



# PUBLIC NOTICE

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

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.<sup>1</sup> The deadline for filing petitions for reconsideration or applications for review concerning the disposition of any of these Requests is 30 days from the release date of this Public Notice.<sup>2</sup>

### Schools and Libraries (E-Rate) CC Docket No. 02-6

#### Granted<sup>3</sup>

*Late-Filed FCC Form 471 Applications – Due to Circumstances Beyond Their Control*<sup>4</sup>

<sup>1</sup> 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 that are, in fact, seeking review of a USAC decision.

<sup>2</sup> 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).

<sup>3</sup> 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).

The School Board of Broward County, FL, Application No. 201047724, Request for Waiver, CC Docket No. 02-6 (filed Feb. 3, 2021)

*Late-Filed FCC Form 486<sup>5</sup>*

Stepping Stones Academy, AZ, Application No. 201043552, Request for Review, CC Docket No. 02-6 (filed Mar. 10, 2021)

The Paideia Academy of South Phoenix, AZ, Application No. 201012318, Request for Review, CC Docket No. 02-6 (filed Mar. 10, 2021)

*Ministerial and/or Clerical Errors<sup>6</sup>*

Garden Grove Unified School District, CA, Application No. 201027270, Request for Waiver and/or Review, CC Docket No. 02-6 (filed Feb. 22, 2021, supplemented Mar. 15 and 18, 2021)

Jonesboro Independent School District, TX, Application Nos. 201000796, 201045008, Request for Review and/or Waiver, CC Docket No. 02-6 (filed Feb. 23, 2021)

School District Unit 46, IL, Application No. 201010422, Request for Waiver and/or Review, CC Docket No. 02-6 (filed Mar. 2, 2021, supplemented Mar. 15, 2021)

*Waiver of the Competitive Bidding 28-Day Rule<sup>7</sup>*

Pearl River County School District, MS, Application Nos. 191039820, 191039896, Request for Waiver, CC Docket No. 02-6 (filed Mar. 2, 2020)

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<sup>4</sup> See, e.g., *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Abbotsford School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 15299, 15300, para. 2 (WCB 2012) (applicant filed their FCC Form 471 application beyond 14 days of the FCC Form 471 deadline due to delays beyond their control).

<sup>5</sup> See, e.g., *Requests for Waiver of Decisions of the Universal Service Administrator by Archdiocese of New Orleans et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 31 FCC Rcd 11747, 11750, para. 10 (WCB 2016) (granting relief for late-filed FCC Forms 486 that were filed no later than 120 days after the last day to receive service for the funding request at issue and where the applicant demonstrated good cause for the late filing).

<sup>6</sup> See, e.g., *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, 17319-20 nn.5 & 20 (WCB 2010) (granting a waiver where the applicant omitted items from its source list or selected the wrong category of service on its FCC Form 471); *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Joseph Jingoli & Son, Inc., et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 22 FCC Rcd 19227, 19228-29, paras. 3-4 (WCB 2007) (granting petitioners' requests to restore mistakenly cancelled funding requests).

<sup>7</sup> 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 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). Although Pearl River County School District entered into an agreement with its service provider four days before the 28-day waiting period expired, no other bids were received in those final days, two of which fell on a weekend. Therefore, based on the record before us, we find that its request for service was competitively bid for a meaningful period of time.

Denied in Part*Impermissible Increase in Cost for Services*<sup>8</sup>

Roosevelt Children's Academy, NY, Application No. 201045414, Request for Waiver, CC Docket No. 02-6 (filed Feb. 9, 2021)

*SPIN Change Increase in Cost for Services*<sup>9</sup>

Eldorado School District 4, IL, Application No. 201015675, Request for Review, CC Docket No. 02-6 (filed Feb. 23, 2021)

Denied*Failure to Satisfy Debt/Red Light Rule*<sup>10</sup>

West Carroll Parish School District, LA, Application No. 191015891, Request for Waiver, CC Docket No. 02-6 (filed Sept. 20, 2019)

*Invoice Deadline Extension Requests*<sup>11</sup>

City Center for Collaborative Learning, AZ, Application No. 171047619, Request for Waiver, CC Docket No. 02-6 (filed Oct. 5, 2020)

*Ministerial and/or Clerical Errors*<sup>12</sup>

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<sup>8</sup> See *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 35 FCC Rcd 10347, 10353, para. 18 (WCB 2020) (limiting the price per megabit for services procured under the second funding year 2020 COVID relief filing window to the price in the original contract). We are denying this request only to the extent Roosevelt Children's Academy seeks funding above the original commitment amount.

