

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

In the Matter of)	
)	
Kellogg & Sovereign Consulting, LLC)	CC Docket No. 02-60
Request for Waiver)	

**COMMENTS TO PUBLIC NOTICE
KELLOGG & SOVEREIGN CONSULTING, LLC REQUEST FOR WAIVER**

The Oklahoma Hospital Association (OHA)¹ appreciates the opportunity to submit comments on the Kellogg & Sovereign Consulting, LLC Request for Waiver². The OHA is a statewide association representing over 130 hospitals in Oklahoma from critical access hospitals to health care system hospitals. OHA supports the waiver requested by Kellogg & Sovereign Consulting, LLC (KSLLC Waiver)³ of the May 31, 2019 deadline for eligible health care providers to submit funding year 2019 applications for support from the Rural Health Care Program (RHC program).

OHA believes it is critical that RHC program applicants have equal treatment with E-Rate program applicants regarding the filing window deadlines. The RHC program established the process of having an initial filing window period starting in FY2014. With the steep increase in funding demand in FY2015, additional filing window periods were established by the FCC

¹ The Oklahoma Hospital Association is the voice of hospitals in Oklahoma. Established in 1919, the OHA represents more than 135 hospitals and health systems across the state. OHA's primary objective is to promote the health and welfare of all Oklahomans by leading and assisting its member organizations in providing high quality, safe and valued health care services to their communities. The OHA also believes hospitals play a vital role in helping to advance the overall state of health for their patients and the public at large. www.okoha.com

² FCC Public Notice FCC DA-16-697. <https://ecfsapi.fcc.gov/file/07241226102601/DA-19-697A1.pdf>

³ Kellogg & Sovereign Consulting, LLC Request for Waiver of Funding Year 2019 Rural Health Care Program Filing Deadline, WC Docket 02-60 (June 20, 2019), <https://www.fcc.gov/ecfs/filing/10620237120025> (Request for Waiver).

consistent with its rules in August 2016 for FY2016.⁴ The RHC Program has continued to set filing window periods for subsequent funding years.

As explained in the KSLLC Waiver, the FCC has established standard procedures in the E-Rate Program for applicants to submit waivers of the filing window deadline. For example, the *Academy of Math and Science Order*⁵ established precedent for relief for applicants who missed the E-Rate Program FCC Form 471 filing window deadline when an applicant is delayed in filing due to special circumstances and filed their FCC Forms 471 within 14 days after the FCC Form 471 filing window deadline as follows:

In 2006 and 2007, in the Bishop Perry Order and the Academy for Academic Excellence Order, the Commission and the Bureau, respectively, granted waivers to applicants who missed the FCC Form 471 filing window deadline due to technical malfunctions, school reorganizations, a misunderstanding related to the filing deadline, personal staff emergencies, inadvertent errors, or circumstances beyond their control, including inclement weather. Consistent with the precedent established in those orders, in 2008 the Bureau released the Acorn Public Library District Order, in which it granted waivers of the FCC Form 471 filing window deadline to applicants that: (1) filed their FCC Form 471 applications within 14 days after the FCC Form 471 filing window deadline; (2) filed their FCC Form 471 applications late because of an illness of the E-Rate staff person or the death of a member of his or her family; (3) filed their FCC Form 471 applications late due to delays caused by circumstances beyond their control; or (4) filed their FCC Form 471 applications on time or within 14 days of the filing window deadline but failed to file their FCC Forms 470 or 471 certifications on time.

Furthermore, as previously stated in the KSLLC Waiver, the Bureau has already indicated in the *Streamlined Resolution of Requests Related to Actions by the Universal Service*

⁴ Rural Health Care Program Funding Year 2016 Status and Funding Information, slide 10. https://www.usac.org/_res/documents/rhc/training/2017/FY2016-Funding-Information.PDF

⁵ See, e.g., *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Academy of Math and Science et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 9256, 9259, para. 8 (2010) (*Academy of Math and Science Order*) (finding special circumstances exist to justify granting waiver requests where, for example, petitioners filed their FCC Forms 471 within 14 days after the FCC Form 471 filing window deadline).

*Administrative Company*⁶ that the E-Rate standard would also be appropriate for the RHC Program.

The Commission recently provided an additional 30-day waiver of the RHC Program filing window for certain applicants. As stated in the FCC Order released May 20, 2019⁷ (May 2019 Order), “this will help connect health care providers to essential advanced telecommunications and information services for the delivery of modern healthcare to rural Americans without further burdening contributors to the Universal Service Fund.” The May 2019 Order also referenced in footnote 23 several instances where suspension or waiver of the Commission’s rules is appropriate.⁸

OHA encourages the FCC to set precedent by approving the KSLLC Waiver. This will allow similarly situated RHC applicants the relief as currently provided to E-Rate Program applicants in regards to the filing window deadline(s). To be clear, we believe the additional grace period for filing an application should be afforded to RHC participants regardless of the reason that the additional time was needed. The applicants in the KSLLC should be granted a waiver because of the natural disaster that occurred just before the filing window. But other

⁶ See *Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company*, CC Docket Nos. 02-6 and WC Docket Nos. 02-60, 06-122, Public Notice, DA 18-1270 at pp.10-11, n.26 (WCB 2018).

⁷ *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Order, FCC 19-45, ¶9 (2019).

⁸ 47 CFR § 1.3. The Commission may exercise its discretion where the particular facts make strict compliance inconsistent with the public interest. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*). In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166. Suspension or waiver of the Commission’s rules is appropriate if both: (1) special circumstances warrant a deviation from the general rule; and (2) such deviation will serve the public interest. *Northeast Cellular*, 897 F.2d at 1166.

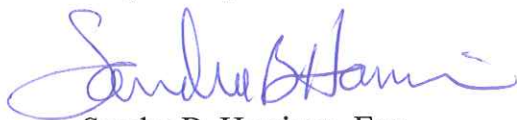
applicants should also be granted a waiver if they submit their applications within the two-week grace period.

The violation of missing the filing window deadline is procedural and not substantive. Establishing a standard for providing relief in these special circumstances will allow the affected health care providers to receive the funding they need in order to continue to be able to afford access to telecommunications and broadband services necessary to provide quality health care.

Conclusion

OHA fully supports the KSLLC Waiver and encourage the Commission to equalize the standard for filing window deadlines between the E-Rate and RHC Programs. OHA's member health care providers depend on this valuable funding. OHA greatly appreciates the Commission's efforts in making this change as we believe it will make a positive difference for the program allowing applicants to continue to participate in the RHC Program whose goal is to improve the quality of health care available to patients in rural communities by ensuring that eligible health care providers have access to telecommunications and broadband services.

Respectfully Submitted,



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