

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Requests for Waiver and Review of)	
Decisions of the)	
Universal Service Administrator by)	
)	
Annette Island School District)	File Nos. SLD-746414, <i>et al.</i>
Juneau, Alaska, <i>et al.</i>)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

ORDER

Adopted: October 17, 2012

Released: October 17, 2012

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

1. Consistent with precedent,¹ we grant 14 requests from petitioners² seeking review of decisions 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).³ In each case, USAC denied or reduced funding because it found that the applicant failed to timely submit its FCC Form 486. Based on the facts and circumstances of these specific cases, we find that good cause exists to grant these appeals.⁴ On our own motion, we also waive section 54.507(d) of the Commission's rules, and direct USAC to waive any procedural deadlines, such as the invoicing deadline, that might be necessary

¹ See *Request for Review of the Decision of the Universal Service Administrator by Alaska Gateway School District, Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-412028, *et al.*, CC Docket No. 02-6, Order, 21 FCC Rcd 10182 (Wireline Comp. Bur. 2006) (granting 128 appeals after finding good cause to waive the deadline for filing FCC Form 486). See also *Requests for Review and Waiver of the Decisions of the Universal Service Administrator by Albertville City Schools, et al., Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-739495, *et al.*, CC Docket No. 02-6, Order, 27 FCC Rcd 6094 (Wireline Comp. Bur. 2012) (granting 12 appeals after finding good cause to waive the deadline for filing FCC Form 486).

² The requests for waiver and review are listed in the appendix.

³ 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).

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. 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.

to effectuate our ruling.⁵ We find good cause to waive section 54.507(d) because filing an appeal of a denial of funding is likely to cause petitioners to miss the program's subsequent procedural deadlines in that funding year. Consistent with precedent, we also waive section 54.720 of the Commission's rules, which requires applicants to seek review of a USAC decision within 60 days, for Cardinal Mooney High School, which submitted its appeal to the Commission only a few days late.⁶

2. We therefore remand the applications listed in the appendix to USAC for further action consistent with this order. To ensure that those applications are resolved expeditiously, we direct USAC to complete its review of each application listed in the appendix, 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 these applications to USAC, we make no finding as to the ultimate eligibility of the services or as to the petitioners' applications.

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 or requests for waiver listed in the appendix ARE GRANTED and those applications ARE 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 sections 54.507(d) and 54.720 of the Commission's rules, 47 C.F.R. §§ 54.507(d) and 54.720, ARE WAIVED for the petitioners listed in the appendix to the limited extent provided herein.

FEDERAL COMMUNICATIONS COMMISSION

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

⁵ 47 C.F.R. § 54.507(d) (requiring non-recurring services to be implemented by September 30 following the close of the funding year).

⁶ See *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, Order, 26 FCC Rcd 11019, 11019, para. 2 (Wireline Comp. Bur. 2011) (granting a waiver of filing deadline for an appeal because it was submitted to the Commission only a few days late).

APPENDIX

Petitioner	Application Number(s)	Funding Year	Date Request for Review/Waiver Filed
Annette Island School District Metlakatla, Alaska	746414	2010	Jul. 10, 2012
Antigo School District Antigo, Wisconsin	735567	2010	May 24, 2012
Auburn City School District Auburn, Alabama	622008, 658591	2008, 2009	Apr. 4, 2012
Austin Area School District Austin, Pennsylvania	812299	2011	Aug. 10, 2012
Cardinal Mooney High School Youngstown, Ohio	820997	2011	Sept. 26, 2012
Cleveland City School District Cleveland, Ohio	768082	2010	Sept. 20, 2012
Harmony Emge School District 75 Belleville, Illinois	722967	2010	Aug. 17, 2012
Haverhill School District Haverhill, Massachusetts	800329	2011	Sept. 12, 2012
Holy Family School Bronx, New York	768790	2010	Aug. 13, 2012
Lincoln-King Academy Detroit, Michigan	799706, 803834	2011	Jul. 25, 2012
Salem Central School District Salem, New York	749795	2010	Jun. 18, 2012
Montgomery County Intermediate Unit Norristown, Pennsylvania	788227	2011	Sept. 19, 2012
Washington-Parks Academy Redford, Michigan	799728	2011	Aug. 6, 2012
Waterloo Community Unit School District 5 Waterloo, Illinois	809100	2011	Sept. 5, 2012