

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)

Request for Review of Decision of the)
Universal Service Administrator)

Washington County School District)
North Carolina)

CC Docket No. 02-6

FCC Form 471 Application #: 794941

FRN 2219882 (FY 2011)

To: Chief, Wireline Competition Bureau

SUPPLEMENT TO REQUEST FOR REVIEW

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Dated: January 21, 2013

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SUMMARY

This Supplement is a replacement for a Supplement dated January 14, 2012 and withdrawn on January 16, 2013.

This Supplement is made to a Request for Review (“Request”) filed on December 21, 2012 by the Washington County School District (the “District” or “Washington County”). The Request being supplemented herein involves primarily the propriety of the District’s submission to the Schools and Libraries Division of the Universal Services Administrative Company (collectively, “USAC”) of a request to remove certain billed entities (BEN’s) that were to receive certain eligible services supported under the Schools and Libraries Support Mechanism (“E-Rate Program”) administered by the Schools and Libraries Division of the Universal Services Administrative Company (collectively, “USAC”). USAC contends that the request did not meet the standard for a clerical & ministerial error.

The District respectfully submits that the grounds on which USAC justifies their decision cannot be sustained. The District followed the applicable rules in requesting the removal of the entities and has provided supporting documentation to USAC to support its contention.

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SUPPLEMENT TO REQUEST FOR REVIEW

Washington County School District (the “District” or “Washington County”), acting through counsel and pursuant to and in accordance with Sections 54.719-54.721 of the Federal Communication Commission’s (“FCC” or “Commission”) rules, hereby supplements its previously-filed Request for Review (“Request”).¹ Therein, the District sought review of USAC’s denial of the District’s appeal (“Appeal”) for Funding Year (“FY”) 2011.

¹ On December 21, 2012 the District filed a Request with the Commission (See Exhibit 1) seeking review of the denial of the August 28, 2012 District appeal (See Exhibit 2 and 3) filed with the Schools and Libraries Division of the Universal Service Administrative Company (collectively, “USAC”) relating to the captioned FRNs. The District USAC Appeal contested the USAC Funding Commitment Decision Letter (“FCDL” and See Exhibit 4) relating to those FRNs. The Request was timely filed on December 21, 2012. Section 54.720(b) of the Commission’s rules requires the filing of an appeal with the FCC “within sixty (60) days of issuance” of a decision by USAC. The Decision Letter is dated October 22, 2012, and 60 days thereafter would be December 21, 2012. Since the Request was filed on December 21, 2012, which is 60 days from the date of the Decision Letter, it was timely filed.

I. STATEMENT OF THE DISTRICT’S INTEREST IN THE REQUEST

The District had standing to file its appeal because Section 54.719(c) of the Commission’s rules provides that, “[a]ny person aggrieved by an action taken by a division of the Administrator ... may seek review from the Federal Communications Commission.”² In this case, the District is directly aggrieved by USAC’s Decision Letter, which seeks to deny funding for E-Rate Program funds for FY 2011.

II. INTRODUCTION- BASIS FOR DENIAL

This USAC Decision Letter affirms a decision relating to the captioned FRNs and was based on an exchange of information between USAC and the District.

Based on the Decision Letter the principal reason that became the basis for the denial was “After review of the supporting the documentation used at the time of the filing the FCC Form 471, it has been determined that it does not support the requested change [of the removal of one entity], therefore your request to remove this entity is denied.” The District respectfully disagrees with the justification for the Decision and requests that it be rescinded in full. The rationale for this disagreement is presented below.

III. KEY BACKGROUND FACTS

A. The District

The District serves over 1,800 students in grades kindergarten through twelfth grade. Washington County’s student population has decreased by 26% in the past 10 years. The District enjoys strong community support for its schools, partnerships with business and faith based organizations, and substantial parental involvement. Student achievement ranks among the

² 47 C.F.R. § 54.719(c).

bottom tier of all North Carolina school districts. Diversity in the District is evidenced by the over 10 languages spoken by students and their families. In order to improve the quality of instruction in this poor part of North Carolina the District must update its educational services. The District's goal is to "empower[] all students to become successful in a global society."

B. The Underlying Denial Finding

Based on the Decision Letter the principal reason that became the basis for the denial was "After review of the supporting the documentation used at the time of the filing the FCC Form 471, it has been determined that it does not support the requested change [of the removal of one entity], therefore your request to remove this entity is denied."

C. SLD Guidance and Procedures Used by the District to Complete Form 471's and Make Corrections As a Result of Ministerial & Clerical Errors

The District each year makes a determination of what Erate fundable services it will need for the next school year and completes a FCC Form 470 listing those services. Bids are received in the succeeding twenty-eight (28) day period and at the conclusion of twenty-eight days each bid is scored according to a decision matrix and the winning bidder is awarded a contract for the particular service in question. The District also determines the number of NSLP qualified students using either the number of NSLP participants or the result of an alternative income survey conducted according to USAC guidance. Each school and non instructional entity is listed on a District prepared spreadsheet which lists each school's entity number, its enrollment, its number of NSLP qualified students, and the method of calculating the school's discount (either NSLP of alternative survey) (See Exhibit 7).

The FCC Form 471 for Priority 1 is then completed by entering the applicable District information in Blocks 1 and 2. Block 4 contains the discount information and calculation for each entity receiving service. The District completes this Block by transferring the discount information for the entire District from Block 4 of the previous year's Priority 1 471 application onto the current year's Priority 1 application and then updating any information needed as per the aforementioned discount spreadsheet. This saves the district the time of manually re-entering each entity into the Priority 1 Block 4 section of the application.

The FCC Form 471 for Priority 2 is then completed by entering the applicable District information in Blocks 1 & 2. Block 4 contains the discount information and calculation for each entity receiving service. The Priority 2 application usually contains less entities than the Priority 1 application therefore the District completes this Block by transferring the discount information for the entire District from Block 4 of the current year and just completed Priority 1 471 application onto the Priority 2 application and then deleting entities until it balances with the information from the aforementioned spreadsheet. This saves the district the time of manually re-entering each entity into the Priority 2 Block 4 section of the application. Block 5 contains the information about each winning service provider including the contracted amount for which funding will be requested. This information is obtained from the decision matrixes and the service provider quotes or contracts. Block 6 is completed by entering the appropriate information about the District and making the appropriate certifications.

In the instance of FCC Form 471 # 794941 for Priority 2 services the District made an error in completing the form. One entity was included in Block 4, Worksheet 1369268, which should not have been included. This entity was not listed on the discount spreadsheet (which was prepared prior to the completion of the FCC Form 471) prepared by the district and which was

used to complete the Block 4 worksheet. Quite simply, this entity should have been eliminated when the Block 4 data was transferred from the Priority 1 application and was not due to a clerical error.

The guidance posted to the USAC website (<http://www.universalservice.org/sl/applicants/step02/clerical-errors.aspx>) at the time of the FY 2012 applications relative to ministerial & clerical errors states that:

“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). USAC can process Requests to correct M&C errors up until the time that a Funding Commitment Decision Letter (FCDL) is issued.

