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Robert Hilinski, Director

In the Matter of	)	
	)	
Requests for Waiver of Decisions of	)	
the Universal Service Administrator by	)	
	)	
Upper Darby School District, Drexel Hill, PA	)	CC Docket No. 02-6
	)	
Schools and Libraries Universal Service	)	
Support Mechanism	)	
	)	

Petition for Reconsideration
Of
DA 16-732 Public Notice Released June 29, 2016
Regarding Denial of Petition for Waiver of Upper Darby School District

In the June 29, 2016 Public Notice announcing Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company, the Wireline Competition Bureau (Bureau) denied the Petition for Waiver of the Upper Darby School District (District), SLD Entity # 126098. The circumstances related to the appeal and the request for relief have changed materially since the submission of the May 4, 2016 Petition for Waiver, and could not have been known or readily ascertainable by the District at that time.[1] For these reasons the District petitions for reconsideration as follows.

[1] "Our rules allow any interested party to file a petition for reconsideration, and provide that a petition for reconsideration which relies on facts or arguments not previously presented to the Commission shall be granted only where the facts or arguments relate to new events or changed circumstances, were unknown and not readily ascertainable by petitioners, or the Commission determines that the public interest requires them to be reconsidered." Modernizing the E-rate Program for Schools and Libraries, *Second Report and Order and Order on Reconsideration,* WC Docket 13-184, FCC 14-189, released December 19. 2014) at ¶134.

The Public Interest is served by Granting this Petition Because There is Adequate E-rate Funding Available for Prior Years' Invoices as well as Pending Form 471 Applications for FY 2016-17.

The amount of funding associated with the BEAR form at issue is $15,227.85, for FRN 2690584.

There are sufficient funds available to pay for this outstanding BEAR and all other outstanding BEARs and SPIs that are the subject of Petitions of Waiver, in addition to funding all pending funding requests for FY 2016. When the District's Petition for Waiver was filed on May 4, 2016, it was not then known whether demand for FY 2016 would exceed available funding. Indeed, when the Bureau issued the May 25, 2016 Public Notice at DA 16-448 (which was relied upon in denying the District's Petition for Waiver in the June 29, 2016 Public Notice at DA 16-732), these facts also were not known. One of the primary factors cited by the Bureau in the May 25, 2016 Public Notice and the Commission in the E-rate Modernization Order released on July 23, 2014 at FCC 14-99 in support of the new invoice deadline procedures was to ensure that funds could be timely de-committed and made available for commitments in future years. While the District understands this is an important goal for the efficient administration of the program, the District also believes that the public interest is better served by allowing E-rate applicants to receive the benefit of their E-rate discounts and allow for waiver of the regulation in a situation such as this, where the District has tried to comply with all of the program regulations.

This is particularly appropriate, and could be a one-year occurrence, if the FCC so chose, given that this is the first year that the new invoice deadline regulation was in effect. In this way, the FCC would not be bound to grant this flexibility in future years where funding demand was substantially higher and the de-commitment of funds is essential to ensure that pending requests for commitments could be fully funded.

The FCC Should Allow for A Grace Period for Late Filed Invoice Deadline Extension Requests Similar to All Other Situations Involving Missed Deadlines that are Ministerial and Clerical Errors.

The invoice deadline regulation should continue to have some flexibility to allow for corrections of ministerial and errors when the applicant and/or service provider miss the deadline for requesting an invoice deadline extension. Rather than strictly enforcing the rule and providing no latitude to applicants, the Bureau should consider similar explanations that have been provided in the past to be good cause for granting waivers that are filed reasonably promptly, consistent with past practice. There needs to be a grace period for seeking invoice extensions past the original deadline. This would be similar to allowing for a grace period for late filed Forms 486, 470 and 471, service delivery deadline extensions and responses to PIA inquiries.

- The FCC routinely grants waivers of late-filed Form 486 applications so that applicants do not experience a reduction in funding.
- The FCC grants waivers of late filed Form 470s and Form 471s for the two week period following the Form 471 deadline.
- The FCC grants waivers of funding denials when the applicant did not respond to PIA inquiries within the required time frame set by SLD.
- The FCC grants waivers of late filed service delivery deadline extensions.

Importantly, the Alaska Gateway Order provided for reminder procedures and a grace period for filing the Form 486 once the deadline passed. For applicants that are unable to file the Form 486 within the grace period, the FCC has exercised its discretion and granted waivers. The Bishop Perry decision provided for advance reminders of filing Form 471. For applicants that are unable to file the Form 471 by the deadline the FCC has exercised its discretion and granted waivers. The hard and fast "once and done" rule for insisting that all invoice deadline extension requests must be submitted by the original deadline is extremely punitive, particularly because there is no advance notification of the upcoming deadline issued by USAC.

The issue here for the District is not that it needed or requested multiple invoice deadlines. Rather, just one deadline extension would be sufficient to ensure that the District could timely file its BEAR form. But, because the District did not discover its oversight until after the original invoice deadline had passed, the District was required to submit the waiver request to the FCC. Had the FCC operated under its historical procedures and considered ministerial and clerical errors to be reasonable grounds for granting the waiver, the District would have been able to file the BEAR form. The District hopes that the Bureau agrees that there should be more flexibility exercised in defining public interest circumstances that are worthy of granting relief. The District committed a ministerial and clerical error that was inadvertent, after complying with all other E-rate deadlines. Just like the service delivery deadline regulation, when applicants fail to request extensions by the original deadline, the FCC has found granting such waivers are in the public interest. Missing the original invoice deadline for requesting an invoice extension should be treated similarly and allowed on waiver.

The District pleads with the Bureau to provide some compassion and relief and to grant this Petition for Reconsideration and allow the District to submit its BEAR form.

Respectfully submitted,

/s/ Robert Hilinski
Director, Information Systems and Technology

July 29, 2016