

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

In the Matter of)	
)	
Request for Waiver by)	
)	FCC Form 471 No. 161061354
Jemez Pueblo Tribal Consortium)	
Jemez and Zia Pueblos, New Mexico)	CC Docket No. 02-6
)	
Schools and Libraries Universal Service)	
Support Mechanism)	

ORDER

Adopted: December 6, 2017

Released: December 6, 2017

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

I. INTRODUCTION

1. In this Order, we grant a Request for Waiver filed by the Jemez Pueblo Tribal Consortium (Consortium),¹ which seeks a waiver of the deadline to request an extension of the implementation deadline applicable to special construction of new fiber.² We remand the Consortium's application to the Universal Service Administrative Company (USAC) with instructions to grant its implementation deadline extension request, and extend the date by which the Consortium must complete construction and begin use of the self-provisioned network proposed by its funding year 2016 application to June 30, 2018. In so doing, we caution applicants that the waiver granted herein is limited to the specific facts of this request, and remind applicants of their obligations to know and diligently comply with all program deadlines.

II. BACKGROUND

2. Under the E-rate program,³ eligible schools and libraries, and consortia comprised of eligible schools and libraries, may request universal service discounts for eligible services,⁴ including connections necessary to support broadband connectivity to eligible schools and libraries.⁵ In 2014, the

¹ The Commission may waive any provision of its rules on its own motion and for good cause shown. *See* 47 CFR. § 1.3. In general, the Commission may grant a waiver if: (1) special circumstances warrant a deviation from the general rule; and (2) such deviation would better serve the public interest than strict adherence to the general rule. *See Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990). In addition, when determining whether to grant a waiver, the Commission may take into consideration questions 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), *aff'd*, 459 F.2d 1203 (D.C. Cir. 1972). The burden of proving that a waiver is appropriate in a particular case rests with the petitioner. *See Tucson Radio Inc. v. FCC*, 452 F.2d 1380, 1382 (D.C. Cir. 1971).

² *See Request for Waiver of Jemez Pueblo Tribal Consortium*, CC Docket No. 02-6 (filed July 24, 2017) (Request for Waiver).

³ E-rate is the commonly used name for the schools and libraries universal service support mechanism.

⁴ 47 CFR §§ 54.501-54.505.

⁵ *See Modernizing the E-rate Program for Schools and Libraries*, WC Docket. No. 13-184, Order, 31 FCC Rcd 9767, 9775 (WCB 2016) (FY 2017 ESL).

Commission expanded the high-speed broadband options available to applicants by equalizing the treatment of leased lit fiber and leased dark fiber under our rules,⁶ and making self-provisioned networks eligible for E-rate support when they are the most cost-effective option for the applicant's connectivity needs.⁷ In so doing, the Commission established certain safeguards to ensure that cost-effectiveness remains the benchmark principle of E-rate-supported purchases and that E-rate discounts are not used to purchase unnecessary services.⁸ One of those safeguards is an implementation deadline for special construction.⁹ Specifically, applicants may only receive E-rate discounts for special construction charges related to leased dark fiber if the fiber is lit by the end of the funding year,¹⁰ i.e., June 30.¹¹ Similarly, special construction charges related to a self-provisioned network are only eligible for E-rate support if the facilities are constructed and used by the end of the funding year.¹²

3. Applicants may obtain a one-year extension of the June 30 deadline to complete special construction and light the fiber, or use a self-provisioned network, if they demonstrate that construction

⁶ The Commission equalized the treatment of leased lit fiber and leased dark fiber under E-rate program rules by allowing applicants to request universal service discounts for: (1) special construction charges related to leased dark fiber beyond the applicant's property line and (2) modulating electronics and other equipment necessary to light leased dark fiber. See *Modernizing the E-rate Program for Schools and Libraries, Connect America Fund*, WC Docket Nos. 13-184, 10-90, Second Report and Order and Order on Reconsideration, 29 FCC Rcd 15538, 15552, para. 36 (2014) (*2014 Second E-rate Order*).

