in all Sections as appropriate

This information is to be used solely for the calculation of E-Rate eligibility and will not be used by unauthorized persons. This information is confidential and is subject to all applicable privacy laws.

Section I: Required Information: Please fill out this information to the best of your knowledge.

Name of Head of Household: Michael [REDACTED]

Address of Family: [REDACTED] Swigle Mt Rd Mineral Point PA

Number of School-Age Children School Year 2010-2011: 1

Name of Child	School	Grade
<u>Katelyn [REDACTED]</u>	<u>Forest Hills / GJCTC</u>	<u>11</u>

Section II: On the chart below, Circle the number of people in your family, including all children

Circle the number of people in your family including all children and adults, below:

Family Size (circle one)	Answer the Question by Circling the Y or N →	Circle Y for Yes, N for No	Monthly Income	Twice per Month Income	Weekly Income
1	←If you circled this, do you make more than this →	Y / N	\$ 1,670	\$ 835	\$ 386
2	←If you circled this, do you make more than this →	Y / N	\$ 2,247	\$ 1,124	\$ 519
<u>3</u>	←If you circled this, do you make more than this →	Y / <u>N</u>	\$ 2,823	\$ 1,412	\$ 652
4	←If you circled this, do you make more than this →	Y / N	\$ 3,400	\$ 1,700	\$ 785
5	←If you circled this, do you make more than this →	Y / N	\$ 3,976	\$ 1,988	\$ 918
6	←If you circled this, do you make more than this →	Y / N	\$ 4,553	\$ 2,277	\$ 1,051
7	←If you circled this, do you make more than this →	Y / N	\$ 5,130	\$ 2,565	\$ 1,184
8	←If you circled this, do you make more than this →	Y / N	\$ 5,706	\$ 2,853	\$ 1,317
More than 8 members? For each additional family member add →			\$ 577	\$ 289	\$ 134

Income Eligibility Guidelines for Reduced Priced Meals. July 1, 2009-June 30, 2010 (Federal Register / Vol. 74, No. 55 / Friday, March 27, 2009 / Notices, pg. 13410)

Section III: Read this portion of the form; check only what applies to you, otherwise do nothing.

Check each of the following that apply:

- My family participates in the Medicaid Program.
- My family participates in the Free or Reduced School Lunch Program.
- My family participates in the federal Food Stamps Program.
- My family is receiving Supplementary Security Income (SSI).
- My family is receiving Federal Public Housing Assistance, (Section 8).
- My family is participating in the Low Income Home Energy Assistance Program (LIHEAP).
- My family is receiving Temporary Assistance for Needy Families (TANF).

ATTACHMENT B

Form 471 849833 RAL Funding Requests Report

THIS REPORT DOES NOT CONTAIN ANY DECISIONS CONCERNING YOUR REQUESTS FOR DISCOUNTS.
USE THIS REPORT TO LIST OR INDICATE CORRECTIONS YOU WISH TO MAKE TO YOUR FORM 471.



Follow the guidance posted on the Form 471 RAL page on our website to make allowable corrections. All corrections - including corrections to new fields - are subject to review for Program compliance and approval.

Corrections Submitted by:

Signature: Linda Alexander Date: _____

Printed Name: LINDA ALEXANDER

Title: CLIENT MANAGER

Email, Fax Number or Phone Number: L.ALEXANDER@EPICINC.ORG

Item	Data Entered on FCC Form 471	Make Corrections Here
1a. Name of Billed Entity	GREATER JOHNSTOWN CTC	Corrections not allowed
3. Billed Entity Number	17304	Corrections not allowed
6. Contact Person's Name	LINDA ALEXANDER	
6. Preferred mode of contact	Fax	
6c. Contact Phone	216-682-0169	
6d. Contact Fax	216-514-3337	
6e. Email	lalexander@epicinc.org	
6f. Holiday/vacation/summercontact information - if provided		

6g. Consultant Name: LINDA ALEXANDER
 Consultant Number: 16048924
 Consultant Employer: Epic Communications

The Billed Entity name, address, phone and fax numbers cannot be changed via the RAL correction process.

Schools and Libraries Universal Service Program Services Ordered and Certification Form 471 Application Display

Block 1 **Block 2 & 3** **Block 4** **Block 5** **Block 6** **Misc**

471 Application No: 849833
Form Status: **CERTIFIED - In Window**
Out of Window Letter Date: Not applicable

Funding Year: 7/1/2012 - 6/30/2013 Cert. Postmark Date: 03/19/2012
RAL Date: 04/06/2012

Block 4: Worksheets

Worksheet A No: 1441225 Student Count: 354
Weighted Product (Sum. Column 8): 283.2 Shared Discount: N/A

- 1. Name of School: GREATER JOHNSTOWN CTC
- 2. Entity Number: 17304 NCES: 42 10970 05288
New School Construction: N Administrative Entity N
- 3. Urban or Rural: Urban
- 4. Total # of Students : ~~354~~ 336 5. # of Students Eligible for NSLP: 257
- 6. %Students Eligible for NSLP (#5 / #4): ~~72.598%~~ 76.488%
- 7. Discount % from Discount Matrix: 80% 8. Weighted Product for Calculating Share Discount (#4 * #7): ~~283.2~~
- 9. Entity Sub-Type: 90% 10. Alt. Disc. Mech: N 302.4

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