

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
Albert Wisner Public Library
Warwick, New York et al.
Schools and Libraries Universal Service
Support Mechanism
File Nos. SLD-903783 et al.
CC Docket No. 02-6

ORDER AND ORDER ON RECONSIDERATION

Adopted: December 19, 2013

Released: December 19, 2013

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

1. Consistent with precedent,1 we address requests from petitioners seeking review of 62 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)2 and three petitions for reconsideration of decisions of the Wireline Competition Bureau (Bureau).3 The petitioners seek waivers of the FCC Form 471 application filing window deadline under the E-rate program.4

1 See Requests for Waiver and Review of Decisions of the Universal Service Administrator by Academy of Math and Science et al.; Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Order, 25 FCC Rcd 9256, 9259-60, paras. 8 & 9 (2010) (finding special circumstances exist to justify granting waiver requests where, for example, petitioners filed their FCC Forms 471 within 14 days after the FCC Form 471 filing window deadline; or filed their FCC Forms 471 on time, but failed to timely file their certifications); Requests for Waiver and Review of Decisions of the Universal Service Administrator by Anderson Elementary School et al.; Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Order, 27 FCC Rcd 5319, 5319-20, para. 2 (Wireline Comp. Bur. 2012) (treating late-filed item 21 attachments like late-filed certifications); Requests for Waiver and Review of Decisions of the Universal Service Administrator by Ashtabula Area City Schools et al.; Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Order, 28 FCC Rcd 4051 (Wireline Comp. Bur. 2013) (Ashtabula Area City Schools Order) (dismissing petitions for reconsideration because the petitioners failed to identify any material error, omission, or reason warranting reconsideration and relied on arguments fully considered and rejected by the Bureau within the same proceeding).

2 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).

3 The Bureau has the authority to act on petitions requesting reconsideration of final actions taken pursuant to delegated authority. 47 C.F.R. § 1.106(a)(1).

4 The requests for review are listed in Appendices A, B, and C. The petitions for reconsideration are listed in Appendix D. Section 54.507(c) of the Commission's rules provides for E-rate funds to be made available on a first-come, first-served basis, but requires USAC to implement an initial funding window that treats all applicants filing within that window as if their applications were simultaneously received. 47 C.F.R. § 54.507(c). Although some petitioners did not explicitly request a waiver of the FCC Form 471 application filing window deadline, we treat as

(continued...)

Based on the facts and special circumstances of these specific cases, we find that good cause exists to grant the requests for review of the 23 applications listed in Appendices A and B.<sup>5</sup> We grant the requests of the 15 applicants listed in Appendix A, because the petitioners each filed completed applications within 14 days of the close of the application filing window.<sup>6</sup> We grant the eight waiver requests listed in Appendix B, because the petitioners filed within 14 days of the close of the filing window applications that were missing only certifications or item 21 attachments.<sup>7</sup> At this time, we find no evidence of waste, fraud and abuse in the record with respect to the petitioners for which we grant relief. We therefore remand the underlying applications listed in Appendices A and B to USAC for further action consistent with this Order. In remanding these applications to USAC, we make no finding as to the ultimate eligibility of the services or the petitioners' applications.

2. We deny the requests of the 39 applicants listed in Appendix C because we find that the petitioners have failed to present special circumstances justifying waivers of the Commission's rules.<sup>8</sup> We also dismiss the three petitions for reconsideration because we find they failed to identify any material error, omission, or reason warranting reconsideration or rely on arguments that have been fully considered and rejected by the Bureau within the same proceeding.<sup>9</sup>

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 waiver and review filed by the petitioners listed in Appendices A and B ARE GRANTED and their underlying applications ARE REMANDED to USAC for further consideration in accordance with the terms of this Order.

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 54.507(c) of the Commission's rules, 47 C.F.R. § 54.507(c), IS WAIVED for the petitioners listed in Appendices A and B, to the limited extent provided herein.

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 the requests for waiver and review filed by the petitioners listed in Appendix C ARE DENIED.

