



PUBLIC NOTICE

Federal Communications Commission
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News Media Information 202 / 418-0500
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DA 15-1237

Released: October 30, 2015

STREAMLINED RESOLUTION OF REQUESTS RELATED TO ACTIONS BY THE UNIVERSAL SERVICE ADMINISTRATIVE COMPANY

CC Docket No. 96-45
CC Docket No. 97-21
CC Docket No. 02-6
WC Docket No. 02-60
WC Docket No. 06-122

Pursuant to our procedure for resolving requests for review, requests for waiver, and petitions for reconsideration of decisions related to actions taken by the Universal Service Administrative Company (USAC) that are consistent with precedent (collectively, Requests), the Wireline Competition Bureau (Bureau) grants, dismisses, or denies the following Requests.¹ The deadline for filing petitions for reconsideration or applications for review concerning the disposition of any of these Requests is 30 days from release of this Public Notice.²

Schools and Libraries (E-rate)

CC Docket No. 02-6

Dismiss on Reconsideration³

Canisius High School, NY, Application No. 937603, Petition for Reconsideration, CC Docket No. 02-6 (filed May 27, 2015)

¹ See *Streamlined Process for Resolving Requests for Review of Decisions by the Universal Service Administrative Company*, CC Docket Nos. 96-45 and 02-6, WC Docket Nos. 02-60, 06-122, 08-71, 10-90, 11-42, and 14-58, Public Notice, 29 FCC Rcd 11094 (Wireline Comp. Bur. 2014). 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).

² See 47 C.F.R. §§ 1.106, 1.115; see also 47 C.F.R. § 1.4(b)(2) (setting forth the method for computing the amount of time within which persons or entities must act in response to deadlines established by the Commission).

³ See, e.g., *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Allan Shivers Library et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd 10356, 10357, para. 2 (Wireline Comp. Bur. 2014) (dismissing petitions for reconsideration that fail to identify any material error, omission, or reason warranting reconsideration, and rely on arguments that have been fully considered and rejected by the Bureau within the same proceeding); *Petition for Reconsideration by Henrico County School District, Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order on Reconsideration, 28 FCC Rcd 13015, 13016-17, para. 4 (denying a petition for reconsideration when the petition relied on facts or arguments not previously presented to the Commission). See 47 C.F.R. § 1.106(p)(1)-(3).

Dismiss on Reconsideration – Untimely⁴

Coushatta Tribal Library, LA, Application No. 1051875, Petition for Reconsideration, CC Docket No. 02-6 (filed Aug. 27, 2015)

Granted⁵

*Discount Calculation*⁶

Library of Virginia, VA, Application No. 940841, Request for Review, CC Docket No. 02-6 (filed Mar. 27, 2015)

*Waiver of Price as Primary Factor Requirement: Applicant Selected Lowest-price Solution*⁷

Ewing Marion Kauffman School, MO, Application No. 914773, FRN 2493298, Request for Review and/or Waiver, CC Docket No. 02-6 (filed Feb. 20, 2015)

⁴ See, e.g., *Petitions for Reconsideration by Rockwood School District and Yakutat School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket 02-6, Order, 26 FCC Rcd 13004 (Wireline Comp. Bur. 2011) (dismissing two petitions for reconsideration because they were filed more than 30 days after the Bureau's decisions); *Petitions for Reconsideration by Lincoln Parish School Board et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 7992, para. 1 n.1 (Wireline Comp. Bur. 2011) (stating that the Bureau has the authority under 47 C.F.R. § 1.106(p) to dismiss petitions for reconsideration of a Commission action that plainly do not warrant consideration by the Commission, such as petitions that are late-filed).

⁵ We remand these applications to USAC and direct USAC to complete its review of the applications, and issue a funding commitment or a denial based on a complete review and analysis, no later than 90 calendar days from the release date of this Public Notice. In remanding these applications to USAC, we make no finding as to the ultimate eligibility of the services or the petitioners' applications. We also waive sections 54.507(d) and 54.514(a) of the Commission's rules and direct USAC to waive any procedural deadline that might be necessary to effectuate our ruling. See 47 C.F.R. § 54.507(d) (requiring non-recurring services to be implemented by September 30 following the close of the funding year); 47 C.F.R. § 54.514(a) (codifying the invoice filing deadline).

