

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

In the Matter of)
Requests for Review of Decisions of the Universal)
Service Administrator by)
Deer Creek Independent School District) File Nos. SLD-873159 et al.
Edmond, Oklahoma et al.)
Schools and Libraries Universal Service Support) CC Docket No. 02-6
Mechanism)

ORDER

Adopted: May 16, 2013

Released: May 16, 2013

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

1. Consistent with precedent,1 we grant 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 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

1 Requests for Review of the Decisions of the Universal Service Administrator by Alpaugh Unified School District et al., Schools and Libraries Universal Service Support Mechanism, 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 Waiver of Decisions of the Universal Service Administrator by Bluford Drew Jemison Stem Academy-East, 334 et al., File Nos. SLD-821132 et al., CC Docket No. 02-6, Order, 27 FCC Rcd 15779 (Wireline Comp. Bur. 2012) (granting three 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 are listed in the Appendix. School District Unit 46 sought review of USAC decisions relating to FCC Form 471 Application Numbers 848128 and 848130. In this order, we grant School District Unit 46's appeal with respect to FCC Form 848128. We addressed School District Unit 46's FCC Form 471 Application Number 848130 in a separate Order; see Requests for Review or Waiver of Decisions of the Universal Service Administrator by Carbondale School District 95 et al., File Nos. SLD-810113 et al., CC Docket No. 02-6, Order, 28 FCC Rcd 1291 (Wireline Comp. Bur. 2013)

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).

further information.⁴ Consistent with precedent,⁵ we also find that good cause exists to waive, for St. Paul City School (St. Paul), section 54.720(a) of the Commission's rules,⁶ which requires applicants to seek review of a USAC decision within 60 days, because we find St. Paul filed its appeal within a reasonable amount of time once it received USAC's decision letter.⁷

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 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.

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. *Northeast Cellular*, 897 F.2d at 1166.

⁵ 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 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).

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

⁷ 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. *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 St. Paul City School, St. Paul, Minnesota.

FEDERAL COMMUNICATIONS COMMISSION

Kimberly A. Scardino
Chief
Telecommunications Access Policy Division
Wireline Competition Bureau

APPENDIX

Petitioner	Application Number(s)	Funding Year	Date Request for Review/Waiver Filed
Deer Creek Independent School District Edmond, Oklahoma	873159	2012	Dec. 27, 2012
School District Unit 46 Elgin, Illinois	848128	2012	Jan. 4, 2013
Robertson County School District Mount Olivet, Kentucky	857511	2012	Apr. 5, 2013
St. Paul City School St. Paul, Minnesota	855208, 855209	2012	Feb. 5, 2013