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FCC Continues to Grant Appeals for E-Rate Denials Based on “Clerical or Ministerial Errors”

The Federal Communications Commission (“Commission”) recently granted the appeal of a decision by the Universal Service Administrative Company (“USAC”) denying funding for an application in which four FRNs had been inadvertently omitted from a deadline extension request for installation of non-recurring services by Hemet Unified School District (“Hemet”). In order to receive an extension of the deadline for installation of one-time, non-recurring services, the applicant must have either (1) had its funding commitment decision letter issued on or after March 1 of the relevant funding year; (2) received a service provider change or substitution authorization on or after March 1 for the relevant funding year; (3) learned that, due to reasons beyond its service provider’s control, its service provider would be unable to complete implementation; or (4) learned that its service provider is unwilling to complete installation because funding disbursements were delayed pending a USAC investigation. Hemet timely requested an extension from USAC based on delays in installation beyond its service provider’s control, but inadvertently omitted four FRNs from its request. When it learned of the mistake after the extension request deadline, Hemet sent a letter explaining the error to USAC. USAC denied the extension for the four omitted FRNs, anyway.

The Commission found that, had Hemet’s request for an extension for the four omitted FRNs been timely, it would have been granted on the merits, and that this error was a clerical error sufficiently similar to those in the *Bishop Perry Order* to warrant a waiver of USAC’s procedural rules. Like the applicants of the *Bishop Perry Order*, the Commission found that Hemet had demonstrated in its appeal that rigid adherence to filing procedures in Hemet’s circumstances did not further the purposes of section 254(h) of the Commission’s rules. This case is just the latest in a long line of appeals granted by the Commission where applicants can show their denials resulted from a ministerial or clerical error.

If you have any questions regarding the content of this Client Alert, please contact [Sarah Miller](#), or any member of the firm’s [Communications Law Group](#).

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