BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON DC 20554

In the matter of	)	
	)	
Administrator's Decision on Appeal	)	
and Funding Commitment Adjustment	)	
regarding SPIN: 143031578	)	
	)	
Schools and Libraries Universal Service	)	
Support Mechanism	)	CC Docket No. 02-6
	)	

Service Provider:	Advanced Database Management
SPIN:	143031578
Applicant Name:	BAIS FAIGA SCHOOL FOR GIRLS
Billed Entity Number:	16057828
Funding Request Numbers:	2065826, 2065528, 2065536, 2065819

Appeal of USAC Decision

Request for Review
& Request for Waiver

1. Background Information
    a. Company Information:

Advanced Database Management LLC has been providing products and services to our clients deemed eligible for universal service support, under the "E-Rate" program for five years. During this time, we have strived to fill the communications needs of our clients, keeping it affordable by adhering to the guidelines to maintain USAC fund eligibility. At the same time we tried to reduce overall costs to minimize our impact on the fund.

b. Bogen System:

One system we utilized to achieve this goal is the Bogen Multicom Quantum. A leader in the field of school communication, they designed a product to provide the features necessary for classrooms, built to withstand the rigors of tough everyday use.

It has the ability to function as a stand-alone PBX, complete with additional cards available to provide PSTN connections. The quantum even supports VOIP endpoint extensions.

c. Our Design:

While selecting components for our design, we focused on a basic concept. As a team of network engineers and computer programmers, we understand that a PBX is simply a sum total of all of the parts used, which are not necessarily all by the same manufacturer. This hold true especially in the evolving world of telephony today, where voice traverses analog circuits, digital lines, IP networks, and many forms of wireless signals.

Faced with the requirement of serving offices, as well as public areas, such as classrooms, we chose to use VOIP endpoints as extensions for the offices, and analog to service the classrooms. This is quite a standard setup; however, we took the design a bit further. The offices, which could benefit from advanced features, would be served by a VOIP PBX. Since such systems often don't support analog scalability well, we decided to use a Bogen Multicom as an adjunct. Much like utilizing a wireless adjunct from another manufacturer to support cordless phones, we utilized the Bogen system to interface with the analog endpoints.

d. Recent Changes:

We have been installing this hybrid approach for some time, each year checking it against new program guidelines, and occasionally undergoing a PIA review. The system has been listed as eligible, and has been approved countless times. Recently, USAC began to deny our commitment requests containing the Bogen system, and even went so far as to demand payment for funding already provided, and products already delivered and installed. We have, in many instances, appealed to USAC to rescind their Funding Commitment Adjustment, and have been denied. Relevant documentation is attached.

2. USAC Commitment Adjustment

a. Commitment Adjustment:

The Notification of Commitment Adjustment Letter is attached, and the wording for each FRN varied slightly, however, each referred to the Bogen system as a "redundant PBX". The letter urged us to "see the web site, www.usac.org/sl/about/eligible-services-list.aspx for the Eligible Services List." The letter claims that "On the SPAC Form, the authorized person certifies at Item 10 that the service provider has billed its customer for the services deemed eligible for support." "Therefore, USAC has determined that the service provider is responsible for this rule violation."

b. Decision on Appeal to USAC:

We initially appealed to USAC to reconsider their commitment adjustment. The appeal is attached. USAC replied with the attached Administrator's Decision on Appeal. They stated that "the Bogen system... is functioning as a redundant service and is therefore ineligible under program rules." "You have contended that the two phone systems are not redundant due to your design criteria. However, service provider design criteria are not germane to the funding decision and there are thousands of program participants that are being adequately served by a single phone system for the school."

3. Request for Review
   a. Classification as Ineligible
      i. Eligible by definition:

Although USAC seems to have adjusted their focus to the aspect of redundancy, it was apparent that they deemed the Bogen system entirely ineligible. Therefore, we will first briefly address the issue of eligibility. According to the guidelines, "A PBX is a centralized telephone switching system located at a business or organization site. The PBX provides internal station-to-station dialing and access to the public switched network." By this definition, the Bogen Quantum system, as we have included it in our design, functions as a PBX, and is therefore eligible.

      ii. Included in list:

The URL referred to in the Commitment Adjustment is no longer available, and the Eligible Products Database was offline or inaccessible for much of the time since they first addressed this issue. However, the Bogen system has always been included in the Eligible Products Database, and still is when the website functions properly.

      iii. Precedent Approvals and PIA Reviews:

Additionally, the system designed as we installed it, was approved by USAC who had the opportunity to review our proposals which contained quotes for both systems together. Some have even gone through the more rigorous PIA review, with approval. We have also become aware that other service providers have utilized the same approach, with many approvals, even after PIA review.

b. Redundancy

i. Eligible by Definition:

The Commitment Adjustment simply claimed that "After a thorough review... it was determined that funding was provided" for a "redundant" Bogen PBX. The Decision on Appeal though offered a bit more explanation: "USAC has determined that the Bogen system... is functioning as a redundant service". The Eligible Services List deems as ineligible "Components that are installed in standby mode, redundant, not active and online, or otherwise not an essential element in the transmission of information within the school or library." Neither unit is in standby mode, each is active and online, and both are essential elements in the transmission of information within the school or library. As defined by Merriam-Webster, redundant means "exceeding what is necessary or normal". There is no excess of equipment, as each piece is necessary. Although one could argue that it may differ from the normal, they must concede that in no way does it exceed normal. Had the Bogen system not been used to drive the analog equipment, another system would have taken its place. The very idea to claim that "service provider design criteria are not germane to the funding decision" is preposterous if the decision is based on the fact that "the Bogen system... is functioning as a redundant service and is therefore ineligible under program rules."