⁷ A "self-provisioned network" is a network that an eligible school or library hires a vendor to construct, and thereafter owns and maintains. See *2014 Second E-rate Order*, 29 FCC Rcd at 15555, para. 43; *Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, Order, 32 FCC Rcd 1189, para. 9, n.35 (WCB 2017) (*FY 2017 ESL Waiver Order*). When an eligible school or library self-provisions a network, it "owns a full network or fiber run, including all the fiber strands and conduit." *2014 Second E-rate Order*, 29 FCC Rcd at 15550, para. 31, n.49. Consistent with the Commission's mandate that the E-rate program be competitively neutral with respect to service providers and technology, a self-provisioned network may be constructed using transport technology other than fiber, such as fixed microwave. See 47 USC § 254(h)(2)(A) (requiring the Commission's rules for the E-rate program to be competitively neutral); *Federal-State Board on Universal Service*, CC Docket 96-45, Report and Order, 12 FCC Rcd 8776, 8801, para. 46 (1997) (*Universal Service First Report and Order*) (adopting a principle of competitive neutrality that requires the E-rate program and its rules to "neither unfairly advantage nor disadvantage one provider over another, and neither unfairly favor nor disfavor one technology over another") (subsequent history omitted); *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Notice of Proposed Rulemaking, 23 FCC Rcd 11703, 11707, para. 12 (2008) (noting that the policy of competitive neutrality supports allowing E-rate discounts for interconnected Voice over Internet Protocol as an eligible voice service along with other technologies).

⁸ *2014 Second E-rate Order*, 29 FCC Rcd at 15552-53, 15557-58, paras. 38-39, 47-49.

⁹ For the purposes of the E-rate program, special construction charges are the one-time, upfront costs of deploying new or upgraded fiber to eligible school and library locations. See *FY 2017 ESL*, 31 FCC Rcd at 9775. The components of special construction eligible for E-rate discounts are construction of network facilities, design and engineering, and project management. *Id.*

¹⁰ *2014 Second E-rate Order*, 29 FCC Rcd at 15552, para. 37.

¹¹ 47 CFR § 54.507(b) (establishing July 1 through June 30 as the funding year for the E-rate program). Applicants must also complete special construction in time to commence a leased lit fiber service by June 30, or the charges will be ineligible for support. See 47 CFR § 54.507(d)(1) (stating that a recurring service must be used within the funding year for which discounts are sought to be eligible for support). For these reasons, the implementation deadline applicable to other non-recurring services, 47 CFR § 54.507(d)(4) (establishing September 30 following the close of the funding year as the implementation deadline for non-recurring services), does not apply to special construction.

¹² *2014 Second E-rate Order*, 29 FCC Rcd at 15558, para. 49. As used herein, "special construction implementation deadline" refers to the June 30 deadline to complete special construction and light dark fiber and the June 30 deadline to complete construction and use a self-provisioned network, collectively and individually.

was “unavoidably delayed due to weather or other reasons.”¹³ An applicant seeking an extension on this basis must submit a request to USAC.¹⁴ If USAC concludes that a timely extension request demonstrates that construction for the applicant’s special construction project was unavoidably delayed due to weather or other reasons, USAC will grant the request, and extend the applicant’s deadline to complete special construction and light the fiber, or use the self-provisioned network, to June 30 of the following funding year.¹⁵

4. The special construction implementation deadline for funding year 2016 applications was June 30, 2017.¹⁶ USAC’s issuance of funding year 2016 funding commitment decision letters (FCDL) was, however, significantly delayed due to technical and operational challenges.¹⁷ In light of the delay, USAC notified applicants that if they did not receive an FCDL approving a special construction funding request in time to complete construction and light new fiber by June 30, 2017, that late issuance may constitute an unavoidable delay of construction for the purpose of requesting a one-year extension of that deadline.¹⁸ USAC explained that factors relevant to whether an extension would be granted on that basis include when an FCDL approving the requested funding was issued (or that it has not been issued),¹⁹ whether the applicant elected to commence special construction before receiving an FCDL,²⁰ and the breadth and complexity of the build.²¹ USAC provided applicants with instructions on how to request the extension,²² including instructions on how to submit the request before receiving an FCDL,²³ and made

¹³ 2014 Second E-rate Order, 29 FCC Rcd at 15553, 15558, paras. 38, 49.

