

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of )
Requests for Review and/or Waiver of Decisions of )
the Universal Service Administrator by )
Accomack County Public School Accomack, ) File Nos. SLD-201017311 et al.
Accomac, Virginia et al. )
Petition for Reconsideration by )
Wake County Public Schools, ) File No. SLD-181018864
Cary, North Carolina )
Schools and Libraries Universal Service ) CC Docket No. 02-6
Mechanism )

ORDER

Adopted: January 19, 2023

Released: January 19, 2023

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

I. INTRODUCTION

1. In this Order, we grant 37 appeals of decisions of the Universal Service Administrative Company (USAC) from E-Rate program participants seeking to correct ministerial or clerical errors associated with the invoicing process. We also grant one petition for reconsideration. The petitioners inadvertently made ministerial or clerical errors while completing their E-Rate request for reimbursement (i.e., FCC Form 472 (Billed Entity Applicant Reimbursement (BEAR)) or FCC Form 474 (Service Provider Invoice (SPI)) form or while requesting an invoice filing deadline extension. While these mistakes caused the reimbursement forms or invoice filing deadline extensions to be rejected or unprocessed, all filings were timely submitted in compliance with section 54.514(a) and (b) of the Commission's rules. To the extent necessary, we also waive section 54.719(b) of the Commission's

1 See Appendix A. The E-Rate program is formally known as the schools and libraries universal service support mechanism.

2 We initially denied Wake County Public Schools' request for review. See Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company, CC Docket No. 02-6, WC Docket Nos. 02-60, 06-122, Public Notice, 35 FCC Rcd 9927, 9936 (WCB 2020). On reconsideration, Wake County Public Schools raises new facts demonstrating that we should grant the appeal. Section 1.106(c)(2) of the Commission's rules provides that a petition for reconsideration of a decision may rely on facts not previously presented to the Commission if consideration of the facts relied on is required by the public interest. 47 C.F.R. § 1.106(c)(2).

3 47 CFR § 54.514(a) and (b) (requiring that invoices must be submitted to USAC: (1) 120 days after the last day to receive service; (2) 120 days after the date of the FCC Form 486 Notification Letter; or (3) 120 days after the date of a Revised Funding Commitment Decision Letter approving a post-commitment request made by the applicant or service provider or a successful appeal of a previously denied or reduced funding request, whichever is latest, and

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rules that requires applicants to seek review of a USAC decision from USAC in the first instance.<sup>4</sup> We also grant seven appeals where the petitioners filed timely requests for reimbursement pursuant to section 54.514(a) and (b) of the Commission's rules, but were later denied funding because the petitioners failed to respond to USAC's request for additional information regarding the submitted reimbursement form or extension request within the specified timeframe.<sup>5</sup>

## II. BACKGROUND

2. *Invoicing.* E-Rate applicants select one of two ways to seek reimbursement of the costs of eligible E-Rate equipment and services.<sup>6</sup> If an applicant pays the full cost of the equipment and services upfront, then the applicant must submit an FCC Form 472, the Billed Entity Applicant Reimbursement (BEAR) form, to request reimbursement for the discounted share of the costs from USAC.<sup>7</sup> If an applicant only pays its service provider the non-discounted share of the cost of the eligible equipment and services, then the service provider must file an FCC Form 474, the Service Provider Invoice (SPI) form, to receive reimbursement of the discounted share of the costs directly from USAC. Before 2014, invoice filing deadline extension requests were governed by a USAC procedural rule that allowed applicants or service providers to request and receive a 120-day invoice extension under certain conditions.<sup>8</sup> USAC routinely granted invoice extension requests that met its criteria, including requests made up to a year after the original invoice filing deadline. This allowed for the resubmission of invoices in cases where E-Rate participants made ministerial and clerical errors on their forms. In 2014, however, the Commission adopted a new E-Rate rule requiring applicants and service providers to submit invoicing forms for reimbursement to USAC no later than 120 days after the last day to receive service or 120 days after the date of the FCC Form 486 Notification letter, whichever is later.<sup>9</sup> The Commission's rules also allow an applicant or a service provider to receive a one-time 120-day extension of the invoice filing deadline for any cause, if the applicant or service provider requests the extension before the applicable invoice filing deadline.<sup>10</sup> The Commission further explained that waivers of these rules would generally

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also requiring the invoice filing deadline extension to be submitted in advance of the invoice filing deadline set forth in paragraph (a) of this section).

