

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)
Albertville City Schools) File Nos. SLD-739495, et al.
Albertville, Alabama, et al.)
Schools and Libraries Universal Service) CC Docket No. 02-6
Support Mechanism)

ORDER

Adopted: June 7, 2012

Released: June 7, 2012

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

1. Consistent with precedent,1 we grant 12 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 or reduced funding because it found that the applicant failed to timely submit its FCC Form 486. Based on our review of the record, we find that the 12 petitioners have demonstrated that good cause exists to justify a waiver of USAC’s filing deadline for the FCC Form 486.4 On our own motion,

1 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) (granting 128 appeals after finding good cause to waive USAC’s deadline for filing FCC Form 486). 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) (granting 22 appeals after finding good cause to waive USAC’s deadline for filing FCC Form 486).

2 The requests for waiver and 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 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.

we also waive section 54.507(d) of the Commission's rules and any USAC 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. Consistent with precedent,⁶ we also waive section 54.720 of the Commission's rules, which requires applicants to seek review of a USAC decision within 60 days, for Lakeview Local Schools because we find they submitted their appeal to the Commission only three days late.⁷

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 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 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 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 B. Harkrader
Chief
Telecommunications Access Policy Division
Wireline Competition Bureau

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).

⁶ *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 a waiver of our filing deadline for an appeal because it was submitted to the Commission only a few days late).

⁷ See 47 C.F.R. § 54.720.

APPENDIX

Petitioner	Application Number(s)	Funding Year	Date Request for Review/Waiver Filed
Albertville City Schools Albertville, Alabama	739495	2010	Apr. 10, 2012
Autauga County Board of Education Prattville, Alabama	684791	2009	Apr. 11, 2012
Benson Unified School District Benson, Arizona	473356	2005	Apr. 2, 2012
Choctaw County Board of Education Butler, Alabama	634943	2008	Apr. 16, 2012
Coosa County Board of Education Rockford, Alabama	594190, 708987, 749148	2008, 2010	Apr. 11, 2012
Hoover City Schools Hoover, Arizona	694705	2009	Apr. 19, 2012
Jackson County Board of Education Scottsboro, Alabama	746813	2010	Apr. 19, 2012
Lakeview Local Schools Cortland, Ohio	750208	2010	May 18, 2012
Maritime Academy Charter School Philadelphia, Pennsylvania	549685	2007	Apr. 10, 2012
Roswell Independent School District Roswell, New Mexico	780928	2011	Apr. 19, 2012
Selma City Schools Selma, Alabama	633580, 687564, 766822, 767016	2008, 2009, 2010	Apr. 9, 2012
Wakefield Country Day School Flint Hill, Virginia	744944	2010	May 24, 2012