¹⁴ See Schools and Libraries News Brief, How to Request an Extension of the June 30 Deadline to Complete FY2016 Special Construction Required to Light or Use the Fiber (dated April 21, 2017), <https://usac.org/sl/tools/news-briefs/preview.aspx?id=767> (SLD April 2017 News Brief) (“The deadline for seeking an extension for FY 2016 funding requests is June 30, 2017. We recommend that you file your request as soon as you are certain that you will not be able to light the fiber by the June 30 deadline”).

¹⁵ *Id.*; see also 2014 Second E-rate Order, 29 FCC Rcd at 15553, 15558, paras. 38, 49.

¹⁶ See 47 CFR § 54.507(b); SLD April 2017 News Brief.

¹⁷ Letter from Chairman Ajit V. Pai, Chairman, Federal Communications Commission to Chris Henderson, USAC (Apr. 18, 2017), https://apps.fcc.gov/edocs_public/attachmatch/DOC-344459A1.pdf.

¹⁸ See Schools and Libraries News Brief, Applicants Who Need More Time to Complete Special Construction for FY2016 (dated Feb. 4, 2017), <https://usac.org/sl/tools/news-briefs/preview.aspx?id=745> (SLD February 2017 News Brief) (stating that applicants requesting an extension must demonstrate an unavoidable construction delay, “such as receiving an FCDL too late to complete construction and light the associated fiber by June 30”); SLD April 2017 News Brief (“Applicants . . . may obtain [a] one-year extension by demonstrating . . . that the late issuance of [an FCDL] (or non-issuance of an FCDL) has unavoidably delayed special construction in a manner that prevents the fiber from being lit (or a self-provisioned network using another technology to be in use) by the June 30 deadline”).

¹⁹ SLD February 2017 News Brief; SLD April 2017 News Brief.

²⁰ SLD April 2017 News Brief. With limited exceptions, applicants may only receive E-rate support for charges incurred between the July 1 start of the funding year and the implementation deadline for the service at issue. See 47 CFR § 54.507(d)(1), (d)(4). One exception permits applicants to commence special construction of new fiber on January 1 prior to the start of the funding year if: (1) the applicant has completed its competitive bidding process commenced by posting an FCC Form 470 and selected a service provider; (2) a Category One recurring service depends on the installation of the infrastructure; and (3) the actual service start date for the recurring service is on or after the July 1 start of the funding year. 47 CFR § 54.507(d)(2)(i)-(iii). If an applicant commences special construction prior to receiving an FCDL approving its requested funding, however, the applicant assumes the risk that its funding request will be denied. 2014 Second E-rate Order, 29 FCC Rcd at 15553, para. 37. If an applicant opts to commence special construction without receiving an FCDL approving its funding request, it has already assumed the risk that the funding request will be denied, and the late issuance of an FCDL is less likely to constitute an “unavoidable delay” in construction.

²¹ SLD February 2017 News Brief; SLD April 2017 News Brief.

clear that extension requests must be submitted by the June 30, 2017 special construction implementation deadline to be considered timely.²⁴

5. On or about July 21, 2016, the Consortium filed a funding year 2016 FCC Form 471 requesting E-rate discounts for, among other services, special construction related to a self-provisioned network.²⁵ USAC did not issue an FCDL approving the Consortium's special construction funding request until June 30, 2017 – the last day of funding year 2016 and the special construction implementation deadline.²⁶ Despite USAC's outreach advising applicants on how to request an extension and the need to do so, if at all, by June 30, 2017, the Consortium did not request an extension of the special construction implementation deadline until July 13, 2017.²⁷ USAC denied the Consortium's extension request as untimely on July 31, 2017.²⁸

6. On July 24, 2017, the Consortium filed its Request for Waiver. In its Request for Waiver, the Consortium does not explain why it failed to file its extension request by the June 30, 2017 deadline,²⁹ referring to it simply as “a one-time, inadvertent administrative error.”³⁰ The Consortium notes, however, that “[a]s soon as the error was detected, the Tribal Consortium took immediate action to comply with the filing requirements” and filed its extension request on July 13, 2017.³¹

III. DISCUSSION

7. We grant the Consortium's Request for Waiver. The deadline to complete special construction in time to light new fiber, or use a self-provisioned network, by the end of the funding year

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²² SLD April 2017 News Brief.

