

**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	)	
	)	
Bank Street School for Children	)	File Nos. SLD-796250 et al.
New York, New York et al.	)	
	)	
Schools and Libraries Universal Service	)	CC Docket No. 02-6
Support Mechanism	)	

**ORDER**

**Adopted: February 25, 2013**

**Released: February 25, 2013**

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

1. Consistent with precedent,<sup>1</sup> we grant 16 requests from petitioners<sup>2</sup> 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).<sup>3</sup> In each case, USAC reduced funding because it found that the applicant failed to timely submit its FCC Form 486. Based on the facts and circumstances of these specific cases, 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 waivers.

2. On our own motion, we also waive section 54.507(d) of the Commission's rules,<sup>4</sup> and direct USAC to waive any procedural deadlines, such as the invoicing deadline, that might be necessary to

<sup>1</sup> See *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*, File Nos. SLD-412028 et al., CC Docket No. 02-6, Order, 21 FCC Rcd 10182, 10185, para. 6 (Wireline Comp. Bur. 2006) (granting appeals after finding that applicants did not file their FCC Forms 486 late, filed late as the result of immaterial clerical, ministerial or procedural errors, or that the late filings were due to circumstances beyond their control); *Requests for Review or Waiver of the Decisions of the Universal Service Administrator by Bastrop Independent School District et al.*; *Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-745019 et al., CC Docket No. 02-6, Order, 27 FCC Rcd 15877 (Wireline Comp. Bur. 2012) (granting five appeals of USAC's decisions to reduce applicants' funding on the basis of late filed FCC Forms 486).

<sup>2</sup> The requests for review and/or waiver are listed in the Appendix.

<sup>3</sup> 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).

<sup>4</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).

effectuate our ruling.<sup>5</sup> 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,<sup>6</sup> we also find that good cause exists to waive section 54.720(a) of the Commission's rules, which requires applicants to seek review of a USAC decision within 60 days,<sup>7</sup> for Cathedral Home for Children and Lake Local School District, because they submitted their appeals to the Commission only a few 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 and/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.

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<sup>5</sup> 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.

<sup>6</sup> 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, 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).

<sup>7</sup> 47 C.F.R. § 54.720(a).

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, 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 Cathedral Home for Children and Lake Local School District.

FEDERAL COMMUNICATIONS COMMISSION

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

## APPENDIX

<b>Petitioner</b>	<b>Application Number(s)</b>	<b>Funding Year(s)</b>	<b>Date Request for Review/Waiver Filed</b>
Bank Street School for Children New York, New York	796250	2011	Jan. 7, 2013
Campbell County School District Rustburg, Virginia	731089	2010	Dec. 19, 2012
Cathedral Home for Children Laramie, Wyoming	767960	2010	Feb. 11, 2013
County of Los Angeles Independent School District Telecom Management Division Downey, California	788022	2011	Dec. 27, 2012
Florence Independent School District Florence, Texas	808346	2011	Jan. 10, 2013
Gateway Regional High School District Woodbury, New Jersey	787112	2011	Jan. 11, 2013
Harrisonville School Harrisonville, Missouri	809091	2011	Jan. 4, 2013
Lake Local School District Millbury, Ohio	816967	2011	Dec. 26, 2012
Morton High School District 201 Cicero, Illinois	103717, 501473	1998, 2006	Dec. 10, 2012
Mountain Pine School District Mountain Pine, Arkansas	798051	2012	Jan. 28, 2013
Pocatello School District 25 Pocatello, Idaho	803033	2011	Jan. 15, 2013
Prologue-CPS Chicago, Illinois	819328	2011	Dec. 17, 2012
Smithville I-14 School District Smithville, Oklahoma	813678	2011	Jan. 31, 2013
Southwest Cook County Cooperative Oak Forest, Illinois	804197	2011	Feb. 7, 2013
Spring Ford Area School District Norristown, Pennsylvania	772458	2011	Dec. 20, 2012
Switzerland County School Corporation Vevay, Indiana	768094	2010	Jan. 23, 2013