

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)
Al-Ihsan Academy) File No. SLD-196013, et al.
South Ozone Park, NY, et al.)
Schools and Libraries Universal Service) CC Docket No. 02-6
Support Mechanism)

ORDER

Adopted: February 22, 2012

Released: February 22, 2012

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

1. Consistent with precedent,1 we grant one and deny 16 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 decision, USAC found that petitioners violated Commission rules by failing to pay the non-discounted portion of the price of the services that they purchased under the E-rate program.4 Based on our review of the record, we find that one petitioner paid the required portion of the purchase price. We direct USAC to discontinue its recovery actions against Fairfield County School District and return the \$268,668 it previously recovered. In addition, we find that the other 16 petitioners did not pay their portion of the purchase price. We find that these 16 petitioners also did not demonstrate that good cause exists to justify a waiver of section 54.523 of the Commission's rules.5

1 See Request for Review of the Decision of the Universal Service Administrator by IOSCO Regional Educational Service Agency, Schools and Libraries Universal Service Support Mechanism, File Nos. SLD-108653, et al., CC Docket No. 02-6, Order, 24 FCC Rcd 12735 (Wireline Comp. Bur. 2009).

2 See appendices A & B.

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 47 C.F.R. § 54.523; Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9036, para. 493 (1997) (subsequent history omitted); Schools and Libraries Universal Service Support Mechanism, Third Report and Order and Second Further Notice of Proposed Rulemaking, CC Docket No. 02-6, 18 FCC Rcd 26912, 26929, para. 41 (2003); Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Fifth Report and Order and Order, 19 FCC Rcd 15808, 15816, para. 24 (2004).

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.

2. 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), the request for review or request for waiver filed by Fairfield County School District IS GRANTED and its underlying application IS REMANDED to USAC for further consideration in accordance with the terms of this order.

3. 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), the requests for review or requests for waiver filed by the petitioners listed in appendix B ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Gina M. Spade
Deputy 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.

**APPENDIX A
Request for Waiver or Review Granted**

Petitioner	Application Number	Funding Year	Date Appeal Filed
Fairfield County School District Winnsboro, SC	172053	2000	Feb. 27, 2006

**APPENDIX B
Requests for Waiver or Review Denied**

Petitioner	Application Number	Funding Year	Date Appeal Filed
Al-Ihsan Academy South Ozone Park, NY	196013	2000	Jan. 24, 2005
AMI Electrical & Telecom, Inc. (Elk Hills Elementary School District Tupman, CA)	345033	2003	Nov. 10, 2004
Cathedral Preparatory Academy Perth Amboy, New Jersey	308946	2003	July 2, 2007
Dell Marketing, LP (St. Joseph High School (see below))	170343	2000	Sept. 18, 2006
Entre Computer Solutions (The Mill Rockford, IL)	416090	2004	Apr. 25, 2011
Garvey Elementary School District Rosemead, CA	366564	2003	July 12, 2007
Mastermind Internet Services, Inc. Indianola, OK	147340	1999	Dec. 12, 2003
The Mill School Baltimore, MD	172470, 186031	2000	Feb. 15, 2005
New Way Learning Center Chicago, IL	463107	2005	May 20, 2009
New Way Learning Center Chicago, IL	523966	2006	May 20, 2009
St. Elizabeth School Chicago, IL	188132	2000	Apr. 15, 2005
St. Joseph High School Frederiksted, St. Croix, Virgin Islands	170343	2000	Dec. 21, 2006
St. Mary's Catholic School Christiansted, St. Croix, Virgin Islands	170197	2000	Jan. 4, 2007
St. Patrick Elementary School Frederiksted, St. Croix, Virgin Islands	170405	2000	Mar. 28, 2007
Salinas City Elementary School District Salinas, CA	546537	2007	Mar. 23, 2011
Tift County School District Tifton, GA	550520	2007	Feb. 22, 2011