

March 19, 2014

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

RE: WC Docket No. 02-6; Bogen Communications Equipment Appeals

Dear Ms. Dortch,

This letter is submitted in support of FCC appeals filed by a number of E-rate service providers and applicants over the past two years with regard to Demand Payment Notices, COMADs, and funding denials involving telephone switching equipment manufactured by Bogen Communications, Inc. The following is at least a partial list of appeals filed by these petitioners, on or about the dates shown:

Service Providers:

Advanced Database Management LLC	08/09/2013
All Boro Communication	01/17/2014
Converged America	11/05/2013
Crystal Clear Communication, Inc.	08/14/2013
EZnet Plus	01/29/2014
Gulfstream Star Inc.	01/02/2014
H&F Communications, Inc.	09/18/2013
ID Tech Solutions, Inc.	04/10/2013
Jay Telecom	01/14/2014
Lion Communications, Inc.	12/27/2013
Patchcord LLC	08/15/2013
Prime Security & Communication, Inc.	12/06/2013
Trust Corp. (Ben Klein)	08/29/2013
Wolfson Communication Networking, Inc.	09/17/2013

Schools:

Congregation Bais Yehudda	12/26/2013
Yeshiva Ohr Torah	10/02/2013

E-Rate Central, which is under contract with the New York State Education Department to act as the NYS E-Rate Coordinator, has calculated that New York's exposure for the return of E-rate funds related to Bogen equipment is \$2.3 million. An additional \$1.1 million in potential E-rate funding was denied last year (see attached analysis). We estimate that there is an additional 40-50% exposure for similar suppliers and schools in New Jersey. For small and poor parochial schools (and/or their small suppliers involved), these amounts represent a significant loss of funding and/or financial exposure for repayment.

The background surrounding these funding reversals and denials is important. Beginning around 2009, a number of schools — primarily parochial Jewish schools — installed Bogen equipment to expand coverage of their small administrative telephone systems into their classrooms. For the most part, the initial costs of these systems (and subsequent maintenance) were covered by 90% E-rate discounts.

Although USAC initially approved these discounts, it has more recently decided that the Bogen systems are or were either redundant or ineligible intercom/public address systems. This reversal comes after years of USAC reviews and approvals of these equipment funding requests and, as we understand it, the listing of Bogen expansion units as eligible in USAC's now defunct Eligible Products Database.

Based on our discussions with Bogen and VAR personnel, this equipment provides a cost-effective means of expanding an existing telephone system into additional areas — classrooms in this case — without requiring the replacement of the existing switching equipment with a newer and larger telephone system. This approach to expanding an existing system is clearly not “redundant,” as stated in numerous recent USAC denials.

As normally configured, the Bogen expansion units provide both telephone access and intercom capability into the classrooms. To the extent that such installations include intercom-only components, we understand that those associated costs would be ineligible. USAC's denials, however, appear to have treated Bogen systems as a whole to be ineligible, without any attempt to establish the eligible costs of the common and/or telephone-only components. Part of the problem in this instance may be Bogen's unfortunate choice of product names, such as “Telephone Paging Amplifiers,” when referring to system components that, when combined with classroom speakerphones, do support public address applications.

In an attempt for greater clarity, E-Rate Central reached out to Bogen in early February seeking more detailed information on what components of a Bogen expansion system, and the costs thereof, are comprised of:

- Equipment solely devoted to paging
- Equipment required for classroom telephone usage
- Common equipment required for either paging or telephone usage

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Copies of our request to Jonathan Guss, Bogen's Chief Executive Officer, and the response from David Chambers, SVP Sales, are attached. We believe that Bogen's response confirms our view, and that of the affected applicants and service providers, that a large percentage of a typical Bogen expansion system is both eligible and cost-effective. Please note Bogen's offer to provide additional clarification as needed to either USAC or the FCC.

If the FCC agrees that all or a significant portion of the Bogen equipment does support eligible telephone functions, we urge the FCC to remand the appealed denials and COMADs back to USAC for further analysis. To avoid future appeals — because we do not believe that all Bogen denials and COMADs have yet been appealed — USAC should be instructed to review all denied funding requests, regardless of appeal, with respect to Bogen component eligibility.

If the FCC reaches the opposite conclusion, determining that the Bogen expansion units are fully ineligible, we encourage the FCC to weigh the inherent unfairness of subjecting schools and/or their suppliers to repayment demands retroactively following much earlier, and broadly based, reviews and approvals of funding for such equipment. Waiving (or at least partially waiving) full recovery of funds, as initially adopted in the FCC's *Commitment Adjustment Implementation Order* would be consistent with the spirit of the reduced recovery proposals of last year's Commission's NPRM (FCC 13-100).

