

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of
Request for Review of a Decision of the
Universal Service Administrator by
Warren Village School
Warren, New Hampshire
Schools and Libraries Universal Service Support
Mechanism
File No. SLD-367385
CC Docket No. 02-6

ORDER

Adopted: January 13, 2011

Released: January 13, 2011

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

I. INTRODUCTION

1. We grant a request for review filed by Warren Village School (Warren) of a decision by the Universal Service Administrative Company (USAC) denying funding under the E-rate program (more formally known as the schools and libraries universal service support program) for funding year 2003. Specifically, USAC interpreted Warren's revision to its two funding requests for telecommunications services (funding request numbers (FRN) 1000541 and 1000553) as part of its FCC Form 471 application for funding year 2003 as a request to cancel FRN 1000541 and improperly increase the dollar amount of FRN 1000553. As discussed below, we find that USAC improperly cancelled FRN 1000541 and should have treated Warren's revisions to its funding requests for telecommunications services as a request to change the service provider associated with FRN 1000541. Accordingly, we reinstate FRN 1000541 as part of Warren's funding year 2003 FCC Form 471 application and remand the underlying application to USAC for processing consistent with this order. To ensure that the underlying application is processed expeditiously, we direct USAC to complete its review and issue an award or denial based on a complete review and analysis no later than 60 calendar days from the release date of this order.

II. BACKGROUND

2. To provide services under the E-rate program, service providers must obtain a service provider identification number (SPIN) from USAC. In certain situations, applicants and service

1 Letter from Carol Smith, Warren Village School, to Office of the Secretary, Federal Communications Commission, CC Docket No. 02-6 (filed Mar. 18, 2004) (Request for Review). Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of USAC may seek review from the Commission. 47 C.F.R. § 54.719(c).

2 See USAC website, Schools and Libraries, Obtain a Service Provider Information Number (Submit FCC Form 498), http://www.usac.org/sl/providers/step01/ (last visited Jan. 12, 2011).

providers can request that USAC change the SPIN associated with one or more of an applicant's funding requests.³ USAC asks applicants seeking a SPIN change to clearly identify whether the change is a "corrective SPIN change" (for example, due to the applicant's data entry error or the service provider's change of name) or an "operational SPIN change" (due to the applicant's voluntary decision to change service providers).⁴ All SPIN change requests must be postmarked or received no later than the last date to submit an invoice.⁵

3. *Request for Review.* In funding year 2003, Warren submitted two funding requests (FRNs 1000541 and 1000553) to USAC for telecommunications services as part of its FCC Form 471 application.⁶ The first funding request (FRN 1000541) was for phone service from Verizon – New Hampshire (Verizon) for approximately \$2,040, and the second funding request (FRN 1000553) was for phone service from Norcom, Inc. for approximately \$828.⁷ On March 18, 2003, USAC issued Warren a receipt acknowledgment letter (RAL) confirming receipt of Warren's funding year 2003 FCC Form 471 application and certification.⁸ Shortly after that, Warren decided to have Norcom handle all of its supported telecommunications services. On April 7, 2003, Warren, via facsimile to USAC, sought to consolidate its funding requests for telecommunications services to be provided by Norcom by striking out its funding request with Verizon and writing "Cancel – Norcom will be handling all phone costs" next to that request, and increasing its funding request with Norcom by \$2,040 (the amount of the funding request previously associated with Verizon).⁹

4. On April 16, 2003, interpreting this correction as an allowable cancellation of the Verizon funding request (FRN 1000541) and an improper request to increase the Norcom funding request (FRN 1000553), USAC cancelled the funding request with Verizon but left the funding request with Norcom unchanged.¹⁰ Upon receipt of the funding commitment decision letter (FCDL) from USAC, Warren contacted USAC to determine why its funding request with Norcom was not increased by \$2,040.¹¹ After Warren explained the reasons for the changes to its funding requests, a USAC employee

³ See USAC website, Schools and Libraries, Service Provider Identification Number (SPIN) Change Guidance, <http://www.universalservice.org/sl/about/changes-corrections/spin-change-guidance.aspx> (last visited Jan. 12, 2011) (SPIN Change Guidance).

⁴ *Id.*

⁵ *Id.*

⁶ See FCC Form 471, Warren Village School (filed Feb. 4, 2003) (FCC Form 471). Warren's FCC Form 471 application for funding year 3003 also included a third funding request (FRN 1000560) for Internet access. See *id.*

⁷ See FCC Form 471. In May 2004, Warren changed the service provider associated with FRN 1000553 from Norcom to BCN Telecom Inc. (BCN) because BCN subsequently acquired Norcom. See Facsimile from Carol Smith, Warren Village School, to USAC, Schools and Libraries Division, at 1 (dated Nov. 12, 2004); Norcom Now BCN Telecom, Phone Plus Magazine, <http://www.phoneplusmag.com/hotnews/43h2395516.html> (last visited Jan. 12, 2011).