<sup>4</sup> 47 CFR § 1.3.

<sup>5</sup> See Appendix B.

<sup>6</sup> 47 CFR § 54.514(c).

<sup>7</sup> USAC Invoicing: FCC Form 472 Filing, <https://www.usac.org/e-rate/applicant-process/invoicing/fcc-form-472-filing/> (last visited Jan. 19, 2023).

<sup>8</sup> See, e.g., *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Third Report and Order and Second Further Notice of Proposed Rulemaking, 18 FCC Rcd 26912, 26950, para. 93 (2003) (noting that USAC provides an extension of the deadline to file invoices under certain conditions, including (1) authorized service provider changes; (2) authorized service substitutions; (3) no timely notice to USAC (e.g., the service providers' Form 486 Notification Letter is returned to USAC as undeliverable); (4) USAC errors that result in a late invoice; (5) USAC delays in data entering a form that ultimately result in a late invoice; (6) documentation requirements that necessitate third party contact or certification; (7) natural or man-made disasters that prevent timely filing of invoices; (8) good Samaritan BEARs; and (9) circumstances beyond the service providers control).

<sup>9</sup> 47 CFR § 54.514(a) (2014); *Modernizing the E-Rate Program for Schools and Libraries*, WC Docket No. 13-184, Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 8870, 8965-66, paras. 238-39 (2014) (*First 2014 E-Rate Order*). In December 2020, the Commission amended section 54.514(a) of its rules and provided applicants and service providers 120 days after the date of Revised Funding Commitment Decision Letter approving a post-commitment request made by the applicant or service provider or successful appeal of a previously denied or reduced funding request to submit their requests for reimbursement. See *Modernizing the E-Rate Program for Schools and Libraries*, WC Docket No. 13-184, Order, 35 FCC Rcd 14426, 14429, para. 10 (WCB Dec. 10, 2020) (*2020 E-Rate Invoice Rule Modification Order*).

<sup>10</sup> 47 CFR § 54.514(b).

not be in the public's interest and directed the Wireline Competition Bureau (Bureau) to grant waivers only under extraordinary circumstances.<sup>11</sup>

3. *Appeal/Waiver Rules.* In 2014, the Commission also amended its rules to require parties seeking review of USAC decisions to first file an appeal with USAC.<sup>12</sup> Prior to the modification of this rule, a party could appeal an action or decision by USAC directly to the Commission.<sup>13</sup> Now, however, if USAC denies a timely-filed reimbursement form, the applicant or service provider must first appeal that decision to USAC, within the 60-day deadline set forth in section 54.720 of the Commission's rules.<sup>14</sup> When appealing USAC's invoicing-related decision, an applicant or service provider is not required to file another reimbursement form or seek a waiver of the invoice deadline.<sup>15</sup>

4. *Ministerial and Clerical Errors.* In the 2006 *Bishop Perry Order*, the Commission found good cause existed to grant petitioners' appeals where the applicants made immaterial clerical, ministerial, or procedural errors in filling out their FCC Forms 470 and 471.<sup>16</sup> The Commission waived the minimum processing standards established by USAC in these instances, noting there was no evidence of waste, fraud or abuse, misuse of funds, or a failure to adhere to core program requirements.<sup>17</sup> The Commission also found that the denial of funding requests inflicted undue hardship on the applicants and that rigid compliance with the application procedures did not further the purposes of section 254(h) of the Communications Act (Act), as amended by the Telecommunications Act of 1996, or serve the public interest.<sup>18</sup> In that decision and subsequent orders, relief has been granted to E-Rate participants for many types of ministerial and clerical errors on the FCC Form 471 and related forms,<sup>19</sup> defined as errors one would make "when entering data from one list to another, such as mistyping a number, using the wrong name or phone number, failing to enter an item from the source list onto the application, or making an arithmetical error."<sup>20</sup> In 2011, the Commission permitted applicants to correct ministerial and clerical

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<sup>11</sup> *First 2014 E-Rate Order*, 29 FCC Rcd at 8966, para. 240.

<sup>12</sup> 47 CFR § 54.719(a)-(b). See also *First 2014 E-Rate Order*, 29 FCC Rcd at 8970-71, paras. 250-52 (revising sections 54.719 and 54.720 of the Commission's rules to, among other things, require parties seeking appeal of a USAC decision to first seek review with USAC). Parties seeking a waiver of the Commission's rules, however, must seek relief directly from the Commission. 47 CFR § 54.719(c).