Thank you.

Sincerely,



Winston E. Himsworth
Executive Director

Attachments: Letter to Johnathan Guss, CEO, Bogen Communications, dated February 4, 2014
Letter from David Chambers, SVP, Bogen Communications, dated March 19, 2014
Analysis of Bogen funding reversals and denials for New York schools

Copies to: Eric Flock, USAC
Michael Tracy-Ireland, NYS Education Department
Sandy O'Neil, NJ Department of Education

Attachment I

February 4, 2014

Mr. Jonathan Guss
Chief Executive Officer
Bogen Communications, Inc.
50 Spring Street
Ramsey, NJ 07446

Dear Mr. Guss,

I am writing to seek clarification on the use of Bogen telephone and paging equipment which, if not favorably resolved, is threatening to cost New York and New Jersey schools (and/or their suppliers) several million dollars. I'm hoping you can help.

Beginning around 2009, a number of schools — primarily parochial Jewish schools — installed Bogen equipment to expand coverage of their small administrative telephone systems into their classrooms. For the most part, the initial costs of these systems (and subsequent maintenance) were covered by 90% discounts provided under the federal FCC E-rate program, administered by the Universal Service Administrative Company (“USAC”).

Although USAC initially approved these discounts, it has more recently decided that the Bogen systems are — or are predominately — paging systems which are ineligible under E-rate rules. As a result, USAC has begun denying requests for discounts on Bogen equipment and services and, even more disturbingly, is seeking the return of discounts previously issued. Many of these decisions are now being appealed to the FCC.

E-Rate Central, which is under contract with the New York State Education Department to act as the NYS E-Rate Coordinator, has just compiled a list of the New York schools and their suppliers impacted by the USAC decisions (see attached). New York's exposure for the return of E-rate funds is \$2.3 million. An additional \$1.1 million in potential E-rate funding was denied last year. Based on a quick look, it appears that New Jersey's exposure would increase these totals by about 40%. For small and poor parochial schools (and/or their small suppliers) such as these, this represents a significant financial exposure.

Mr. Jonathan Guss

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From my discussions with USAC, it appears that its decisions are based on their discussions with Bogen personnel and on the Bogen website which highlights the paging aspects of its equipment.

On the other hand, my conversations with a couple of the Bogen vendors indicate that a properly configured system, equipped with telephone access modules or interfaces, represents a cost-effective way to expand telephone services from a small existing telephone system into a school's classrooms. If so, then all (or at least a portion) of a Bogen system should be eligible.

Assuming the latter position is correct, I am hoping that Bogen would be willing to provide USAC and the FCC with enough information to determine what components of a Bogen expansion system, and the costs thereof, are comprised of:

- Equipment solely devoted to paging
- Equipment required for classroom telephone usage
- Common equipment required for either paging or telephone usage

Sincerely,



Winston E. Himsworth
Executive Director

Attachment: Analysis of Bogen funding reversals and denials for New York schools

Copies to: Eric Flock, USAC
Michael Tracy-Ireland, NYS Education Department
Sandy O'Neil, NJ Department of Education

March 19th, 2014

Mr. Winston Himsworth, Executive Director
E Rate Central
400 Post Ave., Suite 410
Woodbury, NY 11590-2291

Dear Mr. Himsworth,

Thank you for your letter to our Jon Guss. We appreciate your efforts in seeking a logical and fair ruling on this issue.

You requested that we provide the relative percentages of the system's cost devoted to common, telephonic, and public address-type functions. In a typical Bogen school communications system, 49% of the equipment cost/sell price serves a common function, 25% a purely telephonic function, and 26% a public address function. So, about the same percentage of componentry is devoted specifically to telephony as it is to public address functions.

There is another important point that we are compelled to make on this: If one looks at the *actual usage* of the combination of a Bogen communications system with a small "telephone system," one would find that there are more instances of telephonic communication than public address communication through the Bogen system throughout the typical school day. So, in most cases, the actual use of our systems is undeniably more telephony oriented than PA oriented.

Referencing your next-to-last paragraph, yes, it is correct that schools commonly realize savings by purchasing a small "telephone system" and utilizing a Bogen communications system to augment it. This saves the schools on more expensive telephone system station devices and ports, while still allowing telephonic communications to/from the classroom, and the classroom to/from the PSTN—getting paging/PA along with the package.