⁸ See Letter from USAC, Schools and Libraries Division, to Carol Smith, Warren Village School (dated Mar. 18, 2003).

⁹ See Facsimile from Carol Smith, Warren Village School, to USAC, Schools and Libraries Division, at 6 (dated Apr. 7, 2003) (RAL Amendment).

¹⁰ See Letter from USAC, Schools and Libraries Division, to Carol Smith, Warren Village School (dated Apr. 16, 2003) (Funding Commitment Decision Letter).

¹¹ *Id.*; Request for Review at 1.

suggested to Warren that it had apparently intended to request a SPIN change, *i.e.*, a change in the service provider affiliated with FRN 1000541 but the USAC employee declined to authorize the SPIN change or make any other correction.¹² On July 17, 2003, Warren appealed USAC's FCDL explaining that its revision was intended to add the pre-discounted amount of \$2,040 originally requested for telecommunications services from Verizon to the pre-discounted amount of \$828 originally requested for telecommunications services from Norcom.¹³ On February 29, 2004, USAC denied Warren's appeal stating that Warren could not increase the dollar amount for the funding request with Norcom through the RAL process and that there was no record of USAC receiving a corrective service provider change prior to the funding commitment of this application.¹⁴

5. On March 18, 2004, Warren filed this request for review with the Commission.¹⁵ In its request for review, Warren argues that it was attempting to change the service provider associated with its funding request for telecommunications services.¹⁶ Warren stated that, had USAC notified it that the form of its request was impermissible, it would have conformed its request to E-rate program rules.¹⁷

III. DISCUSSION

6. We grant Warren's request for review. Based on the facts and circumstances of this case, we find that USAC should have contacted Warren before denying FRN 1000541 to resolve any ambiguity in its amended RAL. As indicated above, in certain situations, applicants and service providers can request that USAC change the SPIN associated with one or more of an applicant's funding requests.¹⁸ In this instance, Warren sought to change the service provider associated with one of its funding requests for telecommunications services when indicating that "Norcom will be handling all phone costs," thus transferring \$2,040 in requested funding from FRN 1000541 (the request with Verizon) to FRN 1000553 (the request with Norcom).¹⁹

7. Accordingly, we find that good cause exists to grant this request for review and remand the underlying application to USAC for further processing consistent with this order. Specifically, we direct USAC to reinstate Warren's FRN 1000541 as part of Warren's funding year 2003 FCC Form 471 application and to process Warren's request as a SPIN change.²⁰ USAC shall contact Warren and request any additional documentation necessary to process the SPIN change. In remanding this application to USAC, we make no finding as to the ultimate eligibility of the services or the petitioner's application. To ensure that the underlying application is resolved expeditiously, we direct USAC to complete its review

¹² See Request for Review at 1.

¹³ Letter from Carol Smith, Warren Village School, to USAC, Schools and Libraries Division, at 1 (dated July 17, 2003).

¹⁴ Letter from USAC, Schools and Libraries Division, to Carol Smith, Warren Village School (dated Feb. 19, 2004).

¹⁵ See Request for Review.

¹⁶ Request for Review at 1.

¹⁷ *Id.*

¹⁸ See *supra* para. 4.

¹⁹ See RAL Amendment at 6; Request for Review at 1.

²⁰ See SPIN Change Guidance; *supra* para. 4.

of the underlying application and issue a decision based on a complete review and analysis no later than 60 calendar days from the release date of this order.

IV. ORDERING CLAUSES

8. 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 Warren Village School on March 18, 2004, IS GRANTED and the application is REMANDED to USAC for further consideration consistent with this order.

9. IT IS FURTHER 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, and 54.722(a) of the Commission’s rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Universal Service Administrative Company SHALL REINSTATE Warren Village School’s funding request (funding request number 1000541) as part of its funding year 2003 FCC Form 471 application (application number 367385).

10. IT IS FURTHER 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, and 54.722(a) of the Commission’s rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Universal Service Administrative Company SHALL COMPLETE its review of the underlying remanded application and ISSUE an award or a denial based on a complete review and analysis no later than 60 calendar days from the release date of this order.

FEDERAL COMMUNICATIONS COMMISSION

Gina Spade
Deputy Chief
Telecommunications Access Policy Division
Wireline Competition Bureau