<sup>13</sup> See, e.g., 47 CFR § 54.719 (2013) (allowing the party to file an appeal with USAC, or directly with the Commission).

<sup>14</sup> 47 CFR § 54.720.

<sup>15</sup> See USAC, Schools and Libraries Program News Brief (Dec. 9, 2016), <https://apps.usac.org/sl/tools/news-briefs/preview.aspx?id=734>.

<sup>16</sup> *Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 21 FCC Rcd 5316, 5320-21, paras. 10-11 (2006) (*Bishop Perry Order*) (waiving the Commission's rules to allow applicants additional time to file their FCC Forms 471 where applicants committed ministerial or clerical errors). The FCC Form 470 is the Description of Services Requested and Certification Form that applicants are required to file to initiate the competitive bidding process and the FCC Form 471 is the Description of Services Ordered and Certification Form, applicants file with USAC to request discounts on eligible services and equipment for the upcoming funding year.

<sup>17</sup> *Id.* at para. 11.

<sup>18</sup> *Id.* (citing to 47 U.S.C. § 254(h)). The Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, amended the Communications Act of 1934.

<sup>19</sup> See, e.g., *Bishop Perry Order*, 21 FCC Rcd at 5320-21, para. 10; *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Ann Arbor et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 17319, 17319-21, para. 2 (WCB 2010) (*Ann Arbor Order*).

<sup>20</sup> *Ann Arbor Order*, 25 FCC Rcd at 17320, n.5. In the *Ann Arbor Order*, relief was granted for such mistakes as entering the wrong competitive bidding form number, entering the wrong billed entity number, entering the wrong name or service provider identification number (SPIN), entering the wrong expiration date for a contract, wrongly

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errors on already-submitted FCC Forms 471 up until the date that the funding commitment decision letter is issued by USAC.<sup>21</sup> The Commission explained that because of the complexity and detail involved in completing E-Rate forms and associated documentation, such errors may not be discovered until significantly after a request for funding was filed.<sup>22</sup> The Bureau also expanded its relief for ministerial and clerical errors to the FCC Form 486 in instances where applicants submitted the form with the incorrect service start date, causing funding denials.<sup>23</sup> These decisions noted that the minor mistakes at issue did not warrant the complete rejection of the FCC Forms 486 given that the applicants made a procedural error and did not violate a Commission rule.<sup>24</sup>

5. *Late or Missing Information Requests.* In addition to granting relief for ministerial and clerical errors, the Commission has also found that it is in the public interest to grant appeals in situations where E-Rate participants had funding reduced or denied because USAC-requested information was not submitted in the specified timeframe.<sup>25</sup> The Commission determined that these appeals involved a procedural error on the part of the E-Rate participant, not a failure to adhere to a core program requirement or a misuse of funds.<sup>26</sup> The Commission further found that these appeals involved a processing deadline, not a program rule. Although deadlines are necessary for the efficient administration of the E-Rate program, in these cases, the Commission found that the applicants had demonstrated that rigid adherence to such procedures did not further the purposes of section 254(h) of the Act, or serve the public interest.<sup>27</sup> While these decisions involved USAC's information requests in the context of the processing the FCC Form 471,<sup>28</sup> information requests are also necessary for correctly processing E-Rate reimbursement forms (i.e., FCC Forms 472 and 474). Here, USAC has denied timely-filed reimbursement forms when applicants or service providers failed to respond within seven days to

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classifying the type of service (recurring vs. non-recurring), making a calculation error, entering the monthly charge as the annual charge, entering the discounted annual price rather than the pre-discount annual price, and miscalculating the discount rate. See, e.g., *id.* at 17319-21, para. 2.

<sup>21</sup> *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 6487, 6488-89, para. 5 (2011). In the *Bishop Perry Order*, the Commission gave applicants 15 calendar days to submit corrections of clerical or ministerial errors, or to refile their FCC Form 470 or FCC Form 471 application, or associated documentation. *Bishop Perry Order*, 21 FCC Rcd at 5326-27, para. 23.

<sup>22</sup> *Id.* at para. 5.