We've got a system that fills a very specific need and is neither pure speaker system nor pure telephone system, yet offers functionality beyond a typical "telephone system" and can provide net savings when deployed properly.

These are all compelling factors for the argument that our systems should be fully eligible, or at least conditionally eligible as long as installed in this manner and not as "PA-only" systems.

We would be happy to speak to representative of the USAC and/or FCC to provide any clarification or additional information required.

Thank you,



David A Chambers
SVP Sales

**New York State Bogen Funding Subject to Recovery
by School: FY 2009– FY 2011**

Applicant Name	Funded Amount
AHI EZER YESHIVA SCHOOL	4,230.04
ALL MY CHILDREN (1)	47,952.28
BABOVE CENTRAL	2,875.82
BAIS RUCHEL D'SATMAR	10,813.62
BAIS SHIFRA MIRIAM	48,126.18
BAIS YEHUDA	30,749.61
BETH JACOB OF BORO PARK	124,960.73
BNOS CHAYIL	52,311.38
BNOS MALKA ACADEMY	30,555.04
BNOS SPINKA	15,361.06
BNOS SRAH OF MONSEY	25,868.11
BRIGHT BEGINNINGS	57,036.37
CHABAD OF NORTHEAST QUEENS	11,685.09
CONG. BNAI YOEL	32,148.45
CONG. KHAL YEREIM/BAIS HILLEL	38,985.93
CONGREGATION BNOS SARA DBA IMREI SHUFA	25,549.61
CONGREGATION MACHZIKEI HADAS OF BELZ	30,404.42
CONGREGATION MISHMERES SHULEM	17,692.99
CONGREGATION NOLAM MGODIM	38,722.38
CONGREGATION TORAS IMACHU	26,336.66
E. SHLOM (1)	47,495.19
FAREST PARK	3,985.25
GAN YISROEL	29,402.98
HEBREW DAY SCHOOL	6,919.12
IMREI SHUFER	3,700.90
MEOR YITZCHOK INC.	54,012.26
MEOROT BEITE YAHKOV	86,454.66
MESIVTA SHOLOM SHACHNA	25,001.27
MIRRER YESHIVA EDUCATIONAL INST.	73,992.40
MOSDOS SANZ KLAUSENBURG OF MONSEY	48,913.23
NS COMMUNITY IMPROVEMENT COUNCIL HEAD START	53,534.22
PROJECT SOCIAL CARE HEAD START, INC.	77,106.08
PROSPECT PARK YESHIVA SCHOOL	50,136.99
ST BARNABAS HIGH SCHOOL	31,996.71
TALMUD TORAH ADAS YEREIM	37,301.21
TALMUD TORAH OHR MOSHE	2,159.49
TALMUD TORAH OHR MOSHE (MEOR HATALMUD)	25,275.50
THE CHEDER	29,475.36
TISERES BNOS	18,811.40
UNITED LUBAVITCHER YESHIVOTH	35,316.00
UNITED TALMUDICAL ACADEMY	217,230.78
YESHIVA AHAVAS TORAH	31,228.88
YESHIVA BNOS AHAVAS ISRAEL	71,936.05
YESHIVA DEGEL HATORAH	64,341.52
YESHIVA FARM SETTLEMENT	33,631.40
YESHIVA IMREI CHAIM VIZNITZ OF BOROARK	12,802.50
YESHIVA JESODE HATORAH	53,177.72
YESHIVA KEHILATH YAKOV SCHOOL	52,371.65
YESHIVA OF CROWN HEIGHTS	59,303.02
YESHIVA OF KINGS BAY SCHOOL	57,978.52
YESHIVA OHR TORAH	51,436.43
YESHIVA TORAS CHAIM	27,466.28
YESHIVA VYELIPOL	25,213.45
YESHIVA YESODE HATORAH	28,959.62
YESHIVA ZICHRON MAYIR	45,975.67
YESHIVATH VIZNITZ D'KHAL TORATH CHAIM	42,528.62
YESHIVE TORAS EMES D'RADASHITS	33,500.88
Grand Total (58 schools)	\$2,322,438.98

