



Federal Communications Commission  
Washington, D.C. 20554

## Memo

**To:** Harambee Charter School

**From:** Vickie Robinson, Acting Chief  
Telecommunications Access Policy Division  
Wireline Competition Bureau  
Federal Communications Commission

**Date:** June 25, 2014

**Re:** DA No. 14-879, released June 25, 2014

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Please find accompanying this memo the Bureau's decision on your appeal. The accompanying decision may be referenced in the future by its proceeding number and release date: DA No. 14-879, Released June 25, 2014.

If the Bureau has granted your appeal, please contact the Universal Service Administrative Company (USAC) at 1-888-203-8100 for more information regarding your application. Please submit any information to USAC that the order may require. Once USAC has reviewed your application related to the issues resolved in the attached letter, you will receive a revised funding commitment decision letter.

If the Bureau has denied your appeal and you choose to seek consideration of the Bureau's decision, you must file either a petition for reconsideration by the Bureau or an application for review by the full Commission with the Commission within 30 days from the released date of this decision. You may file your petition for reconsideration or application for review using the Internet by accessing the Commission's electronic comment filing system (ECFS) at <http://fjallfoss.fcc.gov/ecfs2/>. Please be sure to reference CC Docket No. 02-6 on your filing.

Before the  
Federal Communications Commission  
Washington, DC 20554

In the Matter of	)	
	)	
Requests for Waiver and/or Review of Decisions of the Universal Service Administrator by	)	
	)	
Camnet, Inc. (Camelback Academy) Glendale, Arizona et al.	)	File No. SLD-819922 et al.
	)	
Schools and Libraries Universal Service Support Mechanism	)	CC Docket No. 02-6
	)	

**ORDER AND ORDER ON RECONSIDERATION**

**Adopted: June 25, 2014**

**Released: June 25, 2014**

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

1. Consistent with precedent,<sup>1</sup> we grant 10 requests<sup>2</sup> and deny seven requests<sup>3</sup> from petitioners seeking waivers and/or review of decisions made by the Universal Service Administrative Company (USAC) under the E-rate program (more formally known as the schools and libraries universal service support program).<sup>4</sup> In each case, USAC did not allow the petitioners to make changes to their applications after the close of the E-rate funding window, although the petitioners claim such changes were ministerial or clerical errors. We also dismiss one petition for reconsideration of the Wireline Competition Bureau's (Bureau) *Alexander County Order*.<sup>5</sup>

2. Based on our review of the record, we find that good cause exists to justify a waiver of section 54.504(a) of the Commission's rules to permit the applicants identified in Appendix A to correct

<sup>1</sup> See *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 (Wireline Comp. Bur. 2008); *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Ann Arbor Public Schools et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 17319 (Wireline Comp. Bur. 2010); *Request for Waiver and Review of Decisions of the Universal Service Administrator by Erie I BOCES et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 28 FCC Rcd 13381 (Wireline Comp. Bur. 2013) (*Erie I BOCES Order*) (granting appeals and petitions for reconsideration from petitioners seeking a waiver of the Commission's E-rate rules in order to correct ministerial or clerical errors on petitioners' E-rate applications or associated forms).

<sup>2</sup> See Appendix A.

<sup>3</sup> See Appendix B.

<sup>4</sup> 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).

<sup>5</sup> See Appendix C; *Request for Waiver and Review of Decisions of the Universal Service Administrator by Alexander County School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 28 FCC Rcd 8492 (Wireline Comp. Bur. 2013) (*Alexander County Order*) (denying petitioner's request for review because it sought to make changes to its E-rate application that were more than corrections of ministerial or clerical errors). The Bureau has the authority to act on petitions requesting reconsideration of final actions taken pursuant to delegated authority. 47 C.F.R. § 1.106(a)(1).

the ministerial or clerical errors they made on their E-rate applications also identified in Appendix A.<sup>6</sup> We therefore grant the requests for review and/or waiver identified in Appendix A.<sup>7</sup>

3. We find that the petitioners identified in Appendix B sought to make changes to their E-rate applications, also identified in Appendix B, that were more than ministerial or clerical, and those petitioners have not otherwise demonstrated that good cause exists to justify a waiver of the Commission's rules.<sup>8</sup> We therefore deny those petitioners' requests for review and/or waiver. We also dismiss the petition for reconsideration identified in Appendix C because it fails to identify any material error, omission, or reason warranting reconsideration, and relies on arguments that have been fully considered and rejected by the Bureau within the same proceeding.<sup>9</sup>

4. Consistent with precedent,<sup>10</sup> we also waive section 54.720(a) of the Commission's rules, which requires applicants to seek review of a USAC decision within 60 days, for Nash-Rocky Mount School District (Nash-Rocky Mount).<sup>11</sup> We find that Nash-Rocky Mount submitted its appeal to the Commission within a reasonable period of time after receiving actual notice of the adverse decision by USAC.<sup>12</sup>