<sup>23</sup> See, e.g., *Request for Review and/or Waiver by Glendale Unified School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 21 FCC Rcd 1040 (WCB 2006); *Request for Waiver by Harvey Public Library District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 23 FCC Rcd 15419 (WCB 2008); *Requests for Review and/or Waiver of Decisions of the Universal Service Administrator by Barrow County School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 4028 (WCB 2011) (*Barrow County Order*) (granting waiver requests when the applicants inadvertently listed the wrong service start date on their FCC Forms 486). The FCC Form 486 is the Receipt of Service Confirmation and CIPA Certification Form, applicants are required to file to notify USAC that services have started and indicate the status of compliance with CIPA.

<sup>24</sup> See, e.g., *Barrow County Order*, 26 FCC Rcd at 4028, para. 2.

<sup>25</sup> 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) (*Alpaugh Unified School District Order*); *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).

<sup>26</sup> *Alpaugh Unified School District Order*, 22 FCC Rcd at 6037, para. 5.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

USAC's request for additional information.<sup>29</sup>

### III. DISCUSSION

6. In this Order, we consider several appeals from E-Rate participants that timely submitted reimbursement forms or invoice filing deadline extension requests but were denied funding because of ministerial or clerical errors on the forms or extension requests.<sup>30</sup> We also consider appeals from applicants and service providers that were denied funding because they did not respond to USAC's information request regarding timely-filed reimbursement forms or extension requests within the specified timeframe.

7. *Ministerial and Clerical Errors.* The petitioners listed in Appendix A made ministerial or clerical errors when submitting their BEAR (FCC Form 472) or SPI (FCC Form 474) reimbursement forms when, for example, they inadvertently selected an incorrect last day of service from the invoice drop-down menu or otherwise entered a wrong billing, service or shipping date,<sup>31</sup> inadvertently requested funding for the wrong funding year,<sup>32</sup> entered the wrong service provider identification number,<sup>33</sup> entered the wrong customer billed date on the SPI form,<sup>34</sup> entered the wrong recipient of service on an invoice,<sup>35</sup> or entered the wrong application or funding request number on the BEAR or SPI form.<sup>36</sup>

8. We also consider several appeals where the petitioners' invoice filing deadline extension requests were denied or not processed because the requests contained ministerial or clerical errors. Here, the petitioners inadvertently requested an invoice filing deadline extension for the wrong funding year or

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<sup>29</sup> See, e.g., Request for Review of Marengo County Schools; Request for Waiver of Moniteau School District (explaining that USAC denied payment after applicant did not respond to email inquiry in seven days).

<sup>30</sup> See USAC, Schools and Libraries Program News Brief (Dec. 9, 2016), <https://apps.usac.org/sl/tools/news-briefs/preview.aspx?id=734>.

<sup>31</sup> Request for Waiver of Comcast Phone, LLC (Lake Villa School District); Request for Waiver of Connectivity Two, Inc. (CSAL, Inc. – CSAL Middle; CSAL, Inc. – Madison Prep; CSAL, Inc. – LAVCA; J.K. Haynes Charter School District; Martin Luther King, Jr. Christian Academy); Request for Waiver of Greenwood-Leflore Consolidated School District (Southern Light, LLC); Request for Waiver of Leland Community Unit School District No. 1; Request for Waiver of Marsh Valley School District; Request for Waiver of Notre Dame School; Request for Waiver of Plumsted Township School District; Request for Waiver of Pontiac Community Consolidated School District #429; Request for Review of Peoples Preparatory Charter; Request for Waiver of St. Edward Central Catholic High School; Request for Review of Wolfe County School District.

<sup>32</sup> Request for Waiver of Boys Latin of Philadelphia Charter School; Request for Review of Clinton School District 15; Request for Waiver of Madill City County Library; Request for Waiver of University of Chicago Charter Schools Corp.

<sup>33</sup> Request for Review of Hoxie Unified School District.

<sup>34</sup> Request for Waiver of Envision Technology Advisors, LLC (Sturgis Charter School).

<sup>35</sup> Request for Review of Whalley Computer Associates, Inc. (Mendon-Upton Regional School District).

