Las Vegas-Clark County Library District
7060 W. Windmill Lane, Las Vegas, NV 89113

June 22, 2015

Petition for Reconsideration

Federal Communications Commission
Office of the Secretary
9300 East Hampton Drive
Capitol Heights, MD 20743

CC Docket No 02-6

Petition for Reconsideration of Federal Communications Commission (FCC) Public Notice "Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company", DA 15-648, May 29, 2015

Authorized person who can best discuss this Appeal with you

Richard Larson
eRate 360 Solutions, LLC
322 Route 46W, Suite 280W
Parsippany, NJ 07054

Phone: (888) 535-7771 ext 102
Fax: (866) 569-3019
Email: rlarson@erate360.com
(preferred mode of contact)

Information

Entity: Las Vegas-Clark County Library District
Billed Entity Number: 143400

471 Number	FRN	SPIN	Service Provider Name	Approved Funding
832699	2260596	143002671	CenturyLink Central Tel. of NV	$18,312.15
832699	2260598	143002671	CenturyLink Central Tel. of NV	$19,358.82
832699	2260604	143002671	CenturyLink Central Tel. of NV	$38,734.80
832699	2260613	143002675	Rio Virgin Telephone Company	$1,683.36
832699	2260636	143017743	Cox Nevada Telcom, LLC	$118,521.00
			TOTAL	**$196,610.13**

Document to Be Reconsidered: FCC Public Notice "Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company", DA 15-648, May 29, 2015[1]

Decision on Appeal: Denied. Untimely Filed Request for Review

Explanation to Be Reconsidered: "*See, e.g.*, *Requests for Review of Decisions of the Universal Service Administrator by Agra Public Schools I-134 et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 5684 (Wireline Comp. Bur. 2010); *Requests for Waiver or Review of Decisions of the Universal Service Administrator by Bound Brook School District et al.; Schools and Libraries Universal*

[1] DA 15-648, May 29, 2015, "Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company", pgs. 6, 7.

Service Support Mechanism, CC Docket No. 02-6, Order, 29 FCC Rcd 5823 (Wireline Comp. Bur. 2014) (denying appeals on the grounds that the petitioners failed to submit their appeals either to the Commission or to USAC within 60 days, as required by the Commission's rules, and did not show special circumstances necessary for the Commission to waive the deadline).[2]

Petition:

Las Vegas-Clark County Library District (the Library) respectfully requests the FCC to reconsider its decision to deny our request for the Commission to waive its policy requiring appeals of decisions to be filed no later than 60 days from the date of the decision letter being appealed. This will clear the way for the Commission to consider the Library's request for waiver of the policy on invoice deadline extensions.[3]

The Library's reasoning for requesting a waiver of the appeal deadline is simple and compelling:

- The Library was unable to file BEAR forms for its approved funding for the five FRNs listed on page 1 of this letter, but believes it has substantive reasons for the FCC to waive its policy on invoice deadline extensions and allow the Library to submit Form 472s (BEARs) against the $196,610.13 of funding for these five FRNs.
- The Library has no experience or expertise in the E-rate appeals process, and must rely on its E-rate consultant to prepare and file any appeals.
- The consultant, eRate 360 Solutions, had a plan and schedule for preparing and filing the request for waiver before the 3/17/2015 appeal deadline.[4] The Library's appeal was one of seven appeals with the same 3/17/2015 deadline that eRate 360 Solutions was to file by that date. Three of the seven appeals were filed on 3/9 and 3/11, and the remaining four (including the Library's appeal) were to be filed by Sunday, 3/15/2015.
- On 3/12/2015 the sole individual at eRate 360 Solutions who is knowledgeable of the appeals process, Richard Larson, suffered a near-fatal heart attack, requiring emergency angioplasty to install four stents in his coronary arteries that day and two more stents on 3/24/3015.[5] During this time and for several weeks after Mr. Larson's condition ranged from being unable to work at all to a gradual return to a partial workload by late April. At the same time the staff at eRate 360 Solutions was overwhelmed with completing the new, more complex Form 471 applications for Mr. Larson's 26 clients as well as their own. No time was available to learn and apply the appeals process to the four appeals Mr. Larson had scheduled for filing by 3/17/2015.

The Library contends that, while its own lack of E-rate expertise and the extraordinary burden of the Form 471 Modernization do not rise to the level of "special circumstances," the consequences of Mr. Larson's heart attack most certainly do. Our concern, therefore, is to determine what standard the FCC applies in determining what constitutes "special circumstances."

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[2] Ibid, p. 7 footnote 19

[3] Letter of Appeal to the Federal Communications Commission, Office of the Secretary, from Richard Larson, eRate 360 Solutions (consultant for Las Vegas-Clark County Library District), dated 5/7/2015.

[4] eRate 360 Solutions notes that it was forced to delay filing these appeals until early March because of the complex and disruptive process of implementing the FCC's "Modernization" orders. The weeks leading up to the closing of the Form 471 window are normally hectic; in 2015 applicants and their consultants learned just how much worse the process could be. This is borne out by the need for the FCC to extend the window closing by six weeks.

[5] Medical records concerning Richard Larson, consultant for the Library, for 3/12-14/2015 and 3/24/2015.

Although the *Northeast Cellular* decision set the requirement that "*waiver is appropriate if special circumstances warrant a deviation from the general rule*", it does not define what constitutes "special circumstances." We look to the FCC precedents for this definition.

Greenfield Public Schools:[6] In this decision, the Commission granted a waiver of the 60-day deadline to file an appeal granting a waiver request where Greenfield Public Schools' (Greenfield's) technology coordinator was unexpectedly called to active military duty in a time of war. While this decision was patriotic and politically savvy, it does boil down to two elements:

1. Greenfield was deprived of its sole person, Scott Carbee, capable of preparing an appeal due to circumstances beyond the control of Mr. Carbee or Greenfield.
2. Greenfield was not expected to comply with the 2/1/2005 appeal deadline even though they were aware of Mr. Carbee's call to active military duty in August of 2004.

As with Greenfield, the Library was deprived of its sole person, Richard Larson, capable of preparing and submitting an appeal due to circumstances beyond the control of either Mr. Larson or the Greenfield. Unlike Greenfield, the Library had no warning of this situation and was therefore unable to cope with being suddenly deprived of Mr. Larson's services.

The Library respectfully contends that it found itself in a more difficult situation than did Greenfield.[7] Certainly if Greenfield was beset by "special circumstances," the Library's circumstances were no less "special."

Children of Peace School:[8] In this decision, the Commission granted multiple waivers to applicants due to "special circumstances" as prescribed by the *Northeast Cellular* decision.[9] Among the "special circumstances" cited are "*an auto accident*," "*brain cancer*," "*unexpected, intermittent, and extended illness*," and "*medical emergency*."[10]

The Commission accepted as "special circumstances" these medical emergencies and physical impairments which deprived the respective applicants of the services of key E-rate-knowledgeable personnel. Mr. Larson's heart attack was no less devastating than these, and the Library's circumstances were no less "special," than the four applicants granted waivers in the *Children of Peace School* decision.

Agra Public Schools: In this decision, cited by the Commission as precedent for denying the Library's waiver request, the Commission denied 104 appeals on the grounds that "*the petitioners have failed to show special circumstances necessary for the Commission to waive the deadline.*" [11] In reviewing the reasons enumerated in the footnotes of *Agra Public*

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[6] *Request for Waiver by Greenfield Public School District, Schools and Libraries Universal Support Mechanism*, File Nos. SLD-431911, SLD-431129, CC Docket No. 02-6, dated February 28, 2006.

[7] We do not confuse the comparison of the special circumstances confronted by the two applicants with comparison of the degree of hazard encountered by Mr. Carbee and Mr. Larson. In a war zone, Mr. Carbee was in greater mortal danger for an extended period of time than was Mr. Larson; however, this does not change the fact that Greenfield Public Schools and the Library were deprived respectively of Mr. Carbee's and Mr. Larson's services.

[8] *Request for Waiver of Decisions of the Universal Service Administrator by Children of Peace School, Chicago, Illinois, et al. and, Schools and Libraries Universal Support Mechanism*, File Nos. SLD-469413, et al., CC Docket No. 02-6, dated May 20, 2010.

[9] Ibid., p.3, footnote 15.

[10] Ibid., p.4, footnote 18

[11] *Request for Review of Decisions of the Universal Service Administrator by Agra Public Schools I-134, Agra, Oklahoma, et al. and, Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-363747, et al., CC Docket No. 02-6, dated May 26, 2010; p.1.

Schools, the reasons cited by the applicants included failure to receive or to comprehend an E-rate letter; holidays and vacations; staff turnover or reorganization; lack of staff expertise; poor communications within the applicant's staff, with a service provider, or with a consultant; and lack of understanding of E-rate rules and procedures.[12] None cite an "act-of-God" reason such as sudden medical emergency as occurred to Mr. Larson or to the applicants granted "special circumstance" waiver in *Children of Peace*.

The Library respectfully contends that its circumstances were indeed "special" and do not fit the array of circumstances cited in *Agra Public Schools*.

Conclusion:

The Library appreciates the Commission's consideration of this petition. We believe we have identified material reasons warranting reconsideration relying on arguments that the Commission gives no indication of having considered in its 5/29/2015 decision. By comparing the circumstances confronted by the Library on 3/12/2015 to the circumstances confronted by the applicants in *Agra Public Schools*, we believe the Commission has erred in judging these circumstances; by failing to consider the *Greenfield Public Schools* and *Children of Peace School* decisions the Commission has misjudged the "special" nature of the "circumstances" that prevented timely filing of its Request for Waiver.

The Library only asks that its Request for Waiver regarding its Invoice Deadline Extensions be given a fair hearing and that it not be derailed by a failure to recognize the "special" nature of the circumstances that delayed filing of our Request.

We are available to respond to questions or to provide any further information requested by the Commission in its review of this appeal.

Authorized signature for this Appeal[13]

Richard Larson Date: 6/22/15

Richard Larson
eRate 360 Solutions, LLC
322 Route 46W, Suite 280W
Parsippany, NJ 07054

Phone: (888) 535-7771 ext 102
Fax: (866) 569-3019
Email: rlarson@erate360.com
(preferred mode of contact)

[12] Ibid., pgs.2-4, footnotes 13-16.

[13] "Letter of Agency" from Jeanne Goodrich, Executive Director for Las Vegas-Clark County Library District, authorizing employees of eRate 360 Solutions, LLC, to perform e-rate services on behalf of the Library.

NOTE 1, 2

PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: http://www.fcc.gov
TTY: 1-888-835-5322

DA 15-648
Released: May 29, 2015

STREAMLINED RESOLUTION OF REQUESTS RELATED TO ACTIONS BY THE UNIVERSAL SERVICE ADMINISTRATIVE COMPANY

CC Docket No. 96-45
CC Docket No. 02-6

Pursuant to our revised procedure for resolving requests for review, requests for waiver, and petitions for reconsideration of decisions related to actions taken by the Universal Service Administrative Company (USAC) that are consistent with precedent (collectively, Requests), the Wireline Competition Bureau (Bureau) grants and denies the following Requests.[1] The deadline for filing petitions for reconsideration or applications for review concerning the disposition of any of these Requests is 30 days from release of this Public Notice.[2]

Schools and Libraries (E-rate)
CC Docket No. 02-6

Dismiss as Moot[3]

Systems Engineering and Management Associates, Inc. (Orleans Parish School District), Application No. 376127, Request for Review or Waiver, CC Docket No. 02-6 (filed Aug. 1, 2006)

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[1] *See Streamlined Process for Resolving Requests for Review of Decisions by the Universal Service Administrative Company*, CC Docket Nos. 96-45, 02-6, WC Docket Nos. 02-60, 06-122, 08-71, 10-90, 11-42, 14-58, Public Notice, 29 FCC Rcd 11094 (Wireline Comp. Bur. 2014). Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of USAC may seek review from the Commission. 47 C.F.R. § 54.719(c).

[2] *See* 47 C.F.R. §§ 1.106, 1.115; *see also* 47 C.F.R. § 1.4(b)(2) (setting forth the method for computing the amount of time within which persons or entities must act in response to deadlines established by the Commission).

[3] *Requests for Review of the Decisions of the Universal Service Administrator by Chippewa Falls Schools District et al.*, Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Order, 27 FCC Rcd 939, 939-40, para. 1 (Wireline Comp. Bur. 2012) (dismissing as moot requests for review where USAC subsequently rescinded its commitment adjustment (COMAD) letters).

Dismiss on Reconsideration[4]

The Cradle, Application Nos. 591853, 652683, 711947, 789620, 831131, 879327, Petition for Reconsideration, CC Docket No. 02-6 (filed Mar. 30, 2015)

Dismiss Without Prejudice[5]

Hatch Valley Public Schools, Application Nos. 973253, 973547, 973676, 974799, 974914, 974988, Request for Waiver, CC Docket No. 02-6 (filed Apr. 20, 2015)

Granted[6]

Allowing Deduction of Ineligible Costs[7]

Fauquier County Public Schools, Application Nos. 714402, 774331, Request for Review or Waiver, CC Docket No. 02-6 (filed June 21, 2012)

Fauquier County Public Schools, Application No. 879484, Request for Review or Waiver, CC Docket No. 02-6 (filed Mar. 28, 2014)

Fullerton Elementary School District, Application No. 936563, Request for Review or Waiver, CC Docket No. 02-6 (filed Nov. 12, 2014)

Haiku Learning Systems, Inc., Application Nos. 820107, 825487 (Riverside Unified School District); Application Nos. 827954, 895974 (Granville County School District); Application No. 862994 (Area 30 Career Center); Application No. 881837 (Fullerton Elementary School District); Application No. 893520 (Moriah School of Engelwood); Application No. 882552 (Saddleback

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[4] *See, e.g., Requests for Waiver and Review of Decisions of the Universal Service Administrator by Allan Shivers Library et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd 10356 (Wireline Comp. Bur. 2014) (dismissing petitions for reconsideration that fail to identify any material error, omission, or reason warranting reconsideration, and rely on arguments that have been fully considered and rejected by the Bureau within the same proceeding).