⁶ See, e.g., *Requests for Review of the Decision of the Universal Service Administrator by Academia Claret et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 21 FCC Rcd 10703, 10709, para. 14 (Wireline Comp. Bur. 2006); *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Bright Star Schools Consortium et al.; Schools and Libraries Support Mechanism*, CC Docket No. 02-6, Order, 28 FCC Rcd 11204, 11204, para. 1 (Wireline Comp. Bur. 2013) (granting applicants a limited 15-day opportunity to file additional documentation to support their calculation of the correct discount rate). Section 54.505(b)(2) of the Commission's rules says that the level of poverty for library systems is based on the percentage of student enrollment that is eligible for the National School Lunch Program in the public school system where the libraries are located. 47 C.F.R. § 54.505(b)(2) (2013).

⁷ See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Allendale County School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 6109, 6115-17, paras. 10-12 (Wireline Comp. Bur. 2011) (waiving the requirement that an applicant be able to demonstrate that it used price as the primary factor in vendor selection when the applicant selected the lowest priced option and there was no evidence of waste, fraud or abuse).

*Failure to Timely Respond to USAC with Information*⁸

Yeshiva Ohr Torah, NY, Application No. 802447, Request for Waiver, CC Docket No. 02-6 (filed July 6, 2012)

*Granted on Reconsideration – Discount Calculation*⁹

Richmond City Library, VA, Application No. 940708, Petition for Reconsideration, CC Docket No. 02-6 (filed Sept. 17, 2014)

*Service Provider Involvement*¹⁰

South City Preparatory Academy, MO, Application No. 815727, Request for Review, CC Docket No. 02-6 (filed April 10, 2013)

*Invoice Deadline Extension Requests Less Than 12 Months Late*¹¹

⁸ See, e.g., *Requests for Review of the Decision of the Universal Service Administrator by Alpaugh Unified School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 22 FCC Rcd 6035 (2007); *Requests for Review of Decisions of the Universal Service Administrator by Ben Gamla Palm Beach et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd 1876 (Wireline Comp. Bur. 2014) (granting requests for review for applicants that had been denied funding because they failed to respond to USAC’s request for information within the USAC-specified time frame).

⁹ See, e.g., *Petitions for Reconsideration by Callisburg Independent School District; School and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order and Order on Reconsideration, 28 FCC Rcd 9459, 9461, para. 5 (Wireline Comp. Bur. 2013) (granting petition for reconsideration where, upon reconsideration of the record, we do not find that the evidence supports our previous determination); *Requests for Review of the Decision of the Universal Service Administrator by Academia Claret et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 21 FCC Rcd 10703, 10709, para. 14 (Wireline Comp. Bur. 2006); *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Bright Star Schools Consortium et al.; Schools and Libraries Support Mechanism*, CC Docket No. 02-6, Order, 28 FCC Rcd 11204, 11204, para. 1 (Wireline Comp. Bur. 2013) (granting applicants a limited 15-day opportunity to file additional documentation to support their calculation of the correct discount rate). Section 54.505(b)(2) of the Commission’s rules says that the level of poverty for library systems is based on the percentage of student enrollment that is eligible for the National School Lunch Program in the public school system where the libraries are located. 47 C.F.R. § 54.505(b)(2) (2013).

¹⁰ See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Greeley Public School District*, CC Docket No. 02-6, Order, 28 FCC Rcd 6898, 6900-01, para. 5 (Wireline Comp. Bur. 2013) (granting appeal where employee of school system identified as the contact on the FCC Form 470 was also the employee of a service provider that “did not bid on the funding requests that are associated with the E-rate applications” at issue).

Ascension Public School, LA, Application No. 922191, Request for Review, CC Docket No. 02-6 (filed Sept. 15, 2015)

*Late-Filed FCC Form 471 Applications Filed within 14 days of the Close of the Window*¹²

Archbishop Spalding High School, MD, Application No. 1018893, Request for Waiver, CC Docket No. 02-6 (filed Aug. 27, 2015)

Manchester City Library, NH, Application No. 1030407, Request for Waiver, CC Docket 02-6 (filed July 7, 2015)

St Albert the Great School, KY, Application No. 1018837, Request for Waiver, CC Docket 02-6 (filed Aug. 27, 2015)

*Service Implementation Delay*¹³

Dr. Richard Izquierdo Health and Science Charter School, NY, Application No. 813343, Request for Review, CC Docket No. 02-6 (filed June 19, 2015)

Fahari Academy Charter School, NY, Application No. 854812, Request for Review, CC Docket No. 02-6 (filed June 22, 2015)

