

Before the
 Federal Communications Commission
 Washington, DC 20554

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| In the Matter of |) | |
| |) | |
| Requests for Waiver and Review of |) | |
| Decisions of the |) | |
| Universal Service Administrator by |) | |
| |) | |
| Atlantic City Schools |) | File Nos. SLD-844248 et al. |
| Atlantic City, New Jersey et al. |) | |
| |) | |
| Schools and Libraries Universal Service |) | CC Docket No. 02-6 |
| Support Mechanism |) | |

ORDER

Adopted: July 30, 2014

Released: July 30, 2014

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

1. Consistent with precedent,¹ we grant six requests from petitioners² 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 petitioners identified in the Appendix their requested discount rates for E-rate funding without providing the petitioners sufficient opportunity to provide evidence to support their eligibility for the discount rates they requested. We therefore grant the requests for review identified in the Appendix and remand them back to USAC for further processing.⁴ On remand, we further direct USAC to provide petitioners with a 15-day opportunity to file additional documentation to support their calculations of the correct discount rates. Also, consistent with precedent,⁵ we direct USAC to accept information already provided to USAC by some of the petitioners, which USAC had deemed late.⁶

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*); *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Bright Star Schools Consortium, Los Angeles, California et al.*, CC Docket No. 02-6, Order, 28 FCC Rcd 11204 (Wireline Comp. Bur. 2013) (*Bright Star 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; *Bright Star Discount Order*, 28 FCC Rcd 11204, para. 1.

⁶ Cuba Independent School District and Shonto Preparatory School submitted discount documentation to USAC after USAC’s filing deadline for discount rate-related documentation. See Appendix.

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 ruling.⁷ 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 90 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

Vickie S. Robinson
Acting Chief
Telecommunications Access Policy Division
Wireline Competition Bureau

⁷ 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 Filed |
|---|---------------------------|---------------------|--------------------------------------|
| Atlantic City Schools Atlantic City, NJ | 844248 | 2012 | July 30, 2013 |
| Bnos Esther Los Angeles, CA | 931165 | 2013 | April 28, 2014 |
| Bright Star Schools Consortium Los Angeles, CA | 844391 | 2012 | May 13, 2013 |
| Cuba Independent School District Cuba, NM | 836166, 859494 | 2013 | July 23, 2013 |
| Global Green Generation School Pacoima, CA | 817924 | 2011 | April 14, 2014 |
| Shonto Preparatory Schools Shonto, AZ | 862440 | 2012 | April 1, 2013 |