[5] *See Request for Review of a Decision of the Universal Service Administrator by La Canada Unified School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, DA 15-571, para. 2 (Wireline Comp. Bur. May 11, 2015) (dismissing without prejudice an appeal that properly belongs before USAC pursuant to Commission rules).

[6] We remand these applications to USAC and direct USAC to complete its review of the applications and issue a funding commitment or a denial based on a complete review and analysis no later than 90 calendar days from the release date of this Public Notice. In remanding these applications to USAC, we make no finding as to the ultimate eligibility of the services or the petitioners' applications. We also waive sections 54.507(d) and 54.514(a) of the Commission's rules and direct USAC to waive any procedural deadline that might be necessary to effectuate our ruling. *See* 47 C.F.R. § 54.507(d) (requiring non-recurring services to be implemented by September 30 following the close of the funding year); 47 C.F.R. § 54.514(a) (codifying the invoice filing deadline).

[7] *See, e.g.*, *Requests for Review of the Decisions of the Universal Service Administrator by Aiken County Public Schools et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 22 FCC Rcd 8735, 8737-40, paras. 6, 9-10 (2007) (*Aiken County Public Schools Order*); *Requests for Review of Decisions of the Universal Service Administrator by Business Technologies, Inc. et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 17033 (Wireline Comp. Bur. 2010) (directing USAC to provide applicants with the opportunity to have their funding requests reassessed after they removed ineligible services from their E-rate applications).

Valley Unified School District); Application No. 898162 (Dare County Schools), Request for Review or Waiver, CC Docket No. 02-6 (filed June 25, 2014)

Metropolitan School District of Warren Township, Application No. 867464, Request for Review and Waiver, CC Docket No. 02-6 (filed Jan. 31, 2013)

Saddleback Valley Unified School, Application No. 936635, Request for Review or Waiver, CC Docket No. 02-6 (filed Nov. 26, 2014)

Eligible Services[8]

Chapel Hill – Carrboro City District, Application No. 965006, Request for Review, CC Docket No. 02-6 (filed Feb. 18, 2015)

Granting Additional Time to Respond to USAC's Request for Information[9]

Shelby County Education Service Center, Application No. 936604, Request for Waiver, CC Docket No. 02-6 (filed Feb. 9, 2015)

Granting Late Filed Service Implementation Deadline Extension Request[10]

Cleveland City School District, Application Nos. 380618, 323210, 323152, 380114, CC Docket No. 02-6 (filed Mar. 21, 2015)

Late-Filed FCC Form 471 Applications Filed within 14 days of the close of the Window[11]

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[8] *Aiken County Public Schools Order*, 22 FCC Rcd at 8737-39, paras. 6-7 (granting appeals where improper labeling or a misleading response caused USAC to treat the requested services as ineligible).

[9] *See, e.g., Requests for Review of the Decision of the Universal Service Administrator by Alpaugh Unified School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 22 FCC Rcd 6035 (2007); *Requests for Review of Decisions of the Universal Service Administrator by Ben Gamla Palm Beach et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd 1876 (Wireline Comp. Bur. 2014) (granting requests for review of applicants that had been denied funding because they failed to respond to USAC's request for information within the USAC-specified time frame). Consistent with precedent, we also find good cause exists to waive section 54.720(a) of the Commission's rules, which requires that petitioners file their appeals within 60 days of an adverse USAC decision, for Shelby County Education Service Center. *See Requests for Review and/or Waiver of Decisions of the Universal Service Administrator by ABC Unified School District et al.; Schools and Libraries Universal Service Support Mechanism,* Order, 26 FCC Rcd 11019, 11019, para. 2 (Wireline Comp. Bur. 2011) (waiving the filing deadline for petitioners that submitted their appeals to the Commission or USAC only a few days late).

[10] *Requests for Review/Waiver of the Decision of the Universal Service Administrator by Accelerated Charter et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd 13652, 13652-53, para. 2 (Wireline Comp. Bur. 2014) (allowing extensions of the deadline for service implementation when applicants demonstrated they were unable to complete implementation on time for reasons beyond the service providers' control and made significant efforts to secure the necessary extensions, despite the request being filed late).

[11] *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).

Argenta – Oreana Public Library, Application Nos. 1051749, 1051750, Request for Waiver, CC Docket No. 02-6 (filed Apr. 28, 2015)

Bridgeport Public Library, Application No. 1051712, Request for Waiver, CC Docket No. 02-6 (filed Apr. 28, 2015)

Charles E. Smith Jewish Day School, Application No. 1051720, Request for Waiver, CC Docket No. 02-6 (file Apr. 24, 2015)

Connelly Holy Child School, Application No. 1051723, Request for Waiver, CC Docket No. 02-6 (filed Apr. 24, 2015)

Dayton Metro Library, Application No. 1051709, Request for Waiver, CC Docket No. 02-6 (filed Apr. 28, 2015)

Diocese of Memphis School, Application No. 1051270, Request for Waiver, CC Docket No. 02-6 (filed Apr. 29, 2015)

Donegal School District, Application No. 1000885, Request for Waiver, CC Docket No. 02-6 (filed May 1, 2015)

Gloucester City Library, Application No. 1051751, Request for Waiver, CC Docket No. 02-6 (filed Apr. 30, 2015)

Hales Corners Lutheran School, Application No. 1051807, Request for Waiver, CC Docket No. 02-6 (filed Apr. 29, 2015)

Harrisburg School District R8, Application Nos. 1051575, 1051591, Request for Waiver, CC Docket No. 02-6 (filed Apr. 29, 2015)

Leola School District 44-2, Application No. 1049827, Request for Waiver, CC Docket No. 02-6 (filed Apr. 30, 2015)

Maple School District, Application Nos. 1042388, 1051728, Request for Waiver, CC Docket No. 02-6 (filed May 1, 2015)

Miracle City Academy, Application No. 1050701, Request for Waiver, CC Docket No. 02-6 (filed Apr. 24, 2015)

NYE County School District, Application No. 996215, Request for Waiver, CC Docket No. 02-6 (filed Apr. 29, 2015)

Ojai Valley School – Lower Campus, Application No. 1051773, Request for Waiver, CC Docket No. 02-6 (filed Apr. 29, 2015)

Poly Prep County Day School, Application No. 1051659, Request for Waiver, CC Docket No. 02-6 (filed Apr. 24, 2015)

Prince George's County Public Schools, Application Nos. 996153, 1024002, Request for Waiver, CC Docket No. 02-6 (filed Apr. 29, 2015)

Queen of Apostles School, Application No. 1051774, Request for Review, CC Docket No. 02-6 (filed May 7, 2015)

Rosary Cathedral Catholic School, Application No. 1051841, Request for Review, CC Docket No. 02-6 (filed May 6, 2015)

Souderton Area School District, Application No. 1051818, Request for Waiver, CC Docket No. 02-6 (filed Apr. 29, 2015)

Southside School District, Application Nos. 1051846, 1051847, 1051848, Request for Waiver, CC Docket No. 02-6 (filed Apr. 30, 2015)

Southwest Chicago Christian School Association, 1051825, Request for Waiver, CC Docket No. 02-6 (filed Apr. 30, 2015)

St Anastasia School, Application Nos. 1045745, 1051580, Request for Waiver, CC Docket No. 02-6 (filed Apr. 24, 2015)

St Edward's School, Application Nos. 1051798, 1051814, Request for Waiver, CC Docket No. 02-6 (filed Apr. 29, 2015)

St Jane Frances De Chantal School, Application No. 1051722, Request for Waiver, CC Docket No. 02-6 (filed Apr. 24, 2015)

St Peter Prince of Apostles Schools, Application No. 1051775, Request for Waiver, CC Docket No. 02-6 (filed Apr. 29, 2015)

Woodbridge School District, Application No. 1051812, Request for Waiver, CC Docket No. 02-6 (filed Apr. 30, 2015)

Ministerial and/or Clerical Errors[12]

TextLine Independent School District, Application No. 938477, Waiver Request, CC Docket No. 02-6 (filed Sept. 19, 2014)

Providing Applicants 15 days to Submit Supporting Discount Calculation Documentation[13]

Fort Worth Independent School District, Application No. 987640, Request for Review, CC Docket No. 02-6 (filed Mar. 9, 2015)

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[12] *See, e.g.*, *Requests for Review of Decisions of the Universal Service Administrator by Joseph Jingoli & Sons, Inc. et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 22 FCC Rcd 19227 (Wireline Comp. Bur. 2007) (permitting applicants to correct inadvertent cancellations of funding requests); *Requests for Review of Decisions of the Universal Service Administrator by Archer Public Library et al.*; *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 23 FCC Rcd 15518, 15520 n.19 (Wireline Comp. Bur. 2008) (permitting applicant to modify a pre-discount price to reflect the correct amount).

[13] *See, e.g.*, *Requests for Review of the Decision of the Universal Service Administrator by Academia Claret et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 21 FCC Rcd 10703, 10709, para. 14 (Wireline Comp. Bur. 2006) (*Academia Claret Order*)*; Requests for Waiver and Review of Decisions of the Universal Service Administrator by Bright Star Schools Consortium et al.; Schools and Libraries Support Mechanism*, CC Docket No. 02-6, Order, 28 FCC Rcd 11204, 11204, para. 1 (Wireline Comp. Bur. 2013) (granting applicants a limited 15-day opportunity to file additional documentation to support their calculation of the correct discount rate).

Fort Worth Independent School District, Application No. 989393, Request for Review, CC Docket No. 02-6 (filed Mar. 9, 2015)

Record Demonstrates Equipment Delivered Within Funding Year[14]

Erie 1 BOCES, Application No. 488469, Request for Review, CC Docket No. 02-6 (filed May 2, 2008)

Denied

Ineligible Entities[15]

Grace Christian Academy, Application No. 820629, Request for Review, CC Docket No. 02-6 (filed Nov. 26, 2014)

Intentional Cancellation of Funding[16]

Sierra Vista Unified School District #68, Request for Review, Application 836681, CC Docket No. 02-6 (filed July 22, 2014)

Late-Filed FCC Form 471 Applications[17]

KIPP Adelante Preparatory Academy, Application Nos. 1051956, 1051957, Request for Review, CC Docket No. 02-6 (filed May 6, 2015)

Rosary Cathedral Catholic School, Application No. 1051858, Request for Review, CC Docket No. 02-6 (filed May 6, 2015)

Thlopthlocco Tribal Town Public Library, No Application Filed, Request for Waiver, CC Docket No. 02-6 (filed Mar. 30, 2015)

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[14] *See, e.g., Request for Review of a Decision of the Universal Service Administrator by Sundale Elementary School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd 4124, 4124, para. 3 (Wireline Comp. Bur. 2014) (granting appeal on merits when record demonstrates applicant was in compliance with E-rate program rules).

[15] *See, e.g., Request for Review of the Decision of the Universal Service Administrator by New York City Board of Education; 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, 17 FCC Rcd 8578, 8581, para. 8 (Wireline Comp. Bur. 2002) (observing that "only entities defined as schools under state law qualify as eligible schools," and even the frequent use of other "locations for small-group instruction does not establish that [those entities] are part of eligible schools," given the locations are primarily used for purposes other than classroom instruction).

[16] *See Request for Review of a Decision of the Universal Service Administrator by Le Jardin Academy*; *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd 11792, 11792, para. 4 (Wireline Comp. Bur. 2014) (denying a request to reinstate funding purposefully canceled by the applicant).

[17] *See, e.g.*, *Academy of Math and Science Order*, 25 FCC Rcd at 9259, para. 8 (denying waivers of the FCC Form 471 filing window deadline where petitioners failed to present special circumstances justifying waivers of our rules).

Relying on FCC Form 470 That Did Not Seek Bids on Types of E-rate Services Later Requested[18]

Ausable Valley Central School District, Application No. 955307, Request for Waiver, CC Docket No. 02-6 (filed Nov. 12, 2014)

Untimely Filed Request for Review[19]

Las Vegas-Clark County Library District, Application No. 832699, Request for Waiver, CC Docket No. 02-6 (filed May 7, 2015)

Lauderdale County School District, Application No. 872652, Request for Waiver, CC Docket No. 02-6 (filed May 7, 2015)

Liberty Union High School District, Application No. 844432, Request for Waiver, CC Docket No.
02-6 (filed May 7, 2015)

Northside Center for Child Development, Inc., Application Nos. 856689, 856761, 860418, Request for Waiver, CC Docket No. 02-6 (filed May 7, 2015)

NYC Charter High School for Architecture, Engineering, and Construction, Application No. 959586, Request for Waiver, CC Docket No. 02-6 (filed May 12, 2015)

For additional information concerning this Public Notice, please contact Erica Myers at (202) 418-7400, in the Telecommunications Access Policy Division, Wireline Competition Bureau.

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[18] *See, e.g.*, *Request for Review of a Decision of the Universal Service Administrator by Albert Lea Schools et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 24 FCC Rcd 4533 (Wireline Comp. Bur. 2009); *Petition for Reconsideration by Chicago Public Schools; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd 9289 (Wireline Comp. Bur. 2014) (denying appeals of applicants that filed FCC Forms 470 that did not include the types of services for which the applicants later requested E-rate funding).

