

20 April 2015

Ilze K. Lacis

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C.**

In the Matter of: )  
)  
Request for Review and/or Waiver of )  
Decision of the Universal Service )  
Administrator ) CC Docket No. 02-6  
)  
By )  
)  
Cleveland Municipal School District )  
Cleveland, Ohio )

TO: Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12<sup>th</sup> Street. SW  
Washington, D.C. 20554

RE: The Cleveland Municipal School District (“Cleveland”, “District”), *a.k.a.* Cleveland City School District, respectfully requests that the Federal Communications Commission (“Commission”, “FCC”) review and reverse the Universal Service Administrative Company’s (“Administrator”, “USAC”) Schools and Libraries Division (“SLD”, “E-Rate Program”) decisions denying four (4) implementation extension requests for Internal Connections services relative to Funding Request Numbers (“FRNs”) 865736, 865118, 1045303 and 1046950 in FCC Forms 471 323210, 323152, 380114, and 380618. This Request for Review and/or Waiver for the four FRNs is made to the Commission pursuant to 47 U.S.C. at §§ 54.719(c) to 54.725 seeking redress for:

*Billed Entity Number* 129482 Cleveland City School District

20 April 2015

Ilze K. Lacis

*FCC Form 471 Application Numbers 471-323210*  
*Funding Request Numbers 865736*  
*SPIN number: 143005607*  
*Funding Commitment Decision Letter date: March 10, 2003*  
*Date of Administrator's Decision on Appeal Letter: February 19, 2015*

*FCC Form 471 Application Numbers 471-323152*  
*Funding Request Number 865118,*  
*SPIN number: 143005607*  
*Funding Commitment Decision Letter date: March 10, 2003*  
*Date of Administrator's Decision on Appeal Letter: February 19, 2015*

*FCC Form 471 Application Numbers 471-380114*  
*Funding Request Number 1045303*  
*SPIN number: 143005607*  
*Funding Commitment Decision Letter date: January 20, 2004*  
*Date of Administrator's Decision on Appeal Letter: February 19, 2015*

*FCC Form 471 Application Numbers 471-380618*  
*Funding Request Number 1046950*  
*SPIN number: 143005607*  
*Funding Commitment Decision Letter date: June 16, 2004*  
*Date of Administrator's Decision on Appeal Letter: February 19, 2015*

I. Introduction and Background:

The Cleveland Municipal School District recognizes the importance of effective and efficient administration of the E-rate program. The District understands that consistency in enforcing the deadlines for filing not only applications but also extensions for service delivery are essential to the effective operation of the program. Thus, it was with great consternation and alarm that the District discovered the deadline to request a service delivery extension for the four funding requests noted above had passed eleven (11) days hence. With great urgency, the District submitted a request to extend the implementation deadline for the four funding requests via the USAC Schools and Libraries "Submit a Question", a process that the District had used in many instances since the District's participation beginning in the first year of the E-rate program.

The urgency and importance of a successful implementation extension for the four funding requests was primary; the implementations directly affect the student and classroom (wireless

20 April 2015

Ilze K. Lacia

networks and associated cabling). Thus, the new methodology of submitting the Form 500 to request service delivery extensions was unwittingly by-passed. The incorrect course of action was recognized upon receipt of emails, one each for the four funding requests, from USAC. Without delay, the Forms 500, one for each of the four FRNs was prepared, signed and sent to USAC. These Forms 500 were denied by the Administrator via letter.

Below is the sequence and dates for the actions noted above. The dates are the same for the four FRNs in this Request for Review and Waiver.

