Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of the
Appeal of the Decision of the Universal Service Administrator by the
Spring Cove School District

Federal-State Joint Board on Universal Service
Changes to the Board of Directors of The National Exchange Carrier Association, Inc.

ADDENDUM
Request for Expedited Relief

December 14, 2011

Ms. Marlene H. Dortch
Secretary, Federal Communications Commission
445 12th Street, S.W., Washington, D.C. 20554

This is an appeal from a decision by the Schools and Libraries Division of the USAC.
Enclosed are the original and four copies of the Appeal. An extra copy is also enclosed.
Please time stamp the extra copy and return it to me in the enclosed self addressed-stamped envelope.

(1) Funding Commitment Decision Letter Appealed Exhibit A
Form 471 Application Number: 623265
Funding Year 8: 07/01/2008-06/30/2009
BEN: 125609
Date of Funding Denial Notice: January 5, 2009
Date of Appeal: February 18, 2009

(2) **SLD Contact Information**

Linda Alexander  
Spring Cove School District  
Ste 260-276 00 Chagrin Blvd.  
Cleveland Ohio 44122-4449  
Tel. (216) 514-3336  
Fax. (216) 514-3337

(3) **Funding Request Numbers Appealed**

FRN:1719267 (Web Hosting)

This is a request for permission to add a supplement to an appeal regarding the denial of funding for web hosting services for the Spring Cove School District. The appeal was filed February 18, 2009 for FRN 1719267.

It is in the public interest to review this amendment, as the discussion below will underscore an inconsistency between the ways the Schools and Libraries Division (SLD) and Universal Service Administrative Company (USAC) make eligibility determinations for web hosting.

It will also be apparent from the discussion below that the February 18, 2009 appeal for Spring Cove was filed just before the SLD revealed facts about the methodology the agency uses to determine what percentage of a web hosting service involving applications is eligible versus what portion is ineligible. This revelation can potentially help Spring Cove obtain funding for webhosting for the 2009 E-rate year.
The USAC denied funding for webhosting services for Spring Cove on January 5, 2009. Funding was denied because “30% or more of this FRN includes a request for Ineligible Hosting of Application software for Outreach Module”.

Outreach Module is the name of the web hosting service offered by Schoolnet, Spring Cove’s service provider. Outreach includes bandwidth, disk storage space for applicant provided content, and FTP, the elements that supply the web hosting capability of Schoolnet’s service, as well as the software applications that enable the various features of Outreach.

As stated, the USAC declined to fund Outreach Module as a result of its determination that 30% or more of the Outreach Module service was comprised of software applications.

But the USAC’s determination of what percentage of a web hosting service is attributable to software applications is contradicted by a different determination the SLD made regarding the portion of a web hosting service that is comprised of software.

In an illustration from the Schools and Libraries News Brief, dated April 10, 2009, the SLD determined that only 10-20% of an otherwise ineligible web hosting service was accounted for by software applications. The example is as follows:

“A school subscribes to an online student information system (SIS) for $1000 per month. The application portion of the service was and will remain ineligible. But typically, such a service would also include supporting public or private webhosting capability. As a result, many of the providers of these services had worked out an allocation formula with the SLD making a percentage of the service eligible. Somewhat
surprisingly, this percentage was often as high as 80-90% (or in this example, making $800-900 per month eligible).”

If the web hosting capability underlying web hosting services accounts for 80-90% of such services, how can any web hosting service, such as Outreach Module, be described as being greater than or equal to 30% ineligible?

If an applicant can get ineligible webhosting services 80-90% funded because of the underlying webhosting capability that facilitates the services, isn’t the FCC substantially funding all aspects of webhosting, regardless of the eligibility of various web hosting features?

Would it not be more efficient to simply fund all web hosting services that can be used to facilitate education?

The example above involving student information systems (SIS) suggests that the webhosting capability underlying a web hosting service is responsible for the majority of the web hosting functionality. The example also seems to blur the line between what is eligible and ineligible in the web hosting context.

It seems unfair that some applicants who ask for student information systems (SIS) would be turned down, while others asking for SIS who work out a cost-allocation methodology with the SLD to separate eligible from ineligible web hosting features would be able to get student information systems 80-90% funded based on the underlying web hosting capability that facilitates student information systems. Note that SIS service cannot be greater than or equal to 30% ineligible if 80-90% of an SIS service is accounted for by the eligible web hosting capability that powers the service.
Another situation that seems unfair is one in which an applicant like the Spring Cove School District, who applies for funding to use a web hosting service like Outreach Module, would be completely turned down because the district failed to work out a cost allocation formula with the SLD before applying for funding. Again, as stated above, if 80-90% of a webhosting service is accounted for by the underlying public or private web hosting capability of the service, which is eligible, how can the service be greater than or equal to 30% ineligible, even if the service includes access to software applications?

If, in fact, the eligible webhosting capability of a web hosting service makes up 80-90% of the functionality of the service, then it seems an applicant asking for funding to use webhosting is asking for a package of service that are 80-90% eligible.

On this basis, please reverse the decision of the USAC not to provide web hosting funding for FRN 1719267 for Spring Cove for the 2009 E-rate year. Thank you for your attention.

/S/Nathaniel Hawthorne 
Nathaniel Hawthorne, Attorney/Consultant, Ltd 
Nathaniel Hawthorne 
Natalie Hawthorne 
27600 Chagrin Blvd., Ste. 265 
Cleveland, OH 44122 
tel.: 216/514.4798 
e-mail: nhawthorne@telecomlawyer.com

Attorneys for Spring Cove School District 
Cc: Spring Cove School District