²³ SLD April 2017 News Brief.

²⁴ *Id.*

²⁵ FCC Form 471 Application No. 161061354, Jemez Pueblo Tribal Consortium (certified July 21, 2016).

²⁶ Request for Waiver at 2.

²⁷ See Special Construction Deadline Extension Request, FCC Form 471 no. 161061354 (filed July 13, 2017).

²⁸ See Denial of Special Construction Deadline Extension Request, Case No. 186785 (dated July 13, 2017).

²⁹ The Consortium argues that a waiver should be granted based on the merits of, and need for, the self-provisioned network for which it has requested E-rate discounts and principles of Tribal sovereignty. Request for Waiver at 3-6. We emphasize that our decision to grant the relief sought by the Request for Waiver is based solely on facts in the record pertaining to the Consortium's extension request, not considerations of merit or need. Every E-rate funding request involves a school or library seeking resources required to serve the educational needs of students, *see* 47 CFR §§ 54.504(a)(1)(i)-(ii), (v), and every E-rate funding approval is conditioned on compliance with program rules and deadlines. *See* 47 CFR § 54.504(a)(1)(vii). “We have consistently held that the assertion of financial need of the applicant and the detrimental impact a denial of support will have on the students who make use of the services does not meet the requirement of special circumstances that warrant a waiver of the Commission's rules.” *Application for Review of a Decision of the Wireline Competition Bureau by Yakutat School District, Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, 29 FCC Rcd 10746, 10749, para. 8 (2014); *see also Request for Review of the Decision of the Universal Service Administrator by Lansingburgh Central School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 6999, 7000, para. 4 (CCB 1999) (recognizing that an applicant's “limited resources and the needs of its students [] does not distinguish its situation from other applications the SLD must process each funding year . . .”). Further, while the Consortium is correct that the Commission has recognized the unique government-to-government relationship between Tribal nations and the federal government, *see* Request for Waiver at 3-4, *2014 Second E-rate Order*, 29 FCC Rcd at 15561, para. 58, that relationship is not inconsistent with requiring compliance with E-rate program rules.

³⁰ Request for Waiver at 2.

³¹ *Id.*

(i.e., June 30), is a new service implementation deadline that took effect in funding year 2016.³² In the context of the implementation deadline applicable to other non-recurring services,³³ we have waived the extension request deadline when: (1) the extension request would have been granted if it had been timely filed;³⁴ (2) the applicant made significant, good faith efforts to extend the implementation deadline, even if belatedly;³⁵ and (3) there was no evidence of waste, fraud, or abuse.³⁶ We conclude that these criteria appropriately describe, at a high-level, the special circumstances that warrant a waiver of the deadline to extend the special construction implementation deadline. We caution applicants, however, that waivers of the deadline will only be granted when the facts in the record demonstrate that extraordinary relief is warranted.³⁷ Based on the record of the instant case, we find that the required showing to grant the Consortium's Request for Waiver has been met.

8. First, we find that the Consortium's extension request would have been granted had it been timely filed. USAC has stated that the late issuance of an FCDL approving a funding request may be grounds for granting a one-year extension of the special construction implementation deadline if the applicant did not commence construction prior to receiving the FCDL, and the facts of the build indicate that insufficient time remained to complete construction and use the network by June 30.³⁸ Here, the Consortium represents that it did not begin construction of the self-provisioned network for which it requested E-rate discounts because it did not receive its FCDL until June 30, 2017 – the very same day as the special construction implementation deadline.³⁹ Under such circumstances, we conclude that USAC would have granted the Consortium's request to extend the June 30, 2017 deadline on the grounds that the late issuance of an FCDL to the Consortium constitutes an unavoidable construction delay.

9. Second, we conclude that the Consortium made good faith efforts to seek an extension of the June 30, 2017 implementation deadline applicable to special construction funding requests. In the past, we have found that applicants acted in good faith when they filed accurate and complete service

³² See *2014 Second E-rate Order*, 29 FCC Rcd at 15552, 15558, paras. 37, 49.