[19] *See, e.g.*, *Requests for Review of Decisions of the Universal Service Administrator by Agra Public Schools I-134 et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 5684 (Wireline Comp. Bur. 2010); *Requests for Waiver or Review of Decisions of the Universal Service Administrator by Bound Brook School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd 5823 (Wireline Comp. Bur. 2014) (denying appeals on the grounds that the petitioners failed to submit their appeals either to the Commission or to USAC within 60 days, as required by the Commission's rules, and did not show special circumstances necessary for the Commission to waive the deadline).

NOTE 3

Las Vegas-Clark County Library District
7060 W. Windmill Lane, Las Vegas, NV 89113

May 7, 2015

Letter of Appeal

Federal Communications Commission
Office of the Secretary
9300 East Hampton Drive
Capitol Heights, MD 20743

CC Docket No 02-6

Request for Waiver of "Administrator's Decision on Invoice Deadline Extension Request" re five FRNs in Form 471 # 832699, issued on January 16, 2015

Authorized person who can best discuss this Appeal with you

Richard Larson
eRate 360 Solutions, LLC
322 Route 46W, Suite 280W
Parsippany, NJ 07054

Phone: (888) 535-7771 ext 102
Fax: (866) 569-3019
Email: rlarson@erate360.com
(preferred mode of contact)

Information

Entity: Las Vegas-Clark County Library District
Billed Entity Number: 143400

471 Number	FRN	SPIN	Service Provider Name	Approved Funding
832699	2260596	143002671	CenturyLink Central Tel. of NV	$18,312.15
832699	2260598	143002671	CenturyLink Central Tel. of NV	$19,358.82
832699	2260604	143002671	CenturyLink Central Tel. of NV	$38,734.80
832699	2260613	143002675	Rio Virgin Telephone Company	$1,683.36
832699	2260636	143017743	Cox Nevada Telcom, LLC	$118,521.00
			TOTAL	**$196,610.13**

Document Being Appealed: "Administrator's Decision on Invoice Deadline Extension Request" (ADL) re five FRNs in Form 471 # 832699, issued on January 16, 2015 (five FRNs per schedule above)[1]

ADL Items Being Appealed (same for all five FRNs):

Decision on Request "Dismissal of your request for a deadline extension"

Explanation "Current deadline extension rules and procedures do not allow approval for the reason submitted."

[1] Email from Schools and Libraries Division, Universal Service Administrative Company (deadline@sl.universalservice.org), to Matthew Hetman (mhetman@erate360.com), consultant for Las Vegas-Clark County Library District, dated Friday, January 16, 2015; subject: "*Administrator's Decision on Invoice Deadline Extension Request*", regarding 18 FRNs, including the five FRNs in the schedule above.

Request for Waiver – 60-day Deadline for Filing Appeals:

As the E-rate appeals author for Las Vegas-Clark County Library District (the Library), I, Richard Larson, respectfully request the Commission to waive its policy requiring appeals of decisions to be filed no later than 60 days from the date of the decision letter being appealed. The 60-day deadline for appealing this January 16, 2015 ADL was March 17, 2015. My client, the Library, has no experience or expertise in the E-rate appeals process, and must rely on me to prepare and file any appeals.

My schedule was to complete and file this appeal (and three others) the weekend of March 14th and 15th. Please note that I had just filed three appeals of invoice deadline ADLs on March 9th and 11th, 2015.[2]

Unfortunately, on the afternoon of March 12th I suffered a near-fatal heart attack, requiring immediate angioplasty to install four stents in my coronary arteries that day and two more stents twelve days later.[3] My recovery has been slow but steady, and I am now working nearly a full-time several days a week.

In view of the Library's full reliance upon me to file this appeal, I humbly request the Commission to take into account my physical failing and to waive the 60-day deadline to file this appeal, and to give fair consideration of the appeal that follows below.

Request for Waiver - Invoice Deadline Extensions:

Las Vegas-Clark County Library District (the Library) respectfully requests the Commission to waive its new policy on invoice deadline extensions and instruct the Schools and Libraries Division's (SLD) to accept the Library's 10/27/2014 invoice deadline extension requests for five FRNs in 471 application number 832699 (per schedule on page 1 above).[4] Approval of these Invoice Deadline Extension Requests will allow the Library to submit Form 472s (BEARs) against the $196,610.13 of funding for these five FRNs.

The Library experienced a personnel shortage in their business office when a key individual became ill and eventually had to leave due to a serious health problem. As a result they were unable to gather the documents and compile the information necessary for preparation of the BEAR forms.

The Library respectfully asks the Commission to take into account the serious hardship that the Library and its patrons will experience if it is deprived of the BEAR reimbursements for these five FRNs.

We are available to respond to questions or to provide any further information requested by the Commission in its review of this appeal.

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[2] Three FCC ECFS Filing Receipts for appeals filed on 3/9/2015 (Child Inc. and Greater Albany Public School District) and 3/11/2015 (Gilroy Unified School District) by Richard Larson, consultant for the three appellants.

[3] Medical records concerning Richard Larson, consultant for the Library, for 3/12-14/2015 and 3/24/2015.

[4] Email from the SLD Customer Service Bureau to Matthew Hetman (mhetman@erate360.com), consultant for Las Vegas-Clark County Library District, on October 27, 2014, subject: "SLD Inquiry #: 22-686533 Received".

Authorized signature for this Appeal[5]

Richard Larson

Date: 5/7/15

Richard Larson
eRate 360 Solutions, LLC
322 Route 46W, Suite 280W
Parsippany, NJ 07054

Phone: (888) 535-7771 ext 102
Fax: (866) 569-3019
Email: rlarson@erate360.com
(preferred mode of contact)

[5] "Letter of Agency" from Jeanne Goodrich, Executive Director for Las Vegas-Clark County Library District, authorizing employees of eRate 360 Solutions, LLC, to perform e-rate services on behalf of the Library.

NOTE 5

Saint Clare's Hospital

Facility: n/a
Location: n/a

Patient: LARSON, RICHARD D
FIN/Acct#: 003004773
MR#: 000233762
DOB: 9/13/1945 Age: n/a Sex: Male
Patient Location: n/a

Admit Date: n/a
Pt Type: n/a
Pt Location: n/a

Attending: Mullick,Muhammad,MD-Internal Medicine
Admitting: Mullick,Muhammad,MD-Internal Medicine
Ordering: n/a

Clinical Diagnosis

Diagnosis: ST elevation MI (STEMI)
Last Reviewed Date: 3/13/2015
Diagnosis Date: 3/13/2015
Responsible Provider:
Status: Active

ED Physician Summary

Document Title: ED Physician Summary Note
Service Date/Time: 3/12/2015 18:01 EDT
Result Status: Auth (Verified)
Electronically Signed By: LoFaro,Joseph R,MD -Department Emergency Medicine (3/13/2015 00:37 EDT)

Potential MI*

Patient: **LARSON, RICHARD D** **MRN: 000233762** **FIN: 003004773**
Age: **69 years** Sex: **Male** DOB: **09/13/1945**
Associated Diagnoses: **ST elevation MI (STEMI)**
Author: **LoFaro, Joseph R, MD - Department Emergency Medicine**

Basic Information

Time seen: Date & time 03/12/2015 17:57:00, Immediately upon arrival.
History source: Patient, EMS.
Arrival mode: Ambulance-ALS, MICU TELEMETRY CONTROL Provided.
History limitation: None.

History of Present Illness

The patient presents with chest pain and Patient reports severe pressure like retrosternal chest pain. The onset was 1 hours ago. The course/duration of symptoms is constant. Location: substernal. Radiating pain: left arm. The character of symptoms is heaviness, pressure and dull. The degree at onset was severe. The degree at maximum was severe. The degree at present is severe. The exacerbating factor is none. The relieving factor is none. Risk factors consist of obesity. Prior episodes: none. Therapy today Nitroglycerin, Aspirin and (by EMS under my direction) . Associated symptoms: shortness of breath, nausea, denies vomiting, denies diaphoresis and denies anxiety.

Review of Systems

Constitutional symptoms: Negative except as documented in HPI.
Respiratory symptoms: Negative except as documented in HPI.
Cardiovascular symptoms: Negative except as documented in HPI.
Gastrointestinal symptoms: Abdominal pain.

Patient: LARSON, RICHARD D
FIN/Acct#: 003004773
MR#: 000233762

Facility: n/a
Pt Type: n/a

Consultation Notes

We will follow with you.

CC: Dr. Scaduto

Dr. Safirstein

DD: 03/14/2015 07:23
DT: 03/14/2015 15:27

JOB #: 260044/647486579
VE/MedQ

Operative/Procedure Note

Document Title: Operative/Procedure Note
Service Date/Time: 3/12/2015 20:30 EDT
Result Status: Transcribed
Electronically Signed By:

Operative Report

FACILITY: Saint Clare's Hospital - Denville
PATIENT NAME: LARSON, RICHARD D MR#: 000233762
DATE OF OPERATION: 03/12/2015 PT ACCOUNT #: 3004773
SURGEON: Jordan Safirstein, MD
ASSISTANT:
ANESTHESIOLOGIST:

OPERATIVE REPORT

PROCEDURE PERFORMED: Transradial left heart cardiac catheterization in the setting of an acute anterior wall myocardial infarction. Mechanical thrombectomy or mechanical thrombus aspiration. Coronary angiography. Left ventriculography. Percutaneous coronary intervention of the left anterior descending, distal, mid and proximal segments.

This report is relegated to the technical aspects of our procedure. Please see the history and physical for further details of the patient's presentation.

Patient: LARSON, RICHARD D
FIN/Acct#: 003004773
MR#: 000233762

Facility: n/a
Pt Type: n/a

Operative/Procedure Note

through 190 cm wire advanced into the left anterior descending all the way to the apex where it was not able to cross the apical total occlusion that was described previously. Balloon angioplasty was performed of all significant lesions and subsequent stenting was performed with overlapping 2.5 mm Resolute drug-eluting stents in the distal and mid section followed by a 3.0 34 mm resolution in the proximal to mid section and finally, a 3.0 x 14 mm stent deployed between those two segments essentially covering a large portion of the left anterior descending from proximal distal.

At the conclusion of the procedure, EKG was markedly improved. Patient's symptoms abated significantly and TIMI-3 flow was present in the left anterior descending artery.

Following stenting of the left anterior descending artery, a JR4 diagnostic catheter was used to cannulate the right coronary demonstrating a focal 50% lesion in the mid RCA. This vessel was codominant. A pigtail catheter was also used to take pressures in the left ventricle and assess function. LVEDP was about 10 mmHg. There was no significant gradient across the aortic valve and grossly, it appears that left ventricular function remained intact.

IMPRESSION: A 69-year-old male status post multiple overlapping stents in the left anterior descending from distal to proximal in the setting of an acute anterior wall myocardial infarction.

1. Dual anti-platelet therapy x12 months.
2. High dose statin, beta blockade and optimal medical therapy.
3. EKG in the morning. An echo prior to discharge.
4. The patient will likely need staged intervention of the obtuse marginal and circumflex arteries.

DD: 03/12/2015 20:30
DT: 03/13/2015 10:40

JOB #: 256739/647327292
JS/MedQ

Diagnostic Radiology

Reason For Exam
Pain, Chest

Report
CLINICAL DATA: Chest pain.

FINDINGS: Examination is compared to the prior study dated 7/14/2012.

CATHOLIC HEALTH INITIATIVES®

Saint Clare's Health System

Saint Clare's Hospital

25 Pocono Road

Denville, NJ 07834

Name: LARSON, RICHARD D

Current Date: 03/14/2015 13:17:03

DOB: 9/13/1945 12:00 AM **FIN:** 003004773**MRN:** 000233762

Patient Address: 118 CHESAPEAKE AVE LAKE HIAWATHA NJ 07034

Patient Phone: (973)334-4654

Attending Physician: Mullick, Muhammad, MD- Internal Medicine

Primary Care Provider:

Name: Scaduto, Philip Mark, MD - Internal Medicine

Phone: (973) 335-8656

Discharge Diagnosis: ST elevation MI (STEMI)

Saint Clare's Hospital would like to thank you for allowing us to assist you with your healthcare needs. The following includes patient education materials and information regarding your injury/illness.

Comment:

LARSON, RICHARD D has been given the following list of follow-up instructions, prescriptions, and patient education materials:

Follow-up Instructions

With: **Address:** **When:**

Patient Discharge Instructions Report

Patient Discharge Instructions for: RICHARD LARSON

Admitting Diagnosis: Coronary atherosclerosis of native coronary artery
Working Diagnosis: Coronary atherosclerosis of native coronary artery

Attending Physician: JORDAN G SAFIRSTEIN, MD

Allergies: No Known Allergies

Most Recent Vital Signs:	BMI: 32.8	BP #1: 115/68	BSA (Mostellar): 2.21
	HEIGHT: 175cm	Heart Rate: 67	O2 Saturation: 97% room air
	RESPIRATIONS: 18	TEMP (C): 36.7C oral	WEIGHT: 100.6kg

DISCHARGE DATE DISCHARGE DATE:: 03/24/2015.

DISCHARGE TO PLANNED DISCHARGE DESTINATION: HOME.

DISCHARGE ACTIVITY: ACTIVE SPORTS Do not resume until cleared by physician.

DISCHARGE SEXUAL ACTIVITY Instructions: Resume.

DISCHARGE DIET 2-3 Grams Sodium,Low Fat,Low Cholesterol,.

Discharge Instructions Discharge date: 03/24/2015 - 6 pm.

Discharge: F/U Appointment DR. Safirstein would like to see you in 7-10 days Please call 9735863400 as soon as possible for an appointment.

PROCEDURE Operative procedure: Stent to LCx/OM1.

RIDE IN CAR: Yes.

