

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of
Requests for Review or Waiver of
Decisions of the
Universal Service Administrator by
Bishop Stang High School
Dartmouth, Massachusetts et al.
Schools and Libraries Universal Service
Support Mechanism
File Nos. SLD-813488 et al.
CC Docket No. 02-6

ORDER

Adopted: August 30, 2013

Released: August 30, 2013

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

1. Consistent with precedent, we grant 18 requests from petitioners seeking review of decisions made by USAC under the E-rate program (more formally known as the schools and libraries universal service support program). In each case, USAC reduced funding because it found that each of the applicants identified in the appendix failed to timely submit its FCC Form 486 confirming receipt of E-rate supported services. Based on the facts and circumstances presented by the petitioners, we find that rigid adherence to USAC's procedural deadline is not in the public interest in these cases and we therefore grant these appeals and associated waiver requests.

2. On our own motion, we also waive section 54.507(d) of the Commission's rules, and direct USAC to waive any procedural deadlines, such as the invoicing deadline, that might be necessary

1 See, e.g., Requests for Review and Waiver of the Decision of the Universal Service Administrator by Alaska Gateway School District et al.; Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Order, 21 FCC Rcd 10182, 10185, para. 6 (Wireline Comp. Bur. 2006) (granting appeals where applicants did not file their FCC Forms 486 late; filed late as the result of immaterial clerical, ministerial or procedural errors; or filed late due to circumstances beyond their control); Requests for Review or Waiver of Decisions of the Universal Service Administrator by Cathedral Home for Children et al.; Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Order, 28 FCC Rcd 5482 (Wireline Comp. Bur. 2013) (granting nine appeals of Universal Service Administrative Company (USAC) decisions to reduce applicants' funding on the basis of late-filed FCC Forms 486).

2 The requests for review or waiver 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) (requiring non-recurring services to be implemented by September 30 following the close of the funding year).

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 find that good cause exists to waive section 54.720(a) of the Commission's rules,⁷ which requires applicants to seek review of a USAC decision within 60 days, for Deuel School District 19-4, because it submitted its appeal to the Commission only three days late.

3. 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 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 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.

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, and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 1.3, 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.

6. 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,

⁵ 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.

⁶ 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*, CC Docket No. 02-6, Order, 26 FCC Rcd 11019, 11019, para. 2 (Wireline Comp. Bur. 2011) (granting a waiver of filing deadline for an appeal because it was submitted to the Commission only a few days late).

⁷ 47 C.F.R. § 54.720(a).

0.291, and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 1.3, that section 54.720(a) of the Commission's rules, 47 C.F.R. § 54.720(a), IS WAIVED for Deuel School District 19-4.

FEDERAL COMMUNICATIONS COMMISSION

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

APPENDIX

Requests for Review or Waiver

Petitioner	Application Number(s)	Funding Year	Date Request for Review/Waiver Filed
Bishop Stang High School Dartmouth, Massachusetts	813488	2011	Apr. 30, 2013
Bradley School District 61 Bradley, Illinois	816819	2011	Jun. 12, 2013
Coventry Local School District Akron, Ohio	847421, 858709	2012	Jul. 15, 2013
Crocker School District R2 Crocker, Missouri	828367	2012	Jul. 8, 2013
Deuel School District 19-4 Clear Lake, South Dakota	805905	2011	Apr. 3, 2013
East Carroll Parish Library Lake Providence, Louisiana	792248	2011	May 15, 2013
Fox Lake Grade School District 114 Spring Grove, Illinois	816864	2011	May 16, 2013
Jackson City School District Jackson, Ohio	836623	2012	Jul. 19, 2013
Northeast Arizona Technological Institute of Vocational Education Kayenta, Arizona	417392	2004	May 13, 2013
Our Lady of the Valley Catholic School Wasilla, Alaska	792418	2011	May 30, 2013
Primavera Technical Learning Center Chandler, Arizona	758172	2010	Aug. 2, 2013
Reading Public Library Reading, Pennsylvania	811908	2011	Mar. 4, 2013
St. Agnes School Chicago, Illinois	821749	2011	Jul. 12, 2013
St. Mary of the Woods School Chicago, Illinois	821393	2011	Jul. 12, 2013
Stanley Community Public School District 2 Stanley, North Dakota	821926	2011	Aug. 2, 2013
The Learning Choice Academy Plaucheville, Louisiana	681697	2009	Jan. 8, 2011
Tolono Community School District 007 Tolono, Illinois	808525	2011	May 31, 2013
Washington Parish School District Franklinton, Louisiana	838565	2012	Aug. 5, 2013