



**DOWNINGTOWN AREA SCHOOL DISTRICT**

540 Trestle Place, Downingtown, Pennsylvania 19335

**Lawrence J. Mussoline, Jr., Ph. D.**

*Superintendent*

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January 28, 2013

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

CC Docket No. 02-6

Funding Year: 2011  
Applicant Name: Downingtown Area School District  
Form 471 Number: 815703  
FRN Number: 2217132  
Billed Entity Number: 126198

Contact Information: Michael Bowe  
Downingtown Area School District  
540 Trestle Place  
Downingtown, PA 19335

RE: Request for Waiver of 60-day Appeal Rule and Appeal of Adjusted Form 486 Service Start Date Adjustment

Dear FCC Staff:

**Request for Waiver of 60-Day Appeal Deadline**

We are writing to respectfully request the FCC to waive the 60-day appeal deadline by 3-weeks so that our appeal of the adjusted Form 486 Service Start Date can be considered. We believe the 60-day appeal window would have been 60-days from the date on the Form 486 notification letter (November 8, 2012), which would have concluded only three weeks ago.

Our waiver is based on these circumstances:

1) In denying another request for appeal deadline waiver pertaining to late filed Form 471s (AGRA PUBLIC SCHOOLS I-134, ARGV, OKLAHOMA, ET AL. DA No. 10-929), the FCC noted that "Each applicant is advised of the deadline and the procedure for filing an appeal when it receives a denial of or reduction of its funding commitment." In this case, there was no such advisement by USAC. When the Form 486 is filed, a Form 486 notification letter is mailed to the applicant and to the service provider, but if it is late-filed, there is no notification contained in the letter that the funding has been reduced or recaptured entirely, nor are there instructions on how to appeal if we do not agree with the contents of the notification letter. We only discovered that our E-rate funding was reduced to \$0.00 when informed by our State E-rate Coordinator on January 28, 2013.



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2) *Also in the* AGRA PUBLIC SCHOOLS I-134, ARGA, OKLAHOMA, ET AL. DA No. 10-929 Order, the FCC stated:

“Filing deadlines for appeals are needed to provide finality in the decision-making process. Because the E-rate program has a cap of \$2.25 billion each year, USAC and the Commission must accurately determine the number of funding requests that will be able to be granted in any given year. While USAC maintains a reserve fund for appeals, the amount of money reserved in that fund is generally based on the appeals that can be filed within the 60-day deadline. If the Commission allowed applicants to appeal decisions significantly after the deadline, it would be difficult to estimate the amount of money that should be held in the reserve fund. The reserve fund could be increased; however, that funding would have to come from the same \$2.25 billion allocated for the program and would therefore effectively take money away from applicants that had followed the rules or timely filed appeals.”

We completely understand that the FCC cannot accept all late-filed appeals because of the impact it would have on the fund and planning purposes. But in this case, the underlying appeal has no impact whatsoever on the demand level of the fund. The late Form 486 filing issue will only result in an adjusted service start date, which will permit the District to file the three BEAR reimbursement forms to collect the E-rate funding for which we were already committed for FY 2011. In fact, the BEAR deadline for these three FRNs is March 8, 2013, so the funding hasn't even been recaptured by USAC yet.

3) The underlying appeal is based on a USAC procedural deadline, not a FCC rule. And while we understand that deadlines are set so the program can operate in an expeditious manner, we believe that a procedural deadline should warrant special circumstances because it is not related to a rule infraction or a competitive bidding violation.

Based on these reasons, we respectfully request the FCC grant a 3-week waiver of the 60-day appeal deadline so that the underlying procedural deadline can be considered.

**Appeal of Form 486 Adjusted Service Start Date**

We are writing to respectfully request the FCC to waive the SLD procedural deadline for filing the Form 486 and adjust the Form 486 Service Start Date to July 1, 2011 so the District can submit the BEAR reimbursement forms in the amount of \$100,896.

Form 471 Application 815703 was successfully submitted within the Form 471 application window and a successful Funding Commitment Decisions Letter was received, dated June 23, 2011. The total amount of approved funding was \$100,896. This encompasses three funding requests FRN-2217132 of \$14,952 to ChescoNet for Internet service, FRN 2201220 of \$17,280 to Verizon Wireless for cellular telephone services and FRN 2216835 of \$68,664 to XO Communications for local and long distance telephone service.

We understand that applicants that miss the Form 486 deadline are supposed to receive a reminder letter to allow them to submit the Form and cure the missed deadline. In this situation, however, we did not receive this letter.

We only realized the Form 486 was not filed when we were preparing to file our FY 2011 BEAR reimbursement forms for these three FRNs in October 2012. We filed the Form 486 as soon as we realized the error and thought that our oversight had been cured. We did not realize that all of our E-rate funding was recaptured as a result of the Form 486 Service Start Date being adjusted to June 27, 2012. This fact was only brought to light when our State E-rate Coordinator explained on January 28 that we could not submit the BEARs because there was essentially no funding remaining in the FRNs..



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Our failure to file the Form 486 in a timely fashion was the result of staff turnover and utter confusion on the timing of filings for various forms. We were preparing our FY 2010 BEARs and filing our Form 470s for FY 2012, but completely neglected to file the FY 2011 Form 486 in a timely manner.

We want to stress to the FCC that the Downingtown Area School District was in full compliance with all E-rate Form 486 requirements from the beginning of Funding Year 2011, including being CIPA compliant.

The funding to our District is extremely important. By reimbursing our District for telecommunications services it is assistive in keeping in communication with our parents as well as preserving funds for use by our academic programs. The use of the Internet, as funded by the E-Rate program, is a vital resource for our students and staff. We apologize for the confusion caused by this incident, but we are hopeful that you will allow us to correct the error and allow our District to receive the funds allocated.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ray Kase". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Raymond F. Kase

Director of Technology

Downingtown Area School District

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