Discovery of the Service Delivery Deadline	October 11, 2014
Submittal of a request to extend the Service Delivery Deadline via "Submit a Question" tool	October 11, 2014
Receipt of USAC e-mail stating to resubmit via Form 500	January 8, 2015
Submittal of Forms 500 for the four FRNs	January 8, 2015
Receipt of Administrator's Decision on Implementation Extension Request	February 19, 2015

The Administrator denied the implementation extension explaining that the "*(r)request (was) received after the FCC deadline for Implementation Deadline Extension request(s) which was 09/30/2014*". Furthermore, the Administrator stated in the denial letter that "*In accordance with the FCC Report and Order (FCC 01-195) released on June 29, 2001, the Administrator may grant an extension of time for the implementation of non-recurring services if the implementation is delayed for circumstances beyond the named service provider's control. You have been unable to establish such circumstances.*"

## II. Discussion

The Cleveland Municipal School District has exercised diligence in adhering to the deadline regulations since its participation in the first year of the E-rate program. It is clear to the District that strict adherence enhances the program's efficacies when participants submit the requisite forms and data in accordance thereto. However, while the Administrator cannot waive any such rule, the Commission has waived past deadline submittals for not only Forms 471<sup>1</sup>, the most critical of Forms, but also late-filed Item 21 attachments, and late filed certifications<sup>2</sup>. For Forms 471 filed within two weeks (14 calendar days) of the Window close, the FCC in most instances has waived the deadline<sup>3</sup>.

Furthermore, the District contends that there *are* special circumstances that warrant an implementation deadline extension. The four funding requests for which implementation deadlines are requested herein are large, complex and interrelated. Thus, the installations must be

<sup>1</sup> DA 14-1526, DA 06-2458

<sup>2</sup> CC Docket No. 02-6. Order, 27 FCC Rcd 5319, 5319-20, para. 2

<sup>3</sup> DA 14-1526

20 April 2015

Ilze K. Lacis

installed during the summer months when students are not in classrooms. The Commission will note that significant progress has been made; however, the projects are not completed. It is of decisive importance that the projects for wireless LANs and associated cabling continue. Thus, the implementation extension is clearly due to the District's service provider's inability to complete the installation during schools days when students are in classrooms.<sup>4</sup> The installations, perforce must be installed during the summer months.

Without the extended implementation deadline, some schools and classrooms will have wireless capabilities, while other schools will not. This, then creates inequities among the District's schools' wireless capacities, particularly as it concerns student testing needs.

### III. Request for Review and Waiver

The Cleveland Municipal School District respectfully requests the Federal Communication Commission to grant the waiver to extend the implementation extension for FRNs 865736, 1046950, 865118 and 1045303 for the reasons stated above. The Commission has waived procedural deadlines<sup>5</sup> to effectuate the E-rate program's goals, established in the Telecommunications Act of 1996<sup>6</sup>. At that time, Congress directed the Commission to "enhance...access to advanced telecommunications and information services for all public and non-profit elementary and secondary schools classrooms, health care providers, and libraries."<sup>7</sup>

The Cleveland Municipal School District has exhibited stringent adherence to deadlines since Year 1 of the program. It stands to reason that the Commission's waivers for procedural deadlines for many of the program's deadlines, including the important Form 471, would allow for the same waiver to apply to the implementation extension deadlines requested herein for the four funding requests.

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<sup>4</sup> DA 06-2458

<sup>5</sup> 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, 9259-60, paras. 8-9 (2010) (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; or filed their FCC Forms 471 on time, but failed to timely file their certifications, and denying waivers where petitioners failed to present special circumstances justifying waivers of our rules); Requests for Waiver and Review of Decisions of the Universal Service Administrator by Anderson Elementary School et al.; Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Order, 27 FCC Rcd 5319, 5319-20, para. 2 (Wireline Comp. Bur. 2012) (treating late-filed item 21 attachments like late-filed certifications).

<sup>6</sup> 47 U.S.C. § 254(h)(1)(B)

<sup>7</sup> 47 U.S.C. § 254(h)(2)

# E-RATE CENTRAL

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20 April 2015

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Respectfully submitted for the Cleveland Municipal School District by



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CC: Dedra Ross, Senior E-rate Specialist, Cleveland Municipal School District

Attachments:

- Attachment A: Correspondence for FRN 865736
- Attachment B: Correspondence for FRN 1046950
- Attachment C: Correspondence for FRN 865118
- Attachment D: Correspondence for FRN 1045303