Universal Vare Middle Charter School, PA, Application No. 873042, Request for Review and/or Waiver, CC Docket No. 02-6 (filed Oct. 16, 2015)

*Service Substitution*¹⁴

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¹¹ See, e.g., *Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company*, CC Docket Nos. 96-45, 97-21, 02-6, WC Docket No. 06-122, Public Notice, DA 15-983 (Wireline Comp. Bur. rel. Aug. 31, 2015) (granting invoice deadline extension requests less than 12 months late that were made in good faith and within a reasonable period of time after services were provided); *Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 8870, 8967, para. 242 (2014) (directing the Bureau and USAC to consider whether late invoice requests from funding years prior to 2014 were made in good faith and within a reasonable period of time after the services were provided, or whether other extraordinary circumstances exist that support an extension). Consistent with precedent, we also find good cause exists to waive section 54.720(a) or (b) of the Commission's rules, which requires that petitioners file their appeals within 60 days of an adverse USAC decision, for Ascension Parish School District. 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*, CC Docket No. 02-6, Order, 26 FCC Rcd 11019, para. 2 (Wireline Comp. Bur. 2011) (*ABC Unified School District Order*) (waiving the filing deadline for petitioners that submitted their appeals to the Commission or USAC only a few days late).

¹² See, e.g., *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, para. 8 (2010) (*Academy of Math and Science Order*) (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).

¹³ See, e.g., *Request for Review/Waiver of the Decision of the Universal Service Administrator by Accelerated Charter et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd 13652, 13652-53, para. 2 (Wireline Comp. Bur. 2014) (allowing extensions of the deadline for service implementation when applicants demonstrated they were unable to complete implementation on time for reasons beyond the service providers' control and made significant efforts to secure the necessary extensions).

Edison Charter Academy, CA, Application No. 840079, Request for Review, CC Docket No. 02-6 (filed May 26, 2015)

Morgan Independent School District, TX, Application No. 796255, Request for Review, CC Docket No. 02-6 (filed April 10, 2013)

Waubun School District 435, MN, Application No. 747903, Request for Review, CC Docket No. 02-6 (filed May 28, 2013)¹⁵

*Signed Contract Requirement*¹⁶

Calhoun County School District, MS, Application No. 1030400, Request for Review and/or Waiver, CC Docket No. 02-6 (filed Oct. 21, 2015)

*Technology Plan Requirements*¹⁷

Detroit Public Library, MI, Application Nos. 768410, 768476, Request for Review, CC Docket No. 02-6 (filed Dec. 17, 2012)

Linden Seventh-Day Adventist School, NY, Application No. 866163, Request for Waiver, CC Docket No. 02-6 (filed May 15, 2015)

*Violation of the Competitive Bidding 28-Day Rule*¹⁸

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¹⁴ See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Beaufort County Public School District et al.; Schools and Libraries Universal Service Support Mechanism*, 29 FCC Rcd 3124, 3125, para. 3 (Wireline Comp. Bur. 2014) (granting service substitution appeals when the petitioners missed USAC's deadline for service substitution requests but complied with the Commission's requirements for service substitutions under 47 C.F.R. § 54.504(d) and had a reasonable explanation for missing the deadline).

¹⁵ While we grant Waubun School District 435's appeal and permit the service substitution process to proceed, on remand USAC should make a final determination as to whether the applicant has met the requirement that the product or service has the same functionality as the original product and was within the scope of the controlling FCC Form 470. See 47 C.F.R. § 54.504(d)(1)(i), (iv).

¹⁶ See, e.g., *Request for Waiver of the Decision of the Universal Service Administrator by Barberton City School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 23 FCC Rcd 15526, 15529-30, para. 6 (Wireline Comp. Bur. 2008) (granting waivers of the signed contract requirement in instances where applicants misunderstood the program rules and submitted their FCC Form 471 applications after completing their vendor selection, and shortly before signing a contract).

¹⁷ See, e.g., *Requests for Review or Waiver of the Decisions of the Universal Service Administrator by Brownsville Independent School District et al.*, CC Docket No. 02-6, Order, 22 FCC Rcd 6045, 6049, para. 8 (2007) (granting the appeals and waiving technology plan rules for petitioners that, among other things, had technology plans in place, but failed to get formal approval in a timely fashion).

¹⁸ See, e.g., *Application for Review of the Decision of the Universal Service Administrator by Aberdeen School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 22 FCC

(continued...)