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requests for waiver all of the requests for review involving FCC Form 471 applications that were submitted after the relevant filing window deadline.

<sup>5</sup> See Appendices A and B. 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 Appendix A.

<sup>7</sup> See Appendix B.

<sup>8</sup> See Appendix C.

<sup>9</sup> See Appendix D; 47 C.F.R. § 1.106(p)(1), (3).

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, 1.3, 1.106, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, 1.106, and 54.722(a), that the petitions for reconsideration filed concerning the applications listed in Appendix D ARE DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION

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

## APPENDIX A

**Requests for Waiver and Review Granted  
FCC Form 471 Applications Filed Within 14 Days of the Close of the Filing Window**

<b>Petitioner</b>	<b>Application Number(s)</b>	<b>Funding Year</b>	<b>Date Request for Review/Waiver Filed</b>
Aquinas High School Bronx, NY	931654	2013	Aug. 6, 2013
Canfield Local School District Canfield, OH	932954	2013	Aug. 12, 2013
Elyria Public Library Elyria, OH	925909, 931547	2013	Sept. 20, 2013
Harrisonville School District R9 Harrisonville, MO	900994	2013	Jul. 22, 2013
Henry County School District Paris, TN	932951	2013	Aug. 15, 2013
Hillside Public Library Hillside, NJ	931739	2013	Aug. 13, 2013
Intermediate Service Center #4 Chicago Heights, IL	929384	2013	Aug. 20, 2013
Lincoln Park Board of Education Lincoln Park, NJ	932618	2013	Aug. 13, 2013
Mayville Library Mayville, NY	931710	2013	Aug. 9, 2013
Minnehaha Academy North Minneapolis, MN	931653	2013	Sept. 17, 2013
Noble Local School District Sarahsville, OH	932029	2013	Jul. 17, 2013
Oak Harbor School District 201 Oak Harbor, WA	932046	2013	Sept. 20, 2013
Ohoopsee Regional Library System Vidalia, GA	902557	2013	Aug. 7, 2013
Seaside Heights School District Seaside Heights, NJ	931660	2013	Sept. 11, 2013
Tolono Community Unit School District 7 Tolono, IL	932991	2013	Sept. 18, 2013

## APPENDIX B

**Requests for Waiver and Review Granted  
Waivers Granted for Other Special Circumstances**

<b>Petitioner</b>	<b>Application Number(s)</b>	<b>Funding Year</b>	<b>Date Request for Review/Waiver Filed</b>
Au Sable Forks Free Library Plattsburgh, NY	925106	2013	Sept. 23, 2013
Columbia Public Library Columbia, PA	906161	2013	Sept. 12, 2013

<b>Petitioner</b>	<b>Application Number(s)</b>	<b>Funding Year</b>	<b>Date Request for Review/Waiver Filed</b>
Gretna Middle School Gretna, VA	921323	2013	Sept. 5, 2013
Hancock County School District Kiln, MS	923986, 928076	2013	Sept. 13, 2013
Northside Center for Child Development – Ft Greene – Brooklyn Children and Family Services Brooklyn, NY	913297	2013	Sept. 11, 2013
Rock Hill Local School District Ironton, OH	931788	2013	Aug. 16, 2013
St. Ignatius Elementary School Cleveland, OH	875031	2012	Aug. 12, 2013
Superior Central School District Eben Junction, MI	913865	2013	Aug. 5, 2013