Allowable Corrections

- Spelling errors
- Simple addition, subtraction, multiplication or division errors
- Transposed letters and/or numbers
- Misplaced decimal points
- Other punctuation marks (hyphens, periods, commas, etc.) included or not included or misplaced
- Failing to enter an item from the source list (e.g., NSLP data, uploaded Block 4 data, FRN, etc.)
- Incorrect citations such as:
 - FCC Form 470 number
 - Discount percent
 - Urban/rural status
 - Contract number
 - Billing Account Number/Multiple Billing Account Numbers
 - FCC Form 471 Block 4 worksheet entries
- Updates or changes to contact person and/or consultant information
- Errors in dollars figures on an FRN
- Adding or removing entities accidentally omitted or included in FCC Form 471 Block 4
- Accidental omission of FRNs from the FCC Form 471
- Changing the amount budgeted for ineligible services (Item 25d, “necessary resources”) in FCC Form 471 Block 6
- Changing the service delivery time period (e.g., month-to-month to contractual, recurring to non-recurring)
- Mis-keying the Service Provider Identification Number (SPIN) or Service Provider Name
- Corrective SPIN changes
- Correcting the annual charges for recurring charges
- Incorrectly identifying ineligible charges and/or services or products

Request to correct M&C errors should be submitted to USAC as soon as the errors are detected by the applicant. USAC will accept and process Request until an FCDL is issued.”

The District notified USAC on August 1, 2012 of the error in Block 4 of application 794941 and requested that the entity in question be removed due to a ministerial & clerical error. USAC on that same day confirmed receipt of the notice and request (See Exhibits 5). On August 13, 2012 USAC sent a FCDL to the District denying the funding request (See Exhibit 4). As the District notified USAC of the error before the FCDL was issued, the notice requirement of the guidance was met.

The District then filed a Letter of Appeal on August 28, 2012 with USAC (See Exhibit 3). A USAC Program Compliance reviewer on September 14 requested clarification of the appeal in an email to the District's consultant which was answered via email by the consultant back to the reviewer on September 25, 2012 (see Exhibit 6). The District provided copies of the Block 4 input documents in the form of the aforementioned spreadsheets that the district used to complete Block 4, Worksheet 1369268. These discount spreadsheets clearly demonstrate that the entity in question was not intended to be included in Worksheet 1369268. The District also provided vendor quotes and contracts, but these documents do not detail the individual entities that were to receive service. It should be pointed out that there is no USAC requirement that quotes and contracts detail the entities that will receive service. Quotes and contracts are most commonplace between the service provider and the applicant (i.e. the District) and not the individual entities. In any event the contracts and quotes were not the controlling documents used in the preparation of Block 4, Worksheet 1369268, but rather the discount spreadsheets prepared by the District (See Exhibit 7) were the documents used to prepare the Worksheet.

IV. STANDARD OF REVIEW AND GOVERNING FCC PRECEDENT

USAC's authority to administer the E-Rate Program is limited to implementing and applying the Commission's rules and the Commission's interpretations of those rules as found in

agency adjudications.³ USAC is not empowered to make policy, interpret any unclear rule promulgated by the Commission,⁴ or to create the equivalent of new guidelines.⁵ USAC is responsible for “administering the universal support mechanisms in an efficient, effective, and competitively neutral manner.”⁶ The Commission’s review of the Decision Letter is *de novo*, without being bound by any findings of USAC.⁷

Furthermore the *de novo* review in this case must consider the following relevant FCC precedents:

- Until an E-Rate Program rule is adopted, an applicant cannot be expected to comply with it.⁸

- Compliance with ministerial and clerical error standards must be measured “as they existed at [the] time” of the alleged violation.⁹

- Clarifications or changes to E-Rate Program rules and policies are normally to be applied prospectively by USAC.¹⁰

³ 47 C.F.R. § 54.702(c).

⁴ *Id.*

⁵ *Changes to the Board of Directors of the Nat’l Exchange Carrier Ass’n, Inc., Third Report and Order*, 13 FCC Rcd 25058, 25066-67 (1998).

⁶ 47 C.F.R. § 54.701(a).

⁷ 47 C.F.R. § 54.723.

⁸ See *Request for Review of the Decisions of the Universal Service Administrator by Aiken County Public Schools, Aiken, SC et al., Schools and Libraries Universal Service Support Mechanism, Order*, 23 FCC Rcd 8735, 8737 ¶6 (2007).

⁹ See *In the Matter of Request for Review of Decisions of the Universal Service Administrator by Colegio Nuestra Senora del Carmen et al., Schools and Libraries Universal Support Mechanism, Order*, 23 FCC Rcd 15568, 15573 ¶12 (Telecom. Access Pol. Div. 2008).

¹⁰ See *Request for Review of the Decision of the Universal Service Administrator by Ysleta, Independent School District, El Paso, Texas, Schools and Libraries Universal Support Mechanism, Order*, 18 FCC Rcd 26406, 26419-23 ¶¶26-38 (2003); *Request for Review of the Decision of the Universal Service Administrator by Winston Salem/Forsyth County School District, Winston-Salem North Carolina, Schools and Libraries Universal Support Mechanism, Order*, 18 FCC Rcd 26457, 26462 ¶13 (2003).

- USAC should not be denying funding “where the applicant made a good faith effort to comply with the funding guidelines” and should inform the applicants prior to denying funding of “any errors..., along with a specific explanation of how the applicant can remedy such errors.”¹¹

- The Commission noted that it “has vested in USAC the responsibility of administering the application process for the schools and libraries universal service support mechanism;” pursuant to that authority, USAC developed procedures relating to the application and appeals process and in *Bishop Perry*, the Commission applied the 47 C.F.R. § 1.3 waiver rule to allow a limited waiver of USAC procedures.¹²

A review of the Request in light of these standards and precedent will reveal that the Decision Letter was not supported by FCC law or policies. Most fundamentally, USAC failed to explain why it decided to ignore the District’s request to remove the entity or the explanation of its ministerial and clerical errors and the guidance posted to the USAC website relative to ministerial and clerical errors. This action flies in the face of repeated Commission admonitions that applicants should have the opportunity to correct their mistakes and that USAC must explain its actions.

VI. ARGUMENT

As previously noted, the Decision is based on the assertions that the District did not comply with the ministerial and clerical error procedures, which conclusions are discussed in detail and refuted by Washington County as follows:

¹¹ *Request for review of the Decision of the Universal service Administrator Academia Claret, Puerto Rico, et al.*, 21 FCC Rcd 10703, 10709 ¶14 (Wireline Compet. Bur. 2006).

¹² *Request for Review of Decision by the Universal Service Administrator by Bishop Perry Middle School, Order*, 21 FCC Rcd 5316, 5618 ¶4 (2006)(“*Bishop Perry Order*”).

A. The District's Response to the Denial Finding that the District Did Not Adhere to the Guidance Relative to Ministerial and Clerical Errors

Denial Letter Assertion – “A Form 471 Receipt Acknowledgement Letter (RAL) was sent to Washington County School District on March 29, 2011. The RAL lists allowable clerical and ministerial 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 8, 2012. On August 1, 2012, Washington County School District requested to correct a ministerial or clerical error by the removal of [one entity] from Block 4 Worksheet No: 1369268. During the appeal review process, Washington 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 documentations until a 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 the entity is denied.”

The District's Response -- As stated earlier, The District determines the number of NSLP qualified students using either the number of NSLP participants or the result of an alternative income survey conducted according to USAC guidance. Each school and non instructional entity is listed, prior to preparing and completing the FCC Form 471, on a District prepared spreadsheet (See Exhibit 7) which lists each school's entity number, its enrollment, its number of NSLP qualified students, and the method of calculating the school's discount (either NSLP or alternative survey). These items are the necessary elements that have to be entered into each entity's section of the Block 4.