DRIVING CAR: No.

DISCHARGE BATHING INSTRUCTIONS BATH: : SHOWER.

DISCHARGE ACTIVITY WALKING WALKING: : INDOORS.
WALKING: : OUTDOORS.
WALKING: : STAIRS.

SEE MEDICATION RECONCILATION FORM .

NOTE 6

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	)	
	)	
Request for Waiver by	)	File Nos. SLD-431911, SLD-431129
Greenfield Public School District	)	
	)	
Schools and Libraries Universal Service	)	CC Docket No. 02-6
Support Mechanism	)	

ORDER

Adopted: February 28, 2006 **Released: February 28, 2006**

By the Chief, Wireline Competition Bureau:

1. The Wireline Competition Bureau (Bureau) has under consideration a Request for Waiver filed by the Greenfield Public School District, Shutesbury, Massachusetts (Greenfield), seeking waiver of the deadlines for filing documentation in support of its FCC Form 471 application and for filing an appeal with the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) or the Commission.[1] For the reasons set forth below, we grant Greenfield's request and remand the underlying applications to the Administrator for further action consistent with this Order.

2. In its Waiver Request, Greenfield concedes that it failed to timely file documentation in support of its FCC Forms 471.[2] Greenfield further admits that it did not appeal the SLD's funding decisions within 60 days of the date that the SLD issued its decisions on the two applications, as required by the Commission's rules.[3] In support of its Waiver Request, Greenfield notes that its District Technology Coordinator, the person responsible for applying for funding and for filing appeals with the SLD, was called up for active duty with the United States military during the application and appeals process.[4]

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[1] *See* Letter from Michael Pill, Special Counsel to the Greenfield Public School District, to Federal Communications Commission, dated October 12, 2005 (Waiver Request).

[2] Waiver Request at 2.

[3] *Id*. *See also* 47 C.F.R. § 54.720(b). SLD issued the funding commitment decision letters for Greenfield's applications on December 3, 2004. *See* Letters from Schools and Libraries Division, Universal Service Administrative Company, to Scott Carbee, Greenfield Public School District, dated December 3, 2004 (Funding Commitment Decision Letters). Greenfield filed its appeal with SLD on July 21, 2005. *See* Letter from Carol S. Holzberg, Greenfield Public School District, to the Schools and Libraries Division, Universal Service Administrative Company, dated July 21, 2005 (Letter of Appeal). The Administrator denied Greenfield's appeal on September 29, 2005. *See* Letters from Schools and Libraries Division, Universal Service Administrative Company, to Carol S. Holzberg, Greenfield Public School District, dated September 29, 2005 (Administrator's Decisions on Appeal).

[4] Waiver Request at 1-2. *See also* Letter of Appeal at 1-2.

3. In general, the Commission's rules may be waived for good cause shown.[5] The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.[6] In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.[7] Accordingly, waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.[8]

4. The Commission has strictly and consistently enforced filing deadlines, allowing waivers only in very limited and compelling situations.[9] In this instance, however, we find that the particular facts make strict compliance with the rules and policies at issue here inconsistent with the public interest. Greenfield's District Technology Coordinator was called to active duty by the United States military during the application and appeals process.[10] Specifically, the record shows that the District Technology Coordinator was on active military duty from May 6, 2004 through April 18, 2005.[11] It was during this time that Greenfield failed to respond to SLD's requests for additional information to support of its Forms 471 and to appeal SLD's funding decisions.

5. Greenfield informed SLD on August 24, 2004 that it had selected another person to serve as the E-rate contact person during the District Technology Coordinator's absence.[12] It would have been difficult for a replacement to determine the status of the applications, gain an understanding of the applicable rules, and take over responsibility for the applications given that the District Technology Coordinator had already left Greenfield to commence his military service. As the Commission recently stated, the E-rate program is fraught with complexity from the perspective of beneficiaries and the program rules and guidelines have changed many times.[13] In addition, the record indicates that SLD sent

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[5] 47 C.F.R. § 1.3.

[6] *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

[7] *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

[8] *Northeast Cellular*, 897 F.2d at 1166.

[9] *See, e.g., Petitions for Waiver or Reconsideration of Sections 54.706, 54.709, and/or 54.711 of the Commission's Rules, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Memorandum Opinion and Order and Seventeenth Order on Reconsideration, 15 FCC Rcd. 20769, 20783, para. 28 (1999); *Requests for Waiver by Atlanta Public Schools, et al., Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-368262, 82100, 382102, 382121, 356136, 358015, 352661, 385183, 365017, CC Docket No. 02-6, Order, 20 FCC Rcd 3632, 3633, para. 3 (Wireline Comp. Bur. 2005); *Request for Waiver by Stephen-Argyle Central School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-228975, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 15879, 15880-81, paras. 4-5 (Wireline Comp. Bur. 2001).

[10] *See* Letter from Carol S. Holzberg, Greenfield Public School District, to Federal Communications Commission, dated January 6, 2006 (Supplemental Letter) (providing documentation establishing that Scott Carbee, the District Technology Coordinator, was on active duty during the application and appeals process).

[11] *Id*. He also served from March 1, 2004 through April 1, 2004. *Id.*

[12] E-mail from Joanne Blier, Greenfield Public School District, to Schools and Libraries Division, Universal Service Administrative Company, dated August 24, 2004 (informing SLD that Scott Carbee, their E-rate contact person, was called to active military duty and providing contact information for a new E-rate contact person).

[13] *Comprehensive Review of Universal Service Fund, Management, Administration, and Oversight, Federal-State Joint Board on Universal Service, Schools and Libraries Universal Service Support Mechanism, Rural Health Care*

the funding decisions, which trigger the timeframe for an appeal, to the District Technology Coordinator and not his replacement even though SLD had been notified of the replacement.[14] Finally, we note that Greenfield did not appoint a permanent replacement for the District Technology Coordinator until July 1, 2005.[15]

6. Moreover, given the importance of military service during a time of war, we find that it would be inconsistent with the public interest to penalize Greenfield for its employee's sudden departure to fulfill his military obligations. We therefore grant the Waiver Request and remand the underlying applications to the Administrator.

7. ACCORDINGLY, IT IS ORDERED, pursuant to authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 1.3 and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 1.3, 54.722(a) and pursuant to the authority delegated in sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Waiver Request filed by Greenfield Public School District, Shutesbury, Massachusetts, on October 12, 2005, IS GRANTED, and the underlying applications ARE REMANDED to the Administrator for further action consistent with this Order.

FEDERAL COMMUNICATIONS COMMISSION

Thomas J. Navin
Chief
Wireline Competition Bureau

Support Mechanism, Lifeline and Link-Up, Changes to the Board of Directors for the National Exchange Carrier Association, Inc., WC Docket Nos. 05-195, 02-60, 03-109, CC Docket Nos. 96-45, 02-6, 97-21, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 20 FCC Rcd 11308 (2005).

[14] *See* Funding Commitment Decision Letters.

[15] *See* Supplemental Letter at 2.

NOTE 8, 9, 10

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	)	
	)	
Requests for Waiver of Decisions of the Universal Service Administrator by	)	
	)	
Children of Peace School Chicago, Illinois, *et al*.	)	File Nos. SLD-469413, *et al*.
	)	
Schools and Libraries Universal Service Support Mechanism	)	CC Docket No. 02-6

ORDER

Adopted: May 20, 2010 **Released: May 20, 2010**

By the Deputy Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this order, we grant 25 appeals of decisions by the Universal Service Administrative Company (USAC) that reduce or deny funding from the schools and libraries universal service support program (also known as the E-rate program) for various funding years because USAC found that the applicants failed to timely submit FCC Forms 486.[1] As the Wireline Competition Bureau found in *Alaska Gateway School District* and *Alcona County Library*, we find that complete rejection of these applications is not warranted, given that the applicants missed a USAC procedural deadline and did not violate a Commission rule.[2] Therefore, we remand the underlying applications to USAC for further action consistent with this order.[3] To ensure that the underlying applications are resolved expeditiously, we

[1] In this order, we use the term "appeals" to generally refer to requests for review or waiver that are related to decisions issued by USAC. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of USAC may seek review from the Commission. 47 C.F.R. § 54.719(c).

[2] *See Request for Review of the Decision of the Universal Service Administrator by Alaska Gateway School District, Tok, AK, et al., Schools and Libraries Universal Service Support Mechanism,* File Nos. SLD-412028, *et al.*, CC Docket No. 02-6, Order, 21 FCC Rcd 10182 (Wireline Comp. Bur. 2006) (*Alaska Gateway School District*) (finding good cause to waive USAC's deadline for FCC Form 486 for several applicants); *See Requests for Waivers of the Decisions of the Universal Service Administrator by Alcona County Library, Harrisville, Michigan, et al., Schools and Libraries Universal Service Support Mechanism,* File Nos. SLD-425479, *et al.*, CC Docket No. 02-6, Order, 23 FCC Rcd 15500 (Wireline Comp. Bur. 2008) (*Alcona County Library*) (finding good cause to waive USAC's deadline for FCC Form 486 for several applicants).

[3] *Id.*

direct USAC to complete its review of each application listed in the appendix and issue an award or a denial based on a complete review and analysis no later than 90 calendar days from release of this order.[4]

II. BACKGROUND

2. Under the E-rate program, eligible schools, libraries, and consortia that include eligible schools and libraries may apply for discounts for eligible telecommunications services, Internet access, and internal connections.[5] After an applicant for discounted services under the E-rate program has entered into agreements for eligible services with one or more service providers, it must file an FCC Form 471 with USAC.[6] The FCC Form 471 notifies USAC of the services that have been ordered and supplies an estimate of funds requested for eligible services.[7] USAC then issues a funding commitment decision letter indicating the funding, if any, the applicant is approved to receive. After the funding year begins and the applicant begins receiving services at the discounted rate, the applicant submits an FCC Form 486 to USAC. The FCC Form 486 indicates that the service has begun, specifies the service start date, and demonstrates that the applicant has received approval of its technology plans.[8] In addition, if applicable, applicants must certify on the FCC Form 486 that they are in compliance with the Children's Internet Protection Act (CIPA).[9] The timely submission of an FCC Form 486 ensures that disbursements for discounts on eligible services occur in a prompt and efficient manner. Because the FCC Form 486 indicates the actual service start date, USAC will only issue disbursements to the service provider for discounts on eligible services after receipt of the form.[10]

3. The deadline for receipt of the FCC Form 486, which is established by USAC, has varied over the years. In Funding Year 1999, applicants were required to submit the FCC Form 486 postmarked by February 15, 2001.[11] In Funding Year 2002 and subsequent funding years, the FCC Form 486 had to be postmarked no later than 120 days after the date service began or no later than 120 days after the date of the funding commitment decision letter, whichever was later, to receive discounts retroactively to the

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[4] In performing a complete review and analysis of each underlying application, USAC shall either grant the underlying application before it or, if denying the application, provide the applicant with all grounds for denial.

[5] *See* 47 C.F.R. §§ 54.501-54.503.

[6] *See* Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (November 2004) (Funding Year 2005 FCC Form 471).

[7] 47 C.F.R. § 54.504(c).

[8] Instructions for Completing the Schools and Libraries Universal Service, Receipt of Service Confirmation Form (FCC Form 486), OMB 3060-0853 (August 2003) (2003 FCC Form 486 Instructions); Instructions for Completing the Schools and Libraries Universal Service, Receipt of Service Confirmation Form (FCC Form 486), OMB 3060-0853 (April 2007) (2007 FCC Form 486 Instructions) (collectively, FCC Form 486 Instructions).

[9] *Id.* at 5; *see also* 47 U.S.C. §§ 151 *et seq.*

[10] *See, e.g.,* 2003 and 2007 Form 486 Instructions at 2; s*ee also Federal-State Joint Board on Universal Service, Children's Internet Protection Act*, CC Docket No. 96-45, Order, 17 FCC Rcd 12443, 12444, para. 4 (2002) (*CIPA II Order*); 47 C.F.R. § 54.520.

[11] *See, e.g.,* Service Provider Conference Call Minutes, February 7, 2001, available at http://www.usac.org/sl/about/call-minutes/020701min.asp (last visited May 20, 2010); January 29, 2001 Minutes, Schools & Libraries Committee Meeting; available at http://www.universalservice.org/about/governance/board-directors/meeting-minutes/sl-committee/2001/012901.asp (last visited May 20, 2010).

service start date.[12] For a late FCC Form 486, the start date for discounted services is reset to 120 days before the postmark date.[13] No funding is provided for services rendered prior to the new start date and funding commitments are reduced for the relevant funding request.[14]

4. Petitioners' requests for funding were denied or reduced because USAC found that the FCC Form 486 was filed late or not filed at all. Each Petitioner has requested a waiver of the deadlines or a review of USAC's decision to deny or reduce funding because of the Petitioner's late filing.

III. DISCUSSION

5. We grant the requests for review or waiver filed by 25 applicants seeking waiver of the FCC Form 486 deadline.[15] Petitioners' requests for funding were denied or reduced because USAC found that the FCC Forms 486 were filed late or not filed at all.[16] These Petitioners, however, either claim that the late or missed filings were the result of clerical, ministerial, or procedural errors,[17] or were due to circumstances beyond their control.[18]

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[12] *CIPA II Order*, 17 FCC Rcd at 12445, para. 5; 2003 Form 486 Instructions at 6.

[13] *CIPA II Order*, 17 FCC Rcd at 12445, para. 5; 2003 Form 486 Instructions at 6.

[14] *CIPA II Order*, 17 FCC Rcd at 12445, para. 5; 2003 Form 486 Instructions at 6.

