



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <https://www.fcc.gov>
TTY: 1-888-835-5322

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

CC Docket No. 02-6

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

Dismissed as Moot³

Spalding Memorial Library, PA, Application No. 989678, CC Docket No. 02-6 (filed Sept. 9, 2016)

Dismissed for Failure to Comply with the Commission's Basic Filing Requirements⁴

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 (WCB 2014). Section 54.719(b) of the Commission's rules provides that any person aggrieved by an action taken by a division of USAC, after first seeking review at USAC, may seek review from the Commission. Section 54.719(c) of the Commission's rules provides that parties seeking waivers of the Commission's rules shall seek review directly from the Commission. 47 CFR § 54.719(b)-(c). In this Public Notice, we have reclassified as Requests for Waiver those appeals seeking review of a USAC decision that appropriately should have requested a waiver of the Commission's rules. Similarly, we have reclassified as Requests for Review those appeals seeking a waiver of the Commission's rules but are actually seeking review of a USAC decision.

² See 47 CFR §§ 1.106(f), 1.115(d); see also 47 CFR § 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 Review of Decision of the Universal Service Administrator by Diversified Computer Solutions, Inc.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 5250, 5251, para. 3 (WCB 2012) (dismissing appeals as moot where invoicing records demonstrate that the entity was fully compensated for the funding it requested and all submitted invoices funded).

⁴ 47 CFR § 54.721 (setting forth general filing requirements for requests for review of decisions issued by USAC, including the requirement that the request for review include supporting documentation); see also *Wireline Competition Bureau Reminds Parties of Requirements for Request for Review of Decisions by the Universal Service*

(continued....)

Chickasaw Telecom, Inc. (Bartlesville School District), OK, Application No. 1025540, CC Docket No. 02-6 (filed Aug. 14, 2017)

Dismissed on Reconsideration⁵

Alma d'Arte Charter High School, NM, Application No. 748881, CC Docket No. 02-6 (filed June 30, 2016)

Pelican Rapids Public Schools, MN, Application No. 171049153, Petition for Reconsideration, CC Docket No. 02-6 (filed Aug. 31, 2017)

San Diego County Library, CA, Application No. 171049295, Petition for Reconsideration, CC Docket No. 02-6 (filed Nov. 11, 2017)

The Learning Tree Cultural Preparatory School, NY, Application No. 171028238, Petition for Reconsideration, CC Docket No. 02-6 (filed Nov. 19, 2017)

Dismissed on Reconsideration⁶

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Administrative Company, CC Docket Nos. 96-45, 02-6, WC Docket Nos. 02-60, 06-122, 10-90, 11-42, 13-184, 14-58, Public Notice, 29 FCC Rcd 13874 (WCB 2014) (reminding parties submitting appeals to the Bureau of the general filing requirements contained in the Commission's rules which, along with a proper caption and reference to the applicable docket number, require (1) a statement setting forth the party's interest in the matter presented for review; (2) a full statement of relevant, material facts with supporting affidavits and documentation; (3) the question presented for review, with reference, where appropriate, to the relevant Commission rule, order or statutory provision; and (4) a statement of the relief sought and the relevant statutory or regulatory provision pursuant to which such relief is sought); *Universal Service Contribution Methodology; Request for Review by Alternative Phone, Inc. and Request for Waiver*, WC Docket No. 06-122, Order, 26 FCC Rcd 6079 (WCB 2011) (dismissing without prejudice a request for review that failed to meet the requirements of section 54.721 of the Commission's rules).

⁵ 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 and Order on Reconsideration, 29 FCC Rcd 10356, 10357, para. 2 (WCB 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).

⁶ See, e.g., *id.* Intermediate Unit 25, Kennett Consolidated School District, North Penn School District, and Upper Darby School District newly argue that a waiver of the Commission's rule on invoice deadline extensions is in the public interest because there was adequate funding available in funding year 2016 under the E-rate cap to satisfy demand. Petitioners have not made the required showing for a waiver, however. In general, the Commission may exercise its discretion to waive a rule where the particular facts demonstrate that: (i) special circumstances warrant a deviation from the general rule; and (ii) such deviation will serve the public interest. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*). The Commission has determined that the invoice deadline extension rule is necessary for efficient program administration, and specifically found that it is generally not in the public interest to waive our invoicing rules absent extraordinary circumstances. See *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, 8966, paras. 239-40 (2014). To the extent that information about demand was previously unknown by petitioners when they filed their request for review and may merit consideration by the Bureau on reconsideration, we find that they present no special or extraordinary circumstances that warrant deviation from the rule. See 47 CFR § 1.106(b)(2) (noting that a petition for reconsideration will be entertained only if the petition relies on facts or arguments that have changed or were unknown to the petitioner when it previously filed at the Commission); cf. *Requests for Waiver of Decisions of the Universal Service Administrator by Batesville* (continued....)

