



May 23, 2018

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

RE: Ex Parte Notice in CC Docket No. 02-6, WC Docket No. 13-184

Dear Ms. Dortch:

On May 21, 2018, the following members of the State E-rate Coordinators' Alliance met with James Bachtell, Kate Dumouchel, Aaron Garza and Ryan Palmer of the Telecommunications Access Policy Division (TAPD) of the FCC's Wireline Competition Bureau to discuss E-rate invoice deadline issues for certain funding requests (FRNs): Kimberly Friends (TN), Debra Kriete (SD), Julie Tritt Schell (PA) and Greg Weisiger (NC).

The codification of the invoice deadline, 47 C.F.R. Section 54.514 (a)(1)(2), resulting from the July 23, 2014 Report and Order and Further Notice of Proposed Rulemaking in WC Docket No. 13-184 (FCC 14-99) requires invoices to be submitted no later than 120 days after the last day to receive service, or 120 days after the date of the Form 486 notification letter, whichever is later. The regulation also allows for one 120-day invoice deadline extension provided that the request is submitted on or before the original invoice deadline. Most importantly, the last day to receive service for recurring services is always going to be June 30 or the last day of the funding year.¹ This date is immovable and cannot be extended.²

The invoice regulation does not currently address situations where there is a necessary and timely filed post funding commitment change request for a recurring service FRN that results in the issuance of a revised Funding Commitment Decision Letter (RFCDL) *after* the original invoice deadline. Although the RFCDL is often issued after the original invoice deadline, these recurring service FRNs cannot have the service delivery deadline extended, and therefore, according to the current invoice regulation, their invoice deadline cannot be extended.

Further, some appeals of non-recurring funding requests also are faced with this issue of not having their service delivery deadline extended, because the current regulation only allows for SPIN changes, service substitutions and FCDLs dated after March 1 to receive automatic extensions.³ Thus, these applicants also are in a situation where they cannot submit a valid invoice to USAC and should be included in the solution.

We believe this is a structural issue with unintended consequences not originally contemplated in the July 2014 Order, for which SECA is now seeking immediate relief. Specifically, we propose that applicants and service providers should automatically be granted 120 days from the date of a successful Revised Funding Commitment

¹ § 54.507 (b) and <https://www.usac.org/sl/applicants/before-youre-done/delivery-extension.aspx>: *Recurring services must be delivered during the relevant funding year (July 1 through June 30). There are no extensions available for the installation deadline for recurring services.*

² In contrast, E-rate program rules and practices (as prescribed in FCC orders) state that whenever there is a FCDL, SPIN change or service substitution approval issued after March 1 of the funding year for a non-recurring service FRN, there is an automatic one-year extension of the service delivery deadline. See <https://www.usac.org/sl/applicants/before-youre-done/delivery-extension.aspx>.

³ *Ibid.*

Decision Letter (RFCDL) or the service delivery deadline date, whichever is later, to submit an invoice to USAC. The RFCDL process is a relatively new process by which all post-commitment requests are now communicated, including appeals, and thus it would be a standardized process from which to initiate automatic invoice deadline extensions. This is consistent with the current regulation with respect to Form 486 notification letters and is consistent with the manner in which the FCC grants relief in their appeal decisions.⁴

Further, SECA does not believe that applicants should be required to submit invoice deadline extension requests in order to qualify for the proposed RFCDL-based invoice deadline. Applicants that submit post-commitment requests should not have the burden of submitting yet another form simply to qualify for the ability to receive their funding should their post-commitment request be successful – another form for which USAC must expend administrative resources to process. To impose such a requirement would be a new ‘gotcha’ and be in direct conflict with the Commission’s goal of program simplification.

In addition to all current and future-affected FRNs, we also request relief for any FY 2016 recurring service FRN(s) or any non-recurring service FRNs on appeal, for which an RFCDL was issued after the original invoice deadline, regardless of whether a timely request to extend the invoice deadline had been submitted.

Whatever solution is ultimately decided, we request that it be straight-forward and simple, apply to both current and future-affected FRNs, not include an added requirement of requesting an invoice deadline extension in order to qualify, and be a single rule that is easily and consistently administered for both recurring and non-recurring FRNs.

Respectfully submitted,

/s/ Debra M. Kriete, Esq.

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⁴ See, e.g., Requests for Review and/or Waiver of Decisions of the Universal Service Administrator by Sweetwater City Schools et al., File Nos. 917099, 919406, et al., CC Docket No. 02-6, DA 16-1465, Order released December 30, 2016 at n.66 and paragraph 35; Request for Waiver by Puerto Rico Department of Education San Juan, PR, File Nos. SLD-918308, et al., CC Docket No. 02-6, DA 14-1732, Order released December 2, 2014 at paragraph 10.