### APPENDIX C

#### Requests for Waiver and Review Denied

<b>Petitioner</b>	<b>Application Number(s)</b>	<b>Funding Year</b>	<b>Date Request for Review/Waiver Filed</b>
Albert Wisner Public Library Warwick, NY	903783	2013	Aug. 12, 2013
Benton School District Benton, WI	922825	2013	Sept. 5, 2013
Burlington Township Schools Burlington, NJ	935048	2013	Sept. 18, 2013
Center Moriches Free Public Library Center Moriches, NY	did not file	2013	Aug. 7, 2013
Central Linn School District Brownsville, OR	916813	2013	Aug. 6, 2013
Central Valley School District Monaca, PA	932216	2013	Mar. 25, 2013
Chambers County Library System Anahuac, TX	935448	2013	Sept. 23, 2013
Charleston County Library Charleston, SC	935168	2013	Aug. 19, 2013
Community Preparatory School Providence, RI	935368	2013	Aug. 5, 2013
Denise Louie Education Center Seattle, WA	933089	2013	Aug. 22, 2013
Dickinson County Library Iron Mountain, MI	did not file	2013	Sept. 18, 2013
Eastern Sierra Unified School District Bridgeport, CA	935248	2013	Aug. 1, 2013

Petitioner	Application Number(s)	Funding Year	Date Request for Review/Waiver Filed
Flippin School District Flippin, AR	935349	2013	Jul. 10, 2013
Galatia CUSD #1 Galatia, IL	890820	2013	Aug. 21, 2013
Gilmore Memorial Pre-School Paterson, NJ	934407	2013	Jul. 17, 2013
Grantsburg School District Grantsburg, WI	935308	2013	Aug. 27, 2013
Hampton Township School District Newton, NJ	933610	2013	Aug. 11, 2013
Holy Name Parish School West Roxbury, MA	935408, 935409, 935428	2013	Jul. 19, 2013
Illinois Prairie District Library Metamora, IL	933612	2013	Sept. 11, 2013
International Charter School Pawtucket, RI	933810	2013	Jul. 16, 2013
James Irwin Charter School Colorado Springs, CO	933587, 933729	2013	Aug. 28, 2013
King Center Charter School Buffalo, NY	934107	2013	Sept. 6, 2013
Lee's Summit School District R-7 Lee's Summit, MO	933448	2013	Jul. 15, 2013
Manara Academy Irving, TX	did not file	2013	Aug. 9, 2013
Marty Indian School Marty, SD	934367	2013	Aug. 12, 2013
Most Blessed Sacrament Catholic School Berlin, MD	did not file	2013	Sept. 24, 2013
Nativity Preparatory School of New Bedford New Bedford, MA	935328	2013	Jul. 18, 2013
Odyssey School San Mateo, CA	934327	2013	Aug. 5, 2013
Prospect Heights School District 23 Prospect Heights, IL	933812 a/k/a 924872	2013	Aug. 9, 2013
Roaring Spring Community Library Roaring Spring, PA	935309	2013	Jul. 2, 2013
St. Alexander School Palos Heights, IL	did not file	2013	Jun. 26, 2013
St. Andrew Parish School Delavan, WI	934027	2013	Jul. 1, 2013
St. Charles Borromeo School St. Charles, MO	933707	2013	Jul. 31, 2013
St. Mary's School San Francisco, CA	did not file	2013	Aug. 21, 2013
San Domenico Upper School Girls San Anselmo, CA	933947	2013	Aug. 5, 2013
Stanley Community Public School District Stanley, ND	931946	2013	Aug. 23, 2013

<b>Petitioner</b>	<b>Application Number(s)</b>	<b>Funding Year</b>	<b>Date Request for Review/Waiver Filed</b>
Union Christian Academy Farmerville, LA	933648	2013	Aug. 2, 2013
Willow Grove School District 46 Centralia, IL	890986	2013	Jul. 16, 2013
Winfield Board of Education Winfield, NJ	934227	2013	Sept. 17, 2013

#### APPENDIX D

##### Petitions for Reconsideration Dismissed

<b>Applicant</b>	<b>Application Number</b>	<b>Funding Year</b>	<b>Date(s) Request for Reconsideration Filed</b>
Bertha Hewitt Public Schools Bertha, MN	933807	2013	Aug. 21, 2013
Fresno Academy for Civic and Entrepreneurial Leadership Fresno, CA	929101	2013	Jun. 20, 2013
Westview School Los Angeles, CA	933367	2013	Jun. 14, 2013 supplemented Aug. 22, 2013