

Before the  
Federal Communications Commission  
Washington, DC 20554

|   |   |                     |
|---|---|---------------------|
| In the Matter of                        | ) |                     |
|   | ) |                     |
| Request for Waiver and Review of        | ) |                     |
| Decisions of the                        | ) |                     |
| Universal Service Administrator by      | ) |                     |
|   | ) |                     |
| Montgomery County School District       | ) | File No. SLD-494183 |
| Rockville, Maryland                     | ) |                     |
|   | ) |                     |
| Schools and Libraries Universal Service | ) | CC Docket No. 02-6  |
| Support Mechanism                       | ) |                     |

ORDER

Adopted: January 16, 2014

Released: January 16, 2014

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

1. Consistent with precedent,<sup>1</sup> we grant a request from Montgomery County School District (Montgomery)<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> Specifically, USAC reduced the shared discount rate for four of Montgomery’s funding requests for internal connections, ultimately reducing the amount of funding committed for two of Montgomery’s funding requests, and denying the remaining two funding requests because they fell below the priority two threshold discount level for FY 2006.<sup>4</sup>

<sup>1</sup> See *Request 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 Red 10703 (Wireline Comp. Bur. 2006).

<sup>2</sup> See Request for Review and Waiver, from John Q. Porter, Deputy Superintendent, Montgomery County Public Schools, on behalf of Montgomery County School District, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 02-6 (filed Feb. 9, 2007) (regarding funding year (FY) 2006 FCC Form 471 application number 494183, funding request numbers (FRNs) 1466351, 1466980, 1467148, and 1476538).

<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> See Letter from USAC, Schools and Libraries Division, to Laurie Walsh, Montgomery County School District (dated Dec. 20, 2006) (regarding FCC Form 471 application number 494183, FRNs 1466351, 1466980, 1467148, and 1476538). For FRNs 1466980 and 1466351, Montgomery sought a 90 percent discount rate, but USAC reduced the FRNs to an 87 percent discount rate and revised the committed amounts. For FRNs 1476538 and 1467148, Montgomery sought an 80 percent discount rate, but USAC reduced the FRNs to a 78 percent discount rate and ultimately denied these requests as being under the priority two threshold discount level for FY 2006. See Schools and Libraries News Brief (dated July 6, 2007), available at <http://www.usac.org/sl/tools/news-briefs/preview.aspx?id=98> (last visited Jan. 15, 2014) (setting the FY 2006 priority two threshold at 86 percent).

2. Based on our review of the record, we find that Montgomery has demonstrated that it is eligible for the discount levels it requested for the four funding requests at issue.<sup>5</sup> We therefore grant its Request for Review. In particular, we find that Montgomery's FRNs 1466980 and 1466351, seeking a 90 percent discount, are eligible for support at the 90 percent discount level. However, because USAC only made commitments in FY 2006 for approved internal connections at or above the 86 percent discount level, we find that Montgomery's FRNs 1476538 and 1467148, seeking an 80 percent discount, fall below the priority two funding threshold for FY 2006, and therefore, are not eligible for support.<sup>6</sup> Accordingly, we remand the underlying application to USAC for further action consistent with this Order. To ensure that the underlying application is resolved expeditiously, we direct USAC to complete its review of the application, and issue an award or a denial based on a complete review and analysis, no later than 60 calendar days from the release of this Order. In remanding this application to USAC, we make no finding as to the ultimate eligibility of the services or the petitioner's application.

3. 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.<sup>7</sup> We find good cause to waive section 54.507(d) because filing an appeal of a denial is likely to cause the petitioner to miss the program's subsequent procedural deadlines in that funding year.

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 Request for Review and Waiver filed by Montgomery County School District IS GRANTED and its underlying application IS 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 Montgomery County School District to the limited extent provided herein.

FEDERAL COMMUNICATIONS COMMISSION

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

<sup>5</sup> See 47 C.F.R. § 54.505. See also *supra* nn.2, 4.

<sup>6</sup> See *supra* n.4.

<sup>7</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).