<sup>36</sup> Request for Waiver of Accomack County Public School; Request for Waiver of Brother Rice High School; Request for Waiver of Chapel Hill ISD; Request for Waiver of Chickasaw Telecom (Bartlesville School District); Request for Waiver of Edmonds School District; Request for Waiver of Detroit Leadership Academy; Request for Waiver of Evergreen School District; Request for Waiver of Gamewood Technology Group, Inc d/b/a RiverStreet Networks (King And Queen County Sch. Div.); Request for Review of International Academy of Flint; Request for Waiver of Moreno Valley High School; Request for Waiver of e-Polk, Inc. (Rutherford County Schools); Request for Waiver of Data Management Services (Diocese Of Houma-Thibodaux); Request for Waiver of Rio Grande City Grulla Independent School District; Request for Waiver of Southeastern Services Inc. (Madison County School District); Petition for Reconsideration of Wake County Public Schools; Request for Waiver of Yonkers Public Schools.

wrong funding request number,<sup>37</sup> or left off one or more funding request numbers from a timely-filed invoice filing deadline extension request due to a clerical or computer error.<sup>38</sup>

9. We find that it is the public interest to grant the appeals included in Appendix A. The Commission may waive any provision of its rules on its own motion or on petition for good cause shown.<sup>39</sup> A rule may be waived where particular facts make strict compliance inconsistent with the public interest.<sup>40</sup> In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.<sup>41</sup> In sum, a waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.<sup>42</sup>

10. The petitioners in Appendix A argue that immaterial clerical, ministerial or procedural errors caused the rejection or denial of their otherwise-timely reimbursement forms or extension requests. The petitioners' mistakes on these forms and requests are nearly identical to those mistakes made in the context of FCC Forms 470, 471, 486, and other related forms or submissions for funding under the E-Rate program, discussed above, and we find that the same rationale for granting those requests applies here. Namely, we find that petitioners submitted timely reimbursement forms or requests for an invoice filing deadline extensions to USAC pursuant to section 54.514(a) and (b) of the Commission's rules.<sup>43</sup> However, those forms or requests were rejected or denied by USAC for the types of ministerial and clerical errors that the Commission has previously determined should be reconsidered by USAC on other E-Rate forms and requests. We also find that the denial of funding inflicts undue hardship on the E-Rate participants and rigid compliance with the invoice filing deadline and invoice filing deadline extension rules does not further the purposes of section 254(h) or serve the public interest.<sup>44</sup> In addition, we further find that there is no evidence of waste, fraud or abuse, misuse of funds, or a failure to adhere to core program requirements.<sup>45</sup>

11. While applicants must file waivers to extend the invoice filing with the Commission,<sup>46</sup> USAC has the authority to accept evidence of a ministerial and clerical error on appeal and correct the issue on the submitted form or request. Most petitioners included in Appendix A, however, did not file an appeal with USAC based on the ministerial or clerical error found on their reimbursement form. Some petitioners said USAC directed them to refile their reimbursement form, resulting in a denial because the new reimbursement form was submitted after the invoice filing deadline set forth in 54.514(a) of the Commission's rules.<sup>47</sup> Other petitioners filed a waiver directly with the Commission, either based on

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<sup>37</sup> Request for Waiver of Fall Mountain Regional School District; Request for Waiver of The New America School - Las Cruces.

<sup>38</sup> Request for Waiver of Southwest Plains Regional Service Center (Bucklin USD 459); Request for Waiver of Columbia School District.

<sup>39</sup> 47 CFR § 1.3.

<sup>40</sup> See *Northeast Cellular Telephone Co. v. FCC*, 879 F.2d 1164, 1166 (D.C. Cir. 1990).

<sup>41</sup> *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

<sup>42</sup> *Northeast Cellular*, 879 F.2d at 1166.

<sup>43</sup> 47 CFR §§ 54.514(a)-(b).

<sup>44</sup> *Id.*

<sup>45</sup> See *supra* para. 4.

<sup>46</sup> See *supra* n.13.

<sup>47</sup> Request for Review of Clinton School District 15; Request for Waiver of St. Edward Central Catholic High School; Request for Waiver of Connectivity Two, Inc. (CSAL, Inc. – CSAL Middle; CSAL, Inc. – Madison Prep; CSAL, Inc. – LAVCA; J.K. Haynes Charter School District; Martin Luther King, Jr. Christian Academy); Request

