

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Petition for Waiver of Commission	)	CC Docket No. 02-6
Rules by	)	
	)	
Amandla Charter School	)	File No. FCC Application
	)	Number 181042611
Schools and Libraries Universal Service	)	
Support Mechanism	)	
	)	

To: Federal Communications Commission

**AMANDLA CHARTER SCHOOL  
PETITION FOR WAIVER**

Amandla Charter School (“Amandla” or “ACS”),<sup>1</sup> pursuant to Section 54.719(c) of the Federal Communications Commission’s (“FCC”) rules,<sup>2</sup> hereby requests that the Commission waive the FCC Form 471 (“Form 471”) filing window deadline in Section 54.507(c) of the its rules.<sup>3</sup>

**I. BACKGROUND**

**A. Funding Year 2016 and 2017 E-rate Applications**

On March 29, 2016, ACS posted an FCC Form 470 (“Form 470”) with the Universal Service Administrative Company (“USAC”), seeking bids for the provision of internet service.<sup>4</sup> ACS selected Clear Rate Communications, Inc. (“Clear Rate”), and on May 19, 2016, the parties entered into a three-year service agreement.

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<sup>1</sup> Billed Entity Number 16083573.

<sup>2</sup> 47 C.F.R. § 54.719(c) (permitting parties seeking waivers of the Commission’s rules to seek relief directly from the Commission).

<sup>3</sup> See 47 C.F.R. § 54.507 (requiring the Administrator to implement a filing period and to determine dates on which the filing period shall begin and conclude).

<sup>4</sup> FCC Form 470 Number 160041491.

On May 21, 2016, with a signed agreement in place, ACS filed and certified an FCC Form 471.<sup>5</sup> USAC approved the application and the internet access funding request on August 19, 2016. ACS received the internet service and requested discounts as requested.

ACS again requested discounts for its internet service in funding year 2017, utilizing the multi-year agreement with Clear Rate. Again, USAC approved the application and internet funding request.

#### **B. Issues Affecting the Status of the ACS Charter**

During the 2015-2016 school year, Chicago Public Schools (“CPS”), ACS’s former authorizer, determined to revoke its charter. ACS successfully appealed the CPS decision with the Illinois State Charter School Commission (“ISCSC”) and were initially allowed to continue operating through June 30, 2018. As a result of the successful appeal, the charter authorizer changed from CPS to the ISCSC.

Shortly after the 2016 appeal decision, CPS filed a lawsuit against the ISCSC and ACS in effort to prevent it from operating under the ISCSC. Due to the ongoing litigation, the Illinois State Board of Education (“ISBE”) never fully certified ACS’s new charter, but allowed the school to continue operating legally while the litigation proceeded.

In late November 2017, the Amandla Charter School Board of Directors informed ACS staff that, because of the impending charter expiration, financial challenges, and other issues facing the school, ACS would be closing at the end of the then current school year.

In December 2017, the Circuit Court of Cook County upheld the ISCSC's decision to keep ACS open and dismissed the lawsuit. Upon conclusion of the lawsuit in late winter/early spring of 2018, ISBE had been ready to certify the charter. However, there was a discrepancy between how the ISCSC and ISBE viewed ACS’s charter. The ISCSC regarded the outcome of the 2016 revocation appeal as a fulfillment of ACS’s former charter and therefore authorized for two more years, ending in 2018. The Illinois State Board of Education, meanwhile, believed the result of the appeal was the formation of a new five-year charter, and thereby authorized until 2021.

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<sup>5</sup> FCC Form 471 Application Number 181042611.

Finally, in March of 2018, the ISCSC informed ACS that it would agree to ISBE's interpretation and permit the ACS charter to remain in effect until 2021. Until the new charter agreement was signed on March 24, 2018, ACS was certain the school would be closing. However, when the effective duration of the charter was extended from two to five years, the Board of Directors informed ACS staff that the school would continue operating at least through the remainder of its charter. That decision was communicated to ACS staff on March 24, 2018, two days after the filing window deadline.

### **C. Funding Year 2018 E-rate Application**

Because the Board initially determined to close the school, and because the suit to determine the status of the charter had not come to a resolution, ACS did not request E-rate discounts prior to the E-rate filing window deadline.

Once the decision to remain open was communicated to ACS staff, it immediately began collecting the information necessary to apply for discounts. ACS ultimately filed the funding year 2018 Form 471 on April 18, 2018. The application included only a single funding request, for internet service to be provided by Clear Rate. While ACS missed the Form 470 deadline for products and services requested in past funding years, because its internet service was covered by a multi-year contract, it was not required to file a new Form 470.<sup>6</sup>

## **II. DISCUSSION**

Just before and shortly after the filing window deadline, the ACS staff responsible for E-rate duties believed the school was closing at the end of the school year. The authorizing body ruled that the charter would expire in 2018. The ACS Board of Directors informed staff that the school would close. Only two days after the filing window deadline – upon the unexpected conclusion of a years-long lawsuit – did ACS learn that the charter would remain in effect until 2021.

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<sup>6</sup> See *Instructions for Completing the Schools and Libraries Universal Service Description of Services Requested and Certification Form (FCC Form 470)*, OMB 3060-0806 (2014) at <https://www.usac.org/res/documents/sl/pdf/forms/470i.pdf> (providing that multi-year contracts signed pursuant to the posting of an FCC Form 470 in a previous funding year, do not require the filing of an FCC Form 470, because applicants are not seeking bids for these services).

Given the circumstances, it was reasonable for staff to conclude that it would be unable and possibly even barred from filing the Form 471. Practically speaking, if the school were closed, there would be no need for the internet service requested. Moreover, knowing it was most likely closing at the end of the school year, ACS could not truthfully make the certifications on the Form 471 required under Section 54.504(a)(1) of the Commission's rules.<sup>7</sup>

Fortunately for the school, the faculty, and the students ACS serves, the school will remain open. Unfortunately, because of the questions surrounding the charter, the ongoing lawsuit, and the Board's intimal decision close the school, ACS did not request E-rate discounts prior to the E-rate filing window deadline.

Given the facts and special circumstances of this case, ACS contends that a waiver of Section 54.507(c) of the Commission's rules is appropriate. First, strict compliance with the Commission's rules in this case would not be in the public interest. That interest is furthered instead by permitting ACS to apply for E-rate program support, as without the requested funds, ACS cannot adequately provide internet access to its students.

Considerations of hardship and equity also warrant a deviation from the Commission's rules. ACS has overcome years of litigation, already limited public resources, and continuing uncertainty about the validity of its charter. Yet it has successfully filed for E-rate support year-after-year. ACS only determined that it would not apply for discounts in funding year 2018 upon staff being informed that the school was closing and they were losing their jobs. Moreover, because ACS has already missed the Form 470 deadline, it is unable to seek discounts for additional products and services for which it otherwise would.

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<sup>7</sup> 47 C.F.R. § 54.504(a)(1)(iii) ("The entities listed on the FCC Form 471 will pay the discounted charges for eligible services from funds to which access has been secured in the current funding year or, for entities that will make installment payments, they will ensure that they are able to make all required installment payments. The billed entity will pay the non-discount portion of the cost of the goods and services to the service provider(s)").

ACS appreciates the need for effective program administration and acknowledges that procedural deadlines are necessary to further that goal. However, ACS argues that the circumstances in this case warrant a waiver of the filing window deadline.

### **III. RELIEF SOUGHT**

For the foregoing reasons, Amandla Charter School respectfully requests that the Commission waive the funding year 2018 filing window deadline and direct USAC to accept and review the submitted application.

Respectfully submitted,

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