

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
Boston Renaissance School
Boston, Massachusetts et al.
Schools and Libraries Universal Service
Support Mechanism
File Nos. SLD-882704 et al.
CC Docket No. 02-6

ORDER AND ORDER ON RECONSIDERATION

Adopted: February 24, 2014

Released: February 24, 2014

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

1. Consistent with precedent,1 we address requests from petitioners seeking review of 33 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 two 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 Based on

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; filed their FCC Forms 471 on time, but failed to timely file their certifications; or filed within 30 days despite medical issues); 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) (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...)

the facts and special circumstances of these specific cases, we find that good cause exists to grant the requests for review for the applications of the petitioners listed in Appendices A and B.<sup>5</sup> We grant the seven requests listed in Appendix A, because each of those petitioners filed its applications within 14 days of the close of the filing window.<sup>6</sup> We grant the waiver requests listed in Appendix B because each of those ten petitioners filed their application within 14 days of the close of the filing window, except for the related certifications or item 21 attachments, or they filed within 30 days of the close of the filing window, despite an unexpected serious illness or death of the person responsible for submitting the form or a close family member of that person.<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 17 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 two petitions for reconsideration because they fail 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,

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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).

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.

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>
Colorado Alliance of Research Libraries Denver, CO	931707	2013	Mar. 19, 2013
Hubbard Public Library Hubbard, IA	931742, 931753	2013	Oct. 21, 2013
Jewish Educational Media Brooklyn, NY	931577	2013	Sept. 24, 2013
Our Lady of Perpetual Help School Brooklyn, NY	931656, 931659	2013	Oct. 21, 2013
Rhode Island School for Deaf Providence, RI	930952	2013	Oct. 23, 2013
St. Joseph's Grade School Tom's River, NJ	931649	2013	Mar. 20, 2013
Trinity Independent School District Trinity, TX	932230, 932268, 932269	2013	Oct. 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>
Good Shepherd Academy Nutley, NJ	931808	2013	Sept. 30, 2013
Hayward Unified School District Hayward, CA	855180	2012	Dec. 13, 2013
Loudon County Public Library Leesburg, VA	879513	2013	Dec. 13, 2013
Madison Champaign Educational Service Center Urbana, OH	925340, 925537, 925643, 925743	2013	Jan. 13, 2014
Milbank School District 25-4 Milbank, SD	933487	2013	Sept. 16, 2013
Mosdos Chasidei Square Brooklyn, NY	923721	2013	Nov. 5, 2013
Newton County School District Decatur, MS	913898	2013	Jan. 22, 2014
Rosebud County Library Forsyth, MT	917688	2013	Sept. 25, 2013
Royall School District Elroy, WI	927013	2013	Oct. 29, 2013

<b>Petitioner</b>	<b>Application Number(s)</b>	<b>Funding Year</b>	<b>Date Request for Review/Waiver Filed</b>
St. Vivian Elementary School Cincinnati, OH	933209	2013	Sept. 23, 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>
Boston Renaissance School Boston, MA	882704	2013	Jan. 17, 2014
Cape Elizabeth Schools Cape Elizabeth, ME	927606	2013	Nov. 6, 2013
Dolton East School District 149 Calumet City, IL	935748	2012	Dec. 11, 2013
Elizabeth School District Elizabeth, NJ	935749, 935750, 935751, 935769, 935770, 935771, 935772	2013	Jan. 31, 2014
Ferris Independent School District Ferris, TX	935528	2013	Feb. 4, 2014
Glencoe-Silver Lake District 2859 Glencoe, MN	935928	2013	Jan. 14, 2014
Howell Valley Elementary School West Plains, MO	935628	2013	Feb. 3, 2014
La Marque Independent School District La Marque, TX	935167	2013	Aug. 19, 2013
Maui Economic Opportunity Head Start Wailuku, HI	909763	2013	Sept. 24, 2013
Milan C-2 School District Milan, MO	931268	2013	Oct. 29, 2013
Northwest Passage 1 Frederic, WI	935228	2013	Sept. 26, 2013
Philip's Academy Charter Newark, NJ	935708	2013	Oct. 29, 2013
Pleasant Hill School District 1 Pleasant Hill, OR	933169	2013	Sept. 25, 2013
St. Vivian Elementary School Cincinnati, OH	934467	2013	Sept. 23, 2013
Shenandoah Community School District Shenandoah, IA	907439, 933271, 933272	2013	Sept. 30, 2013
Solomon Schechter Day School of Greater Boston Newton, MA	935548	2013	Nov. 7, 2013
Syosset Public Library Syosset, NY	934307	2013	Oct. 30, 2013

## APPENDIX D

## Petitions for Reconsideration Dismissed

<b>Applicant</b>	<b>Application Number</b>	<b>Funding Year</b>	<b>Date Request for Reconsideration Filed</b>
Burlington Township School District Burlington, NJ	935048	2013	Jan. 22, 2014
Charleston County Library Charleston, SC	935168	2013	Jan. 6, 2014