³³ The *2014 Second E-rate Order* established the end of the funding year for which a special construction funding request is submitted as the deadline to complete special construction and light the new fiber, or use the self-provisioned network. *2014 Second E-rate Order*, 29 FCC Rcd at 15552, 15558, paras. 37, 49. The September 30 implementation deadline applicable to other non-recurring services under program rules does not apply to special construction. See 47 CFR § 54.507(d)(4).

³⁴ See, e.g., *Request for Waiver of Section 54.507(D) of the Commission's Rules Harvest Preparatory School, Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 5501, 5504, para. 7 (WCB 2010) ("*Harvest Order*").

³⁵ *Harvest Order*, 25 FCC Rcd at 5504, para. 7; see also *Requests for Review/Waiver of the Decision of the Universal Service Administrator by Accelerated Charter, Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd 13652, 13653, para. 2 (WCB 2014).

³⁶ *Harvest Order*, 25 FCC Rcd at 5504, para. 7; see also *Request for Review of the Decision of the Universal Service Administrator by Tekoa Academy of Accelerated Studies, Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 23 FCC Rcd 15456, 15459, para. 6 (WCB 2008).

³⁷ *Requests for Waiver of Decisions of the Universal Service Administrator by Batesville Community School Corporation, Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 31 FCC Rcd 7731, 7733, para. 6 (WCB 2016) ("To warrant consideration for waiver, a petitioner must 'articulate a specific pleading, and adduce concrete support, preferably documentary' and must 'plead with particularity the facts and circumstances' which warrant the granting of the requested waiver") (citations omitted).

³⁸ *SLD April 2017 News Brief* ("Applicants seeking support for special construction . . . may obtain this one-year extension by demonstrating to USAC that the late issuance of [an FCDL] (or non-issuance of an FCDL) has unavoidably delayed special construction").

³⁹ Request for Waiver at 2.

implementation deadline extension requests shortly after the extension request deadline lapsed.⁴⁰ Here, the Consortium submitted its request for an extension of the June 30 special construction implementation deadline to USAC within two weeks of the deadline.⁴¹ We conclude that the Consortium's swift action to remedy its failure to comply with the extension deadline indicates a good faith effort to extend the June 30 special construction implementation deadline.

10. We caution the Consortium and other program participants, however, that any further delay in submitting its extension request to USAC would likely have resulted in the Consortium's Request for Waiver being denied. E-rate applicants are ultimately responsible for knowing about and complying with all program rules,⁴² including all deadlines established by our rules.⁴³ That is true regardless of whether USAC reminds applicants about the deadlines, as it did here on multiple occasions. USAC issued a News Brief in April 2017 advising applicants that not receiving an FCDL in time to complete special construction and light the fiber, or use a self-provisioned network, may constitute an unavoidable delay for which they may request an extension of the June 30, 2017 implementation deadline.⁴⁴ As the June 30, 2017 implementation deadline approached, USAC reached out again to remind the E-rate community about the deadline, the option for applicants to request an extension of that deadline, and the procedures applicants needed to follow to submit an extension request.⁴⁵ Under such circumstances, we would be hard pressed to conclude that an applicant acted in good faith to seek an extension of the deadline if the extension request were filed more than several weeks late.

11. Finally, we find no evidence of waste, fraud, or abuse presented by the Consortium's request for a waiver of the June 30 implementation deadline applicable to special construction funding requests,⁴⁶ and that strict compliance with that deadline would not serve the public interest. We direct USAC to extend the deadline by which the Consortium is required to complete special construction and use the self-provisioned network associated with its FY 2016 to June 30, 2018, and to take further action consistent with this Order.

⁴⁰ See *Requests for Review of the Decision of the Universal Service Administrator by Lancaster School District*, CC Docket No. 02-6, Order, 26 FCC Rcd 6193, 6194, paras. 2-3 (WCB 2011) (finding that a service implementation deadline extension request filed five days after the deadline indicated an attempt in good faith to comply with the Commission's rules in a timely fashion).

⁴¹ Request for Waiver at 2, 6.

