



COMMISSION ISSUES E-RATE DECISION  
REGARDING USE OF AN INCORRECT SPIN

May, 2007

In *Brewster Academy*, the Commission granted 27 appeals of decisions by the Universal Service Administrative Company (“USAC”) which had denied funding on the ground that the requests for telecommunications service were from providers that do not provide telecommunications on a common carrier basis.

Only “telecommunications carriers” are allowed to receive direct reimbursement under the universal service support mechanism for the provision of discounted telecommunications services. The term “telecommunications carrier” is defined to mean only carriers that offer telecommunications on a common carrier basis. In general, a common carrier is a carrier that holds itself out “to service indifferently to all potential users.” Conversely, a carrier whose practice is to make individualized decisions in particular cases whether and on what terms to serve is not deemed to be a common carrier.

The petitioners asserted that they sought service from providers that are common carriers, but inadvertently used incorrect Service Provider Information Numbers (“SPIN”) for those providers, giving the appearance that they were seeking telecommunications service from non-common carriers. The Commission found that the evidence supported these contentions.

For example, it found that in some cases, the applicant sought service from a large carrier or provider but used a SPIN for a division of that company that was not providing service on a common carrier basis. It found that some applicants had been given incorrect SPINS by the service providers or state agencies. Others may have had trouble looking up the provider’s SPIN on USAC’s website database while others were under the incorrect impression that they were required to use the SPIN of a state agency or other consortium administering their E-rate services, instead of the SPIN of the service provider.

The Commission granted the appeals and remanded the underlying applications to USAC for it to determine whether the applications would have been granted had the correct SPIN been used.

The Commission noted that this action was a departure from its prior decisions denying SPIN correction requests after a USAC denial of funding. It previously held that to allow post-denial SPIN corrections would eliminate any incentive for applicants to avoid including ineligible expenses or ineligible providers in their funding requests, significantly increasing the administrative burden on USAC.

The new policy is based on the Commission’s *Bishop Perry* decision, which permits correction of clerical, ministerial or procedural errors. More specifically, the Commission found that use of an incorrect SPIN for a service provider that is otherwise eligible to provide telecommunications is a clerical, ministerial or procedural error under *Bishop Perry* and that the complete rejection of such applications is not warranted.

**Please contact Mark Palchick (202/857-4411) or Howard Barr (202/857-4506) if you have any questions regarding this advisory.**