

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)
Laurens County School District) File Nos. SLD-653454, et al.
Clinton, South Carolina, 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 deny 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 decision, USAC found violations of the Commission’s competitive bidding requirements. Based on our review of the record, we find that the petitioners violated sections 54.503 and 54.511 of the Commission’s competitive bidding rules because they did not seek competitive bids for the services for which they were requesting E-rate support, they failed to demonstrate that price was the primary factor considered in their

¹ See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9029, para. 481 (1997) (subsequent history omitted); Federal-State Joint Board on Universal Service, Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charge, CC Docket Nos. 96-45, 96-262, 94-1, 91-213, and 95-72, Report and Order and Fourth Order on Reconsideration, 13 FCC Rcd 5318, 5452-53, para. 233 (1997); See Request for Review by Ysleta Independent School District of the Decision of the Universal Service Administrator, CC Docket Nos. 96-45, 97-21, Order, 18 FCC Rcd 26407 (2003); Request for Review of the Decision of the Universal Service Administrator by Academia Discipulos de Cristo Bayamon, Puerto Rico, et al., Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Order, 21 FCC Rcd 9210 (Wireline Comp. Bur. 2006); Request for Review of the Decision of the Universal Service Administrator by Colorado City Unified School District, et al., Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Order, 26 FCC Rcd 8630 (Wireline Comp. Bur. 2008).

² The requests for review and 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).

competitive bidding process, or they did not conduct a fair and open competitive bidding process.⁴ We further find that the petitioners have not demonstrated that good cause exists to waive the requirements.⁵

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 requests for review or requests for waiver filed by the petitioners listed in the appendix ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Gina M. Spade
Deputy Chief
Telecommunications Access Policy Division
Wireline Competition Bureau

⁴ See 47 C.F.R. §§ 54.504, 54.511 (2002) amended by 47 C.F.R. §§ 54.503, 54.511 (2011).

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) 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

Petitioner	Application Number(s)	Funding Year	Date Request for Review/Waiver Filed
Laurens County School District Clinton, SC	653454	2009	July 28, 2010
	652073	2009	July 28, 2010
	653451	2009	July 28, 2010
	653453	2009	July 28, 2010
Meadow Independent School District Meadow, TX	517646	2006	Dec. 8, 2010
	517588	2006	Dec. 8, 2010
	517666	2006	Dec. 8, 2010
	514727	2006	Dec. 8, 2010
	517659	2006	Dec. 8, 2010
Network Konnection, Inc. Rockville, MD	486732	2005	June 18, 2007
Texas Youth Commission Austin, TX	327048	2002	Oct. 4, 2006