Educational Service Unit #4, NE, Application No. 848022, Request for Waiver, CC Docket No. 02-6 (filed Jan. 10, 2014)

*Waiver of Appeal Filing Deadline*¹⁹

Pillager School District 116, MN, Application No. 917369, Request for Waiver, CC Docket No. 02-6 (filed Aug. 13, 2015)

St. Mary School, OH, Application No. 1017186, Request for Review and/or Waiver, CC Docket No. 02-6 (filed Oct. 16, 2015)

Denied

*Ineligible Entities*²⁰

Merkos Chabad Lubavitch Organization, AZ, Application No. 818419, Request for Review, CC Docket No. 02-6 (filed Apr. 9, 2012)

*Failure to Maintain and Provide Copies of Bids or Other Documentation in Support of Bid Evaluation Process*²¹

Ewing Marion Kauffman School, MO, Application No. 914773, FRN 249272, Request for Review and/or Waiver, CC Docket No. 02-6 (filed Feb. 20, 2015)

*Late-Filed FCC Form 471 Applications*²²

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Rcd 8757 (2007) (granting waivers of violations of the 28-day rule when the applicants only missed the deadline by one to three days, thereby allowing their requests for services to be competitively bid for a meaningful period of time).

¹⁹ See, e.g., *ABC Unified School District Order*, 26 FCC Rcd at 11019, para. 2 (waiving the filing deadline for petitioners that submitted their appeals to the Commission or USAC only a few days late). We make no finding on the underlying issues in these appeals and remand these applications back to USAC to make a determination on the merits. See *supra* note 5.

²⁰ See, e.g., *Request for Review of the Decisions of the Universal Service Administrator by Eagle Hill School, et al., Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 24 FCC Rcd 12714, 12718, para. 8 (Wireline Comp. Bur. 2009) (holding that if a pre-K program does not meet its state's definition of elementary education, the program is not eligible for E-rate support).

²¹ See, e.g., *Request for Review of the Decision of the Universal Service Administrator by Central Islip Free Union School District, et al., Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 8630, 8634-36, paras. 9, 11-12 (Wireline Comp. Bur. 2011) (denying appeal where the applicant failed to produce documentation regarding its vendor selection process, i.e., documents describing the bid evaluation criteria and weighting, bid evaluation worksheets, correspondence between the beneficiary and prospective bidder, and, thus, could not demonstrate compliance with the E-rate program's competitive bidding rules; also explaining that the applicant must be able to provide evidence showing that its vendor evaluation process took place before the contract award date).

²² See, e.g., *Academy of Math and Science Order*, 25 FCC Rcd at 9259, para. 8 (denying waivers of the FCC Form 471 filing window deadline where petitioners failed to present special circumstances justifying waivers of our rules).

Burke County Library, GA, Application Nos. 1052552, 1052553, 1052293, 1052554, 1052555, 1052556, Request for Waiver, CC Docket No. 02-6 (filed Aug. 24, 2015)

Corning Community School, IA, Application No. 1029903, Request for Waiver, CC Docket 02-6 (filed Aug. 31, 2015)

Cranston Public Library, RI, Application No. 1015048, Request for Waiver, CC Docket 02-6 (filed April 28, 2015)

Joan Macy School, CA, Application No. 1053151, Request for Waiver, CC Docket No. 02-6 (filed Aug. 12, 2015)

*Service Implementation Delay*²³

Tse ii'Ahi Community School, NM, Application No. 812604, Request for Review, CC Docket No. 02-6 (filed June 11, 2015)

*Untimely Filed Request for Review*²⁴

Martin De Porres School for Exceptional Children, NY, Application No. 903349, Request for Review, CC Docket No. 02-6 (filed Sept. 11, 2015)

West Enterprises LLC (Congregation Uvlechtechu Baderech, Inc.), NY, Application No. 761888, Request for Review, CC Docket No. 02-6 (filed Aug. 6, 2015)

Rural Health Care
WC Docket No. 02-60

Denied In Part (FCC Form 466) and Granted in Part (FCC Form 466-A)

²³ See, e.g., *Request for Review/Waiver of the Decision of the Universal Service Administrator by Accelerated Charter et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd 13652, 13653, para. 3 (Wireline Comp. Bur. 2014) (denying late-filed extensions of the deadline for service implementation when applicants failed to demonstrate they were unable to complete implementation on time for reasons beyond the service providers' control and failed to make significant efforts to secure the necessary extensions in a timely manner).

