

## E-Rate Central News for the Week of April 24, 2017

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## Funding Status – FY 2016

Wave 43 for FY 2016 was released last Thursday, April 20<sup>th</sup> for a total of \$20.8 million. There was no funding for North Carolina in this wave. Cumulative national funding through Wave 43 is \$2.45 billion, including \$98.1 million for North Carolina. Wave 44 is scheduled to be released on Thursday, April 27<sup>th</sup>.

## Special Construction Inquisition, cont.:

Last week’s [newsletter of April 17<sup>th</sup>](#) discussed a series of questions sent to applicants who filed for special construction of lit, dark, or self-provisioned fiber. Our concerns remain. USAC, presumably at the direction of the FCC, is stating that the questions being asked are consistent with both the FCC’s 2<sup>nd</sup> E-rate Modernization Order and USAC training/outreach. USAC’s outreach template focuses on the statement, “E-rate funding is only available for eligible schools, libraries and consortia made up of eligible schools and libraries, to purchase eligible services that will be used for an eligible educational purpose.”

USAC is seeking to discover all entities that may utilize the fiber. However, USAC appears to be conflating issues as it relates to special construction. The answer to this question is drastically different when comparing self-provisioned fiber to leased lit or leased dark fiber. Applicants seeking self-provisioned fiber will likely be able to answer this question easily. As the owner of the fiber, the applicant is in full control over who is or is not receiving the benefit of the fiber being installed.

On the other hand, for leased lit fiber or leased dark fiber, the service provider retains ownership of the infrastructure. Applicants do not know, nor care, who the service provider may or may not serve if they add non E-rate funded connections off of a fiber run (laterals). Applicants have been able to seek one-time charges for special construction (prior to the coining of the term special construction) since the beginning of the program. Clarification has been requested to

determine if USAC is requiring cost-allocations limited to just the excess strands and any costs for the connections for laterals or if USAC is expecting a pro-rata cost-allocation for the special construction charges themselves. In 1999, the FCC officially recognized that service providers include facility costs in their rates to customers as part of their business practice which the FCC deemed acceptable. The [FCC Order DA 99-216](#) commonly called the “Tennessee Order” cites:

“We recognize that all service providers include within their prices to customers some amount of the cost of building facilities to provide the service. Indeed, by way of analogy, we have allowed common carriers to include within their rates to customers, some amount of the cost of the facilities used to provide such services to customers. Similarly, we would expect ENA to include at least some portion of the cost of the facilities used to provide Internet access service in its rates to Tennessee. Therefore, because we expect Internet access service providers to include some portion of the cost of facilities used to provide Internet access service within the charges for providing Internet access service, and because our rules do not otherwise specifically prohibit support to Internet access service as provided by ENA (as explained below), we cannot, at this time, find that the costs of the underlying facilities to be built by ENA to provide Internet access service to Tennessee should be excluded from ENA's charges for providing Internet access service.”

Requiring applicants to itemize potential vendor customers is a major change in policy. Applicants have little to no control over facilities that they do not own, even if they are paying installation/special construction costs. USAC’s outreach template states these additional questions are asked to help the reviewers understand applicant’s specific situation, however the tone and content of the questions foreshadow at a minimum cost allocations of not just the fibers but also of the special construction.

Additionally, USAC appears to be seeking the cost of any fibers not lit in the funding year in which special construction was requested. As a frame of reference, the typical applicant is likely to only light one or two pair of fiber strands to serve their needs but will often install the industry standard of 12-strands. It is more challenging and in some cases more expensive for applicants to procure 2-strand fiber because 2-strand fiber generally requires custom production since requests for 2-strand fiber deviates from the industry’s norm. USAC previously gave unofficial guidance that because 12 strands of fiber are less expensive than two strands of fiber that no cost allocation is necessary since the most cost-effective solution was chosen. This latest inquiry sent seems to indicate otherwise.

Vested stakeholders appear to share the same concern especially with USAC’s current implementation of issuing these questions. While stakeholders may not like the new rules going forward, applying new rules and/or procedures retroactively is troublesome. It is especially problematical when applied to projects USAC has previously approved.

## **Updates on USAC’s E-Rate Productivity Center and Legacy System**

### *RFCDLs and Other EPC Updates:*

Our [newsletter of April 17<sup>th</sup>](#) discussed the first release of the Revised Funding Commitment Decision Letters (“RFCDLs”) for FY 2016. In last week’s newsletter we stated that early in the week USAC was planning on implementing an update to populate RFCDL information within the Funding Status Tool (FST) for FY 2016 applications. These updates have not yet been implemented. We will alert you as soon as we hear of the revised release timeline.

