

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

In the Matter of)	
)	
Requests for Review and/or Waiver of Decisions of the Universal Service Administrator by)	
)	
Bluford Drew Jemison Stem Academy-East, 334 Baltimore, Maryland, <i>et al.</i>)	File Nos. SLD-821132, <i>et al.</i>
)	
Schools and Libraries Universal Service Support Mechanism)	CC Docket No. 02-6
)	
)	

ORDER

Adopted: December 18, 2012

Released: December 18, 2012

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

1. Consistent with precedent,¹ we grant three 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 funding because it found that the applicant failed to respond to its request for additional information within the USAC-specified time frame. Based on our review of the record, we find that good cause exists to direct USAC to give the applicants another opportunity to respond to USAC’s requests for further information. Consistent with precedent,⁴ we also find that good cause exists to waive, for Lake

¹ *Requests for Review of the Decisions of the Universal Service Administrator by Alpaugh Unified School District, et al.*, File Nos. SLD-523576, et al., CC Docket No. 02-6, Order, 22 FCC Rcd 6035 (2007) (granting 78 appeals of applicants that had been denied funding because they failed to respond to USAC’s request for information within the USAC-specified time frame); *Requests for Review and/or Requests for Waiver of Decisions of the Universal Service Administrator by Imagine College Preparatory High School, et al.*, File Nos. SLD-752453, et al., CC Docket No. 02-6, Order, 27 FCC Rcd 5895 (Wireline Comp. Bur. 2012) (granting five appeals of applicants that had been denied funding because they failed to respond to USAC’s request for information within the USAC-specified time frame).

² The requests for review that are granted by this order 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 *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, et al., CC Docket No. 02-6, Order, 26 FCC Rcd 11019, para. 2 (Wireline Comp. Bur. 2011) (granting petitioners waivers of our filing deadline for appeals because they submitted their appeals to the Commission only a few days late).

Grove School (Lake Grove), section 54.720(a) of the Commission's rules,⁵ which requires applicants to seek review of a USAC decision within 60 days, because we find Lake Grove filed its appeal only two days late.⁶

2. We therefore remand the underlying applications listed in the Appendix to USAC for further action consistent with this order. To ensure that the underlying applications are resolved expeditiously, we direct USAC to complete its review of the submitted documentation related to each application and issue a funding commitment or denial based on a complete review and analysis no later than 90 calendar days from its receipt of the submitted documentation. In remanding these applications to USAC, we make no finding as to the ultimate eligibility of the services or 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 and/or waiver filed by the petitioners listed in the Appendix ARE GRANTED and their underlying applications listed in the Appendix ARE REMANDED to USAC for further consideration in accordance with the terms of this order.

⁵ 47 C.F.R. § 54.720(a) (requiring appeals to be filed within 60 days of a decision by USAC).

⁶ 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. *WALT 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.

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(a) of the Commission's rules, 47 C.F.R. § 54.720(a), IS WAIVED for Lake Grove School, Lake Grove, New York.

FEDERAL COMMUNICATIONS COMMISSION

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

APPENDIX

List of Petitioners

Petitioner	Application Number(s)	Funding Year	Date Request for Review/Waiver Filed
Bluford Drew Jemison Stem Academy-East, 334 Baltimore, Maryland	821132	2011	Aug. 21, 2012
Lake Grove School Lake Grove, New York	743344	2010	Nov. 12, 2012
Washington County School District Sandersville, Georgia	872592, 872875, 873222	2012	Oct. 31, 2012