

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)
Requests for Waiver and/or Review of)
Decisions of the)
Universal Service Administrator by)
Academy Charter School et al.) File Nos. SLD-688812 et al.
Pittsburgh, Pennsylvania)
Schools and Libraries Universal Service) CC Docket No. 02-6
Support Mechanism)

ORDER

Adopted: August 27, 2013

Released: August 27, 2013

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

1. Consistent with precedent,1 we grant 34 requests from petitioners2 seeking waiver and/or 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 found that the petitioners failed to secure timely extensions of the deadlines for services implementation, as required by section 54.507(d) of the Commissions' rules,4 and of the deadlines for invoice submission. Based on our review of the record, we find that the petitioners were unable to complete implementation on time for reasons beyond the service provider's control, one of the criteria required by the rule for an extension of services implementation, and subsequently failed to timely file a substitution request.5 In all cases, we find the petitioners made significant efforts to secure the necessary extensions. Furthermore, there is no evidence of waste, fraud and abuse in the record at this time.

1 Request for Waiver of the Decision of the Universal Service Administrator by Great Rivers Education Cooperative and I-K Electric Company, CC Docket No. 02-6, Order, 21 FCC Rcd 14115 (Wireline Comp. Bur. 2006); Request for Review of the Decision of the Universal Administrator by Tekoa Academy of Accelerated Studies, CC Docket No. 02-6, Order, 23 FCC Rcd 15456, 15458, para. 5 (Wireline Comp. Bur. 2008); Request for Waiver and Review of the Decision of the Universal Service Administrator by Annette Islands School District, CC Docket No. 02-6, Order, 27 FCC Rcd 2209 (Wireline Comp. Bur. 2012) (all three orders granting extensions of the services implementation deadline notwithstanding petitioners having failed to timely request such extensions from USAC, in circumstances where the petitioners were either unable to complete implementation on time for reasons beyond their control or they failed to do so because of clerical error).

2 The requests for waiver and/or 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 47 C.F.R. § 54.507(d) (requires non-recurring services to be implemented by September 30 following the close of the funding year). A request for an extension must be submitted to USAC on or before the September 30 deadline. See USAC, Service Delivery Deadlines and Extension Requests, http://www.usac.org/sl/applicants/before-youre-done/delivery-extension.aspx (last visited Aug, 6, 2013).

5 See 47 C.F.R. § 54.507(d)(3).

2. Therefore, we grant the petitioners' requests and waive section 54.507(d) of the Commission's rules and any USAC procedural deadline that might be necessary to effectuate our ruling.⁶

3. 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 invoices related to each application and issue an award or a denial based on a complete review and analysis no later than 90 calendar days from its receipt of the submitted invoices. In remanding these applications to USAC, we make no finding as to the ultimate eligibility of the services requested or 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 and/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

⁶ 47 C.F.R. § 54.507(d). 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

| Petitioner | Application Number(s) | Funding Year(s) | Date Request for Review/Waiver Filed |
|--|------------------------------|------------------------|---|
| Academy Charter School Pittsburgh, PA | 688812 | 2009 | Apr. 1, 2011 |
| Atlantic City Schools Atlantic City, NJ | 745229 | 2010 | May 20, 2013 |
| Atlantic County Library Mays Landing, NJ | 684752 | 2009 | Nov. 16, 2011 |
| Carsonville—Port Sanilac Carsonville, MI | 761844 | 2010 | Jan. 3, 2010 |
| City of Baker School System Baton Rouge, LA | 751360 | 2010 | Mar. 20, 2012 |
| Communications Product, Inc. (Chapelwood Elementary School) Belleville, MI | 759426 | 2010 | Mar. 19, 2012 |
| Coosa County School District Rockford, AL | 759883 | 2010 | Feb. 12, 2013 |
| Empowerment Academy Washington, DC | 767063 | 2010 | May 18, 2012 |
| Fayette County School Corporation Connersville, IN | 803283 | 2011 | May 1, 2013 |
| Gilmore Memorial Pre-School Montgomery Village, MD | 687399 | 2009 | June 10, 2013 |
| Halifax County School District Halifax, NC | 531965 | 2006 | Sept. 9, 2009 |
| Imagine Indiana Life Sciences Academy East Indianapolis, IN | 813433 | 2011 | May 1, 2013 |
| Imagine Schools on Broadway Fort Wayne, IN | 813466 | 2011 | May 1, 2013 |
| Information Referral Resource Assistance, Inc. McAllen, TX | 249067 | 2001 | Oct. 24, 2011 |
| Jackson District Library Jackson, MI | 597711 | 2008 | July 5, 2012 |
| Jackson Public School District Jackson, MS | 636392 | 2008 | Aug. 19, 2011 |
| Kiamichi Area Vo-Tech District Wilburton, OK | 750552 | 2010 | Sept. 5, 2012 |
| Knox County Schools Knoxville, TN | 742486 | 2010 | Feb. 15, 2013 |
| Leake & Watts Services, Inc. Yonkers, NY | 737864 | 2010 | July 18, 2013 |
| Lee County School District Bishopville, SC | 504624, 504625 | 2006 | Jan. 24, 2013 |
| Lotus Academy Philadelphia, PA | 755676 | 2010 | Mar. 19, 2012 |
| Newburgh Enlarged City SD Garden City, NY | 697048 | 2009 | Apr. 2, 2012 |

| Petitioner | Application Number(s) | Funding Year(s) | Date Request for Review/Waiver Filed |
|---|------------------------------|------------------------|---|
| Orange County School District Orlando, FL | 684088 | 2009 | July 30, 2012 |
| Phoenix Partnership HS Tucson, AZ | 753085 | 2010 | Mar. 8, 2012 |
| Pima Partnership Charter Schools Tucson, AZ | 741910 | 2010 | Mar. 8, 2012 |
| Pine Hill School Pine Hill, New Mexico | 688488 | 2009 | July 16, 2013 |
| Presidio Networked Solutions, Inc. (St. Lucie County School District, FL) Fort Pierce, FL | 660708, 661154, 661567 | 2009 | Dec. 21, 2011 |
| Pueblo City School District 60 Pueblo, CO | 692445, 687279 | 2009 | Aug. 19, 2011 |
| Sampson County School District Clinton, NC | 736558, 737287, 737583 | 2010 | May 22, 2012 |
| SC School for the Deaf and the Blind Spartanburg, SC | 691088 | 2009 | June 3, 2011 |
| Summit Academy Herman, PA | 607521 | 2008 | Apr. 6, 2011 |
| The New School for Enterprise & Development Washington, DC | 432434, 379856 | 2003, 2004 | Dec. 30, 2010 |
| Truebright Science Academy Charter School Philadelphia, PA | 685031 | 2009 | Feb. 24, 2012 |
| Wasco Union High School District Wasco, CA | 684433 | 2009 | Dec. 16, 2011 |