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their understanding of the rules or on the advice of USAC.<sup>48</sup> Two petitioners' appeal requests were denied because USAC treated them as waivers for the invoice filing deadline and dismissed the petitioners' appeals because it did not have the authority to waive section 54.514(a) of the Commission's rules.<sup>49</sup> One appeal was denied by USAC for being filed more than 60 days after the adverse decision, although the appeal was actually timely based on the date of the FCC Form 472 (BEAR) Notification Letter.<sup>50</sup> One appeal was denied by USAC, even though the petitioner documented the invoice's ministerial and clerical error in its appeal.<sup>51</sup> To the extent petitioners filed an appeal with the Commission in the first instance, we also waive our rule that requires parties to first file an appeal with USAC and direct USAC to treat their appeals as timely filed.<sup>52</sup>

12. Based on the circumstances described by petitioners listed in Appendix A, we find good cause to waive our rules because of the substantial hardship and confusion caused by USAC's invoice denials and incorrect guidance that applicants and service providers needed a waiver of the invoice filing deadline from the Commission before they could correct the clerical and ministerial errors on their reimbursement forms or extension requests. Thus, we waive section 54.719(b) of the Commission's rules for the petitioners that appealed to the Commission first. To the extent petitioners included in Appendix A also filed their appeals late, we further waive section 54.720 of our rules that require appeals be filed within 60 days from the date of the adverse decision.<sup>53</sup> This is consistent with precedent where the Commission has waived the filing deadline when E-Rate participants had filed an appeal within 60 days of discovering or receiving notice of the ministerial or clerical error.<sup>54</sup>

13. Going forward, we direct USAC to review appeals of ministerial and clerical errors as described above and not to direct these petitioners to file waiver requests with the Commission.<sup>55</sup>

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for Waiver of Southeastern Services Inc. (Madison County School District); Request for Waiver of University of Chicago Charter Schools Corp.

<sup>48</sup> Request for Waiver of Accomack County Public School; Request for Waiver of Boys Latin of Philadelphia Charter School; Request for Waiver of Brother Rice High School; Request for Waiver of Data Management Services (Diocese Of Houma-Thibodaux); Request for Waiver of Chapel Hill ISD; Comcast Phone, LLC (Lake Villa School District); Request for Waiver of Detroit Leadership Academy; Request for Waiver of Envision Technology Advisors, LLC (Sturgis Charter School); Request for Waiver of e-Polk Inc. (Rutherford County Schools); Request for Waiver of Fall Mountain Regional School District; Request for Waiver of Gamewood Technology Group, Inc d/b/a RiverStreet Networks (King And Queen County Sch. Div.); Request for Waiver of Greenwood-Leflore Consolidated School District (Southern Light, LLC ); Request for Review of Hoxie Unified School District; Moreno Valley High School; Request for Waiver of Edmonds School District; Request for Waiver of Evergreen School District; Request for Waiver of Leland Community Unit School District No. 1; Request for Waiver of Madill City County Library; Request for Waiver of Marsh Valley School District; Request for Waiver of Chickasaw Telecom (Bartlesville School District); Request for Waiver of Notre Dame School; Request for Waiver of Plumsted Township School District; Request for Waiver of Pontiac Community Consolidated School District #429; Request for Waiver of Rio Grande City Grulla Independent School District; Request for Waiver of Southwest Plains Regional Service Center (Bucklin USD 459); Request for Waiver of The New America School - Las Cruces; Request for Waiver of Wake County Public Schools; Request for Waiver of Yonkers Public Schools; Request for Review of Wolfe County School District..

<sup>49</sup> Request for Waiver of Columbia School District; Request for Waiver of International Academy of Flint.

<sup>50</sup> Request for Review of Peoples Preparatory Charter.

<sup>51</sup> Request for Review of Whalley Computer Associates, Inc. (Mendon-Upton Regional School District).

<sup>52</sup> 47 CFR § 54.719(b).

<sup>53</sup> 47 CFR § 54.720.

<sup>54</sup> See, e.g., *Ann Arbor Order*, 25 FCC Rcd at 17319, n.2 (waiving the filing deadline for petitioners that filed the appeal as soon they received actual notice of the mistake).

<sup>55</sup> 47 CFR § 54.719(a).