Intermediate Unit 25, PA, Application No. 960601, Request for Waiver, CC Docket No. 02-6 (filed July 29, 2016)

Kennett Consolidated School District, PA, Application No. 960605, Request for Waiver, CC Docket No. 02-6 (filed July 29, 2016)

North Penn School District, PA, Application No. 918292, Request for Waiver, CC Docket No. 02-6 (filed July 29, 2016)⁷

Upper Darby School District, PA, Application No. 986479, Petition for Reconsideration, CC Docket No. 02-6 (filed July 29, 2016)

Granted⁸

*Granting Additional Time to Respond to USAC's Request for Information*⁹

Yeshiva Imrei Yosef School, NY, Application No. 987553, Request for Review, CC Docket No. 02-6 (filed Oct. 11, 2017)

Grant on Reconsideration – Late-Filed FCC Form 471 Applications – Circumstances Beyond

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Community School Corporation et al.; Schools and Libraries Universal Service Support Mechanism; Modernizing the E-rate Program for Schools and Libraries, CC Docket No. 02-6, WC Docket No. 13-184, Order, 31 FCC Rcd 7731, 7733, paras. 5-7 (WCB 2016) (denying requests for waiver that present only generalized arguments, rather than special circumstances warranting deviation for the general rule).

⁷ Although North Penn School District states it was unaware of the invoice extension approval, USAC sent notice of the October 7, 2015 extension on June 9, 2015 by email and facsimile. *See, e.g.*, Letter from USAC, Schools and Libraries Division, to Deb Kriete, North Penn School District (dated June 9, 2015) (Administrator's Decision on Invoice Deadline Extension).

⁸ 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 CFR § 54.507(d) (requiring non-recurring services to be implemented by September 30 following the close of the funding year); 47 CFR § 54.514(a) (codifying the invoice filing deadline).

⁹ *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 (WCB 2014) (granting requests for review of applicants that had been denied funding because they failed to respond to USAC's request for information within the USAC-specified time frame). Consistent with precedent, we also find good cause exists to waive sections 54.720(a) and (b) of the Commission's rules, which requires that petitioners file their appeals within 60 days of an adverse USAC decision. *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, 11019, para. 2 (WCB 2011) (granting waivers of filing deadline for appeals because they submitted their appeals within a reasonable period of time after receiving actual notice of USAC's adverse decision); 47 CFR §§ 54.720(a), (b).

*Applicant's Control*¹⁰

Child Care Resource Center, CA, Application No. 171040818, Petition for Reconsideration, CC Docket No. 02-6 (filed Aug. 28, 2017)

*Ministerial and/or Clerical Errors*¹¹

Clinton School District, MA, Application No. 171031097, Request for Review, CC Docket No. 02-6 (filed Oct. 13, 2017)

Kamiah Joint School District No. 304, ID, Application No. 171048024, Request for Review, CC Docket No. 02-6 (filed Sept. 20, 2017, supplemented Oct. 4, 2017)

*Unable to Timely File Awaiting USAC Action*¹²

Clarence Dillon Public Library, NJ, Application No. 1030567, Request for Waiver, CC Docket No. 02-6 (filed May 16, 2017)

Eden Central Schools, NY, Application No. 1011439, Request for Waiver, CC Docket No. 02-6 (filed Mar. 13, 2017)

Franciscan School, NC, Application No. 1028312, Request for Waiver, CC Docket No. 02-6 (filed Mar. 13, 2017)

Maricopa County Library District, AZ, Application No. 1003928, Request for Waiver, CC Docket No. 02-6 (filed Sept. 29, 2017)

Oklahoma School for the Blind, OK, Application No. 1018233, Request for Waiver, CC Docket No. 02-6 (filed Feb. 27, 2017)

¹⁰ See, e.g., *Petitions for Reconsideration by Callisburg Independent School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order and Order on Reconsideration, 28 FCC Rcd 9459, 9461, para. 5 (WCB 2013) (granting petition for reconsideration where, upon reconsideration of the record, we do not find that the evidence supports our previous determination); *Requests for Waiver of Decisions of the Universal Service Administrator by Academy for Academic Excellence et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 22 FCC Rcd 4747, 4748-49, para. 4 (WCB 2007) (granting waivers where the applicants filed after the close of the filing window due to delays beyond its control, in particular, technical problems with USAC's filing system).