The FCC Form 471 for Priority 1 is then completed by entering the applicable District information in Blocks 1 & 2. Block 4 contains the discount information and calculation for each entity receiving service. The District completes this Block by transferring the discount information for the entire District from Block 4 of the previous year's Priority 1 471 application onto the current year's Priority 1 application and then updating any information needed as per

the aforementioned spreadsheet. This saves the district the time of manually re-entering each entity into the Priority 1 Block 4 section of the application.

The FCC Form 471 for Priority 2 is then completed by entering the applicable District information in Blocks 1 & 2. Block 4 contains the discount information and calculation for each entity receiving service. The District completes this Block by transferring the discount information for the entire District from Block 4 of the current year and just completed Priority 1 471 application onto the Priority 2 application and then deleting entities until it balances with the information from the aforementioned discount spreadsheet. This saves the district the time of manually re-entering each entity into the Priority 2 Block 4 section of the application. Block 5 contains the information about each winning service provider including the contracted amount for which funding will be requested. This information is obtained from the decision matrixes and the service provider quotes or contracts. Block 6 is completed by entering the appropriate information about the District and making the appropriate certifications.

In the instance of FCC Form 471 # 794941 Worksheet No:1369268 for Priority 2 services, the District made an error in completing the form. The entity in question was not deleted from Block 4 of the Priority 2 application when the upload was done from the Priority 1 application. This entity was not listed on the discount spreadsheet prepared by the district and which was used to complete the Block 4 worksheet. Quite simply, this entity should have been eliminated when the Block 4 data was transferred from the Priority 1 application and was not due to a clerical error.

Clearly this error meets the standard of the “kinds of errors that a typist might make when entering data from one list to another”.

B. The District’s Response to the Denial Finding that the District Requested Additional Funds That Were Not Included in the FCC Form 471

Denial Letter Assertion – “Your appeal Request additional funds that were not included in the FCC Form 471 that you are appealing.”

The District’s Response – The District respectfully submits that this assertion is simply incorrect.

VII. REQUEST FOR WAIVER

A. The Law

The Commission’s rules allow waiver of a Commission rule “for good cause shown.”¹³ The Commission has extended this waiver authority to limited waivers of USAC rules. For example, in the *Bishop Perry Order*, the Commission noted that it “has vested in USAC the responsibility of administering the application process for the schools and libraries universal service support mechanism.”¹⁴ Pursuant to that authority, USAC developed procedures relating to the application and appeals process.¹⁵ Thus, in *Bishop Perry*, the Commission applied the 47 C.F.R. § 1.3 waiver rule to allow a limited waiver of USAC procedures.¹⁶

The FCC has established the following guidance for determining whether waiver is appropriate:

¹³ 47 C.F.R. § 1.3.

¹⁴ *Bishop Perry Order*, ¶4.

¹⁵ The *Bishop Perry Order* dealt with USAC application procedures known as “minimum processing standards.” *Id.*

¹⁶ *Id.*

A rule may be waived where the particular facts make strict compliance inconsistent with the public interest. In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. In sum, waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.¹⁷

B. Limited Request for Waiver of the Commission’s Rules, Including Rules Relating to Ministerial and Clerical Errors

Strict compliance with the Commission’s rules would not be in the public interest. In *Bishop Perry*, the FCC granted 196 appeals of decisions denying funding due to “clerical or ministerial errors in the application.”¹⁸ In that case, the FCC found good cause to waive the minimum processing standards established by USAC, finding that “rigid compliance with the application procedures does not further the purposes of section 254(h) or serve the public interest.”¹⁹ Many of the appeals in *Bishop Perry* involved staff mistakes or mistakes made as a result of staff not being available.²⁰ The Commission granted the waivers for good cause, noting that:

[T]he primary jobs of most of the people filling out these forms include school administrators, technology coordinators and teachers, as opposed to positions dedicated to pursuing federal

¹⁷ *Request for Review by Richmond County School District*, 21 FCC Rcd 6570, 6572 ¶5 (2006 (internal references omitted) (citing *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) and *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969), *aff’d*, 459 F.2d 1203 (D.C. Cir. 1972)).

¹⁸ *Bishop Perry Order*, ¶1.

¹⁹ *Id.*, ¶11. The Commission departed from prior Commission precedent, noting that the departure was, “warranted and in the public interest.” *Id.*, ¶9. The Commission noted that many of the rules at issue were procedural, and that a waiver is consistent with the purposes of Section 254, which directs the Commission to “enhance ... access to advanced telecommunications and information services for all public and non-profit elementary and secondary school classrooms, health care providers and libraries.” *Id.*

²⁰ *Id.*, ¶13.

grants, especially in small school districts. Even when a school official has learned how to correctly navigate the application process, unexpected illnesses or other family emergencies can result in the only official who knows the process being unavailable to complete the application on time. Given that the violation at issue is procedural, not substantive, we find that the complete rejection of each of these applications is not warranted. Notably, at this time, there is no evidence of waste, fraud or abuse, misuse of funds, or a failure to adhere to core program requirements. Furthermore, we find that denial of funding in these cases would inflict undue hardship on the applicants.²¹

The Commission directed USAC to allow applicants the opportunity to fix ministerial and clerical errors and concluded that such an opportunity would “improve the efficiency and effectiveness of the Fund.”²² The District clearly falls into the same category. A limited waiver of this rule will not adversely affect any other applicant. The Commission may also taken into consideration “hardship, equity, or more effective implementation of overall policy on an individual basis.”²³ In this case, deviation from the Commission’s rules would better serve the public interest than strict application of the appeal filing deadline. Moreover, the overwhelming contemporaneous evidence proves that the District took steps to attempt to properly complete Block 4 of the FCC Form 471 application in question. Thus, any errors in this case should not be considered substantive, and there is no evidence of waste, fraud or abuse, misuse of funds, or a failure to adhere to core program requirements.²⁴

²¹ *Id.*, ¶14.

²² *Id.*, ¶23.

²³ *Request for Waiver of the Decision of the Universal Service Administrator by Owensboro Public Schools, Owensboro, Kentucky, Order*, 21 FCC Rcd 10047, ¶5 (2006).

²⁴ Where there is no evidence of any intent to defraud or misuse the funds of the E-Rate program and in such circumstances, when combined with the other factual circumstances, there is not grounds to justify the harsh penalty of a denial of these funds. *See generally Request for Waiver of the Decision of the Universal Services Administrator by Barberton City School., Barberton, Ohio et al., Schools and Libraries Universal Service Support Mechanism, Order*, 23 FCC Rcd 15526, 15530 ¶7 (Telecom. Access Pol. Div. 2008). Considerations of equity and hardship also support such a result. *See generally Request for Review of Decisions of the Universal Service Administrator by Approach Learning and Assessment*

VIII. CONCLUSION AND REQUEST FOR RELIEF

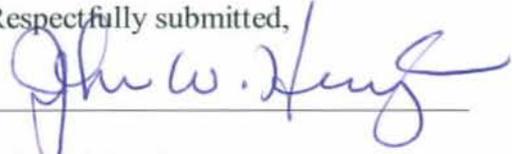
First, the District requests the Commission to make a finding that USAC failed to properly apply its ministerial and clerical guidance rules and based on the evidence submitted, there has been no rule violation. The District respectfully requests that the Commission grant this Request and direct USAC to approve the 471 application within 30 days.

