

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of
Petition for Reconsideration of a
Decision of the
Wireline Competition Bureau by
State of Arkansas Department of Information Systems
Little Rock, Arkansas
Federal-State Joint Board on
Universal Service
File No. SLD-666699
CC Docket No. 96-45

ORDER

Adopted: September 8, 2011

Released: September 8, 2011

By the Deputy Chief, Telecommunications Access Policy Division, Wireline Competition Bureau:

1. In this order, we reconsider a decision by the Wireline Competition Bureau (Bureau) and grant a petition for reconsideration filed by the State of Arkansas Department of Information Systems, Little Rock, Arkansas (Arkansas). Arkansas seeks review of a July 27, 2011 decision denying its appeal on procedural grounds after finding that the petitioner failed to submit its E-rate program appeal to USAC within 60 days of the decision, as required by the Commission's rules. Arkansas initially sought relief from a denial of funding after it inadvertently listed the wrong service start date on its FCC Form 486, making it appear as though its services were performed before the authorized start date.

2. In the Boston Renaissance Order, the Bureau denied Arkansas's appeal after finding that the petitioner failed to submit its appeal to USAC within 60 days of the FCC Form 486 Notification Letter.

1 Letter from Becky Rains, Strategic Funding Program Manager, State of Arkansas Department of Information Systems, to Office of the Secretary, Federal Communications Commission, CC Docket No. 02-6, filed Aug. 22, 2011 (Petition for Reconsideration). Section 1.106(b)(1) of the Commission's rules provides that any person whose interests are adversely affected by an action taken by the Commission or its designated authority may seek reconsideration. 47 C.F.R. § 1.106(b)(1) (2011).

2 47 C.F.R. § 54.720 (2011); Requests for Review and/or Requests for Waiver of Decisions of the Universal Service Administrator by Boston Renaissance School, et al., Schools and Libraries Universal Service Support Mechanism, File Nos. SLD- 735147, et al., CC Docket No. 02-6, Order, DA 11-1240 (Wireline Comp. Bur. rel. July 27, 2011) (Boston Renaissance Order) (denying 50 appeals on the grounds that the petitioners failed to submit their appeals either to the Commission or to USAC within 60 days as required by Commission rules). The E-rate program is more formally known as the schools and libraries universal service support program.

3 Letter from Becky Rains, Strategic Funding Program Manager, State of Arkansas Department of Information Systems, to Office of the Secretary, Federal Communications Commission, CC Docket No. 02-6, filed March 28, 2011 (Request for Review).

4 The FCC Form 486 Notification Letter confirmed that Arkansas had filed its FCC Form 486 and indicated that Arkansas's service start date had been accepted. Letter from Schools and Libraries Division, Universal Service (continued...)

We now reconsider that decision. Although Arkansas failed to submit its appeal within 60 days of the FCC Form 486 Notification Letter, it did file its appeal within 60 days of receiving the FCC Form 472 (BEAR) Notification Letter which gave actual notice of the funding denial.<sup>5</sup> We therefore grant Arkansas's appeal because we find it filed its appeal within 60 days of receiving notice of USAC's adverse decision.<sup>6</sup>

3. Consistent with the Wireline Competition Bureau's (Bureau) decision in the *Barrow County School District Order*,<sup>7</sup> we also grant Arkansas's appeal on the merits. As the Bureau found in the *Barrow County School District Order*, minor mistakes such as listing the wrong service start date information on an FCC Form 486 do not warrant the complete rejection of an application given that the applicant made a procedural error and did not violate a Commission rule.<sup>8</sup> Therefore, we find good cause to grant the appeal and remand the underlying application to USAC for further action consistent with this order.

4. ACCORDINGLY, IT IS ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), the Petition for Reconsideration filed by the State of Arkansas Department of Information Systems, Little Rock, Arkansas, IS GRANTED and the application IS REMANDED to USAC for further consideration in accordance with the terms of this order.

(Continued from previous page) \_\_\_\_\_

Administrative Company, to Becky Rains, State of Arkansas Department of Information Systems, dated Oct. 27, 2010 (FCC Form 486 Notification Letter).

<sup>5</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to Becky Rains, State of Arkansas Department of Information Systems, dated Jan. 11, 2011 (FCC Form 472 (BEAR) Notification Letter) (explaining that no funding would be reimbursed because the billed date was before the FCC Form 486 service start date).

<sup>6</sup> Arkansas filed its appeal with USAC 23 days after the date on the FCC Form 472 (BEAR) Notification Letter.

<sup>7</sup> *Request for Review and/or Waiver of Decisions of the Universal Service Administrator by Barrow County School District, Ellijay, Georgia, et al., Schools and Libraries Universal Service Support Mechanism*, File No. SLD-Nos. 681012, et al., CC Docket No. 02-6, Order, 26 FCC Rcd 4028 (Wireline Comp. Bur. 2011) (*Barrow County School District Order*) (finding good cause to grant appeals when applicants inadvertently listed the wrong service start date on their FCC Forms 486).

<sup>8</sup> *Id.* at 4028, para. 2.

5. IT IS FURTHER ORDERED, pursuant to sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 54.722(a), that USAC SHALL COMPLETE its review of the underlying application and ISSUE an award or a denial based on a complete review and analysis no later than 60 calendar days from the release date of this order.

FEDERAL COMMUNICATIONS COMMISSION

Gina M. Spade  
Deputy Chief  
Telecommunications Access Policy Division  
Wireline Competition Bureau