⁴² See *Requests for Review of the Decision of the Universal Service Administrator by Lombard School District, Federal-State Joint Board on Universal Service, Changes to the Board or Directors of the National Exchange Carrier Association, Inc.*, CC Docket Nos. 96-45 and 97-21, Order, 14 FCC Rcd 13166, 13168, para. 6 (CCB 1999); *Requests for Waiver by Lucia Mar Unified School District et al., Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 19 FCC Rcd 20364, 20365, para. 3 (WCB 2004).

⁴³ See *Requests for Waiver by E-rate Central, Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 20 FCC Rcd 3638, 3639, para. 3 (WCB 2005) ("[I]t is administratively necessary to place on the applicant the responsibility of complying with all relevant rules and procedures, including filing deadlines").

⁴⁴ See *SLD February 2017 News Brief*.

⁴⁵ See *SLD April 2017 News Brief*.

⁴⁶ In its Request for Waiver, the Consortium indicated that its self-provisioned network may benefit the larger Tribal community. See Request for Waiver at 2, 5. We remind the Consortium that E-rate discounts may only be used to purchase services used by eligible schools and libraries for a primarily educational purpose. 47 CFR §§ 54.501(a)-(c)(1), 54.504(a)(1)(v). E-rate-supported services may not be sold, resold, or transferred in consideration of money or any other thing of value. 47 CFR § 54.513(a). Further, a self-provisioned network is one in which "a school or library owns a full network or fiber run, including all the fiber strands and conduit." *2014 Second E-rate Order*, 29 FCC Rcd at 15550, para. 31, n.49. We caution the Consortium to carefully review program rules and, as appropriate, consult USAC to avoid any potentially ineligible community use that may subject it to a recovery action.

12. In so doing, we emphasize the limited nature of this decision. In remanding this matter to USAC, we make no finding as to the ultimate eligibility of the services or the petitioner's application.⁴⁷ We remind USAC of its obligation to independently determine whether the disbursement of universal service funds would be consistent with program requirements, Commission rules and orders, or applicable statutes and to decline to disburse funds where this standard is not met. Although we grant this request for waiver, this order does not alter the obligation of participants in the E-rate program to comply with the Commission's rules.⁴⁸ We continue to require E-rate applicants to submit complete, timely, and accurate information to USAC as part of the application review process. Applicants continue to be responsible for requesting service delivery deadline extensions on time and in the proper format.

13. We emphasize that the Commission is committed to guarding against waste, fraud, and abuse and ensuring that funds disbursed through the E-rate program are used for appropriate purposes. Although we grant this request for waiver, this action does not affect the authority of the Commission or USAC to conduct audits or investigations to determine compliance with the E-rate program rules and requirements. Because audits or investigations may provide information showing that a beneficiary or service provider failed to comply with the statute or the Commission's rules, such proceedings can reveal instances in which universal service funds were disbursed improperly or in a manner inconsistent with the statute or the Commission's rules. To the extent the Commission finds that funds were not used properly, the Commission will require USAC to recover such funds through its normal processes. We emphasize that the Commission retains the discretion to evaluate the uses of monies disbursed through the E-rate program and to determine on a case-by-case basis that waste, fraud, or abuse of program funds occurred and that recovery is warranted. The Commission remains committed to ensuring the integrity of the program and will continue to aggressively pursue instances of waste, fraud, or abuse under the Commission's procedures and in cooperation with law enforcement agencies.

IV. ORDERING CLAUSES

14. Accordingly, IT IS ORDERED that, pursuant to sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, and 1.3, that the requirement to build and use a self-provisioned network within the applicable funding year, as set forth in paragraph 49 of the *2014 Second E-rate Order*, 29 FCC Rcd at 15558, para. 49, IS WAIVED to the extent described above.

15. IT IS FURTHER ORDERED that, pursuant to section 1.102(b)(1) of the Commission's rules, 47 CFR § 1.102(b)(1), this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Ryan B. Palmer
Chief
Telecommunication Access Policy Division
Wireline Competition Bureau

⁴⁷ Additionally, nothing in this order is intended: (1) to authorize or require payment of any claim that previously may have been released by a service provider or applicant, including in a civil settlement or plea agreement with the United States or (2) to authorize or require payment to any person or entity that has been debarred from participation in the E-rate program.

⁴⁸ 47 CFR §§ 54.501-503.