Second, in the alternative, if necessary, the Commission should waive ministerial and clerical rule, because there is no evidence of waste, fraud, or abuse, or failure to comply with the core program requirements, and the District complied with the ministerial and clerical guidance requirements. The mistakes at the heart of this appeal are not substantive errors and, thus, a limited waiver would be in the public interest. At all times the District made a good faith effort to comply with the Commission's rules and there is no evidence of waste, fraud or abuse.

In the spirit of the *Bishop Perry Order*, the Commission should grant the Request. The District has demonstrated good cause for a limited waiver of the Commission's rules: any mistakes that were made with respect to the Block 4 entries were not substantive and inadvertent; there is no evidence of waste, fraud, or abuse, and the District complied with core program requirements; and the public interest would be served by permitting the District to have this application approved.

Centers et al, Schools and Libraries Universal Service Support Mechanism, Order, 23 FCC Rcd 15510-15513-14 ¶8 (Telecom. Access Pol. Div. 2008). See Request for Review of Decision of the Universal Service Administrator by Radford City Schools, Radford, Virginia, Schools and Libraries Universal Support Mechanism, Order, 23 FCC Rcd 15451, 15453 ¶4 (Telecom. Access Pol. Div. 2008).

Respectfully submitted,



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*Contracted Consultant & Contact
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Dated: January 21, 2013

CERTIFICATE OF SERVICE

I, John W. Hughes, certify on this 15th day of January, 2012, a copy of the foregoing Supplement to Request for Review has been served via electronic mail or first class mail, postage pre-paid, to the following:

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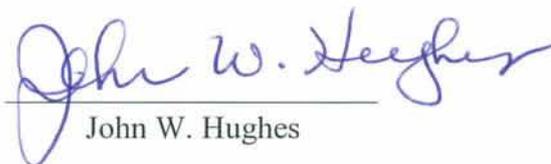

John W. Hughes

Exhibit 1

Exhibit 7

New Hope Foundation
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December 21, 2012

VIA ELECTRONIC FILING

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
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**Re: Appeal of USAC Decision On Appeal of Administrators Decision on Appeal in CC
Docket No. 02-6**

Applicant Name:	Washington County School District
Billed Entity Number:	126933
Funding Year	2011
Form 471 App. Number:	794941
Funding Request Numbers:	2219882

Dear Ms. Dortch:

Washington County School District of Washington County, North Carolina ("Washington 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 2011.²

More specifically, on October 22, 2012, USAC's Schools and Libraries Division ("SLD") issued a decision denying an appeal filed by Washington 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

¹ 47 C.F.R. §§ 54.719-54.721.

² Administrator's Decision on Appeal - Funding Year 2011 - 2012, Washington County School District (October 22, 2012), attached as Exhibit 1.

³Funding Commitment Decision Letter, August 8, 2012 ("FCDL").

Ms. Marlene H. Dortch
December 21, 2012
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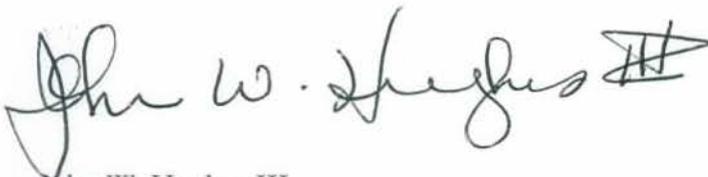
ministerial error in the preparation of its FCC Form 471. Specifically the decision stated that the documentation provided by District to support the fact that a clerical and ministerial error was made at the time of the preparation of the applicant's FCC Form 471 "does not support the requested change" and therefore the request to remove one entity from the Block 4 of the FCC Form 471 was denied

We respectively disagree with this decision. We responded upon the request of USAC reviewers on September 25, 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.

Washington County is aggrieved by USAC's October 22, 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.

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

Respectfully submitted,

A handwritten signature in black ink that reads "John W. Hughes III". The signature is written in a cursive style with a stylized "H" at the end.

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

Exhibit 2



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2011-2012

October 22, 2012

John Hughes
Washington County School Dist
One Valentine Lane
Chapel Hill, NC 27516

Re: Applicant Name: WASHINGTON COUNTY SCHOOL DIST
Billed Entity Number: 126933
Form 471 Application Number: 794941
Funding Request Number(s): 2219882
Your Correspondence Dated: August 01, 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 2011 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): 2219882
Decision on Appeal: **Denied**
Explanation:

- A Form 471 Receipt Acknowledgment Letter (RAL) was sent to Washington County School District on March 29, 2011. 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 8, 2012. On August 1, 2012, Washington County School District requested to correct a ministerial or clerical error by the removal of BEN 28825 Plymouth High School from Block 4 Worksheet No.: 1369268 for FRN 2219882. During the appeal review process, Washington 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.

- 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.
- 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). New funding requests cannot be submitted through the appeals process. 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). Consequently, USAC denies your appeal insofar as it requests funding that was not included in the FCC Form 471.

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

Exhibit 3

Exhibit 3

August 28, 2012

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

This letter of appeal is filed on behalf of:

Washington County School District
BEN 126933

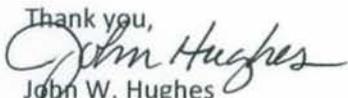
by:

John W. Hughes
Contracted Consultant for Alexander County School District
New Hope Foundation
One Valentine Lane
Chapel Hill, NC 27516
jhughes@newhopetech.org
(919)968-4332

and is an appeal of a FCDL for 471 Application 794941 dated August 8, 2012 for:

FRN 2219882
CenturyLink Corporation
SPIN 143019614
\$25,000.08 Pre Discount Amount

On August 1, 2012 we filed a RAL for this application (attached) and received a receipt confirmation email (attached) from the SLD on August 1, 2012. USAC guidance on the submission of RAL's found on the SLD website at <http://www.universalservice.org/sl/applicants/step02/clerical-errors.aspx> states that an example of a correctable mistake is "Adding or removing entities accidentally omitted or included in FCC Form 471 Block 4". Such was the case in this application. On August 8, 2012 we received a FCDL (attached) for this application stating that the FRN's had been denied as "the funding cap will not provide for Internal Connections at your approved discount level to be funded". The guidance found at <http://www.universalservice.org/sl/applicants/step02/clerical-errors.aspx> further states that "USAC will accept and process (M&C) requests until an FCDL is issued". Our request of August 1, 2012 was submitted and received by USAC prior to the issuance of the FCDL but never processed. We respectfully ask that the FCDL denial be withdrawn and our request be processed according to USAC guidance.

Thank you,

John W. Hughes
For Washington County School District

Sharie Montgomery

From: Sharie Montgomery
Sent: Wednesday, August 29, 2012 4:45 PM
To: 'sldcaseattachments@sl.universalservice.org'
Subject: RE: SLD Inquiry #: 22-407595 Received
Attachments: 2011 Washington Co. appeal.pdf

Please see attached appeal.

Sharie Montgomery
 New Hope Foundation
 919.968.4332 office
 919.929.9074 fax

From: sldcaseattachments@sl.universalservice.org [mailto:sldcaseattachments@sl.universalservice.org]
Sent: Wednesday, August 29, 2012 4:35 PM
To: Sharie Montgomery
Subject: SLD Inquiry #: 22-407595 Received

Thank you for using Submit a Question. This message serves as a receipt confirmation of your submission.