[15] *See* Appendix. Generally, the Commission's rules may be waived for good cause shown. 47 C.F.R. § 1.3. The Commission may exercise its discretion to waive a rule 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. Waiver of the Commission's rules is appropriate only if both (i) special circumstances warrant a deviation from the general rule, and (ii) such deviation will serve the public interest. *NetworkIP, LLC v. FCC*, 548 F.3d 116, 125-128 (D.C. Cir. 2008); *Northeast Cellular*, 897 F.2d at 1166.

[16] *See* Appendix.

[17] Request for Review by Children of Peace (claiming staff changes affected filing); Request for Waiver by Colt Neck Township School District (claiming new staff and confusing rules resulted in the late filed Form 486); Request for Review by Des Moines Municipal School (claiming that superintendent, now placed on administrative leave, did not properly ensure all E-rate documents were filed on time); Request for Waiver by Hartford School System (claiming staff changes affected filing); Request for Waiver by Kokomo Center Township Consolidated School Corporation (claiming that the E-rate staffer, now retired, did not properly ensure all E-rate documents were filed on time); Request for Waiver by Krebs School District 9 (claiming consultant previously assisting the school with E-rate filings was confused about the rules); Request for Waiver by Leake and Watts Services, Inc. (claiming that the Form 486 was late due to a recent change in contact information); Request for Review by Marion Middle School (claiming that it failed to timely file the Form 486 due to confusion over program rules); Request for Waiver by Mascoma Valley Regional School District – SAU #62 (claiming that the Form 486 was filed late due to new staff having no recent experience with E-rate); Request for Review by Maureen Joy Charter School (claiming new staff and confusion resulted in the Form 486 being filed late); Request for Review by Mississippi County Library (claiming that the staffer was inexperienced); Request for Review by Palmerton Area School District (claiming staff changes affected filing); Request for Waiver by Plaquemines Parish Library (claiming it thought it filed the Form 486 electronically but later found that it was not submitted); Request for Review by Pojoaque Valley Schools (claiming significant staff changes affected filing); Request for Review by Rankin County School District (claiming staff changes affected filing); Request for Waiver by Saint Paul Public Schools (claiming it never received the Urgent Reminder letter sent by USAC); Request for Waiver by Service Associates, Inc. (Union County School

(continued….)

6. In addition to waiving the FCC Form 486 deadline, we also find good cause to waive section 54.720 of the Commission's rules, which establishes deadlines for affected parties to seek review of decisions issued by USAC, for five Petitioners – Children of Peace, Guthrie Job Corps Center, Pojoaque Valley Schools, Saint Paul Public Schools, and Southeast Idaho Rural Vocational Distance Learning Network.[19] Children of Peace School indicates that it was late filing its appeal because it was the end of the school year and it put off filing the appeal until school was out.[20] When Children of Peace School filed its appeal with USAC on June 9, 2006, it was only 12 days late.[21] We therefore grant Children of Peace School a waiver of the filing deadline in section 54.720 of the Commission's rules.[22] Similarly, because Guthrie Job Corps Center, Pojoaque Valley Schools, Saint Paul Public Schools, and Southeast Idaho Rural Vocational Distance Learning Network's appeals were only a few days late, we also grant them a waiver of the filing deadline in section 54.720 of the Commission's rules.[23]

7. Based on the facts and the circumstances of these specific cases, we find that good cause exists to waive the deadline for filing the FCC Form 486 for Petitioners.[24] As the Bureau found in *Alaska*

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District) (claiming that, due to an unexpected change in administrative procedures at Union County School District, a series of ministerial and procedural errors occurred and caused a breakdown in the flow of FCC paperwork); Request for Waiver by Southeast Idaho Rural Vocational Distance Learning Network (claiming that confusing rules affected filing); Request for Review by St. Joseph the Carpenter School (claiming that personnel issues caused the Form 486 to be filed late); and St. Rose of Lima School (claiming that Form 486 was not filed because of administrative changes and a new E-rate staffer who was unfamiliar with E-rate).

[18] Request for Waiver by Guthrie Job Corps Center (claiming that its E-rate consultant neglected to file the Form 486); Request for Waiver by Hershey Public Library (claiming staff person who handles the Form 486 was in an auto accident); Request for Review by Our Lady Queen of Peace School (claiming the principal had to leave work due to diagnosis of brain cancer and never returned to work and the assistant principal had to take over all responsibilities); Request for Waiver by Pulaski County Special School District (claiming that unexpected, intermittent, and extended illness of district personnel responsible for E-rate filings caused the late filing of the Form 486); and Request for Waiver by Steelville R-3 School District (claiming that the staff person who handles E-rate was out on a medical emergency).

[19] Specifically, section 54.720 of the Commission's rules provides parties with 60 days to appeal a decision by USAC to either USAC or the Commission. 47 C.F.R. § 54.720 (2007).

[20] Request for Review of Children of Peace School at 1.

[21] *See* Letter from USAC, Schools and Libraries, to Beth O'Connor (dated July 20, 2006) (Administrator's Decision on Appeal).

[22] 47 C.F.R. § 54.720.

[23] 47 C.F.R. § 54.720. *See also* Letter from USAC, Schools and Libraries, to Reginald Seay, Guthrie Job Corps Center (dated October 7, 2009) (Form 486 Notification Letter); Letter from USAC, Schools and Libraries, to Ruben Cordova, Pojoaque Valley Schools (dated September 2, 2009) (Administrator's Decision on Appeal); Letter from USAC, Schools and Libraries, to Janet Yannarelly, Saint Paul Public Schools (dated November 5, 2009) (Administrator's Decision on Appeal), Letter from USAC, Schools and Libraries, to Gina Hartgraves, Southeast Idaho Rural Vocational Distance Learning Network (dated January 9, 2008) (Form 486 Notification Letter).

[24] Because we waive the FCC Form 486 deadline, eligible applicants should receive funding from their actual service start date. We also direct USAC to waive any of its subsequent deadlines related to the late-filed FCC Form 486, such as the FCC Form 472 deadline or implementation of services deadline, if necessary for the processing of

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Gateway School District and *Alcona County Library*, we find that these violations do not constitute substantive violations of the Commission's rules, but instead are violations of USAC's procedural deadline, and therefore, a complete rejection of these applications is not warranted.[25] While procedural deadlines are necessary to maintain the efficient administration of the application process, as the Commission noted in *Bishop Perry,* a departure from required filing deadlines may be warranted upon careful review of the petitioner's case and when doing so will serve the public interest.[26] Generally, these applicants claim that staff mistakes or circumstances beyond their control resulted in missing the FCC Form 486 deadline. We note that the primary jobs of most of the people filling out these forms include school administrators, technology coordinators, and teachers, as opposed to staff dedicated to pursuing federal grants, especially in small school districts. Even when a school official becomes adept at the application process, unforeseen events or emergencies may delay filings in the event there is no other person proficient enough to complete the forms. For example, some of the late filings were caused by unforeseen events, such as a car accident. Notably, at this time, there is no evidence of waste, fraud, or abuse, misuse of funds, or a failure to adhere to core program requirements. We also note that granting these appeals should have a minimal effect on the Universal Service Fund because the monies needed to fund these requests, should they all be fully funded, have already been collected and held in reserve.[27] In these cases, we find the applicants have demonstrated that rigid compliance with USAC's application procedures does not further the purposes of section 254(h) or serve the public interest.[28] We therefore grant these appeals and remand them to USAC for further processing consistent with this order.

8. In remanding these applications to USAC, we make no finding as to the ultimate eligibility of the services or the petitioners' applications.[29] In addition, we emphasize the limited nature of this decision. Although we waive the deadlines for filing the FCC Form 486, we do not waive the requirement of the filing itself.[30] We remind USAC of its obligation to independently determine whether the disbursement of universal service funds would be consistent with program requirements, Commission

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Petitioners' applications. *See Alaska Gateway School District*, 21 FCC Rcd at 10185, n.27 and *Alcona County Library*, 23 FCC Rcd at 15504, n.27.

[25] *Alaska Gateway School District*, 21 FCC Rcd at 10185-86, para. 7; *Alcona County Library*, 23 FCC Rcd at 15504, para. 6.

[26] *Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, et al., Schools and Libraries Universal Service Support Mechanism,* File Nos. SLD-487170, *et al.*, CC Docket No. 02-6, Order, 21 FCC Rcd 5316, para. 9 (2006) (*Bishop Perry*).

[27] We estimate that the appeals granted in this Order involve applications for approximately $2.4 million in funding. We note that USAC has already reserved sufficient funds to address outstanding appeals. *See, e.g.,* Universal Service Administrative Company, Federal Universal Service Support Mechanisms Fund Size Projections for the Third Quarter 2010 (Apr. 30, 2010). Thus, we determine that the action we take today should have a minimal impact on the universal service fund as a whole.

[28] *See* 47 U.S.C. § 254(h).

[29] 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.

[30] *Alaska Gateway School District*, 21 FCC Rcd at 10186, para. 8; *Alcona County Library*, 23 FCC Rcd at 15504-15505, para. 6.

rules and orders, or applicable statutes and to decline to disburse funds where this standard is not met. To ensure these issues are resolved expeditiously, we direct USAC to complete its review of each application listed in the Appendix and issue an award or a denial based on a complete review and analysis no later than 90 calendar days from release of this order.[31]

9. Finally, 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 the requests for review or waiver addressed here, 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. We remain 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

10. ACCORDINGLY, IT IS ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and pursuant to authority delegated in sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), the Requests for Review and/or Waiver of 47 C.F.R. §54.507 filed by the Petitioners as listed in the Appendix ARE GRANTED and the applications ARE REMANDED to USAC for further action consistent with the terms of this order.

11. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 0.91, 0.291, 1.3 and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3 and 54.722(a), waivers of section 54.720 of the Commission's rules, 47 C.F.R. § 54.720, ARE GRANTED to Children of Peace School, Guthrie Job Corps Center, Pojoaque Valley Schools, Saint Paul Public Schools, and Southeast Idaho Rural Vocational Distance Learning Network and their Form 486 ARE REMANDED to USAC for further consideration consistent with this order.

12. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and pursuant to the authority delegated in sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), USAC SHALL COMPLETE its review of the underlying applications as listed in the Appendix and ISSUE an award or a denial based on a complete review and analysis no later than 90 days from release of this order.

[31] In performing a complete review and analysis of each underlying application, USAC shall either grant the underlying application before it or, if denying the application, provide the applicant with any and all grounds for denial.

13. IT IS FURTHER ORDERED that, pursuant to authority delegated under sections 0.91, 0.291 and 1.102 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.102, this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Carol E. Mattey
Deputy Chief
Wireline Competition Bureau

APPENDIX

Applicant	Application Number	Funding Year	Date Appeal Filed
Children of Peace School Chicago, IL	469413	2005	9/19/2006
Colt Neck Township School District Cicero, NY	582462	2007	12/16/2008
Des Moines Municipal School Des Moines, New Mexico	624408	2008	12/03/2009
Guthrie Job Corps Center (K12 Educational Consulting) Guthrie, OK	605212	2008	12/8/2009
Hartford School System Hartford, CT	469720	2005	11/15/2006
Hershey Public Library Hershey, PA	572285	2007	7/11/2008
Kokomo Center Township Consolidated School Corporation Kokomo, IN	541187	2007	5/22/2009
Krebs School District 9 Krebs, OK	628631	2008	10/05/2009
Leake and Watts Service, Inc. Dobbs Ferry, NY	522053	2006	2/06/2009
Marion Middle School Marion, Virginia	619995	2008	11/23/2009
Mascoma Valley Regional School District – SAU #62 Enfield, NH	532300	2009	4/24/2009
Maureen Joy Charter School Durham, NC	604315	2008	8/28/2009
Mississippi County Library Osceola, AR	616773	2008	1/13/2010
Our Lady Queen of Peace School Madison, WS	624404, 624457, 624510, 624531	2008	12/22/2009
Palmerton Area School District Palmerton, PA	493704	2006	4/11/2008
Plaquemines Parish Libraries Belle Chasse, LA	566635	2008	10/21/2008
Pojoaque Valley Schools Santa Fe, NM	522268	2009	11/4/2009
Pulaski County Special School District Little Rock, AR	598982	2008	6/26/2009

Rankin County School District Brandon, MS	626832	2008	12/10/2009
Saint Paul Public Schools Saint Paul, MN	637778	2008	1/06/2010
St. Joseph the Carpenter School Roselle, NJ	549282	2007	6/17/2009
St. Rose of Lima School New York, NY	342574	2003	5/05/2009
Steelville R-3 School District Roselle, NJ	549282	2007	6/17/2009
Southeast Idaho Rural Vocational Distance Learning Network Pocatello, ID	492846	2006	2/15/2008
Union County School District Union, SC	595015	2008	10/10/2009

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	)	
	)	
Requests for Review of	)	
Decisions of the	)	
Universal Service Administrator by	)	
	)	
Agra Public Schools I-134	)	File No. SLD-363747, *et al.*
Agra, Oklahoma, *et al.*	)	
	)	
Schools and Libraries Universal Service	)	CC Docket No. 02-6
Support Mechanism	)	

ORDER

Adopted: May 26, 2010 **Released: May 26, 2010**

By the Deputy Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this order, we resolve 104 appeals of decisions made by the Universal Service Administrative Company (USAC) concerning the schools and libraries universal service support mechanism, also known as the E-rate program.[1] As explained below, we deny the 104 appeals on the grounds that the petitioners failed to submit their appeals either to the Commission or to USAC within 60 days as required by the Commission's rules, and the petitioners have failed to show special circumstances necessary for the Commission to waive the deadline.[2] In addition, we deny the waiver requests because filing deadlines for appeals are needed to provide finality in the decision-making process, the decision is consistent with Commission precedent, and applicants are provided with specific information regarding the appeal deadline when their requests are reduced or denied by USAC.