<sup>9</sup> See, e.g., *Requests for Review and/or Waiver of Decisions of the Universal Service Administrator by Academy of Detroit West, et al; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 35 FCC Rcd 1960, 1965-66, para. 15 (WCB 2020) (an applicant cannot use a SPIN change to increase the funding level of an FRN). We are denying the request only to the extent Eldorado School District 4 seeks an increase in the original commitment amount in light of the approved SPIN change.

<sup>10</sup> See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Net56, Inc., Wheeling School District 21, Schools and Libraries Support Mechanism*, CC Docket No. 02-6, Order, 28 FCC Rcd 13122, 13126, para 6 (WCB 2013) (denying E-Rate applicant's request for a waiver of the red light rule and dismissing their funding year 2010 application where the applicant's only justification for not paying the debt was that it was never notified by USAC).

<sup>11</sup> 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, 3835, para. 7 (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.

<sup>12</sup> See, e.g., *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Assabet Valley Regional Vocational District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 1924, 1925, para. 1 (WCB 2012) (finding petitioners had not demonstrated good cause to justify waivers permitting changes to the applicants' E-Rate applications).

Black River Local School District, OH, Application No. 181040063, Request for Waiver and/or Review, CC Docket No. 02-6 (filed Feb. 27, 2020, supplemented Apr. 14, 2020, Jan. 12, 2021, Feb. 18, 2021)

KIPP St. Louis, MO, Application No. 171014511, Request for Waiver and/or Review, CC Docket No. 02-6 (filed Feb. 2, 2021)

Plumas Lake Elementary School District, CA, Application No. 191029631, Request for Review, CC Docket No. 02-6 (filed Mar. 13, 2020)

Prairie Du Chien Schools, WI, Application No. 201021615, Request for Review, CC Docket No. 02-6 (filed Nov. 4, 2020)

*Necessary Resources*<sup>13</sup>

Metropolitan Boston Library Network, MA, Application No. 329974, Request for Review, CC Docket No. 02-6 (filed Dec. 11, 2020, supplemented Feb. 22, 2021)

*Relying on FCC Form 470 That Did Not Seek Bids on Types of E-Rate Services Later Requested*<sup>14</sup>

Greene County School District, VA, Application No. 171044936, Request for Waiver, CC Docket No. 02-6 (filed May 22, 2020)

*Untimely Filed Appeals or Waiver Requests*<sup>15</sup>

Derech Hatorah of Rochester, NY, Application Nos. 161004711, 161003606, Request for Review or Waiver, CC Docket No. 02-6 (filed Nov. 8, 2018)

Greene County Board of Education School District, AL, Application No. 191041450, Request for Waiver, CC Docket No. 02-6 (filed Feb. 16, 2021)

Kent School District, WA, Application No. 201034818, Request for Waiver, C Docket No. 02-6 (filed Feb. 18, 2021)

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<sup>13</sup> See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Academy of Excellence et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, 22 FCC Rcd 8722, 8723, para. 3 (2007) (observing that support for eligible services is conditional upon the applicant securing access to all of the resources necessary to effectively use the services purchased).

<sup>14</sup> See, e.g., *Request for Review of a Decision of the Universal Service Administrator by Albert Lea Schools et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 24 FCC Rcd 4533 (WCB 2009); *Petition for Reconsideration by Chicago Public Schools; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd 9289 (WCB 2014) (denying appeals of applicants that filed FCC Forms 470 that did not include the types of services for which the applicants later requested E-Rate funding).

<sup>15</sup> 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 requests for review and/or waiver on the grounds that the petitioners failed to (1) submit their appeals either to the Commission or to USAC within 60 days; or failed to submit their waiver requests to the Commission within 60 days as required by the Commission's rules; and (2) did not show special circumstances necessary for the Commission to waive the rule).

