

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

In the Matter of)	
)	
Requests for Review and/or Waiver of Decisions)	
of the Universal Service Administrator by)	
)	
Audubon Regional Library)	File Nos. SLD-808396, <i>et al.</i>
Clinton, Louisiana, <i>et al.</i>)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

ORDER

Adopted: October 23, 2012

Released: October 23, 2012

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

1. Consistent with precedent,¹ we grant four 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 based on the service start date information provided on the FCC Form 486 submitted by the applicants. The applicants affected by the USAC decisions state that they inadvertently submitted the incorrect service start date when filing FCC Form 486.⁴ Based on our review of the record, we find that good cause exists to grant these requests.⁵

¹ *Request for Review and/or Waiver of the Decision of the Universal Service Administrator by Glendale Unified School District, Schools and Libraries Universal Service Support Mechanism*, File No. SLD-143548, CC Docket No. 02-6, Order, 21 FCC Rcd 1040 (Wireline Comp. Bur. 2006); *Request for Review and/or Waiver of Decisions of the Universal Service Administrator by Barrow County School District, Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-681012, CC Docket No. 02-6, Order, 26 FCC Rcd 4028 (Wireline Comp. Bur. 2011) (both orders grant requests for review from applicants who inadvertently listed the wrong service start date on their FCC Forms 486).

² The requests for review and/or waiver 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 Audubon Regional Library (Audubon) Request for Waiver at 1, Jefferson Parish School District Request for Review at 2, Nashua School District Request for Review at 2, and St. Mary's High School Request for Waiver at 2.

⁵ 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)

(continued...)

2. 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 to effectuate our ruling.⁶ 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,⁷ 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 Audubon because we find that Audubon submitted its appeal to the Commission only two days late.⁸

3. We therefore remand the underlying applications listed in the appendix to USAC for further action consistent with this order. To ensure that those underlying 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 the petitioners' applications.

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 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 request for waiver filed by the petitioners as listed in the appendix ARE GRANTED and their underlying applications ARE REMANDED to USAC for further consideration in accordance with the terms of this order.

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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.

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

⁷ *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).

⁸ See 47 C.F.R. § 54.720.

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 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

APPENDIX

Applicant	Application Number	Funding Year	Date Appeal Filed
Audubon Regional Library Clinton, Louisiana	808396	2011	Aug. 21, 2012
Jefferson Parish School District Marrero, Louisiana	737965	2010	Dec. 19, 2011
Nashua School District Nashua, New Hampshire	523501	2006	Mar. 20, 2009
St. Mary's High School Phoenix, Arizona	748102	2010	Jul. 9, 2012