The case number for your submission is 22-407595.

Please refer to this case number in subsequent contacts regarding this issue. Note that we may need to ask you for additional information to completely answer your question or fulfill your request.

You indicated in your submission that you wish to send us an attachment. To submit an attachment, please reply to this message and attach your attachment to the reply. Any additional information you wish to provide should be included in the attachment, not added to the text of this email.

If you still have questions about this issue after you review our response, please call us at 1-888-203-8100. Please do not reply to this message or to our response, as replies go to an unattended mailbox.

If you have a new question or issue, please submit another question and we will create a new case number to address it.

If you need program information, you can visit the SLD web site at www.usac.org/sl.

Thank you.

Here is the information you submitted:

[FirstName]=Sharie [LastName]=Montgomery [JobTitle]=Consultant [EmailAddress]=smontgomery@newhopetech.org [WorkPhone]=9199684332 [FaxPhone]=9199299074 [PreviousCaseNumber]=0 [FormType]=Appeal [Owner]=APPEALS [DateSubmitted]=8/29/2012 4:34:24 PM [AttachmentFlag]=Y[FRN]=2219882 [FormType]=FCDL [ApplicationNumber]=794941 [Question2]=We are appealing the denial of all FRN's in the above application. Please see attachments for details.

8/29/2012

Exhibit 4

Exhibit 4



Universal Service Administrative Company

Schools and Libraries Division

FUNDING COMMITMENT DECISION LETTER
(Funding Year 2011: 07/01/2011 - 06/30/2012)

August 8, 2012

John Hughes
WASHINGTON COUNTY SCHOOL DIST
1 Valentine Lane
Chapel Hill, NC 27516

Re: Form 471 Application Number: 794941
Billed Entity Number (BEN): 126933
Billed Entity FCC RN: 0013943519
Applicant's Form Identifier: 2011 P2

Thank you for your Funding Year 2011 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, \$21,750.07 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 794941 as assigned by USAC,
 - "Funding Commitment Decision Letter for Funding Year 2011," AND
 - The exact text of the decision that you are appealing.

FUNDING COMMITMENT REPORT
Billed Entity Name: WASHINGTON COUNTY SCHOOL DIST
BEN: 126933
Funding Year: 2011

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

Form 471 Application Number: 794941
Funding Request Number: 2219882
Funding Status: Not Funded
Category of Service: Basic Maintenance of Internal Connections
Form 470 Application Number: 626370000903233
SPIN: 143019614
Service Provider Name: CenturyLink Corporation (EKA Embarq)
Contract Number: na
Billing Account Number: 252-793-5171
Multiple Billing Account Numbers: N
Service Start Date: 07/01/2011
Service End Date: N/A
Contract Award Date: 03/23/2011
Contract Expiration Date: 06/30/2012
Shared Worksheet Number: 1369268
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-discount Amount for Eligible Recurring Charges: \$25,000.08
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00
Pre-discount Amount: \$25,000.08
Discount Percentage Approved by the USAC: 87%
Funding Commitment Decision: \$0.00 - Srvc/Discent 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.

ECDL Date: 08/08/2012
Wave Number: 055
Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2013
Consultant Name: John Hughes
Consultant Number (CRN): 16054699
Consultant Employer: New Hope Technology Foundation

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

Exhibit 5

Exhibit 5

John Hughes

From: John Hughes
Sent: Wednesday, August 01, 2012 4:49 PM
To: 'sldcaseattachments@sl.universalservice.org'
Subject: RE: SLD Inquiry #: 22-397867 Received
Attachments: RAL App 794941 Washington.pdf

John Hughes
 O - (919)968-4332
 M - (919)593-2841
 F - (919)929-9074

Go Heels!

From: sldcaseattachments@sl.universalservice.org [mailto:sldcaseattachments@sl.universalservice.org]
Sent: Wednesday, August 01, 2012 4:24 PM
To: John Hughes
Subject: SLD Inquiry #: 22-397867 Received

Thank you for using Submit a Question. This message serves as a receipt confirmation of your submission.

The case number for your submission is 22-397867.

Please refer to this case number in subsequent contacts regarding this issue. Note that we may need to ask you for additional information to completely answer your question or fulfill your request.

You indicated in your submission that you wish to send us an attachment. To submit an attachment, please reply to this message and attach your attachment to the reply. Any additional information you wish to provide should be included in the attachment, not added to the text of this email.

If you still have questions about this issue after you review our response, please call us at 1-888-203-8100. Please do not reply to this message or to our response, as replies go to an unattended mailbox.

If you have a new question or issue, please submit another question and we will create a new case number to address it.

If you need program information, you can visit the SLD web site at www.usac.org/sl.

Thank you.

Here is the information you submitted:

[FirstName]=John [LastName]=Hughes [JobTitle]=Consultant [EmailAddress]=jhughes@vistatm.com [WorkPhone]=9199684332 [FaxPhone]=9199299074 [PreviousCaseNumber]=0 [FormType]=Other [Owner]=TCSB [DateSubmitted]=8/1/2012 4:23:17 PM [AttachmentFlag]=Y[Question2]=Pls see attached RAL for 471 # 794941

8/1/2012

Form 471 794941 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: John Hughes Date: 7/29/12

Printed Name: JOHN HUGHES

Title: CONSULTANT

Email, Fax Number or Phone Number: jhughes@newhopetech.org
919-968-4332

Item Data Entered on FCC Form 471 Make Corrections Here

1a. Name of Billed Entity
WASHINGTON COUNTY SCHOOL DIST
3. Billed Entity Number 126933
6. Contact Person's Name John Hughes
6. Preferred mode of contact Email
6c. Contact Phone 919-968-4332
6d. Contact Fax 919-929-9074
6e. Email jhughes@newhopetech.org
6f. Holiday/vacation/summercontact information - if provided

6g. Consultant Name John Hughes
Consultant Number 16054699
Consultant Employer New Hope Technology Foundation

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: 794941 Funding Year: 7/1/2011 - 6/30/2012 Cert. Postmark Date: 03/23/2011
Form Status: CERTIFIED - In Window RAL Date: 03/29/2011
Out of Window Letter Date: Not applicable

Block 4: Worksheets

Worksheet A No: 1369268 Student Count: 1957
Weighted Product (Sum. Column 8): 1711.5 Shared Discount: 87%

1. Name of School: CENTRAL SUPPORT SERVICES
2. Entity Number: 16024015 NCES: 37 48000
New School Construction: N Administrative Entity N
3. Urban or Rural: Rural
4. Total # of Students : 0 5. # of Students Eligible for NSLP: 0
6. %Students Eligible for NSLP (#5 / #4):
7. Discount % from Discount Matrix: 87% 8. Weighted Product for Calculating Share Discount (#4 * #7): 0
9. Entity Sub-Type: 10. Alt. Disc. Mech: N

1. Name of School: CRESWELL ELEMENTARY SCHOOL
2. Entity Number: 28797 NCES: 37 48000 2045
New School Construction: N Administrative Entity N
3. Urban or Rural: Rural
4. Total # of Students : 200 5. # of Students Eligible for NSLP: 153
6. %Students Eligible for NSLP (#5 / #4): 76.500%
7. Discount % from Discount Matrix: 90% 8. Weighted Product for Calculating Share Discount (#4 * #7): 180
9. Entity Sub-Type: 10. Alt. Disc. Mech: Y

