

**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	)	
	)	
Beebe Public Schools	)	File Nos. SLD-756808, <i>et al.</i>
Beebe, Arkansas, <i>et al.</i>	)	
	)	
Schools and Libraries Universal Service	)	CC Docket No. 02-6
Support Mechanism	)	

**ORDER**

**Adopted: April 12, 2012**

**Released: April 12, 2012**

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

1. Consistent with precedent,<sup>1</sup> we grant eight requests from petitioners<sup>2</sup> 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).<sup>3</sup> In each case, USAC denied or reduced funding because it found that the applicants failed to timely submit its FCC Form 486. Based on our review of the record, we find that the eight petitioners have demonstrated that good cause exists to justify a waiver of USAC's filing deadline for the FCC Form 486.<sup>4</sup> On our own motion, we also waive section 54.507(d) of the Commission's rules and any USAC procedural deadlines,

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<sup>1</sup> See *Request for Review of the Decision of the Universal Service Administrator by Alaska Gateway School District, 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) (*Alaska Gateway Order*). See also *Requests for Review and/or Waiver of the Decisions of the Universal Service Administrator by Archdiocese of Chicago School, et al., Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-766468, *et al.*, CC Docket No. 02-6, Order, 27 FCC Rcd 200 (Wireline Comp. Bur. 2012).

<sup>2</sup> The requests for waiver and review are listed in the appendix.

<sup>3</sup> 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).

<sup>4</sup> 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.

such as the invoicing deadline, that might be necessary to effectuate our ruling.<sup>5</sup> 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,<sup>6</sup> we also waive section 54.720 of the Commission's rules for Clarendon County School District because we find they submitted their appeal to the Commission within a reasonable period of time after receiving actual notice of USAC's adverse decision.<sup>7</sup>

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 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.

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), the requests for review or requests for waiver filed by the petitioners 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.

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 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 Harkrader  
Chief  
Telecommunications Access Policy Division  
Wireline Competition Bureau

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<sup>5</sup> 47 C.F.R. § 54.507(d) (requiring non-recurring services to be implemented by September 30 following the close of the funding year).

<sup>6</sup> *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 petitioners waivers of our filing deadline for appeals because they submitted their appeals to the Commission within a reasonable period of time after receiving actual notice of USAC's adverse decision).

<sup>7</sup> See 47 C.F.R. § 54.720. Clarendon County School District filed its appeal six days after receiving actual notice of the denial.

## APPENDIX

<b>Petitioner</b>	<b>Application Number(s)</b>	<b>Funding Year</b>	<b>Date Request for Review/Waiver Filed</b>
Beebe Public Schools Beebe, Arkansas	756808	2010	Dec. 9, 2011
Clarendon County School District Turbeville, South Carolina	754578	2010	Jan. 23, 2011
Eastern North Carolina School for the Deaf Wilson, North Carolina	738115	2010	Nov. 28, 2011
Gallatin Public Library Gallatin, Tennessee	811395	2011	Jan. 11, 2012
Gavin School District 37 Ingleside, Illinois	810745, 811063	2011	Feb. 2, 2012
Leflore County School District Greenwood, Mississippi	772411	2011	Jan. 12, 2012
Montcalm Area Intermediate School District Stanton, Michigan	235755	2001	Jan. 9, 2007
Talmud Torah D'Nitra Brooklyn, New York	765098, 767013	2010	Dec. 22, 2011