Because the original reimbursement form (i.e., FCC Form 472 or FCC Form 474) was timely filed pursuant to section 54.514(a) of our rules, applicants and service providers should not be required to submit a new reimbursement form to correct the error in question, which may result in the form being denied because it was submitted after the invoice filing deadline.<sup>56</sup> Instead, USAC should allow the applicant or service provider to correct the timely filed reimbursement form or extension request, and not require that a new form or request be submitted to correct the error. We note that if a clerical or ministerial mistake of this type is discovered after the 60-day appeal-filing deadline,<sup>57</sup> E-Rate participants should first file a waiver request with the Commission seeking a waiver of section 54.720 of the Commission's rules and explain how and when the clerical or ministerial error was discovered.<sup>58</sup>

14. *Late or Missing Information Requests.* We also find that it is in the public interest to grant the appeals included in Appendix B where petitioners did not respond in seven days to USAC's request for information about a timely-filed reimbursement form or extension of the invoice filing deadline request. These petitioners did not meet the deadline to submit additional information concerning their form or request because they did not receive USAC's request for additional information,<sup>59</sup> or did not respond in a timely manner due to personnel issues.<sup>60</sup> We find that the circumstances in these cases are nearly identical to those missing the deadline for responding to USAC information requests in the context of the FCC Form 471 applications, and the same rationale applies here. Namely, we find that these appeals involved a procedural error on the part of the E-Rate participant, not a failure to adhere to a core program requirement or a misuse of funds.<sup>61</sup> Further, these appeals involve a processing deadline, and not a program rule. We find, as the Commission noted in the context of late or missing information when processing FCC Form 471 applications, that the petitioners have demonstrated that rigid adherence to such procedures does not further the purposes of section 254(h) of the Act or serve the public interest.<sup>62</sup>

15. We encourage applicants and service providers to invoice early and timely request a one-time 120-day invoice filing deadline extension if any issues arise or could arise regarding the invoice filing deadline set forth by section 54.514(a)-(b) of the Commission's rules. By building in additional time for the E-Rate invoicing process, problems caused by ministerial and clerical errors or missed information requests can be resolved with USAC, before the invoicing filing deadline expires without the

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<sup>56</sup> 47 CFR § 54.514 (requiring that invoices be submitted either 120 days after the last day to receive service or 120 days after the date of the FCC Form 486 Notification Letter, whichever is later). *See supra* para. 2.

<sup>57</sup> 47 CFR § 54.720.

<sup>58</sup> 47 CFR § 54.719(c) (noting that parties seeking waivers of the Commission's rules must seek relief directly from the Commission). The Commission has permitted waivers in certain instances where E-Rate participants have filed their appeals late. *See, e.g., 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 (WCB 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 or submitted their appeals within a reasonable period after receiving actual notice of USAC's adverse decision).

<sup>59</sup> Request for Waiver of All County Business Machines (St. Raymond High School for Boys); Request for Review of Marengo County Schools; Request for Waiver of Moniteau School District; Request for Waiver of PenTeleData Limited Partnership I (Crestwood Area School District); Request for Review of Vector Resources Inc. (Los Angeles Unified School District).

<sup>60</sup> Request for Waiver of Pinnacle Charter School. 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 Pinnacle Charter School. *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).

<sup>61</sup> *Alpaugh Unified School District Order*, 22 FCC Rcd at 6037, para. 5.

<sup>62</sup> *Id.*



need for the party to file an appeal or a waiver request. We remand the applications included in Appendices A and B to USAC and direct USAC to complete its review of the these requests consistent with this Order. In remanding these requests to USAC, we make no finding as to the merits of the petitioners' requests. 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.<sup>63</sup>

#### IV. ORDERING CLAUSES

16. 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 and 54.722(a) of the Commission's rules, 47 CFR §§ 0.91, 0.291 and 54.722(a), the Requests for Review and/or Waiver filed by Petitioners in the Appendices A and B are GRANTED and their submissions ARE REMANDED to USAC for further consideration.

17. 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, and 1.3, 47 CFR §§ 0.91, 0.291, 1.3, that sections 54.507(d) and 54.514(a) of the Commission's rules, 47 CFR §§ 54.507(d) and 54.514(a), ARE WAIVED for the petitioners listed in the Appendices A and B as provided herein.

18. 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, and 1.3, 47 CFR §§ 0.91, 0.291, 1.3, that section 54.720 of the Commission's rules, 47 CFR § 54.720, IS WAIVED for the petitioners listed in the Appendices A and B as provided herein.

19. 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, that USAC SHALL COMPLETE its review of each remanded requests in the appendices and ISSUE a decision based on a complete review and analysis.

FEDERAL COMMUNICATIONS COMMISSION

Jodie Griffin  
Chief  
Telecommunications Access Policy Division  
Wireline Competition Bureau

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<sup>63</sup> 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 rule).

