

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

In the Matter of)	
)	
Requests for Waiver and/or Review of)	
Decisions of the)	
Universal Service Administrator by)	
)	
Electronic Classroom of Tomorrow)	File Nos. SLD-791983, <i>et al.</i>
Columbus, Ohio, <i>et al.</i>)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

ORDER

Adopted: December 6, 2012

Released: December 6, 2012

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

1. Consistent with precedent,¹ we grant six 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 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

¹ See *Requests for Review and Waiver of the Decisions of the Universal Service Administrator by Alaska Gateway School District, et al., 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 Waiver and Review 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). See also *Requests for Waiver and Review of the Decisions of the Universal Service Administrator by Annette Island School District, et al., Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-746414, *et al.*, CC Docket No. 02-6, Order, 27 FCC Rcd 13114 (Wireline Comp. Bur. 2012) (granting 14 appeals after finding good cause to waive the deadline for filing FCC Form 486).

² The requests for 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

USAC to waive any procedural deadlines, such as the invoicing deadline, that might be necessary 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.

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 waiver and/or review 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 section 54.507(d) of the Commission's rules, 47 C.F.R. § 54.507(d), IS 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

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.

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).

APPENDIX

Petitioner	Application Number(s)	Funding Year	Date Request for Review/Waiver Filed
Electronic Classroom of Tomorrow Columbus, Ohio	791983	2011	Nov. 13, 2012
Lee County School District Opelika, Alabama	737297, 743466	2010	Sept. 30, 2012
New Mexico School for the Deaf Santa Fe, New Mexico	822110	2011	Oct. 23, 2012
Prairie Heights Community School Corporation LaGrange, Indiana	792923	2011	Nov. 6, 2012
South Conejos School District RE-10 Antonito, Colorado	811170	2011	Oct. 15, 2012
South Valley Prep School Albuquerque, New Mexico	816149	2011	Nov. 5, 2012