

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Request for Review of a Decision of the Universal Service Administrator by)	
)	
La Poynor Independent School District LaRue, Texas)	File No. SLD-773707
)	
Schools and Libraries Universal Service Support Mechanism)	CC Docket No. 02-6
)	

ORDER

Adopted: July 23, 2012

Released: July 23, 2012

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

1. Consistent with precedent,¹ we grant a request from the LaPoynor Independent School District (LaPoynor ISD) seeking review of a decision made by the Universal Service Administrative Company (USAC) under the E-rate program (more formally known as the schools and libraries universal service support program).² USAC denied LaPoynor ISD's application because it found that LaPoynor ISD sought cancellation of its funding requests. Based on our review of the record, we find that LaPoynor ISD has demonstrated that good cause exists to grant its request because LaPoynor did not intend to cancel its entire application but rather just one of its funding requests.³ We also waive,⁴ for

¹ *Requests for Review of Decisions of the Universal Service Administrator by Joseph Jingoli & Son, Inc., et al., Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-475364, et al., CC Docket No. 02-6, Order, 22 FCC Rcd 19227 (Wireline Comp. Bur. 2007) (granting petitioners' appeals after finding that minor mistakes do not warrant the complete rejection of the petitioners' applications); *Requests for Review and/or Waiver of Decisions of the Universal Service Administrator by Baker Hall School, et al., Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-596432, et al., CC Docket No. 02-6, Order, 25 FCC Rcd 17534 (Wireline Comp. Bur. 2010) (granting petitioners' appeals consistent with the *Joseph Jingoli Order*).

² Letter from Donna Crook, LaPoynor Independent School District, to Office of the Secretary, Federal Communications Commission, CC Docket No. 02-6 (filed Nov. 10, 2011) (LaPoynor ISD 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 LaPoynor ISD states that it inadvertently canceled what it thought was only one funding request number (FRN), FRN 2099215, on its FCC Form 471 application number 773707 and did not realize it had actually canceled its entire FCC Form 471 application. See LaPoynor ISD Request for Review at 1.

⁴ Generally, the Commission's rules may be waived if good cause is shown. 47 C.F.R. § 1.3. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*). In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir.

LaPoynor ISD, section 54.720 of the Commission's rules which requires applicants to seek review of a USAC decision within 60 days, because we find that LaPoynor ISD submitted its appeal within a reasonable period of time after receiving actual notice of USAC's adverse decision.⁵ We also find that at this time there is no evidence of waste, fraud and abuse in the record.

2. We therefore remand the LaPoynor ISD's underlying application to USAC for further action consistent with this order. To ensure that the application is resolved expeditiously, we direct USAC to complete its review of the application and issue a funding commitment or denial based on a complete review and analysis no later than 90 calendar days from the release date of this order. In remanding this application to USAC, we make no finding as to the ultimate eligibility of the services or the petitioner's application.

3. 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 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), that the requests for review filed by LaPoynor Independent School District, LaRue, Texas IS GRANTED and its underlying application IS REMANDED to USAC for further consideration in accordance with the terms of this order.

4. 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 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), that section 54.720 of the Commission's rules, 47 C.F.R. § 54.720, IS WAIVED for LaPoynor Independent School District, LaRue, Texas.

FEDERAL COMMUNICATIONS COMMISSION

Trent B. Harkrader
Chief
Telecommunications Access Policy Division
Wireline Competition Bureau

1969); *Northeast Cellular*, 897 F.2d at 1166. Waiver of the Commission's rules is appropriate only if both (i) special circumstances warrant a deviation from the general rule, and (ii) such deviation will serve the public interest. *NetworkIP, LLC v. FCC*, 548 F.3d 116, 125-128 (D.C. Cir. 2008); *Northeast Cellular*, 897 F.2d at 1166.

⁵ See 47 C.F.R. § 54.720; *Requests for Review and/or Waiver of Decisions of the Universal Service Administrator by ABC Unified School District, et al., Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-584091, *et al.*, CC Docket No. 02-6, Order, 26 FCC Rcd 11019 (Wireline Comp. Bur. 2011) (granting petitioners waivers of our filing deadline for appeals because they submitted their appeals to the Commission within a reasonable period of time after receiving actual notice of USAC's adverse decision). Based on the record, LaPoynor received its funding commitment decision letter during the summer break but filed an appeal as soon as the school session began in the fall. See Letter from USAC, Schools and Libraries Division, to Donna Crook, LaPoynor Independent School District (dated June 23, 2011).