

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of
Requests for Review of the Decision of the
Universal Service Administrator by
Lancaster School District
Lancaster, Pennsylvania
Schools and Libraries Universal Service
Support Mechanism
File No. SLD-483438
CC Docket No. 02-6

ORDER

Adopted: April 27, 2011

Released: April 27, 2011

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

1. We grant an appeal filed by Lancaster School District, Lancaster, Pennsylvania (Lancaster), seeking an extension of the services delivery implementation deadline for non-recurring services under the E-rate program for funding year 2005. The services delivery implementation deadline requires applicants to use the funded services within the funding year, except that the Commission's rules give applicants three additional months (until September 30 following the close of the relevant funding year) to install one-time services known as non-recurring services. A request for an extension must be submitted to the Universal Service Administrative Company (USAC) on or before the September 30 deadline.

1 The E-rate program is more formally known as the schools and libraries universal service program.

2 See Request for Review by Lancaster School District, to Federal Communications Commission, CC Docket No. 02-6 (filed Mar. 31, 2008) (Request for Review). Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of USAC may seek review from the Commission. 47 C.F.R. § 54.719(c).

3 See 47 C.F.R. § 54.507(d); Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, 16 FCC Rcd 13510, 13512, para. 7 (2001) (Implementation Extension Order). An applicant may request an extension of this deadline under certain circumstances. See USAC website, Schools and Libraries, Service Delivery Deadlines and Extension Requests, http://www.universalservice.org/sl/applicants/step11/service-deadlines-extension-requests.aspx (last visited Dec. 2, 2010) (Service Delivery Deadlines and Extension Requests); Implementation Extension Order, 16 FCC Rcd at 13514, para. 15.

4 See Service Delivery Deadlines and Extension Requests; Implementation Extension Order, 16 FCC Rcd at 13514, para. 15.

2. On January 17, 2007, USAC approved Lancaster's request for non-recurring services.⁵ According to Lancaster, the non-recurring services were not completely installed during the following summer months when classes were out of session due to the unexpected scale of the project.⁶ As a result, the remaining installation took longer than planned because work could only be done on weekends and after school hours and Lancaster had to request an extension of time.⁷ On October 5, 2007, Lancaster submitted a service implementation deadline request, five days after the deadline.⁸ USAC denied the implementation request as untimely on January 2, 2008.⁹

3. We find that the circumstances that delayed installation of Lancaster's non-recurring services satisfy the criteria in the Commission's rules that the service provider was unable to complete implementation for reasons beyond its control.¹⁰ Consistent with precedent, and based on our review of the record, we also find that Lancaster attempted in good faith to comply with Commission rules in a timely manner in seeking an extension of the deadline for non-recurring services.¹¹ Therefore, to the extent that Lancaster violated section 54.507(d) of the Commission's rules, we find that good cause exists to waive this rule.¹² We also direct the USAC to waive any associated invoice filing deadlines and any other procedural deadlines that were missed while these issues were on appeal with the Commission.¹³

⁵ Letter from USAC, Schools and Libraries Division, to Debra Kriete, Lancaster School District (dated Jan. 17, 2007) (Funding Commitment Decision Letter).

⁶ Request for Review at 5.

⁷ *Id.*

⁸ E-mail from Debra Kriete, Lancaster School District, to SLD Client Service Bureau (Oct. 5, 2007) (Deadline Extension Request).

⁹ Letter from USAC, Schools and Libraries Division, to Debra Kriete, Lancaster School District (dated Jan. 2, 2008) (Administrator's Decision on Implementation Extension Request).

¹⁰ 47 C.F.R. § 54.507(d)(3); *see also Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 16 FCC Rcd 13510 at 13513, para. 12 (*Permanent Extension Order*); and *Request for Review of the Decision of the Universal Administrator by Tekoa Academy of Accelerated Studies*, File No. SLD-242830, CC Docket No. 02-6, Order, 23 FCC Rcd 15456, 15458, para. 6 (Wireline Comp. Bur. 2008) (*Tekoa Academy Order*).

¹¹ *See Request for Waiver of the Decision of the Universal Service Administrator by Great Rivers Education Cooperative and I-K Electric Company*, File No. SLD-371294, CC Docket No. 02-6, Order, 21 FCC Rcd 14115 (Wireline Comp. Bur. 2006) (*Great Rivers Order*); *Tekoa Academy Order*, 23 FCC Rcd 15456 (both orders finding that applicants attempted in good faith to comply in a timely manner in seeking an extension of the deadline for non-recurring services by filing an FCC Form 500 rather than in the proper format of an extension request); *see also Request for Waiver of Section 54.507(d) of the Commission's Rules by Harvest Preparatory School*, File No. SLD-486149, CC Docket No. 02-6, Order, 25 FCC Rcd 5501 (Wireline Comp. Bur. May 20, 2010) (granting waiver of USAC's procedural deadline for five funding requests left off an applicant's request for an extension of the deadline for non-recurring services).

¹² *See* 47 C.F.R. § 54.507(d) (2009). We also grant Lancaster a waiver of our filing deadline for appeals because we find it submitted its appeal to the Commission within a reasonable period of time. *See* 47 C.F.R. § 54.720. Lancaster learned of the denial on March 14, 2008 and filed the instant request for review March 31, 2008. Request for Review at 3. Lancaster filed its appeal with the Commission within 60 days of actual notice of USAC's adverse decision.

¹³ *See, e.g.*, USAC website, Schools and Libraries, Invoice Deadlines and Extension Requests, <http://www.usac.org/sl/applicants/step11/invoice-deadlines-extension-requests.aspx> (last visited Jan. 4, 2011).

4. ACCORDINGLY, IT IS ORDERED, 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 1.3 and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 1.3 and 54.722(a), that the appeal filed by Lancaster School District, Lancaster, Pennsylvania, IS GRANTED and the underlying application IS REMANDED to USAC for further consideration to the extent provided herein.

5. IT IS FURTHER ORDERED, 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 section 1.3 of the Commission's rules, 47 C.F.R. § 1.3, that sections 54.507(d) and 54.720 of the Commission's rules, 47 C.F.R. § 54.507(d), 54.720, ARE WAIVED to the extent provided herein.

6. IT IS FURTHER ORDERED, 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, that USAC SHALL COMPLETE its review of the remanded 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