**APPENDIX A**  
**Ministerial and Clerical Errors**

<b>Petitioner</b>	<b>Application Number(s)</b>	<b>Funding Year(s)</b>	<b>Date Filed</b>
Accomack County Public School, VA	201017311	2020	11/9/2021
Brother Rice High School, MI	201010735	2020	2/25/2022
Boys Latin of Philadelphia Charter School, PA	171038199	2017	3/7/2019
Chapel Hill ISD, NC	201038055	2020	5/4/2022
Chickasaw Telecom (Bartlesville School District), OK	1025540	2015	5/4/2018
Clinton School District 15, IL	171036103	2017	3/5/2019
Columbia School District, MS	181000752	2018	11/4/2019
Comcast Phone, LLC (Lake Villa School District), PA	191022632	2019	2/18/2022
Connectivity Two, Inc., LA (CSAL, Inc. – CSAL Middle; CSAL, Inc. – Madison Prep; CSAL, Inc. – LAVCA; J.K. Haynes Charter School District; Martin Luther King, Jr Christian Academy)	181029426 181030093 181036337 181036599	2018	11/4/2019
Detroit Leadership Academy	937495	2014	8/25/2020
Edmonds School District, WA	171043556	2017	9/12/2019
Envision Technology Advisors, LLC, (Sturgis Charter School), RI	171042340	2017	8/12/2019  (Supplement filed 09/27/2019)
Evergreen School District, MT	171046534	2017	1/30/2019
e-Polk Inc. (Rutherford County Schools), NC	181038842	2018	11/27/2019
Data Management Services (Diocese Of Houma-Thibodaux), LA	191009664	2019	3/23/2021
Fall Mountain Regional School District, NH	201004374	2020	2/7/2022
Gamewood Technology Group, Inc d/b/a RiverStreet Networks (King And Queen County Sch. Div.), VA	201034337	2020	11/17/2021

Greenwood-Leflore Consolidated School District (Southern Light, LLC ), MS	191027347	2019	6/29/2021
Hoxie Unified School District, KS	171007771	2017	3/13/2019
International Academy of Flint, MI	201020634	2020	3/3/2022
Leland Community Unit School District No. 1, IL	191020024	2019	11/17/2021
Madill City County Library, OK	171029197	2017	1/31/2019
Marsh Valley School District, ID	171041283	2017	12/28/2018
Moreno Valley High School, NM	181040799	2018	12/4/2019
Notre Dame School, IL	161040129	2016	12/13/2017
Peoples Preparatory Charter School, NJ	201046074	2020	12/16/2022
Plumsted Township School District, NJ	171043301	2017	12/21/2018
Pontiac Community Consolidated School District #429, IL	201038746	2020	11/2/2021
Rio Grande City Grulla Independent School District, TX	201028628	2020	1/24/2022
Southeastern Services Inc. (Madison County School District), FL	181017181	2018	4/24/2020
Southwest Plains Regional Service Center (Bucklin USD 459), KS	161000902	2016	12/13/2017
St. Edward Central Catholic High School, IL	181002769	2018	2/7/2020
The New America School - Las Cruces, NM	1026869	2015	3/17/2019
University of Chicago Charter Schools Corp, IL	171001597	2017	9/6/2019
Wake County Public Schools, NC	181018864	2018	9/28/2020
Whalley Computer Associates, Inc. (Mendon-Upton Regional School District), MA	211000814	2022	12/21/2022
Wolfe County School District.	211033819	2021	11/30/2022
Yonkers Public Schools, NY	191036149	2019	5/24/2021

## APPENDIX B

## Late or Missing Information Requests

<b>Petitioner</b>	<b>Application Number(s)</b>	<b>Funding Year(s)</b>	<b>Date Filed</b>
All County Business Machines (St. Raymond High School for Boys), NY	181040825	2018	4/9/2020
Holmes County Public Library, OH	201040084	2020	3/1/2022
Marengo County Schools, AL	181026566	2018	11/27/2019
Moniteau School District, PA	181030001	2018	11/8/2019
PenTeleData Limited Partnership I (Crestwood Area School District), PA	171018222	2017	5/3/2019
Pinnacle Charter School, CO	191021161	2019	10/15/2021
Vector Resources Inc. (Los Angeles Unified School District, CA	442526	2005	7/23/2010