²⁴ See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Agra Public Schools I-134 et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 5684 (Wireline Comp. Bur. 2010); *Requests for Waiver or Review of Decisions of the Universal Service Administrator by Bound Brook School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd 5823 (Wireline Comp. Bur. 2014) (denying appeals on the grounds that the petitioners failed to submit their appeals either to the Commission or to USAC within 60 days, as required by the Commission's rules, and did not show special circumstances necessary for the Commission to waive the deadline).

*Late-Filed or Never-Filed FCC Form 466 and/or FCC Form 466-A*²⁵

Annette Island Service Unit, HCP No. 13063, Request for Review and Request for Waiver, WC Docket No. 02-60 (filed Oct. 31, 2014)

Ilanka Community Health Center, HCP No. 11932, Request for Review and Request for Waiver, WC Docket No. 02-60 (filed Jan. 27, 2014)

Kodiak Community Health Center, HCP No. 16031, Request for Review and Request for Waiver, WC Docket No. 02-60 (filed Jan. 29, 2014)

Sanford Health – Fargo Region, HCP Nos. 10798, et al., Request for Review and Request for Waiver, WC Docket No. 02-60 (filed Jan. 7, 2014)

South Central Medical & Resource Center, HCP No. 17896, Request for Waiver, WC Docket No. 02-60 (filed Oct. 22, 2014)

Spring River Mental Health & Wellness, Inc. – Riverton, KS, HCP No. 14626, Request for Waiver, WC Docket No. 02-60 (filed May 13, 2015)

²⁵ See 47 C.F.R. § 54.675(c)(4) (establishing the FCC Form 466 deadline as June 30 of the funding year that began on the previous July 1); see also *Requests for Review of Decisions of the Universal Service Administrator by Kodiak Area Native Association et al.*, Files Nos. RHCP 11193, et al., *Rural Health Care Universal Service Support Mechanism*, WC Docket No. 02-60, Order, DA 15-1047, paras. 1-2, 7 (Wireline Comp. Bur. rel. Sept. 17, 2015) (*KANA et al. Order*) (granting appeals related to the FCC Form 466 deadline because the Commission inadvertently repealed the deadline for the time period at issue (September 20, 2006, until March 31, 2013), but emphasizing the “limited nature” of the decision). On April 1, 2013, the Commission reinstated the FCC Form 466 deadline through the *Healthcare Connect Fund Order*. See *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Report and Order, 27 FCC Rcd 16678, 16818, paras. 351-2, 16890, App. D (2012) (*Healthcare Connect Fund Order*); see also 47 C.F.R. § 54.675(c)(4). The Form 466-A deadline was not, however, reinstated. The FCC Form 466-A applied to the Rural Health Care Internet Access Program, and this Program was replaced by the Healthcare Connect Fund. See *Healthcare Connect Fund Order*, 27 FCC Rcd at 16681, n.9; see also *KANA et al. Order*, DA 15-1047 at n.4. Accordingly, to the extent that any requests for review or waiver addressed herein implicate the Form 466-A, affected applicants may submit any outstanding Forms 466-A and supporting documentation to USAC for consideration, but must do so no later than 45 days from release of this Public Notice to be considered timely filed. See *KANA et al. Order*, DA 15-1047 at paras. 3, 9. While we will permit these applicants to file Forms 466-A with USAC as appropriate, we make no finding as to the ultimate eligibility of the services or the petitioners’ applications. *Id.* at para. 6.

Contribution Methodology
WC Docket No. 06-122

Denied

*FCC Form 499-A Revision Deadline Waiver Request*²⁶

Telekom Malaysia (USA) Inc., Request for Waiver, WC Docket No. 06-122 (filed Aug. 17, 2015)

For additional information concerning this Public Notice, please contact James Bachtell at (202) 418-7400, in the Telecommunications Access Policy Division, Wireline Competition Bureau.

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²⁶ *Universal Service Contribution Methodology; Federal-State Joint Board on Universal Service; Requests for Review of Decisions of Universal Service Administrator by Airband Communications, Inc. et al.*, WC Docket No. 06-122, CC Docket No. 96-45, Order, 25 FCC Rcd 10861 (Wireline Comp. Bur. 2010) (finding that several petitioners had not met their burden of showing good cause); *Universal Service Contribution Methodology, Request for Review of a Decision of the Universal Service Administrator by IP Telecom Group, Inc.*, WC Docket No. 06-122, 26 FCC Rcd 11231 (Wireline Comp. Bur. 2011) (simple negligence is insufficiently unique to justify waiver).