

July 11, 2014

Paul C. Besozzi
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VIA ELECTRONIC FILING

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

Re: Appeal of USAC Notification of Commitment Adjustment in CC Docket No. 02-6 – St. Anthony School (BEN 10583) - Funding Year 2012.

Applicant Name: St. Anthony School
Billed Entity Number: 10583
Funding Year: 2012
FCC Registration Number: 0011992385
Form 471 App. Number(s): 837212, 868057
Funding Request Numbers: 2271725, 2271727 (Form 471# 837212)
2365989 (Form 471 #868057)

Dear Ms. Dortch:

St. Anthony School (“St. Anthony” or “School”), 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 decisions of the Administrator of the Universal Service Administrative Company (“USAC”) seeking to rescind previously-approved and recover previously-disbursed E-Rate Program support funds for Funding Year 2012.²

More specifically, on May 13, 2014, USAC’s Schools and Libraries Division (“SLD”) issued the COMADs, asserting that the School had failed to (a) retain and make available to USAC certain records relating to the competitive bidding process for the referenced FCC Form 471 applications and (b) respond to a request for information from a potential bidder (with respect solely to FRN

¹ 47 C.F.R. §§ 54.719-54.721. St. Anthony was a K-12 elementary school which was one of the Catholic schools in the Archdiocese of New York. St. Anthony was permanently closed by the Archdiocese for financial and other reasons in June of 2013.

² The relevant Notification of Commitment Adjustment Letters, dated May 13, 2014, are attached at Exhibit 1 (“COMADs”). This Appeal is timely filed within sixty (60) days of the date of the COMADs, which, under the Commission’s rules, would be July 12, 2014, a Saturday, thereby permitting filing by Monday, July 14, 2014.

Ms. Marlene H. Dortch

July 11, 2014

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2365989). Therefore, USAC proposes to rescind the E-Rate commitments provided pursuant to the referenced FRNs and seeks recovery in full of the funds disbursed, as well as rescission of undisbursed support.

St. Anthony is aggrieved by the COMADs and the Archdiocese has only recently engaged the undersigned counsel to assist in this matter. Therefore, this Appeal is being timely submitted and the Archdiocese reserves the right to supplement the same with a full discussion of the facts, the School's position and supporting arguments.

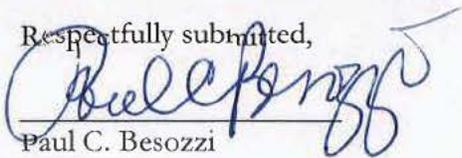
The School intended in good faith to conduct a fair and open competitive bidding process, seeking always to adhere to the relevant FCC rules, including the consideration of all bids submitted. St. Anthony respectfully believes that the relevant FCC Form 470 seeking the Internal Connections and Basic Maintenance Of Internal Connections services provided a reasonably sufficient description under the Commission's rules on which bids could be submitted.

Even if there was a technical violation of the Commission's rules relating to the document retention or competitive bidding process, there is no evidence of any waste, fraud and abuse or deliberate attempt to circumvent the Commission's rules. The E-Rate support approved and disbursed was used for the purpose for which it was approved. Further, the requirement to reimburse the requested funds would be a financial hardship on St. Anthony, which qualified at the 90% discount rate. There is no evidence that the School acted other than in good faith. The Archdiocese respectfully submits that requiring repayment would not further the purpose of preserving and advancing access to universal service support. Under the circumstances, a waiver of any technical rule violation is appropriate and as a result the COMADs should be rescinded.

Finally, as previously noted, St. Anthony was closed by the Archdiocese in June of 2013 for financial and other reasons, so that there is no longer any existing operating applicant from which to recover any amounts disbursed.

Again, the Archdiocese reserves the right to supplement this Appeal with a full discussion of the facts, the School's position and further supporting arguments.

Respectfully submitted,



Paul C. Besozzi

Counsel to Archdiocese of New York and St. Anthony School

Squire Patton Boggs (US) LLP

2550 M Street, NW

Washington, DC 20037

(202) 457-5292

Paul.Besozzi@squirepb.com

cc: Roderick Cassidy, Esquire

EXHIBIT 1



Schools and Libraries Division

Notification of Commitment Adjustment Letter

Funding Year 2012: July 1, 2012 - June 30, 2013

May 13, 2014

Richard Senturia
ST ANTHONY SCHOOL
9666 Olive Blvd.
Suite 215
Olivette, MO 63132 3032

Re: Form 471 Application Number:	837212
Funding Year:	2012
Applicant's Form Identifier:	StAnthonyNY12
Billed Entity Number:	10583
FCC Registration Number:	0011992385
SPIN:	143007246
Service Provider Name:	Cablevision Systems Corporation (Education
Service Provider Contact Person:	Janeen Long-Williams

Our routine review of Schools and Libraries Program (Program) funding commitments has revealed certain applications where funds were committed in violation of Program rules.