II. BACKGROUND

2. Under the E-rate program, eligible schools, libraries, and consortia that include eligible schools and libraries may apply for discounts for eligible telecommunications services, Internet access, and internal connections.[3] The Commission's rules provide that any person aggrieved by an action taken

[1] In this order, the term "appeals" refers generally to both requests for review of decisions issued by USAC and requests for waiver of the Commission's rules. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of USAC may seek review from the Commission. 47 C.F.R. § 54.719(c). Additionally, the Commission may waive any provision of its rules for good cause shown. 47 C.F.R. § 1.3. A list of the appeals is attached as Appendices A, B, and C. Specifically, appeals filed late with USAC are listed in Appendix A. Appeals filed late with the Commission are listed in Appendix B. Appeals filed late with both USAC and the Commission are listed in Appendix C.

[2] *See* Appendices A-C.

[3] 47 C.F.R. §§ 54.501-54.503.

by a division of USAC may seek review from the relevant committee governing that division or directly from the Commission.[4] Section 54.720 of the Commission's rules establishes deadlines for affected parties to seek review of decisions issued by USAC.[5] For those requests seeking review of decisions issued on or after August 13, 2001, the appeal must have been filed with the Commission or USAC within 60 days of the issuance of the decision that the party seeks to have reviewed.[6] The time period for filing an appeal commences on the issuance date of the decision.[7] The Commission's rules treat appeals filed with USAC or with the Commission as having been filed on the date the appeal is postmarked.[8]

III. DISCUSSION

3. In this order, we deny 104 appeals on the grounds that the petitioners failed to timely submit their appeals to either the Commission or USAC. As indicated above, a party seeking appeal of an adverse USAC decision must file an appeal with USAC or the Commission within 60 days after the issuance of that decision.[9] USAC denied the appeals listed in Appendix A on the grounds that the appeals were untimely filed with USAC.[10] Additionally, the petitioners listed in Appendix B failed to timely file their appeals with the Commission.[11] Finally, the petitioners listed in Appendix C filed untimely appeals with both USAC and the Commission.[12]

4. In support of their appeals, petitioners assert that they failed to timely file their appeals due to various reasons,[13] such as employee inattention.[14] Other petitioners attribute their late filings to a

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[4] 47 C.F.R. § 54.719.

[5] *See* 47 C.F.R. § 54.720.

[6] 47 C.F.R. § 54.720(a), (b); *see Implementation of Interim Filing Procedures for Filings of Requests for Review*, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, 17 FCC Rcd 339, 340, para. 3 (Com. Car. Bur. 2001), as corrected by *Implementation of Interim Filing Procedures for Filings of Requests for Review*, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Errata (Com. Car. Bur. rel. Dec. 28, 2001 and Jan. 4, 2002) (modifying the 30-day deadline for filing an appeal of a decision made by USAC, and stating that the new 60-day deadline would apply to all such pleadings that were required to be filed on or after September 12, 2001 and were received by the Commission on or after September 12, 2001).

[7] *See* 47 C.F.R. § 54.720.

[8] 47 C.F.R. § 54.720(e); *see Schools and Libraries Universal Service Support Mechanism,* CC Docket No. 02-6, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202, 9222, para. 57 (2003) (*Schools and Libraries Second Report and Order*).

[9] 47 C.F.R. § 54.720(a), (b).

[10] *See* Appendix A. Those petitioners then appealed USAC's denial to the Commission.

[11] *See* Appendix B.

[12] *See* Appendix C.

[13] *See* Request for Review by American Internet Group, LLC (Academy of Dayton) (explaining that, notwithstanding receipt of a service provider funding commitment decision letter, the service provider filing the appeal did not receive notice of the funding denial in a timely manner from the school); Request for Waiver by Consorcio Colegios Católicos Arquidiócesis de San Juan (noting that a new employee, holidays, and work on other pressing E-rate matters were obstacles in filing a timely appeal); Request for Waiver by Dorchester School District Four (noting that appeal was filed late because of work on other E-rate matters and because employee was gone for part of December); Request for Review by Floyd County Board of Education (stating generally that it had appealed to USAC, but that the appeal was never adjudicated); Request for Review from Hamilton-Fulton-Montgomery BOCES (noting that it was awaiting evidence from its service provider to challenge the decrease in funding on the FCC Form 472 Notification Letter it received); Request for Waiver by Johnstown-Monroe Local School District (maintaining that it did not receive the out-of-window letter until it called USAC to check on its application status,

lack of awareness of the Commission's rules[15] or lack of knowledge of any defect in their original funding application.[16] Other petitioners argue that they did not file appeals earlier because, at the time, they did

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though the record contains no evidence that this was the case); Request for Waiver by Lotus Academy (noting that school was relocating and decision letter was not forwarded to school's consultant); Request for Waiver by Minnesota Department of Education (NW-LINKS) (noting delays in its receipt of a relevant audit report and difficulties in communicating with USAC personnel); Request for Review by Moise Memorial Library (noting that appeal was late because its service provider could not supply documentation in a timely fashion due to staff turnover); Request for Waiver by Portsmouth Public Library (stating that it did not fully read the funding commitment decision letter to see changes made by USAC that the applicant now wants to appeal); Request for Review by Relcomm, Inc. (Atlantic City Board of Education) (requesting to reopen a previously withdrawn appeal due to the commencement of an internal review by the school board); Request for Waiver by School District Unit 46 (stating that it could not file until it resolved a billing dispute with its service provider); Request for Review by Seattle School District 1 (maintaining that it could not file its appeal because supporting information was not previously available).

[14] *See* Request for Waiver by Bancroft Neurohealth (stating that the appeal was untimely filed due to consultant resignation and staff turnover); Request for Review and/or Waiver by Brazos Independent School District (noting that its former E-rate consultant failed to answer USAC's questions and resigned without notice, and that the new consultant discovered in January 2009 that its request had not been funded); Request for Waiver by Casa Blanca Community School (noting that there was a high rate of turnover in E-rate coordinators and that it was unknown if the school had previously appealed or responded to USAC's inquiries); Request for Review and/or Waiver by Chico Unified School District (noting that employee inadvertently allowed more than 60 days to elapse); Request for Review by City Day Community School (stating that the appeal date was overlooked due to the shifting of administrative responsibilities and a change in cellular service providers); Request for Waiver by Estancia Municipal School District (stating that it appealed late due to staff turnover); Request for Review by Mesivta M'Kor Chaim School (noting that appeal was overlooked due to an office reorganization); Request for Review by Presidio Networked Solutions, Inc. (Pharr-San Juan-Alamo ISD) (noting that the individual that managed the provider's E-rate program had departed the company); Request for Waiver by Santa Clara Day School (stating that it erroneously believed the prior E-rate coordinator had filed an appeal); Request for Review by Santa Maria Independent School District (stating that district underwent personnel changes and USAC's decision was sent to a person who was no longer employed by the district); Request for Waiver by Scholars Academy (noting that an appeal could not be timely filed due to staff turnover and consultant resignation); Request for Review by Septima Clark Public Charter School (stating that the school's E-rate coordinator left the school and USAC's decision was not passed on to the new contact person); Request for Review by St. Christopher-Ottillie Schools (noting that former consultant did not give school an opportunity to appeal); Request for Waiver by St. Rose of Lima School (noting that the former principal did not make efforts to comply with E-rate requirements); Request for Review by St. Simon Stock School (noting that a change in administration led to the late filing of its appeal); Request for Waiver by Western Reserve Board of Education (noting that the appeal was not timely filed due to staff turnover); Request for Review by Yonkers Public Schools (stating that its appeal date passed without the school being aware because it was involved in other filings).

[15] *See* Request for Review by Blessed Sacrament Elementary School (stating that it was unaware of the appeals time period for filing); Request for Review and/or Waiver by Conroe Independent School District (noting that it did not know it could appeal a COMAD letter until the deadline for doing so had passed); Request for Review by Lena Winslow School District (noting the person handling E-rate issues had no experience with the program and did not know the school district could appeal); Request for Waiver by Laverne Delphian Public Library (stating that it was the coordinator's first year applying for E-rate funding, and that she was not aware of the 60-day appeals deadline); Request for Waiver by Lucerne Valley Unified School District (noting that the staff person handling E-rate matters was not familiar with the program and its rules); Request for Waiver by Otis School District (noting that the new E-rate coordinator was unaware of the option of filing an appeal at the Commission until attending training); Request for Review and/or Waiver by Rochester School District (stating that it was confused about the appeals deadline); Request for Review by Bay Area Catholic Schools (St. John School) (asserting that it did not understand the process of appealing a denial).

[16] *See* Request for Review by Bloom High School District 206 (noting that it did not realize until the invoice period that an appeal was needed); Request for Review by Duval County Public Schools (stating that it did not realize there

not have grounds for appeal.[17] These petitioners then filed untimely appeals after the release of Commission decisions containing precedent that, in their view, could affect previously denied applications. Several petitioners fail to provide an explanation for the untimely filing of their appeals.[18]

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was a problem with its service start date until the invoicing stage); Request for Waiver by Glendale Elementary School District #40 (noting that it discovered the funding decision error after the filing deadline); Request for Review by Greene County Schools (maintaining it was unaware an appeal needed to be filed until told by its service provider); Request for Review by The House of Good Shepherd (noting that it learned of the problem from its service provider after the appeal filing deadline); Request for Waiver by James V. Brown Library (asserting that it did not recognize the problem in its application until the appeal filing deadline had passed); Request for Review by Kane County School District (noting that it discovered its error when preparing E-rate application for the next year); Request for Review by Moore County School District (stating that the district's E-rate coordinator was new and learned of the mistake when reviewing paperwork); Request for Review by SER-Niños Charter School (noting that it was not aware of errors in its application until informed by the Texas Education Agency); Request for Waiver by Somerset Independent School District (noting that it did not realize mistake until the invoicing process); Request for Waiver by DRS Technologies (Southern California Tribal Chairman's Library Association) (stating that it was not aware of any mistake until after the appeals period ended).

[17] The following late-filed appeals seek review based on *Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School*, *et al.*, *Schools and Libraries Universal Support Mechanism*, File Nos. SLD-487170, *et al*., CC Docket No. 02-6, Order, 21 FCC Rcd 5316 (2006) (*Bishop Perry Order*): Request for Review and/or Waiver by Coatesville Area School District; Request for Waiver by Conneaut Area City Schools; Request for Waiver by Danville CC School District 118; Request for Waiver by East Allegheny School District; Request for Review by Eminence R-1 School District; Request for Waiver by Lakewood Cheder School; Request for Waiver by Maryetta School; Request for Review by Monessen Public Library and District Center; Request for Waiver by North Salem Central School District; Request for Review by Schenectady City School District; Request for Review of Weld County School District RE-1; *see also* Request for Review by Alief Independent School District (stating that they learned of a change in the eligibility of web hosting services, but they had expected USAC to contact them); Request for Review by Arkansas School for the Blind (noting that new Commission precedent on signed contracts had been released); Request for Review by Bethlehem Central School District (stating that its appeal should be considered because the Commission recently waived procedural rules regarding clerical or ministerial errors in FCC Forms 486); Request for Review by Garden City Unified School District 457 (conceding that its appeal was untimely filed but stating that it would like its appeal to be considered because of a program change regarding dark fiber); Request for Waiver by Propel Charter Schools (noting that its appeal should be considered due to recent precedent and the fact the Commission has allowed waivers of the 60-day appeal deadline in the past).

[18] *See* Request for Waiver by Agra Public Schools I-134; Request for Review by Bethany Public Schools; Request for Review by Bethlehem Area School District; Request for Review by Billings Public School; Request for Waiver by Cheder Bnei Torah; Request for Waiver by Coloma Community School District; Request for Review by Congregation Yeshiva Beis Chaya Mushka Inc; Request for Waiver by Contra Costa County Community Services Department; Request for Waiver by Coolidge Public Library; Requests for Review by Douglas County School District #4; Request for Review by East Montpelier Elementary School; Request for Review by FTI Services, Inc.; Request for Review by Govplace (Placentia-Yorba Linda Unified School District); Request for Review by Green Tree School; Request for Review and/or Waiver by Harvest Preparatory Academy; Request for Review by Hollister Elementary School District; Request for Review by Holy Ghost Catholic School; Request for Review by Las Vegas City Schools; Request for Review by Lincoln Public Library; Request for Review by Long Branch School District; Request for Review by Mathematics, Civics and Sciences Charter School; Request for Review by Minnesota State Academies; Request for Review by Monroe Career & Technical Institute; Request for Review by Perspectives Charter School; Request for Review by Professional Education Resources, Inc. (Yarbrough School District); Request for Waiver by Round Lake Area Schools Community Unit #116; Request for Waiver by Salisbury-Elk Lick School District; Request for Review by Sausalito Marin City School District; Request for Review by St. John Catholic School; Request for Review by St. Mark's High School; Request for Review by St. Michael School; Request for Review by St. Theresa School; Request for Review and/or Waiver by Traverse Area District Library; Request for Waiver by West Bonner County School District #83; Request for Review by Westchester Day School;

5. As an initial matter, we treat all the appeals addressed in this order as requests for waiver of the applicable filing deadline.[19] The Commission may waive any provision of its rules on its own motion and for good cause shown.[20] A rule may be waived where the particular facts make strict compliance inconsistent with the public interest.[21] In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.[22] In sum, waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.[23]

6. Consistent with precedent, we find that the petitioners have not demonstrated the existence of special circumstances that would warrant a waiver of our rules and we deny the appeals listed in Appendices A, B, and C.[24] Filing deadlines for appeals are needed to provide finality in the decision-making process. Because the E-rate program has a cap of $2.25 billion each year, USAC and the Commission must accurately determine the number of funding requests that will be able to be granted in any given year. While USAC maintains a reserve fund for appeals, the amount of money reserved in that fund is generally based on the appeals that can be filed within the 60-day deadline. If the Commission allowed applicants to appeal decisions significantly after the deadline, it would be difficult to estimate the amount of money that should be held in the reserve fund. The reserve fund could be increased; however, that funding would have to come from the same $2.25 billion allocated for the program and would therefore effectively take money away from applicants that had followed the rules or timely filed appeals.