1. Name of School: CRESWELL HIGH SCHOOL
2. Entity Number: 28796 NCES: 37 48000 1928
New School Construction: N Administrative Entity N
3. Urban or Rural: Rural
4. Total # of Students : 175 5. # of Students Eligible for NSLP: 131
6. %Students Eligible for NSLP (#5 / #4): 74.857%
7. Discount % from Discount Matrix: 90% 8. Weighted Product for Calculating Share Discount (#4 * #7): 157.5
9. Entity Sub-Type: 10. Alt. Disc. Mech: Y

1. Name of School: PINES ELEMENTARY SCHOOL
2. Entity Number: 28826 NCES: 37 48000 2190
New School Construction: N Administrative Entity N
3. Urban or Rural: Rural
4. Total # of Students : 628 5. # of Students Eligible for NSLP: 581
6. %Students Eligible for NSLP (#5 / #4): 92.515%
7. Discount % from Discount Matrix: 90% 8. Weighted Product for Calculating Share Discount (#4 * #7): 565.2
9. Entity Sub-Type: 10. Alt. Disc. Mech: Y

1. Name of School: PLYMOUTH HIGH SCHOOL
2. Entity Number: 28825 NCES: 37 48000 1930
New School Construction: N Administrative Entity N
3. Urban or Rural: Rural

John Hughes

From: sldnoreply@sl.universalservice.org
Sent: Wednesday, August 01, 2012 6:34 PM
To: John Hughes
Subject: RE: Initial Contact, Case 22-397867

Thank you for your inquiry. Your RAL submission has been forwarded to the appropriate department.

If you have any further questions, please feel free to contact our Schools and Libraries Helpline at 1-888-203-8100. Please remember to visit our website for updates: <http://www.usac.org/sl>

Thank you,
Schools and Libraries Division
Universal Service Administrative Company

-----Original Message-----

From: jhughes@vistatm.com
Subject: Initial Contact

[FirstName]=John
[LastName]=Hughes
[JobTitle]=Consultant
[EmailAddress]=jhughes@vistatm.com
[WorkPhone]=9199684332
[FaxPhone]=9199299074
[PreviousCaseNumber]=0

[FormType]=Other
[Owner]=TCSB
[DateSubmitted]=8/1/2012 4:23:17 PM
[AttachmentFlag]=Y[Question2]=Pls see attached RAL for 471 # 794941 Washington

Exhibit 6

Exhibit 6

John Hughes

From: John Hughes
Sent: Tuesday, September 25, 2012 7:06 PM
To: 'Herbst, Gary'
Subject: RE: RAL Change/Appeal of FY2011 FCC Form 471 #794941, FRN #2219882--Washington County School District
Attachments: Washington 471 Data Entry.xlsx; img-120911075523.pdf; Basic Maintenance Inventory 2011.xls
 Gary,

The requirements for correcting a Ministerial & Clerical Error are very straightforward according to the SLD guidance found at <http://www.universalservice.org/sl/applicants/step02/clerical-errors.aspx>. They are copied in red below:

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). USAC can process requests to correct M&C errors up until the time that a Funding Commitment Decision Letter (FCDL) is issued.

Allowable Corrections

- Spelling errors
- Simple addition, subtraction, multiplication or division errors
- Transposed letters and/or numbers
- Misplaced decimal points
- Other punctuation marks (hyphens, periods, commas, etc.) included or not included or misplaced
- Failing to enter an item from the source list (e.g., NSLP data, uploaded Block 4 data, FRN, etc.)
- Incorrect citations such as:
 - FCC Form 470 number
 - Discount percent
 - Urban/rural status
 - Contract number
 - Billing Account Number/Multiple Billing Account Numbers
 - FCC Form 471 Block 4 worksheet entries
- Updates or changes to contact person and/or consultant information
- Errors in dollars figures on an FRN
- Adding or removing entities accidentally omitted or included in FCC Form 471 Block 4
- Accidental omission of FRNs from the FCC Form 471
- Changing the amount budgeted for ineligible services (Item 25d, "necessary resources") in FCC Form 471 Block 6
- Changing the service delivery time period (e.g., month-to-month to contractual, recurring to non-recurring)
- Mis-keying the Service Provider Identification Number (SPIN) or Service Provider Name
- Corrective SPIN changes
- Correcting the annual charges for recurring charges
- Incorrectly identifying ineligible charges and/or services or products

Requests to correct M&C errors should be submitted to USAC as soon as the errors are detected by the

9/25/2012

applicant. USAC will accept and process requests until an FCDL is issued.

In this case we were indeed "removing (an) entit(y)ies accidentally.....included in FCC From 471 Block 4". We also submitted the errors to USAC as soon as they were detected and before the FCDL was issued. We therefore complied with the requirements of the guidance.

Further we have provided you with the input documents that we used from which we made an error that is best described as the "kind of error that a typist might make when entering data from one list to another".

Just to be clear we created two lists of entities when we started to complete our 471's.....one for the Priority 1 application and one for the Priority 2 application. We have furnished you a copy of the two workbooks contained in the file and it is again attached. We should have entered the entities contained in the tab entitled "Priority 1 2011" when we populated Block 4 of the Priority 1 application and the entities contained in the tab entitled "Priority 2 2011" when we populated Block 4 of the Priority 2 application (application 794941 and the application in question in this review). We made a clerical typist error as described in the first paragraph of the guidance quoted above in red by not entering the entities correctly. The list in itself should suffice to prove that our assertion is correct and meets the criteria as outlined in the guidance.

We have further provided you with the source documentation that we used to prepare Block 5 of the BMIC FRN of the same application, i.e the contract that we sent to CenturyLink for maintenance. CenturyLink, like most other service providers, provides two types of maintenance: the first is a contract that charges "X" amount per year to maintain "Y" equipment to guarantee that the equipment is always in good repair irregardless of whether the equipment malfunctions or not, and the second allows us to pay on a time and materials basis to fix whatever breaks. The first type of contract has been deemed ineligible by USAC and thus we are left with no option but the purchase maintenance on the second basis.

In the instance of the second method CenturyLink furnishes us with a quote for the provision of labor to repair whatever might break and the materials are charged at their prevailing retail price. It is up to us to estimate what we think is reasonable for both labor and materials based on prior experience and our best guess estimate of the condition of our equipment. That is exactly what we did in this instance and that estimate is reflected in the attached contract. It is sheer folly to suggest that CenturyLink would estimate that amount for us....that is simply not how the marketplace functions and USAC wishing that it would does not make it happen.

We have provided you with a list of the eligible equipment (again attached) contained in the locations contained in the revised Block 4 along with our contract with CenturyLink (again attached) for the provision of labor to repair what might break based on our estimate of what is needed. That is precisely what we used to complete Block 5 of the FRN in question. As an aside this type of contract has been used by numerous school districts and has routinely passed PIA review in FY 2011 & FY 2012.

You further indicated that the above contract was not sufficient to determine the eligibility of our RAL request. Again I am copying in red below the guidance that addresses that point:

In many cases, the PIA reviewer can determine whether the correction is allowable and, if so, complete the correction without requesting additional information. However when the nature of the correction is not apparent to the PIA reviewer, the PIA reviewer may request the appropriate source documentation to determine whether the correction is allowable. Source documentation is the documentation containing the information used to prepare the form (e.g., Item 21 Attachment, contract, vendor quote, NSLP data, etc.).