In order to be sure that no funds are used in violation of Program rules, the Universal Service Administrative Company (USAC) must now adjust your overall funding commitment. The purpose of this letter is to make the required adjustments to your funding commitment, and to give you an opportunity to appeal this decision. USAC has determined the applicant is responsible for all or some of the violations. Therefore, the applicant is responsible to repay all or some of the funds disbursed in error (if any).

This is NOT a bill. If recovery of disbursed funds is required, the next step in the recovery process is for USAC to issue you a Demand Payment Letter. The balance of the debt will be due within 30 days of that letter. Failure to pay the debt within 30 days from the date of the Demand Payment Letter could result in interest, late payment fees, administrative charges and implementation of the "Red Light Rule." The FCC's Red Light Rule requires USAC to dismiss pending FCC Form 471 applications if the entity responsible for paying the outstanding debt has not paid the debt, or otherwise made satisfactory arrangements to pay the debt within 30 days of the notice provided by USAC. For more information on the Red Light Rule, please see "Red Light Frequently Asked Questions (FAQs)" posted on the FCC website at http://www.fcc.gov/debt_collection/faq.html.

TO APPEAL THIS DECISION:

You have the option of filing an appeal with USAC or directly with the Federal Communications Commission (FCC).

If you wish to appeal the Commitment Adjustment Decision indicated in this letter to USAC your appeal must be received 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 email address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify the date of the Notification of Commitment Adjustment Letter and the Funding Request Number(s) (FRN) you are appealing. Your letter of appeal must include the
 - Billed Entity Name,
 - Form 471 Application Number,
 - Billed Entity Number, and
 - FCC Registration Number (FCC RN) from the top of your letter.
3. When explaining your appeal, copy the language or text from the Notification of Commitment Adjustment Letter that is the subject of your appeal to allow USAC to more readily understand your appeal and respond appropriately. 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 an applicant, please provide a copy of your appeal to the service provider(s) affected by USAC's decision. If you are a 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 us on paper, send your appeal to:

Letter of Appeal
Schools and Libraries Division - Correspondence Unit
100 S. Jefferson Rd.
P. O. Box 902
Whippany, NJ 07981

For more information on submitting an appeal to USAC, please see the "Appeals Procedure" posted on our website.

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 on 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.

FUNDING COMMITMENT ADJUSTMENT REPORT

On the pages following this letter, we have provided a Funding Commitment Adjustment Report (Report) for the Form 471 application cited above. The enclosed Report includes the Funding Request Number(s) from your application for which adjustments are necessary. See the "Guide to USAC Letter Reports" posted at <http://usac.org/sl/tools/reference/guide-usac-letter-reports.aspx> for more information on each of the fields in the Report. USAC is also sending this information to your service provider(s) for informational purposes. If USAC has determined the service provider is also responsible for any rule violation on the FRN(s), a separate letter will be sent to the service provider detailing the necessary service provider action.

Note that if the Funds Disbursed to Date amount is less than the Adjusted Funding Commitment amount, USAC will continue to process properly filed invoices up to the Adjusted Funding Commitment amount. Review the Funding Commitment Adjustment Explanation in the attached Report for an explanation of the reduction to the commitment(s). Please ensure that any invoices that you or your service provider(s) submits to USAC are consistent with Program rules as indicated in the Funding Commitment Adjustment Explanation. If the Funds Disbursed to Date amount exceeds your Adjusted Funding Commitment amount, USAC will have to recover some or all of the disbursed funds. The Report explains the exact amount (if any) the applicant is responsible for repaying.

Schools and Libraries Division
Universal Services Administrative Company

cc: Janeen Long-Williams
Cablevision Systems Corporation (Education Dept)

Funding Commitment Adjustment Report for
Form 471 Application Number: 837212

Funding Request Number: 2271725
Services Ordered: TELCOMM SERVICES
SPIN: 143007246
Service Provider Name: Cablevision Systems Corporation (Educa
Contract Number: MTM
Billing Account Number: # 7188921224
Site Identifier: 10583
Original Funding Commitment: \$4,320.00
Commitment Adjustment Amount: \$4,320.00
Adjusted Funding Commitment: \$0.00
Funds Disbursed to Date \$0.00
Funds to be Recovered from Applicant: \$0.00
Funding Commitment Adjustment Explanation:

After multiple requests for documentation, it has been determined that this funding commitment must be rescinded in full. The applicant failed to produce at the request of the Administrator the following documentation pertaining to its competitive bidding process: copies of bids received and documentation to support the vendor evaluation and selection process. FCC rules require schools and libraries as well as service providers to retain all documents related to the application for, receipt, and delivery of discounted telecommunications and other supported services for at least five years after the last day of service delivered in a particular Funding Year and to produce such records upon a request of an auditor or other authorized representative. FCC rules further provide that a non-compliance with the FCC's recordkeeping and auditing rules by failure to retain records or to make available required documentation is a rule violation that warrants recovery of any disbursed funds for the time period for which the information/documentation is being sought. Since you failed to produce the above specified documentation upon request of an authorized representative, your compliance with competitive bidding requirements could not be determined. As a result, your funding commitment has been rescinded in full.

Funding Request Number:	2271727
Services Ordered:	INTERNET ACCESS
SPIN:	143007246
Service Provider Name:	Cablevision Systems Corporation (Educa
Contract Number:	MTM
Billing Account Number:	# SAS-2011
Site Identifier:	10583
Original Funding Commitment:	\$1,080.00
Commitment Adjustment Amount:	\$1,080.00
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date	\$0.00
Funds to be Recovered from Applicant:	\$0.00
Funding Commitment Adjustment Explanation:	

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Notification of Commitment Adjustment Letter
Funding Year 2012: July 1, 2012 - June 30, 2013

May 13, 2014

Richard Senturia
ST ANTHONY SCHOOL
9666 Olive Blvd.
Suite 215
Olivette, MO 63132 3032

Re: Form 471 Application Number: 868057
Funding Year: 2012
Applicant's Form Identifier: StAnthonyNYP-212
Billed Entity Number: 10583
FCC Registration Number: 0011992385
SPIN: 143005216
Service Provider Name: All County Business Machines Corporation
Service Provider Contact Person: Donald Gallant

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Schools and Libraries Division
Universal Services Administrative Company

cc: Donald Gallant
All County Business Machines Corporation

Funding Commitment Adjustment Report for
Form 471 Application Number: 868057

Funding Request Number: 2365989
Services Ordered: INTERNAL CONNECTIONS MNT
SPIN: 143005216
Service Provider Name: All County Business Machines Corporati
Contract Number: N/A
Billing Account Number:
Site Identifier: 10583
Original Funding Commitment: \$13,050.07
Commitment Adjustment Amount: \$13,050.07
Adjusted Funding Commitment: \$0.00
Funds Disbursed to Date \$13,050.07
Funds to be Recovered from Applicant: \$13,050.07
Funding Commitment Adjustment Explanation:

After multiple requests for documentation, it has been determined that this funding commitment must be rescinded in full. The applicant failed to produce at the request of the Administrator the following documentation pertaining to its competitive bidding process: copies of bids received and documentation to support the vendor evaluation and selection process. FCC rules require schools and libraries as well as service providers to retain all documents related to the application for, receipt, and delivery of discounted telecommunications and other supported services for at least five years after the last day of service delivered in a particular Funding Year and to produce such records upon a request of an auditor or other authorized representative. FCC rules further provide that a non-compliance with the FCCs recordkeeping and auditing rules by failure to retain records or to make available required documentation is a rule violation that warrants recovery of any disbursed funds for the time period for which the information/documentation is being sought. Since you failed to produce the above specified documentation upon request of an authorized representative, your compliance with competitive bidding requirements could not be determined. As a result, your funding commitment has been rescinded in full and USAC will seek recovery of \$13,050.07 from the applicant.

Additionally, USAC received information showing that a potential bidder contacted you within the 28 day bidding window seeking information about your Basic Maintenance of Internal Connections (BMIC) requirements. Documentation provided during review indicates you did not respond to the potential bidder with the information sought. It has been determined that the maintenance services as requested on FCC Form 470# 866220000999492 contains maintenance service descriptions which are insufficiently detailed to allow prospective bidders to provide a bid responsive to the maintenance services which were subsequently requested by the school in FRN 2365989 Since you did not respond with the information sought by the service provider and since the provider would not have been able to provide a responsive bid without the additional information, a fair and open competitive bidding process was inhibited. Since you posted FCC Form 470#866220000999492, which included a request for BMIC, you are obligated to receive and assess all bids and to provide potential service providers with requested information so that they may provide responsive bids. The competitive bidding process is not fair and open, as required by FCC Rules, when you discourage potential bidders from submitting a bid in response to the services requested on the FCC Form 470. Therefore, the applicant has violated the competitive bidding program rules and your funding commitment will be rescinded in full. USAC will seek recovery of any disbursed funds from the applicant.