**New York State Bogen Funding Subject to Recovery
by School: FY 2009– FY 2011**

<u>Service Provider Name</u>	<u>Funded Amount</u>
All Boro Communication, Inc.	33,633.02
All County Business Machines Corporation	31,996.71
Crystal Clear Communications, Inc.	361,169.69
Gulfstream Star Inc	98,682.46
H & F Communications, Inc.	153,521.21
Hashomer Alarm Systems, Inc.	10,813.62
ID-Tech Solutions, Inc	669,807.68
Innovative Network Solutions	2,159.49
Jay Telecom Inc.	146,235.50
Personnel and Professional LTD	159,344.91
Platinum Wireless Services, Inc.	30,749.61
Prime Security & Communication, Inc	116,407.21
Talkspan Inc.	35,316.00
Trust Corp	26,336.66
Wolfson Communication Networking, Inc.	446,265.21
Grand Total (15 suppliers)	\$2,322,438.98

**New York State Bogen E-Rate Denials
by School: FY 2012**

Applicant Name	Denied Funding
BABOVE CENTRAL	2,875.82
BAIS BRONCHO OF KARLIN STOLIN	9,545.16
BAIS CHINUCH HAYOSHEN	100,748.56
BAIS YEHUDA	3,821.90
BEIS YISROEL SCHOOL	28,476.58
BENOS SQUARE OF WILLIAMSBURG	109,252.27
BETH JACOB HIGH SCHOOL	15,886.91
BETH JACOB OF BORO PARK	12,960.00
BNOS CHAYIL	11,452.43
BNOS CHOMESH	19,568.61
BNOS SARAH OF MONSEY SCHOOL FOR GIRLS	37,996.63
BNOS SPINKA	16,335.00
BNOT RACHEL HIGH SCHOOL	3,607.20
BWY	22,720.27
CHABAD LUBAVITCH OF STATEN ISLAND	5,886.00
CHABAD OF NORTHEAST QUEENS	3,101.11
CONG. BNAI YOEL	12,027.64
CONG. KHAL YEREIM/BAIS HILLEL	49,810.10
CONGREGATION ATERES TZVI	7,271.75
CONGREGATION MACHZIKEI HADAS OF BELZ	5,130.00
CONGREGATION SHAR YISOSCHOR	32,489.70
CONGREGATION TORAS IMACHU	9,882.86
FAREST PARK	2,912.76
HAMESIVTA	40,335.83
HEBREW DAY SCHOOL	4,695.95
HYCHEL HATORAH OF WILLIAMSBURG	39,056.67
INTERNATIONAL SCHOOL	2,763.94
MECHON L'HOYROA	4,593.89
MEOR YITZCHOK INC.	7,020.00
MEOROT BEITE YAHKOV	75,874.96
OHEL RAFUEL KASHO	4,446.04
OHELELOZER	4,762.48
OHR YITZCHOCK	3,141.07
PROJECT SOCIAL CARE HEAD START, INC.	9,295.24
SINAI ACADEMIC CENTER	32,158.51
STAR AMERICA (1)	5,627.23
TALMUD TORAH ADAS YEREIM	4,320.00
TALMUD TORAH IMREI BURECH	40,310.68
TALMUD TORAH OHR MOSHE (MEOR HATALMUD)	4,320.00
THE CHEDER	4,320.00
THE JEWISH ACADEMY	21,451.50
TIFERES BNOS	3,135.24
TIFERES BNOS- PRE	3,135.24
YESHIVA AHAVAS TORAH	3,127.57
YESHIVA BAIS UVI	2,958.23
YESHIVA CHOFETZ CHAIM SCHOOL	8,880.73
YESHIVA FARM SETTLEMENT	4,818.96
YESHIVA GEDOLOH OHR YISROEL	7,560.00
YESHIVA KETANA OF BENSONHURST	4,374.00
YESHIVA OF CROWN HEIGHTS	3,608.17
YESHIVA OF KINGS BAY SCHOOL	4,320.00
YESHIVA OHR TORAH	12,534.15
YESHIVA TALPIOT	40,791.99
YESHIVA TORAS CHAIM	3,907.22
YESHIVA TORAS EMES KAMENITZ	3,735.07
YESHIVA YAGDIL TORAH	22,743.00
YESHIVA ZICHRON MAYIR	6,470.82
YESHIVAT MAGEN ABRAHAM	20,740.12
YESHIVAT OHR HATORAH	23,857.26
YESHIVAT SHAAARE RAHAMIM	3,865.54
YESHIVATH VIZNITZ D'KHAL TORATH CHAIM	61,106.73
YESHIVE TORAS EMES D'RADASHITS	3,275.10
Grand Total (62 schools)	\$1,081,198.39