The fact that we submitted the input documents that we used to populate Block 4 of the application should be adequate to conclude that we make a clerical error and should satisfy the requirement above, i.e. (e.g., Item 21 Attachment, contract, vendor quote, NSLP data, etc.). In any event the contract limits the scope of the work to only the 90% eligible locations, i.e. those in the revised Block 4.

I respectfully submit that we have satisfied all the requirements of the guidance listed at <http://www.universalservice.org/sl/applicants/step02/clerical-errors.aspx> and ask that you process our RAL as

9/25/2012

submitted.

John Hughes
O - (919)968-4332
M - (919)593-2841
F - (919)929-9074

Go Heels!

From: Herbst, Gary [mailto:Gary.HERBST@sl.universalservice.org]
Sent: Friday, September 14, 2012 10:31 AM
To: John Hughes
Cc: 'John Hughes@1-919-929-9074'
Subject: RAL Change/Appeal of FY2011 FCC Form 471 #794941, FRN #2219882--Washington County School District

Dear John Hughes:

Response Due Date: October 1, 2012

We are in the process of reviewing all FCC Form 471 Appeals for schools and libraries to ensure that it is in compliance with the rules of the federal universal service program. As you know, I am currently in the process of reviewing your Appeal/RAL Change Request for FY2011 FCC Form 471 #794941. To complete my review I need some additional information which is listed below.

The vendor documentation that you provided in your email dated September 10, 2012 (CenturyLink Time and Material Rates) is not sufficient to determine the eligibility of your RAL request. Please provide a copy of the vendor source documentation used to prepare your request for \$2,083.34 per month for Basic Maintenance of Internal Connections contained in FRN #2219882. Examples of supporting documentation are: 1) vendor contracts, 2) vendor quotes, or 3) vendor bills or invoices listing the equipment to be maintained by entity location.

Please fax or e-mail the requested information to my attention. If you have any questions please feel free to contact me.

It is important that we receive all of the information requested so we can complete our review.

If we do not receive the information within 15 calendar days, your application will be reviewed using the information currently on file. If you need additional time to prepare your response, please let me know as soon as possible.

Should you wish to cancel this application, or any of your individual funding requests, please clearly indicate in your response that it is your intention to cancel an application or funding request(s); along with the application number and/or funding request number(s), and the complete name, title and signature of the authorized individual.

Thank you for your cooperation and continued support of the Universal Service Program.

Thank you in advance for your valuable time in this matter.

9/25/2012

Sincerely,

Gary Herbst
Associate Manager, Program Compliance
30 Lanidex Plaza West | Parsippany, NJ 07054
T: 973.581.5144 | F: 973.599.6525
g Herbst@sl.universalservice.org

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9/25/2012

Washington County Schools
 Priority 1 471
 FY 2011

School Name	BEN	Enrollment	Responses	NLSP Eligible	%	Discount	Survey
Creswell Elementary	28797	200	159	122	77%	90%	Yes
Creswell High	28796	175	87	65	86%	90%	Yes
Pines Elementary	28826	628	477	441	92%	90%	Yes
Plymouth High School	28825	498		347	70%	80%	No
Washington County Union	28829	436	244	214	88%	90%	Yes
Central Office	16024015	0	0	0			
Renaissance	16024180	20		20	100%	90%	No

Washington County Schools
 Priority 2 471
 FY2011

School Name	BEN	Enrollment Responses	NLSP Eligible	%	Discount	Survey
Creswell Elementary	28797	200	159	122	77%	90% Yes
Creswell High	28796	175	87	65	86%	90% Yes
Pines Elementary	28826	628	477	441	92%	90% Yes
Washington County Union	28829	436	244	214	88%	90% Yes
Central Office	16024015	0	0	0		
Renaissance	16024180	20		20	100%	90% No

John Hughes

From: John Hughes
Sent: Monday, September 10, 2012 10:55 PM
To: 'Herbst, Gary'
Subject: RE: RAL Change/Appeal of FY2011 FCC Form 471 #794941, FRN #2219882-Washington County School District

Attachments: img-120911075523.pdf

Sorry for the delay in getting this. The IT Director was out of town. Attached is the Century Link basic maintenance contract for FY 2011.

John Hughes

O - (919)968-4332

M - (919)593-2841

F - (919)929-9074

Go Heels!

From: Herbst, Gary [mailto:Gary.HERBST@sl.universalservice.org]
Sent: Tuesday, September 04, 2012 3:40 PM
To: John Hughes; 'John Hughes@1-919-929-9074'
Subject: RAL Change/Appeal of FY2011 FCC Form 471 #794941, FRN #2219882-Washington County School District

Dear John Hughes:

Response Due Date: September 6, 2012

You were recently sent a written request for additional information needed by the Program Compliance team in order to process your appeal of FY2011 FCC Form 471 #794941. I am in receipt of your reply dated August 29, 2012; however, it is incomplete. The information still needed to complete the review is listed below.

Please provide a copy of the source documentation used to prepare your FCC Form 471, Block #5 application for FRN #2219882. This FRN is a request for \$2,083.34 per month for basic maintenance of internal connections from CenturyLink Corporation (FKA Embarq). Examples of supporting documentation are vendor contracts, vendor quotes, vendor bills or invoices.

Please fax or e-mail the requested information to my attention. If you have any questions please feel free to contact me.

It is important that we receive all of the information requested so we can complete our review.

If we do not receive the information within 15 calendar days, your application will be reviewed using the information currently on file. If you need additional time to prepare your response, please let me know as soon as possible.

9/10/2012

Should you wish to cancel this application, or any of your individual funding requests, please clearly indicate in your response that it is your intention to cancel an application or funding request(s); along with the application number and/or funding request number(s), and the complete name, title and signature of the authorized individual.

Thank you for your cooperation and continued support of the Universal Service Program.

Thank you in advance for your valuable time in this matter.

Sincerely,

Gary Herbst
Associate Manager, Program Compliance
30 Lanidex Plaza West | Parsippany, NJ 07054
T: 973.581.5144 | F: 973.599.6525
g Herbst@sl.universalservice.org

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9/10/2012

Dear John Hughes:

Response Due Date: September 6, 2012

You were recently sent a written request for additional information needed by the Program Compliance team in order to process your appeal of FY2011 FCC Form 471 #794941. I am in receipt of your reply dated August 29, 2012; however, it is incomplete. The information still needed to complete the review is listed below.

Please provide a copy of the source documentation used to prepare your FCC Form 471, Block #5 application for FRN #2219882. This FRN is a request for \$2,083.34 per month for basic maintenance of internal connections from CenturyLink Corporation (FKA Embarq). Examples of supporting documentation are vendor contracts, vendor quotes, vendor bills or invoices.

Please fax or e-mail the requested information to my attention. If you have any questions please feel free to contact me.

It is important that we receive all of the information requested so we can complete our review.

If we do not receive the information within 15 calendar days, your application will be reviewed using the information currently on file. If you need additional time to prepare your response, please let me know as soon as possible.

Should you wish to cancel this application, or any of your individual funding requests, please clearly indicate in your response that it is your intention to cancel an application or funding request(s); along with the application number and/or funding request number(s), and the complete name, title and signature of the authorized individual.

Thank you for your cooperation and continued support of the Universal Service Program.

Thank you in advance for your valuable time in this matter.

