

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of	)	
	)	
Requests for Review	)	
of the Universal Service Administrator by	)	
	)	
West Virginia Department of Education	)	File No. SLD-459211
Charleston, West Virginia	)	
	)	
Schools and Libraries Universal Service	)	CC Docket No. 02-6
Support Mechanism	)	

**ORDER**

**Adopted: October 14, 2011**

**Released: October 14, 2011**

By the Deputy Chief, Telecommunications Access Policy Division, Wireline Competition Bureau:

1. In this order, we grant the request for review filed by the West Virginia Department of Education (WVDE) on behalf of Summersville Elementary School (Summersville), Summersville, WV, seeking review of a decision by the Universal Service Administrative Company (USAC) denying funding for discounted services under the E-rate program.<sup>1</sup> Consistent with precedent, and based on our review of the record, we find good cause to permit the petitioner to correct the ministerial or clerical error on its service substitution request form.<sup>2</sup>

2. On January 17, 2007, USAC committed \$35,916 in E-rate funding to WVDE on behalf of Summersville, \$29,686 of which was designated for internal wiring.<sup>3</sup> Finding that the school required different wiring than what the petitioner originally requested in its FCC Form 471 Item 21 attachment,<sup>4</sup> WVDE submitted a service substitution request to USAC.<sup>5</sup> Due to a vendor error in filling out the request, however, WVDE mistakenly omitted the wiring from the substitution form, requesting only \$4,670 of services instead of the intended \$34,356.<sup>6</sup> WVDE then filed a corrective substitution request to

<sup>1</sup> See Letter from Steven L. Paine, West Virginia Department of Education, to the Office of the Secretary, Federal Communications Commission, filed Aug. 8, 2008 (WVDE Request for Review). The E-rate program is more formally known as the as the schools and libraries universal service support program.

<sup>2</sup> See, e.g., *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Ann Arbor Public Schools, Ann Arbor, MI, et al.*, File Nos. SLD-542873, et al., CC Docket No. 02-6, 25 FCC Rcd 17319 (Wireline Comp. Bur. 2010) (allowing applicants to fix ministerial and clerical errors, including the omission of a service from a service subscription request).

<sup>3</sup> WVDE Request for Review at 1.

<sup>4</sup> See E-mail from Jack Daugherty, WVDE, to Sarah Lyons, WVDE (dated April 08, 2008).

<sup>5</sup> See Service Substitution Request from Julia Benincosa, WVDE, to USAC, Schools and Libraries Division, at 1.

<sup>6</sup> See WVDE Request for Review at 1; see also Letter from USAC, Schools and Libraries Division, to Julie Benincosa, West Virginia Department of Education, dated November 27, 2007 (First Administrator's Decision on Service Substitution Request); E-mail from Celia Vargo, International Business Machines, to Julia Benincosa, WVDE (dated April 10, 2008).

remedy the \$29,686 in services missing on the first service substitution request.<sup>7</sup> USAC treated the second request as another service substitution and denied the request because it involved an increase in funding.<sup>8</sup>

3. Based on the facts and the circumstances of this specific case, we find good cause to grant WVDE's request for review. We find that the petitioner inadvertently made a ministerial or clerical error while making a request for a service substitution from USAC. We note that the overall amount of funding that WVDE sought in its service substitution requests was no more than the original amount of E-rate funding requested, and thus was not technically in violation of 54.504(d)(2) of the Commission's rules.<sup>9</sup> We therefore grant WVDE's request for review and remand the application to USAC for further processing consistent with this order.

4. ACCORDINGLY, IT IS ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 0.91, 0.291, 1.3 and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3 and 54.722(a), that the request for review filed by the West Virginia Department of Education IS GRANTED and its application IS REMANDED to USAC for further consideration to the extent provided herein.

5. IT IS FURTHER ORDERED, pursuant to section 1.102(b)(1) of the Commission's rules, 47 C.F.R. § 1.102(b)(1), that this order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Gina M. Spade  
Deputy Chief  
Telecommunications Access Policy Division  
Wireline Competition Bureau

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<sup>7</sup> E-mail from Julia Benincosa, WVDE, to USAC, Schools and Libraries Division, filed April 11, 2008 (Corrective Substitution Request).

<sup>8</sup> Letter from USAC, Schools and Libraries Division, to Julie Benincosa, West Virginia Department of Education, dated June 9, 2008 (Second Administrator's Decision on Service Substitution Request). Section 54.504(d)(2) of the Commission's rules states that when a service substitution results in a change in the pre-discount price for the supported service, support shall be based on the lower of either the pre-discount price of the service for which support was originally requested or the pre-discount price of the new, substituted service. 47 C.F.R. § 54.504(d)(2) (2011).

<sup>9</sup> 47 C.F.R. § 54.504(d)(2) (2011).