ii. Cost Effective:

When dimensioning a PBX, it is quite common for the engineer to spec multiple cabinets to support a larger quantity of extensions. Occasionally, a design may even include distributed PBX units trunked together to accommodate diverse locations or dense clusters of extensions in another building or wing. As stated earlier, a modern VOIP PBX does not often scale well in supporting analog extensions. Although possible, it generally would require additional hardware such as voice interface cards installed in the PBX or externally. The cost of the hardware, installation, and perhaps most importantly, maintenance of such a setup quickly adds up. Yet, for most schools, the de facto standard for classrooms and public areas is to provide analog stations. Utilizing the Bogen system as the "second cabinet" for the PBX is quite a cost effective method of adding analog capabilities to the system.

The Quantum helps minimize costs in another way. It is built to scale easily connecting multiple cabinets over an IP network. This significantly

reduces the length and cost of the analog runs, as the system can be installed proximate to the rooms it serves. In some situations, using the Bogen system further cut cost by utilizing existing wiring.

It is quite evident, however, that although Bogen did add the ability to interface with PSTN lines to the Quantum, it does not come near fulfilling the basic needs and eligible functions of a school PBX.

iii. Durable Solution:

The Bogen Muticom has passed the test of time. Those involved in maintaining communication equipment in the education sector are well aware that they must propose a solution designed to withstand the rigors of daily abuse. After all of the advances of technology, converting interface cards to miniscule circuitry printed four layers deep on a board, experience shows that they have become all the more prone to failure. Analog lines are generally the most likely to cause something to blow. Bogen has not yet resorted to using SMD on their cards, and each solder point is pin through. The difference is noticeable when the school is affected by an electric surge. Even if the Bogen cards are affected, damage is easily segregated, and quickly repaired. I only wish I had a dollar for every channel bank or voice interface card swapped out because a single port or perhaps two ports were irreparable. The cost savings over time is noticeable.

c. Service Provider Responsibility:

Although at first USAC seemed undecided, they later stated clearly "that the service provider is responsible for this rule violation." This is based on the claim that "On the SPAC Form... Item 10" the authorized person certifies that the customer was billed for "services eligible for support." This is entirely irrelevant, since demanding reimbursement from the service provider will entitle the service provider to bill the customer for the same amount, as they have received goods and services without payment. However, the certification made by the authorized person on the SPAC form is misquoted and misconstrued. Item 10 states that invoices "are based on bills or invoices issued by the service provider to the Service Provider's customers on behalf of schools, libraries, and consortia of those entities as deemed eligible for universal service support by the fund administrator" with no mention made of the services at all. The certification is made that the entities and consortia of the same are deemed eligible, and not that the services are.

Although Item 9 does mention the services, stating that the invoices "contain requests for universal service support for services which have been billed to the Service Provider's customers on behalf of schools, libraries, and consortia of those entities, as deemed eligible for universal service", it would seem illogical for the phrase to carry a different meaning than in Item 10, since used in the same context.

d. Eligibility at Installation:

As noted above, our proposals were reviewed and approved by USAC. By the same logic which they presented to assign responsibility to the service provider, USAC themselves should bear the blame. It was they who approved the items as eligible, sometime even after extensive PIA review. Furthermore, it would be irrational to expect a service provider to render goods and services, researched and approved as eligible, knowing that an arbitrary decision at a later date can render said items ineligible retroactively.

e. Products and Services Delivered:

We are well aware that USAC, by means of the "Red Light Rule", can more readily procure funds from a service provider than a school, particularly one within the 90% eligibility bracket. However, it is quite evident that the service provider stands to lose significantly more in this situation than any other party. USAC determined the school eligible for funds, and would readily have provided such funds for any eligible system. The school can ill afford to purchase a system covering their needs, for if they could it would obviate the need for the fund. Yet the school is in possession of the equipment, likely bearing no intention to reimburse the commitment adjustment. The service provider, having provided products and services, will be left with no choice but to repossess the items, costing the school as well. This is quite contrary to the prime purpose for which the fund was created.

f. Avoid Replacement:

Additionally, each school will remain without an eligible system, even if they could afford to pay the remainder of the cost. As the system would then not have been funded by USAC, and would not be eligible for basic maintenance, they would likely replace it with the necessary upgrade interfaces for their eligible PBX, so that they might procure reimbursement for continued maintenance from USAC. This would cause an undue expense to the fund, as the current design is functionally equivalent, and does not require replacement.

4. Conclusion:

We request that you review the decision made by USAC to rescind funding for the relevant FRNs, and hope that, in light of the above, you will see the matter differently than they have, and reverse the decision. In the event that you do conclude that there has indeed been a violation – although unwittingly, and decided retroactively – we respectfully request that you issue a waiver for this circumstance. We expect that you will understand that the total financial burden we will remain with, after having provided products and services to multiple customers in good faith, can be considered unwarranted.

Respectfully,

Advanced Database Management LLC

Sarah Becker

Sarah Becker

cc: Rabbi Halperin