Plainfield Public Library, NJ, Application No. 201043990, Request for Waiver, CC Docket No. 02-6 (filed Feb. 26, 2021)

**Rural Health Care Program**

**WC Docket No. 02-60**

Granted

*Waiver of the Invoice Filing Deadline—Sua Sponte Waiver*<sup>16</sup>

Indiana Telehealth Network, IN, *Sua Sponte Waiver*, WC Docket No. 02-60, Funding Request No. 17894521

**Contribution Methodology**

**WC Docket No. 06-122**

Denied

*Late 499-A Filing Fee Waiver Request*<sup>17</sup>

Bitnetix Incorporated, Request for Waiver of FCC Form 499-A Late Filing Fee, WC Docket No. 06-122 (filed Mar. 9, 2021)

Dismissed Without Prejudice

*Request for Waiver of the 499-A Filing Deadline*<sup>18</sup>

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<sup>16</sup> See *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Order, 35 FCC Rcd 1986, 1994 (WCB 2020) (*Funding Year 2018 Invoice Waiver Order*); *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Order, 32 FCC Rcd 5065, 5065-66, paras. 2, 4 (WCB 2017) (*Funding Year 2016 Invoice Waiver Order*) (granting a waiver *sua sponte* of the invoice filing deadline when the deadline had already passed at the time that health care providers received USAC's decision, which made compliance with program rules impossible). We waive the petitioner's invoice filing deadline and allow it 180 days from the later of the release of this Public Notice or the issuance of a Funding Commitment Letter to file invoices with USAC.

<sup>17</sup> 47 CFR § 54.713. See, e.g., *Universal Service Contribution Methodology; Request for Review of a Decision of the Universal Service Administrator and Request for Waiver by BelWave Communications*, WC Docket No. 06-122, Order, 27 FCC Rcd 11176 (WCB 2012); *Universal Service Contribution Methodology; Request for Review of Decisions of the Universal Service Administrator and Request for Waiver by BCG, Inc. et al.*, WC Docket No. 06-122, Order, DA 11-864 (WCB 2011) (both finding that petitioners' claims that they were unaware of their filing obligation did not warrant waiver of the Form 499-A filing deadline and associated late fees); *Universal Service Contribution Methodology; Requests for Waiver of Decisions of the Universal Service Administrator by ComScape Telecommunications of Raleigh- Durham, Inc. and Millennium Telecom, LLC*, WC Docket No. 06-122, Order, 25 FCC Rcd 7399 (WCB 2010) (denying waiver requests when negligence caused late filing fee); *Universal Service Contribution Methodology; Requests for Review of Decisions of the Universal Service Administrator by Achilles Networks, Inc., et al.*, WC Docket No. 06-122, Order, 25 FCC Rcd 4646, 4648-49, paras. 5, 8 (WCB 2010) (good cause not shown when filers claim they were unaware of their obligation to file the forms, ignorant of the process for electronically filing the forms, or had otherwise failed to file the forms).

<sup>18</sup> 47 CFR 54.721(b)(2). See e.g., *Universal Service Contribution Methodology, Request for Review of Decision of Universal Service Administrator and Request for Waiver by CML Communications LLC*, WC Docket No. 06-122, Order, 26 FCC Rcd 335 (WCB 2011) (holding that our rules require requests for review of decisions of USAC to contain a full statement of relevant, material facts with supporting affidavits and documentation). See, also, *Universal Service Contribution Methodology Petition for Clarification and Partial Reconsideration by XO Communications Services, LLC*, WC Docket No. 06-122, Order on Reconsideration, 29 FCC Rcd 9715 (finding that

(continued....)

US Matrix Telecommunications, Request for Waiver of 499-A Revision Deadline Rule, WC Docket No. 06-122 (filed Feb. 4, 2021)

*Petition for Waiver*<sup>19</sup>

Grid4 Communications, Inc., Petition for Waiver, CC Docket No. 96-45 (filed Mar. 3, 2021)

For additional information concerning this Public Notice, please contact James Bachtell in the Telecommunications Access Policy Division, Wireline Competition Bureau, at james.bachtell@fcc.gov or (202) 418-2694.

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a post-dated reseller certificate alone does not establish that a wholesale provider's customer *actually* contributed to the Fund on the relevant revenues); *Universal Service Contribution Methodology, Federal-State Joint Board on Universal Service, American Telecommunications Systems Inc., et al.*, WC Docket No. 06-122, CC Docket No. 96-45, Memorandum Opinion and Order, 32 FCC Rcd 535, 542, para. 17 (WCB Jan. 13, 2017) (finding that "relief for double payment should be a refund or credit from USAC, but only to the extent the party alleging double payment demonstrates that double payments are being required on the same revenue").

<sup>19</sup> 47 CFR § 1.1910(b). See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Net56, Inc., Wheeling School District 21, Schools and Libraries Support Mechanism*, CC Docket No. 02-6, Order, 28 FCC Rcd 13122, 13126, para 6 (WCB 2013) (dismissing E-Rate applicant's funding year 2010 request pursuant to the Commission's "red light rules").