7. Moreover, our decision is consistent with precedent. In general, the Commission has enforced its appeal filing deadlines for the E-rate program, allowing waivers of deadlines only in limited, compelling situations.[25] For example, in the *Mescalero Order*, the Commission denied an application for review where the applicant asserted that its appeal was untimely filed because of disruption caused by the

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Request for Waiver by West Mifflin Area School District; Request for Review by World Wide Technology, Inc.; Request for Waiver by Yeshivas Darchei Torah; Request for Review by Yeshiva Yagdil Torah.

[19] Although many petitioners have titled their petitions as "Requests for Review," where we find that the petitioners have not satisfied the standard for justifying a waiver of 47 C.F.R. § 54.720, we will not address the merits of such appeals in this order.

[20] 47 C.F.R. § 1.3.

[21] *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

[22] *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *aff'd*, 459 F.2d 1203 (D.C. Cir. 1972).

[23] *Northeast Cellular*, 897 F.2d at 1166. *Accord, Network IP, LLC v. FCC*, 548 F.3d 116, 127 (D.C. Cir. 2008).

[24] *See* Appendices A, B and C.

[25] *See, e.g., Application for Review of a Decision of the Wireline Competition Bureau by Mescalero Apache School, Schools and Libraries Universal Support Mechanism*, File No. SLD-317139, CC Docket No. 02-6, Order, 20 FCC Rcd 5848 (2005) (*Mescalero Order*) (upholding a Bureau-level decision denying a request for review as untimely filed); *Request for Review by Donna Public Library*, *Schools and Libraries Universal Support Mechanism*, File Nos. SLD-289464, 319218, 320003, 324301, 324627, CC Docket No. 02-6, Order, 19 FCC Rcd 6358 (Wireline Comp. Bur. 2004) (*Donna Public Library Order*) (Bureau-level decision declining to waive the 47 C.F.R. § 54.720 filing deadline and denying a request for review as untimely filed); *Request for Review of the Decision of the Universal Service Administrator by Albuquerque Public Schools*, *Schools and Libraries Universal Support Mechanism*, File Nos. SLD-242088, 24611, CC Docket No. 02-6, Order, 19 FCC Rcd 3985 (Wireline Comp. Bur. 2004) (same); *but see Request for Waiver by Greenfield Public School District, Schools and Libraries Universal Support Mechanism*, File Nos. SLD-431911, SLD-431129, CC Docket No. 02-6, Order, 21 FCC Rcd 2122 (Wireline Comp. Bur. 2006) (granting a waiver request where the district's technology coordinator was unexpectedly called to active military duty in a time of war).

transfer of the school to a new location and a non-responsive vendor.[26] The Commission upheld the Bureau decision denying the applicant's request for review as untimely filed, stating that, in cases of missed deadlines, the Bureau rarely grants waivers for untimely filing of appeals to USAC.[27] The Commission also noted that the Bureau has "consistently held that applicants are responsible for submitting their appeals in a timely manner and complying with program rules and procedures," and that "financial need does not meet the requirement of special circumstances that warrant a waiver of the Commission's rules."[28] Further, the United States Court of Appeals for the District of Columbia Circuit has "discourage[d] the Commission from entertaining late-filed pleadings 'in the absence of extremely unusual circumstances.'"[29]

8. We also believe that the situations presented here may be distinguished from those addressed by the Commission in the *Bishop Perry Order*.[30] In the *Bishop Perry Order*, while granting appeals of USAC decisions in which the applicants were denied funding due to clerical or ministerial errors in the application process, the Commission noted that "many E-rate program beneficiaries, particularly small entities, contend that the application process is complicated."[31] Unlike the application process, however, the procedures for filing an appeal are straightforward. Each applicant is advised of the deadline and the procedure for filing an appeal when it receives a denial of or reduction of its funding commitment.[32] Moreover, in the *Schools and Libraries Second Report and Order*, the Commission took steps to ensure the manageability of the appeals process for applicants. Specifically, the Commission permanently extended to 60 days the time for filing an appeal with USAC or the Commission, noting that, because many E-rate applicants "have no experience with regulatory filing processes, ... the 30-day time period is often not adequate to allow potential petitioners to gather the documents and synthesize the

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[26] *Mescalero Order*, 20 FCC Rcd at 5850, para 5.

[27] *Id.*

[28] *Id.*

[29] *BDPCS, Inc. v. FCC*, 351 F.3d 1177, 1184 (D.C. Cir. 2003) (holding that the Commission does not abuse its discretion when it "decline[s] to entertain a late-filed petition in the absence of extenuating circumstances prohibiting a timely filing" (quoting *21st Century Telesis Joint Venture v. FCC,* 318 F.3d 192, 199-200 (D.C. Cir. 2003))).

[30] *Bishop Perry Order*, 21 FCC Rcd at 5316, para. 2.

[31] *Id.*

[32] *See, e.g.,* Letter from USAC, Schools and Libraries Division, to Judith Santiago, St. Rose of Lima School (dated Oct. 1, 2008) (Form 486 Notification Letter) (noting that an applicant may file an appeal with USAC, stating what information the appeal should contain, listing USAC's address and stating that "[i]f you wish to appeal the Service Start Date change(s) and/or funding commitment adjustment(s) indicated in this letter, your appeal must be received by USAC or postmarked within 60 days of the above date on this letter"); Letter from USAC, Schools and Libraries Division, to Chaim Garfinkel, Yeshiva Yagdil Torah (dated Sept. 16, 2008) (Funding Commitment Decision Letter) (noting that an applicant may file an appeal with USAC or the Commission, giving instructions on where to send appeal information, providing instructions on what information the appeal should contain, and noting that "your appeal must be received by USAC [or the FCC] or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal."); Letter from USAC, Schools and Libraries Division, to Bruce Hills, Coolidge Library (dated May 11, 2006) (Funding Year 2006 Form 471 Postmarked Outside of Window) (noting that an applicant may file an appeal with USAC, giving instructions on what information the appeal should contain, listing USAC's address, and noting that the appeal must be "postmarked within 60 days of the above date on this letter"); Letter from USAC, Schools and Libraries Division, to Carol Underriner, Rochester School District (dated Mar. 6, 2006) (Administrator's Decision on Appeal) (noting that applicant may file an appeal with the Commission, giving instructions on where to find appeal information, and noting that the appeal must be "POSTMARKED within 60 days of the above date on this letter" (emphasis in original)).

arguments needed to file pleadings in order to challenge funding decisions."[33] The Commission also amended its rules to provide that appeals to USAC or the Commission will be treated as having been received on the date they are postmarked, rather than the date they are filed.[34] Thus, in light of the uncomplicated nature of the E-rate appeals procedure and the steps the Commission has already taken to enable applicants to file timely appeals, we restate our past finding that applicants are responsible for ensuring that their appeals are submitted in a timely manner and that they comply with program rules and procedures.[35]

9. Therefore, we find that the petitioners failed to comply with the filing deadline set forth in section 54.720 of the Commission's rules, and that the petitioners have not demonstrated that waivers of the filing deadline are warranted in these cases. As a result, we deny the petitioners' appeals as listed in Appendices A, B, and C.

IV. ORDERING CLAUSES

10. ACCORDINGLY, IT IS ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and pursuant to the authority delegated in sections 0.91, 0.291, 1.3 and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3 and 54.722(a), that the appeals filed by petitioners as listed in Appendices A, B, and C ARE DENIED.

11. IT IS FURTHER ORDERED, pursuant to section 1.102(b)(1) of the Commission's rules, 47 C.F.R. §1.102(b)(1), that this order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Carol E. Mattey
Deputy Chief
Wireline Competition Bureau

[33] *Schools and Libraries Second Report and Order*, 18 FCC Rcd at 9221, para. 56.

[34] *Id.* at 9222, para. 57 ("Commenters note that this change would be consistent with other program filing deadlines."). Prior to the *Schools and Libraries Second Report and Order*, appeals filed with USAC or the Commission were treated as having been filed on the date actually received. *See id*.

[35] *See*, *e.g.*, *Donna Public Library Order*, 19 FCC Rcd at 6359, para. 3.

APPENDIX A

Appeals Filed Untimely With USAC

Petitioner	Application Number	Funding Request Number (FRN)	Type of Appeal	Funding Year	Appeal Filed with the Commission
Billings Public School Billings, Oklahoma	466603	1283316	Review	2005	November 9, 2006
Blessed Sacrament Elementary School Elizabeth, New Jersey	515433	1430611 1430615 1430616 1454757 1454769	Review	2006	March 5, 2007
Bloom High School District 206 Chicago Heights, Illinois	575765 578349 583350	1591914 1593860 1593884 1594019 1599719 1600216 1616798	Review	2007	December 10, 2008
City Day Community School Dayton, Ohio	593603	1635976	Review	2008	September 2, 2009
Contra Costa County Community Services Department Martinez, California	635692	1759525 1759690 1759963 1760020	Waiver	2008	September 14, 2009
Douglas County School District #4 Roseburg, Oregon	493870 493852	1362065 1379097	Review	2006	March 2, 2007
Duval County Public Schools Jacksonville, Florida	521826	1482670	Review	2006	August 5, 2008
East Montpelier Elementary School Barre, Vermont	535138	1480648 1480839 1481036	Review	2006	April 30, 2007

Garden City Unified School District 457 Garden City, Kansas	420437	1158659	Review	2004	April 4, 2005
Greene County Schools Snow Hill, North Carolina	381160	1048853	Review	2003	August 17, 2005
Hamilton-Fulton-Montgomery BOCES Johnstown, New York	397144	1085536 1049263	Review	2004	January 29, 2007
The House of Good Shepherd School Utica, New York	355090	956981	Review	2003	October 31, 2005
Kane County School District Kanab, Utah	462458	1271213	Review	2005	November 30, 2006
Las Vegas City Schools Las Vegas, New Mexico	405536	1160653 1160695 1160754 1160783 1160814	Review	2004	November 5, 2007
Laverne Delphian Public Library Laverne, Oklahoma	462676	1271362 1271379	Waiver	2005	September 19, 2005
Lena Winslow School District Camanche, Iowa	499984	1383697 1383712 1383727 1383734 1383738 1383742 1383745 1383749	Review	2006	October 1, 2007
Lotus Academy Philadelphia, Pennsylvania	538106	1490237	Waiver	2006	March 12, 2007
Mesivta M'kor Chaim School Brooklyn, New York	536822	1485784 1485833 1485877 1485908	Review	2006	May 9, 2007
Moise Memorial Library Santa Rosa, New Mexico	534865	1486046 1486084	Review	2006	September 14, 2007

Monroe Career & Technical Institute Bartonsville, Pennsylvania	537370 537133	1487710 1487095	Review	2006	May 1, 2007
Moore County School District Lynchburg, Tennessee	684395	1871415	Review	2009	November 12, 2009
Santa Maria Independent School District Santa Maria, Texas	480701	1329603	Review	2005	August 23, 2006
Sausalito Marin City School District Sausalito, California	630621	1741125	Review	2008	March 25, 2009
Schenectady City School District Schenectady, New York	461681	1275491	Review	2005	June 11, 2007
Seattle School District 1 Seattle, Washington	496159	1424224	Review	2006	September 23, 2008
SER-Niños Charter School Houston, Texas	536918	1485974	Review	2006	February 1, 2007
Somerset Independent School District Somerset, Texas	233277	545303 545208 545349	Waiver	2001	December 5, 2006
St. John Catholic School St. Pete Beach, Florida	585161	1624020 1624095	Review	2007	November 14, 2007
St. Michael School Remus, Michigan	403802	1107149	Review	2004	October 27, 2005
St. Simon Stock School Bronx, New York	535873	1482377 1482425 1482461 1482514 1482598	Review	2006	March 28, 2007

West Bonner County School District #83 Priest River, Idaho	539266	1493549 1493550 1493551 1493552 1493553 1493554 1493555 1493556 1493557 1493558 1493559 1493560 1493561 1493562 1493563 1493564	Waiver	2006	April 11, 2007
Westchester Day School Mamaroneck, New York	528865	1459205	Review	2006	May 1, 2007
World Wide Technology, Inc. (Cedar Unified School District 25) St. Louis, Missouri	374980	1043142	Review	2003	November 14, 2005
Yonkers Public Schools Yonkers, New York	369142	1010917	Review	2003	December 11, 2006

APPENDIX B

Appeals Filed Untimely With the Commission

Petitioner	Application Number	Funding Request Number	Type of Appeal	Funding Year	Appeal Filed with the Commission
Agra Public Schools I-134 Agra, Oklahoma	363747	986635 986646	Waiver	2003	April 26, 2006
Alief Independent School District Houston, Texas	672733	1836651	Review	2009	October 14, 2009
American Internet Group, LLC (Academy of Dayton) Detroit, Michigan	469896	1299731 1299765	Review	2005	September 18, 2006
Arkansas School for the Blind Little Rock, Arkansas	525196	1446698	Review	2006	November 21, 2006
Bancroft Neurohealth Montgomery, Alabama	601487	1657721 1657735	Waiver	2008	May 1, 2009
Bay Area Catholic Schools (St. John School) Essexville, Michigan	511956	1408634 1408759	Review	2006	July 1, 2008
Bethany Public Schools Bethany, Oklahoma	497533	1370251 1370305	Review	2006	October 15, 2007
Bethlehem Area School District Bethlehem, Pennsylvania	531843	1468898	Review	2006	January 9, 2007
Bethlehem Central School District Delmar, New York	443073	1223789	Review	2005	April 2, 2007