*Invoice Deadline Extension Approvals Sent in Error:*

Within the past two weeks, USAC has issued Invoice Deadline Extension Letters to several applicants indicating that their FY 2015 one-time invoice deadline extensions were granted and the deadline was extended to April 19th. Many of these letters appeared to be erroneous because the funding requests had already been fully invoiced. On April 20<sup>th</sup>, USAC emailed those affected recipients stating the extension was sent in error.



**Please Read: An Invoice Deadline Extension Was Sent in Error**

April 20, 2017

Dear Applicant:

You are getting this message because you recently received an email from **deadlines@sl.universalservice.org** stating that an invoice deadline extension request you filed under the E-rate Program had been approved. The email also includes a list of Funding Request Numbers (FRNs).

Please disregard this email in its entirety. The email was generated automatically in error due to a system issue and we were not able to stop or recall the message.

If you have any questions, please call our Customer Service Bureau at 888-201-8100.

We apologize for any inconvenience.

Sincerely,

The Schools and Libraries (E-rate) Program  
Universal Service Administrative Company

[Chairman Pai Letter to USAC:](#)

On April 18<sup>th</sup>, Chairman Pai wrote a [letter](#) to the CEO of USAC, Chris Henderson about the state of affairs at USAC. Chairman Pai restated from a four year old speech that he believes “E-Rate is a program worth fighting for.” Chairman Pai then itemized a series of what he termed “serious flaws” with regard to USAC’s administration of the E-rate program. Those flaws focused around technical EPC issues, grossly exceeding EPC’s original estimated cost, and a lack of transparency with the FCC. Chairman Pai seeks USACs commitment to:

1. Focus on the administration of E-rate
2. Be fully transparent with and accountable to the Commission
3. Identify alternative options to assist applicants even in the event of IT failures.

The Chairman seeks USAC’s response with a plan to address these issues by May 18, 2017.

## **E-Rate Updates and Reminders**

### *Upcoming 2017 E-Rate Deadlines:*

April 27            Form 486 deadline for FY 2016 funding committed in Wave 27. More generally, the Form 486 deadline is 120 days from the FCDL date or the service start date (often July 1<sup>st</sup>), whichever is later. This means that Form 486 deadlines for funding commitments received in later waves will follow at roughly one week intervals, including the following May deadlines:

Wave 28	05/04/2017
Wave 29	05/09/2017
Wave 30	05/19/2017

Applicants missing these (or earlier) deadlines should watch carefully for “Form 486 Urgent Reminder Letters” (actually emails directing the applicants to EPC News Feed items). The Reminders will afford applicants with 15-day extensions from the date of the emails to submit their Form 486s without penalty.

April 27            USAC to host a webinar on Navigating the Form 471 Filing Process at 1:00 p.m. EDT.

May 11             Last day of the Form 471 filing window for FY 2017. The window closes at 11:59 p.m. EDT.

## **USAC News Brief Dated April 21 – Competitive Bidding Reminders**

[USAC’s Schools and Libraries News Brief of April 21, 2017](#), discusses how to file for Special Construction Deadline Extension Requests (SCDER).

In order to request the one-year extension of the FY 2016 special construction deadline to light fiber (June 30, 2017), an applicant must complete a [new USAC template](#) for requesting the SCDER and be able to certify one of the following reasons:

- USAC issued your FCDL after February 2017 and special construction did not begin until you received the FCDL;

- USAC has not yet issued your FCDL and special construction has not yet begun;
- USAC has not yet issued your FCDL and you opted to commence special construction, but that work began after February 2017; or
- A detailed explanation of why construction for your project has been unavoidably delayed and the June 30 deadline to light the fiber cannot be met despite receiving an FCDL and/or commencing special construction in February 2017 or earlier.

Note: This guidance appears to supersede [previous USAC guidance](#) to file a Form 500 to seek an extension of the special construction deadline.

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*Newsletter information and disclaimer: This newsletter may contain unofficial information on prospective E-rate developments and/or may reflect E-Rate Central's own interpretations of E-rate practices and regulations. Such information is provided for planning and guidance purposes only. It is not meant, in any way, to supplant official announcements and instructions provided by the SLD, FCC, or NCDPI.*

*Additional North Carolina specific E-rate information is available through our Web site — <http://www.e-ratecentral.com/us/stateInformation.asp?state=NC>. Note that this site provides easy access to formatted North Carolina applicant E-rate histories via the Billed Entity Number (“BEN”) search mechanism in the upper left-hand corner. Detailed information can be obtained by “drilling down” using the links for specific funding years and individual FRNs.*

*For further information, follow E-Rate Central on Twitter, Facebook, and LinkedIn.*   

*If you have received this newsletter from a colleague and you would like to receive your own copy of the North Carolina E-Rate Forum, send an email to [join-ncerate@lists.dpi.state.nc.us](mailto:join-ncerate@lists.dpi.state.nc.us). Please include your name, organization, telephone, and e-mail address.*

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