

January 23, 2013

Letter of Appeal
Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
9300 East Hampton Drive
Capitol Heights, MD 20743

The Paterson School District hereby appeals the decision that funds were improperly disbursed under the funding request described below, and requests that the recovery of funds be cancelled. The district also requests leave to plead outside the normal appeal window.

The person who can most readily discuss this with you is the district's E-Rate consultant:

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Funding information:

Funding Year: 2005
FRN: 1302023
Form 471 #: 463661
BEN: 122871
Entity Name: Paterson School District

The district has received a Demand Payment Letter from USAC, demanding repayment of funds disbursed in 2006 based on the contested findings of an audit conducted in 2009.

During the audit, in response to a request for information on how the pre-discount amounts for the BEAR for FRN 1302023 were calculated, the district provided the auditors with a spreadsheet from the vendor showing the eligible and ineligible charges on that account which had been used in calculating the pre-discount amount on the BEAR for this FRN. In its audit findings, the auditors stated that the district should have based the pre-discount amount based on bills. The district disputed this finding, arguing that

information from the service provider in the form of a spreadsheet was as reliable as information from the service provider in the form of the bill. In fact, the spreadsheet is more reliable, since the service provider has a deeper understanding of its services and their eligibility for E-Rate funding.

The district received the correct amount of funding for an eligible service. The question here is only what format the information from the service provider must take in preparing the BEAR.

The district requests that the Commission find that information on monthly charges from the service provider is an acceptable basis for calculating the pre-discount amount on a BEAR form, whether that information comes in the form of a spreadsheet or a monthly bill.

If the Commission determines that monthly bills are the only acceptable information source for pre-discount amounts, the district asks that the requirement be waived in this case. A waiver is in the public interest because the district received the proper amount of funding for eligible services, and would be penalizing for using the wrong form of information from the service provider. In the Fifth Report & Order, the Commission determined that “the Commission will not require that they be recovered, except to the extent that such rules are essential to the financial integrity of the program, as designated by the agency, or that circumstances suggest the possibility of waste, fraud, or abuse, which will be evaluated on a case-by-case basis.” This case does not threaten the financial integrity of the program or suggest any waste, fraud or abuse.”

If the Commission determines that a violation has occurred, and that a waiver is not appropriate, the district asks that the recovery be dismissed because the Demand Payment Letter was issued after the five-year time limit for recovery which the Commission established in the Fifth Report & Order.

In the event the Commission views the Notification of Improperly Disbursed Funds Recovery Letter, and not the Demand Payment Letter, as the initial issuance of demand for recovery of funds, the district seeks leave to plead more than 60 days after the receipt of the Notification of Improperly Disbursed Funds Recovery Letter, which USAC mailed in November 2010, because that letter was not received. The first notice that the district received of USAC’s intent to recover funds was the Demand Payment Letter.

Thank you for your attention to this matter.

Sincerely,



Daniel E. Riordan
President

Att.: BEAR calculation materials submitted to auditors
Audit findings with response

Paterson School District
Nextel billing
2005-2006

Month	Invoice #	Total Bill	Eligible
Jul-05	785551111-047	\$ 7,295.53	\$ 5,156.87
Aug-05	785551111-048	\$ 6,833.17	\$ 5,247.45
Sep-05	785551111-049	\$ 6,972.64	\$ 5,289.90
Oct-05	785551111-050	\$ 6,628.24	\$ 5,223.37
Nov-05	785551111-051	\$ 6,797.30	\$ 5,370.92
Dec-05	785551111-052	\$ 6,552.24	\$ 5,239.34
Jan-06	785551111-053	\$ 3,947.71	\$ 5,294.28
Feb-06	785551111-054	\$ 358.57	\$ 805.20
Mar-06	785551111-055	\$ 318.50	\$ 267.54
Total		\$45,703.90	\$37,894.87
Discount		84%	\$31,831.69

Proposed Billing Details for Customer Patterson School District: FY 2005 - 2006

BAN/FRN	Billing Details	2005					2006			Total	
		JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB		MAR
7.86E+08	Bill Date	7/16/2005	8/16/2005	9/16/2005	10/16/2005	11/16/2005	12/16/2005	1/16/2006	2/16/2006	3/16/2006	N/A
	Total Billing	\$7,295.53	\$6,833.17	\$6,972.64	\$6,628.24	\$6,797.30	\$6,562.24	\$3,947.71	\$358.57	\$318.50	\$45,703.90
	Eligible Billing	\$6,139.13	\$6,246.97	\$6,297.50	\$6,218.30	\$6,393.95	\$6,237.31	\$6,302.72	\$958.57	\$318.50	\$45,112.95
	Eligible Billing	\$1,011.40	\$526.31	\$620.14	\$374.94	\$403.35	\$314.93	\$244.99	\$0.00	\$0.00	\$3,496.06
1302023	Eligible Disc	84	84	84	84	84	84	84	84	84	N/A
	Eligible Disc	\$5,156.87	\$5,247.45	\$5,289.90	\$5,223.37	\$5,370.92	\$5,239.34	\$5,294.28	\$805.20	\$267.54	\$37,894.87

FRN	1302023
Finding	<p>Paterson School District applied for and received discounts from the Universal Service Fund for cellular telephone service under Funding Request Number 1302023, in the amount of \$31,832. The Beneficiary allocated the cellular service fees between the eligible and ineligible services and equipment. This allocation was based on a statement provided by the service provider regarding the eligibility of the equipment and cellular service provided. However, the Beneficiary could not provide documentation of the eligible and ineligible services received.</p>
Monetary Effect	Undetermined
Response	<p>The district provided sufficient information to reconcile the bills, but not to easily reconcile the bills. The district supplied a spreadsheet which gave the total for each type of ineligible charge for each month. At the exit meeting, the district was informed that it was beyond the scope of the examination to total the ineligible charges on each monthly bill in order to reconcile with the monthly the totals supplied by the district, and that it was too late for the district to supply a document with the level of detail required. As soon as the district learned that the information supplied was not what was expected, the district requested and received a breakdown of ineligible charges by month and by phone number.</p> <p>In the FCC’s Fifth Report and Order and USAC’s document retention guidance, there is no hint that applicants are required to maintain documents showing each ineligible charge for each phone number on each monthly bill, rather than a total of ineligible charges. Nor is there any requirement that the district calculate amounts for the BEAR based on information supplied by the service provider in the form of a monthly bill rather than information supplied by the service provider in the form of a summary of charges.</p>