Sincerely,

Gary Herbst
Associate Manager, Program Compliance
30 Lanidex Plaza West | Parsippany, NJ 07054
T: 973.581.5144 | F: 973.599.6525
gherbst@sl.universalservice.org



WASHINGTON COUNTY SCHOOLS

802 Washington Street • Plymouth, North Carolina 27962
Phone: 252.793.5171 Fax: 252.793.5062

John D. Farrelly
Superintendent

Date: March 22, 2011

Lisa B. Flanagan
CenturyLink
Greenville, NC

Dear Lisa :

This letter will confirm our decision to purchase **\$25,000.00** in labor and materials on an as used basis at Century Link's prevailing labor and parts rates (as specified in the attached specifications and price quotations) to provide basic maintenance as defined by the Schools and Libraries Division of USAC on the district's E-rate eligible internal connections equipment and wiring in the 90% eligible schools and administrative locations within the Washington County School District during the next E-rate funding year (07/01/2011 to 06/30/2012). This contract is valid through 06/30/2012 and can be extended if SLD funding is delayed.

The procurement of these products and services will be dependent upon the following conditions:

1. Final approval of next year's fiscal budget;
2. Award of associated E-rate funding;

We look forward to working with your company on this project.

Sincerely,

Signature

Daniel Smith
Director of Instructional Technology

Date

3-22-11

Attachment



CenturyLink™
Business

CenturyLink Time and Material Rates

Non-Contract

MAC and T&M Rate

Service Charge \$100

Service Charge is Per Dispatched Occurrence

Voice

\$150 per hour

Data

\$200 per hour

John Hughes

From: John Hughes
Sent: Wednesday, August 29, 2012 10:47 PM
To: 'Herbst, Gary'
Subject: RE: RAL Change/Appeal of FY2011 FCC Form #794941- Washington County School District
Attachments: Washington 471 Data Entry.xlsx; Basic Maintenance Inventory 2011.xls

Please find our answers below in red. Let me know if you need anything further.

John Hughes
O - (919)968-4332
M - (919)593-2841
F - (919)929-9074

Go Heels!

From: Herbst, Gary [mailto:Gary.HERBST@sl.universalservice.org]
Sent: Tuesday, August 14, 2012 2:57 PM
To: John Hughes
Cc: John Hughes@1-919-929-9074
Subject: RAL Change/Appeal of FY2011 FCC Form #794941- Washington County School District

Dear John Hughes:

Response Due Date: August 29, 2012

We are in the process of reviewing all FCC Form 471 Appeals for schools and libraries to ensure that it is in compliance with the rules of the federal universal service program. I am currently in the process of reviewing your Appeal/RAL Change Request of FY2011 FCC Form 471 #794941. To complete my review I need some additional information which is listed below.

A. For your FCC Form 471 Application #794941, you are requesting the removal of the entity, Plymouth High School, #28825. The item 21 does not support the entity removal. Is the original Block 4 of your FCC Form 471 correct? ___ Yes ___ **XXXX** ___ No **The Item 21 attachment contained an error.**

1. **If yes**, no further information is required and no changes will be made to your FCC Form 471.
2. **If no**, and you wish to request a change please answer the following: is the discrepancy a result of a mistake made while you were completing your FCC Form 471, also known as Ministerial and Clerical (M&C) error? ___ **XXXX** ___ Yes ___ No Please see below for a detailed M&C definition.

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 the data from one list to another, such as mistyping a

8/29/2012

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." Additional correctable errors can be found in the FCC's Order DA-2354.

If you answered **Yes**, please provide a copy of the source documentation used to prepare your FCC Form 471 application. Examples of supporting documentation are site-specific contracts, vendor quotes, vendor bills, invoices, etc..

ANSWER: We used a spreadsheet listing each location as the source documentation to prepare the Priority 1 & 2 471 applications. We mistakenly used the P1 list to populate Block 4 of the P2 application. Attached is the spreadsheet that we used that contains a tab listing the entities for both P1 & P2.

B. Based on the documentation you provided for your Funding Year 2011 FCC Form 471 application # 794941, FRN #2219882 includes a request for Basic Maintenance of Internal Connections. However we were not able to determine the eligibility of your request.

In order to assist us in the review of your FCC Form 471, please provide additional detailed information about your request, including a complete list of the equipment to be maintained, the equipment quantities, and the make and model number of each piece of equipment.

ANSWER: See attached list of eligible equipment

Please fax or e-mail the requested information to my attention. If you have any questions please feel free to contact me.

It is important that we receive all of the information requested so we can complete our review.

If we do not receive the information within 15 calendar days, your application will be reviewed using the information currently on file. If you need additional time to prepare your response, please let me know as soon as possible.

Should you wish to cancel this application, or any of your individual funding requests, please clearly indicate in your response that it is your intention to cancel an application or funding request(s); along with the application number and/or funding request number(s), and the complete name, title and signature of the authorized individual.

Thank you for your cooperation and continued support of the Universal Service Program.

Thank you in advance for your valuable time in this matter.

Sincerely,

Gary Herbst
Associate Manager, Program Compliance
30 Lanidex Plaza West | Parsippany, NJ 07054
T: 973.581.5144 | F: 973.599.6525
gherbst@sl.universalservice.org

8/29/2012

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8/29/2012

Washington County Schools
 Priority 1 471
 FY 2011

School Name	BEN	Enrollment	Responses	NLSP Eligible	%	Discount	Survey
Creswell Elementary	28797	200	159	122	77%	90%	Yes
Creswell High	28796	175	87	65	86%	90%	Yes
Pines Elementary	28826	628	477	441	92%	90%	Yes
Plymouth High School	28825	498		347	70%	80%	No
Washington County Union	28829	436	244	214	88%	90%	Yes
Central Office	16024015	0	0	0			
Renaissance	16024180	20		20	100%	90%	No

Washington County Schools
 Priority 2 471
 FY2011

School Name	BEN	Enrollment Responses	NLSP Eligible	%	Discount	Survey
Creswell Elementary	28797	200	159	122	77%	90% Yes
Creswell High	28796	175	87	65	86%	90% Yes
Pines Elementary	28826	628	477	441	92%	90% Yes
Washington County Union	28829	436	244	214	88%	90% Yes
Central Office	16024015	0	0	0		
Renaissance	16024180	20		20	100%	90% No

Exhibit 7

Washington County Schools
Priority 1 471
FY 2011

School Name	BEN	Enrollment	Responses	NLSP Eligible	%	Discount	Survey
Creswell Elementary	28797	200	159	122	77%	90%	Yes
Creswell High	28796	175	87	65	86%	90%	Yes
Pines Elementary	28826	628	477	441	92%	90%	Yes
Plymouth High School	28825	498		347	70%	80%	No
Washington County Union	28829	436	244	214	88%	90%	Yes
Central Office	16024015	0	0	0			
Renaissance	16024180	20		20	100%	90%	No

Exhibit 7

Washington County Schools
 Priority 2 471
 FY2011

School Name	BEN	Enrollment Responses	NLSP Eligible	%	Discount	Survey
Creswell Elementary	28797	200	159	122	77%	90% Yes
Creswell High	28796	175	87	65	86%	90% Yes
Pines Elementary	28826	628	477	441	92%	90% Yes
Washington County Union	28829	436	244	214	88%	90% Yes
Central Office	16024015	0	0	0		
Renaissance	16024180	20		20	100%	90% No