Brazos Independent School District Wallis, Texas	580467	1607435	Waiver	2007	March 3, 2009
Casa Blanca Community School Bapchule, Arizona	295587	774187 774213	Waiver	2002	March 18, 2008
Cheder Bnei Torah Lakewood, New Jersey	698363	1916341 1916342	Waiver	2009	September 14, 2009
Chico Unified School District Chico, California	499782	1375378	Review and/or Waiver	2006	May 29, 2007
Coatesville Area School District Coatesville, Pennsylvania	509428	1444270	Review and/or Waiver	2006	April 17, 2008
Coloma Community School District Coloma, Michigan	411228	1128574 1128666	Waiver	2004	January 12, 2009
Congregation Yeshiva Beis Chaya Mushka Inc. Brooklyn, New York	538813	1492585 1492586 1492587	Review	2006	November 9, 2007
Conroe Independent School District Conroe, Texas	346687	934625	Review and/or Waiver	2003	September 25, 2009
Consorcio Colegios Católicos Arquidiócesis de San Juan Guaynabo, Puerto Rico	533788	1478772	Waiver	2006	February 14, 2007
Coolidge Public Library Solon, Maine	538959	1492930	Waiver	2006	October 10, 2006
Danville CC School District 118 Danville, Illinois	464298	1278253	Waiver	2005	July 13, 2006

Dorchester School District Four Saint George, South Carolina	537303 535958	1487374 1484688	Waiver	2006	April 30, 2007
DRS Technologies (Southern California Tribal Chairman's Library Association) Polson, Montana	421982	1198657	Waiver	2004	June 1, 2007
East Allegheny School District North Versailles, Pennsylvania	485105	1347044 1347137 1347167 1347219 1347399	Waiver	2005	August 27, 2007
Eminence R-1 School District Eminence, Missouri	513691	1417954	Review	2006	May 23, 2007
Floyd County Board of Education Rome, Georgia	182010	445882 445896	Review	2000	November 5, 2002
FTI Services, Inc. (Superior School; Success Community Schools; Tulare County Juvenile Detention Facility; TCOE Court / Community Schools; Farmersville Community School; Lindsay Community School; Dinuba Community School) Goleta, California	485193, 482822, 482794, 485021, 482660, 484144, 481614, 482420, 477941	1345180 1337350 1337185 1344723 1336748 1341687 1332804 1335848 1320067	Review	2005	January 13, 2009
Glendale Elementary School District #40 Glendale, Arizona	536684	1485250	Waiver	2006	August 15, 2007

Green Tree School Philadelphia, Pennsylvania	516425	1421243 1421268 1421368 1421374 1421387 1421393	Review	2006	May 17, 2007
Harvest Preparatory Academy Yuma, Arizona	422607	1165864 1165914 1165985 1166018 1198973	Review and/or Waiver	2004	April 22, 2008
Hollister Elementary School District Hollister, California	421282	1161535 1161691	Review	2004	June 17, 2005
Holy Ghost Catholic School Albuquerque, New Mexico	516819	1421766 1421767 1421768	Review	2006	February 28, 2007
James V. Brown Library Williamsport, Pennsylvania	555508	1532749 1561534	Waiver	2007	December 18, 2008
Johnstown-Monroe Local School District Johnstown, Ohio	642686	1776616	Waiver	2008	January 28, 2009
Lakewood Cheder School Lakewood, New Jersey	628118	1762922	Waiver	2008	March 4, 2009
Lincoln Public Library Lincoln, Rhode Island	697723	1915601 1915602	Review	2009	September 23, 2009
Long Branch School District Long Branch, New Jersey	627407	1731126 1731101	Review	2008	May 4, 2009
Lucerne Valley Unified School District Lucerne Valley, California	583749	1618734 1618797	Waiver	2007	February 12, 2008

Maryetta Elementary School Stilwell, Oklahoma	482137	1353344 1353345 1353346 1353347 1353349 1353350 1353351	Waiver	2005	September 6, 2006
Mathematics, Civics and Sciences Charter School Philadelphia, Pennsylvania	472488	1346553	Review	2005	November 6, 2006
Minnesota Department of Education (NW-LINKS) Moorhead, Minnesota	514857	1440646 1440705 1440815 1440928	Waiver	2006	February 6, 2007
Minnesota State Academies Faribault, Minnesota	701723 702003	1921021 1922601 1922602	Review	2009	September 24, 2009
Monessen Public Library Monessen, Pennsylvania	456244	1254900 1255235 1293184	Review	2005	August 14, 2006
North Salem Central School District North Salem, New York	588235	1631286 1631287 1631288	Waiver	2007	November 20, 2007
Otis School District Otis, Colorado	410701	1126513	Waiver	2004	January 30, 2007
Perspectives Charter School Chicago, Illinois	527318	1461956	Review	2006	March 9, 2007
Portsmouth Public Library Portsmouth, Virginia	526678	1459854	Waiver	2006	December 18, 2006
Presidio Networked Solutions, Inc. (Pharr-San Juan-Alamo ISD) Greenbelt, MD	419172	1155298	Review	2004	August 6, 2009

Professional Education Resources, Inc. (Yarbrough School District) Little Rock, Arkansas	444755	1286465	Review	2005	February 9, 2009
Propel Charter Schools Canonsburg, Ohio	520936	1434009	Waiver	2006	May 18, 2007
Relcomm, Inc. (Atlantic City Board of Education) West Berlin, New Jersey	370716 374023 404818	1022916 1023492 1185824 1185996 1185946 1185717 1185789 1185745	Review	2003 2004	April 3, 2006
Round Lake Area Schools Community Unit District #116 Round Lake, Illinois	487173	1351842 1351843 1351844 1351845	Waiver	2005	October 13, 2005
Salisbury-Elk Lick School District Salisbury, Pennsylvania	608360	1676942	Waiver	2008	November 10, 2008
Santa Clara Day School Espanola, New Mexico	222384	617247	Waiver	2001	September 17, 2009
Scholars Academy St. Louis, Missouri	607013	1748112 1748123 1748135	Waiver	2008	April 17, 2009
School District Unit 46 Elgin, Illinois	620648	1709846	Waiver	2008	August 3, 2009
Septima Clark Public Charter School Washington, District of Columbia	633701	1755915 1755990 1756477 1756600	Review	2008	September 16, 2009

St. Christopher-Ottillie Schools Seaford, New York	434683	1211697 1211698 1211701 1211702	Review	2004	October 17, 2005
St. Mark's High School Wilmington, Delaware	480374	1342171	Review	2005	July 12, 2006
St. Rose of Lima School New York, New York	429290	1190833 1190871	Waiver	2004	March 2, 2009
St. Theresa School West Roxbury, Massachusetts	472242	1300986	Review	2005	February 20, 2007
Traverse Area District Library Traverse City, Michigan	489595	Unassigned	Review and/or Waiver	2005	December 13, 2005
Weld County School District RE-1 Gilcrest, Colorado	486343	1349552 1349609 1349655 1349682 1349732 1349754 1349778 1349797 1349812 1349846 1349862 1349878 1349892 1349903 1349925 1349951 1349962 1349976 1349990 1350000 1350008 1350017 1350026 1350080	Review	2005	December 21, 2006

Western Reserve Board of Education Berlin Center, Ohio	234951 234783	549905 549926 549964 550019 549311	Waiver	2001	May 30, 2006
West Mifflin Area School District West Mifflin, Pennsylvania	588835 588837	1631888 1631889	Waiver	2007	October 26, 2007
Yeshivas Darchei Torah Southfield, Michigan	398208	197400	Waiver	2004	October 20, 2005

APPENDIX C

Appeals Filed Untimely With USAC and the Commission

Petitioner	Application Number	Funding Request Number	Type of Appeal	Funding Year	Appeal Filed with the Commission
Conneaut Area City Schools Conneaut, Ohio	489200 489263	1357826 1357827	Waiver	2005	July 26, 2006
Estancia Municipal School District Estancia, New Mexico	585776	1625164	Waiver	2007	July 17, 2009
Govplace (Placentia-Yorba Linda Unified School District) Irvine, California	367373	1022022 1022031 1022039	Review	2003	March 15, 2006
Rochester School District Rochester, New Hampshire	353837	953205	Review and/or Waiver	2003	July 14, 2006
Yeshiva Yagdil Torah Brooklyn, New York	619267	1705847	Review	2008	February 25, 2009

NOTE 13

Letter of Agency

Las Vegas - Clark County Library District
Billed Entity Number: 143400

Letter of Agency For FY 15 (2012 - 2013)

I hereby authorize eRate 360 Solutions, LLC and its employees: Keith C. Oakley, Steve Tenzer, Rich Larson, Carlos Alvarez, Matt Hetman, Fred Josephs, Bert Garofano, and Al Arauz to submit FCC Form 470, FCC Form 471, and other E-rate forms, and to submit various change applications such as SPIN changes and service substitutions, to the Schools and Library Division of the Universal Service Administrative Company on behalf of **Las Vegas - Clark County Library District** for all eligible services outlined in the most current "Eligible Services List" published by USAC. I understand that, in submitting these forms on our behalf, you are making certifications for **Las Vegas - Clark County Library District**. By signing this Letter of Agency, I make the following certifications

(a) I certify that **libraries in our system** are eligible for assistance from a State Library Administrative Agency under the Library Services and Technology Act of 1996, Pub. L. No. 104-208, § 211 et seq., 110 Stat. 3009 (1996) that do not operate as for-profit businesses and whose budgets are completely separate from any school (including, but not limited to elementary, secondary schools, colleges, or universities).

(b) I certify that our **libraries** have secured access, separately or through this program, to all of the resources, including computers, training, software, internal connections, maintenance, and electrical capacity, necessary to use the services purchased effectively. I recognize that some of the aforementioned resources are not eligible for support. I certify that to the extent that the Billed Entity is passing through the non-discounted charges for the services requested under this Letter of Agency, that the entities I represent have secured access to all of the resources to pay the non-discounted charges for eligible services from funds to which access has been secured in the current funding year.

(c) I certify that our **libraries** are covered by a technology plan(s) that is written, that covers all 12 months of the funding year, and that has been or will be approved by a state or other authorized body, or an SLD-certified technology plan approver, prior to the commencement of service. The plan(s) is written at the following level(s):

_____ an individual technology plan for using the services requested in this application; and/or
__X__ higher-level technology plan(s) for using the services requested in this application; or
_____ no technology plan needed; applying for basic local, cellular, PCS, and/or long distance telephone service and/or voice mail only.

(d) I certify that the services the district purchases at discounts provided by 47 U.S.C. § 254 will be used solely for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value, except as permitted by the rules of the Federal Communications Commission (Commission or FCC) at 47 C.F.R. § 54.500(et seq.).

(e) I certify that our **libraries** have complied with all program rules and I acknowledge that failure to do so may result in denial of discount funding and/or cancellation of funding commitments. I acknowledge that failure to comply with program rules could result in civil or criminal prosecution by the appropriate law enforcement authorities.

(f) I acknowledge that the discount level used for shared services is conditional, for future years, upon ensuring that the most disadvantaged schools and libraries that are treated as sharing in the service, receive an appropriate share of benefits from those services.

(g) I certify that I will retain required documents for a period of at least five years after the last day of service delivered. I certify that I will retain all documents necessary to demonstrate compliance with the statute and Commission rules regarding the application for, receipt of, and delivery of services receiving schools and libraries discounts, and that if audited, I will make such records available to the Administrator. I acknowledge that I may be audited pursuant to participation in the schools and libraries program.

(h) I certify that I am authorized to order telecommunications and other supported services for the eligible entity(ies) covered by this Letter of Agency. I certify that I am authorized to make this request on behalf of the eligible entity(ies) covered by this Letter of Agency, that I have examined this Letter, that all of the information on this Letter is true and correct to the best of my knowledge, that the entities that will be receiving discounted services under this Letter pursuant to this application have complied with the terms, conditions and purposes of the program, that no kickbacks were paid to anyone and that false statements on this form can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. §§ 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. § 1001 and civil violations of the False Claims Act.

(i) I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program. I will institute reasonable measures to be informed, and will notify USAC should I be informed or become aware that I or any of the entities, or any person associated in any way with my entity and/or the entities, is convicted of a criminal violation or held civilly liable for acts arising from their participation in the schools and libraries support mechanism.

(j) I certify, on behalf of the entities covered by this Letter of Agency, that any funding requests for internal connections services, except basic maintenance services, applied for in the resulting FCC Form 471 application are not in violation of the Commission requirement that eligible entities are not eligible for such support more than twice every five funding years beginning with Funding Year 2005 as required by the Commission's rules at 47 C.F.R. § 54.506(c).

(k) I certify that, to the best of my knowledge, the non-discount portion of the costs for eligible services will not be paid by the service provider. I acknowledge that the provision, by the provider of a supported service, of free services or products unrelated to the supported service or product constitutes a rebate of some or all of the cost of the supported services.

(l) I certify that I am authorized to sign this Letter of Agency and, to the best of my knowledge, information, and belief, all information provided to **eRate 360 Solutions, LLC** for E-rate submission is true.

District: Las Vegas - Clark County Library District

Date: 11-18-11

Signature:

Printed Name: Jeanne Goodnich

Title: Executive Director