

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 )
Bright Star Schools Consortium ) File Nos. SLD-831422 et al.
Los Angeles, California et al. )
Schools and Libraries Universal Service ) CC Docket No. 02-6
Support Mechanism )

ORDER

Adopted: August 2, 2013

Released: August 2, 2013

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

1. Consistent with precedent,1 we grant ten requests from petitioners listed in the Appendix (petitioners or applicants)2 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 Based on our review of the record, we find that USAC denied the applicants identified in the Appendix their requested discount for E-rate funding without sufficient opportunity to provide evidence to support their eligibility for the discount rate they requested. Therefore, we find that good cause exists to grant the requests for review and remand them back to USAC for further processing.4 Upon remand, USAC shall provide these petitioners with a limited 15-day opportunity to file additional documentation to support their calculations of the correct discount rates. Also consistent with precedent, we direct USAC to accept information already provided by some of the applicants, that USAC had deemed late.5

2. On our own motion, 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

1 See Requests for Review of the Decision of the Universal Service Administrator by Academia Claret, Puerto Rico et al.; Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Order, 21 FCC Rcd 10703 (Wireline Comp. Bur. 2006) (Academia Claret Order); Requests for Waiver and Review of Decisions of the Universal Service Administrator by Aberdeen School District 5 et al.; Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Order, 27 FCC Rcd 2152 (Wireline Comp. Bur. 2012) (Aberdeen Discount Order).

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 See Appendix.

5 See Academia Claret Order, 21 FCC Rcd at 10709, para. 14; Aberdeen Discount Order, 27 FCC Rcd at 2152, para. 1.

ruling.<sup>6</sup> We find good cause to waive section 54.507(d) because filing an appeal of a denial is likely to cause petitioners to miss the program's subsequent procedural deadlines in that funding year.

3. Accordingly, we 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 an award or a denial based on a complete review and analysis no later than 120 calendar days from the receipt of the requested information. In remanding these applications to USAC, we make no finding as to the ultimate eligibility of the services or as to the petitioners' applications.

4. 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 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.

5. 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 54.507(d) of the Commission's rules, 47 C.F.R. § 54.507(d), IS WAIVED for the petitioners listed in the Appendix to the limited extent provided herein.

FEDERAL COMMUNICATIONS COMMISSION

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

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<sup>6</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). 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.

## APPENDIX

## Appeals Granted and Remanded for Limited Opportunity to Provide Supporting Documentation

Petitioner	Application Number	Funding Year	Date Request for Review/Waiver Filed
Bright Star Schools Consortium Los Angeles, CA	831422	2012	Apr. 2, 2013
Cuba School District Cuba, NM	801508	2011	May 30, 2012
Gan Torah of Louisville Louisville, KY	819314	2011	Oct. 10, 2012
Gestalt Community Schools Memphis, TN	840119	2012	May 13, 2013
Hennepin Elementary School Minneapolis, MN	862628	2012	Dec. 13, 2012
Mesivta of Lakewood Lakewood, NJ	820775	2011	Jun. 14, 2012
Minneapolis College Preparatory School Minneapolis, MN	855799	2012	Dec. 10, 2012
Minneapolis College Preparatory School Minneapolis, MN	855756	2012	Mar. 26, 2013
Minneapolis College Preparatory School Minneapolis, MN	861206	2012	Mar. 29, 2013
Wakisha Charter School Philadelphia, PA	812439	2011	Apr. 1, 2013 Aug. 28, 2012