¹¹ See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Archer Public Library et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 23 FCC Rcd 15518, 15521, n.19 (WCB 2008) (permitting correction when applicant failed to reference all of the entities on which it based its funding request); *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Ann Arbor Public Schools et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 17319, 17320, para. 2, n.5 (WCB 2010) (permitting applicants to correct an omission of an item on its FCC Form 471, which was on its source list).

¹² See *Request for Review and/or Waiver of Decisions of the Universal Service Administrator by Ada Public Library et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 32 FCC Rcd 1909, 1911, para. 6 (WCB 2017) (granting a waiver for applicants who were unable to file a BEAR form because they were waiting for USAC to provide an FCC Form 498 ID or personal identification number (PIN) at the time of the deadline due to one-time influx of requests in the fall of 2016).

San Antonio Public Library, TX, Application No. 1050503, Request for Waiver, CC Docket No. 02-6 (filed July 21, 2017)

Seminole Independent School District, OK, Application No. 1023138, Request for Waiver, CC Docket No. 02-6 (filed Feb. 27, 2017)

Denied

*Invoice Deadline Extension Requests*¹³

Broome Street Academy Charter High School, NY, Application No. 1043396, Request for Waiver, CC Docket No. 02-6 (filed July 10, 2017)

Hamden Hall Country Day School, CT, Application No. 997653, Request for Waiver, CC Docket No. 02-6 (filed Sept. 5, 2017)

Secaucus Public Schools, NJ, Application No. 961276, Request for Waiver, CC Docket No. 02-6 (filed May 5, 2017)

St. Patrick Catholic School, KS, Application No. 1022912, Request for Waiver, CC Docket No. 02-6 (filed Dec. 19, 2016)

United Talmudical Academy of Boro Park, NY, Application No. 1026719, Request for Waiver, CC Docket No. 02-6 (filed Oct. 16, 2017)

*Late-Filed FCC Form 471 Applications*¹⁴

Ambassador High School, CA, Application No. 171020155, Request for Waiver, CC Docket No. 02-6 (filed Sept. 22, 2017)

Bay Ridge Preparatory, NY, Application No. 171049265, Request for Waiver, CC Docket No. 02-6 (filed June 20, 2017)

McArthur Public Library, ME, Application No. 171049563, Request for Waiver, CC Docket No. 02-6 (filed Aug. 31, 2017)

T2 Honors Academy, OH, Application No. 171049225, Request for Waiver, CC Docket No. 02-6 (filed June 8, 2017)

¹³ See, e.g., *Requests for Waiver of Decisions of the Universal Service Administrator by Ada School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 31 FCC Rcd 3834, 3836, para. 8 (WCB 2016) (denying requests for waiver of the Commission's invoice extension rule for petitioners that failed to demonstrate extraordinary circumstances justifying a waiver); see also *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, 8966, para. 240 (2014) (establishing that it is generally not in the public interest to waive the Commission's invoicing rules absent extraordinary circumstances); 47 CFR § 54.514.

¹⁴ See, e.g., *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Academy of Math and Science; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 9256, 9259, para. 8 (2010) (denying requests for waiver of the FCC Form 471 filing window deadline where petitioners failed to present special circumstances justifying waiver of our rules).

*Untimely Filed Requests for Review*¹⁵

Academy of St. Adalbert, OH, Application Nos. 161057697, 161057725, Request for Waiver, CC Docket No. 02-6 (filed July 27, 2017)

Calhoun Falls Charter School, SC, Application No. 161033484, Request for Waiver, CC Docket No. 02-6 (filed Aug. 30, 2017)

Easton Public Schools, MA, Application Nos. 161031002, 161061650, Request for Waiver, CC Docket No. 02-6 (filed Aug. 4, 2017)

Highland Community Unit School District No. 5, IL, Application No. 161035653, Request for Waiver, CC Docket No. 02-6 (filed Sept. 27, 2017)

Springfield Local Schools, OH, Application Nos. 171011939, 171011974, Request for Waiver, CC Docket No. 02-6 (filed Oct. 11, 2017)

For additional information concerning this Public Notice, please contact Kate Dumouchel in the Telecommunications Access Policy Division, Wireline Competition Bureau, at kate.dumouchel@fcc.gov or (202) 418-1839.

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¹⁵ 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 (WCB 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 (WCB 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).