5. We therefore remand the underlying applications listed in Appendix A to USAC for further action consistent with this Order. To ensure that the underlying applications are resolved expeditiously, we direct USAC to complete its review of each application listed in Appendix A 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 Order. 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 section 54.507(d) of the Commission's rules and direct USAC to waive any procedural deadline, such as the invoicing deadline, that might be necessary to effectuate our ruling.<sup>13</sup> We find good cause to waive section 54.507(d) because

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<sup>6</sup> See Appendix A. 47 C.F.R. § 54.504(a) (requiring applicants to submit a completed FCC Form 471 to USAC). Applications filed before the close of the annual funding window are all treated as if they were filed at the same time. 47 C.F.R. § 54.507(c). Funding requests filed after the close of the window, whether as new applications or modifications to previously filed applications, are treated as filed on the date of filing. Applications filed after the funding window are almost certain to go unfunded, because requests filed by the close of the window usually exhaust the available funds.

<sup>7</sup> Generally, the Commission's rules may be waived if good cause is 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. *Northeast Cellular*, 897 F.2d at 1166.

<sup>8</sup> See Appendix B.

<sup>9</sup> See Appendix C; 47 C.F.R. § 1.106 (p)(1), (3).

<sup>10</sup> See *Erie I BOCES Order*, 28 FCC Rcd at 13382, para. 2 (granting petitioner a waiver of the Commission's filing deadline for appeals because it submitted its appeal to the Commission within a reasonable period of time after receiving actual notice of USAC's adverse decisions).

<sup>11</sup> 47 C.F.R. § 54.720(a).

<sup>12</sup> See Appendix A.

<sup>13</sup> 47 C.F.R. § 54.507(d) (requiring non-recurring services to be implemented by September 30 following the close of the funding year).

filing an appeal of a denial is likely to cause petitioners to miss the program's subsequent procedural deadlines in that funding year.

6. 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 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 sections 54.504(a) and 54.507(d) of the Commission's rules, 47 C.F.R. §§ 54.504(a) and 54.507(d), ARE WAIVED for the petitioners listed in Appendix A to the limited extent provided herein.

7. IT IS FURTHER 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 sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 1.3, that section 54.720(a) of the Commission's rules, 47 C.F.R. § 54.720(a), IS WAIVED for Nash-Rocky Mount School District.

8. IT IS FURTHER 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 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 requests for review or requests for waiver filed by the petitioners identified in Appendix A ARE GRANTED, and their underlying applications ARE REMANDED to USAC for further consideration in accordance with the terms of this Order.

9. IT IS FURTHER 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 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 requests for review or requests for waiver filed by the petitioners listed in Appendix B ARE DENIED.

10. IT IS FURTHER 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 sections 0.91, 0.291, 1.3, 1.106 and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, 1.106 and 54.722(a), that the petition for reconsideration listed in Appendix C IS DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION

Vickie S. Robinson  
Acting Chief  
Telecommunications Access Policy Division  
Wireline Competition Bureau

## APPENDIX A

## Requests Granted

Petitioner	Application and Funding Request Number(s)	Funding Year	Date Request for Review/Waiver Filed
Camnet, Inc. (Camelback Academy) Glendale, AZ	819922	2011	Mar. 8, 2013
Erie 1 BOCES West Seneca, NY	825021	2012	Aug. 22, 2013
Gordon Parks Elementary School Kansas City, MO	891045	2013	Sept. 5, 2013
Harambee Charter School Philadelphia, PA	849505, 874945	2012	Sept. 16, 2013
Imagine Groveport Groveport, OH	904680, 917211, 919454	2013	Jan. 13, 2014
Kress Independent School District Kress, TX	887456	2013	Jan. 14, 2014
Nash-Rocky Mountain School District Nashville, NC	916750	2013	Oct. 22, 2013
St. Joseph Catholic School Muskogee, OK	889454	2013	Aug. 28, 2013
Shaker Heights City School District Shaker Heights, OH	897536	2013	Dec. 9, 2013
Upper St. Clair School District Pittsburgh, PA	918299	2013	Apr. 24, 2014

## APPENDIX B

## Requests Denied

Petitioner	Application and Funding Request Number	Funding Year	Date Request for Review/Waiver Filed
Clayton School District Clayton, WI	895022	2013	Nov. 13, 2013
Dollarway Public School District Pine Bluff, AR	923239	2013	Aug. 30, 2013
E-Institute Metro Center Phoenix, AZ	881182	2013	Dec. 6, 2013
Harlem Village Academies Business Office New York, NY	844887	2012	Jun. 14, 2013
Lufkin Independent School District Lufkin, TX	880292	2013	Jan. 9, 2014
Red Mesa Unified School District 27 Teec Nos Pos, AZ	808328	2011	Sept. 20, 2012
Washington County School District Plymouth, NC	879927	2013	Oct. 21, 2013

## APPENDIX C

## Petition for Reconsideration Dismissed

<b>Petitioner</b>	<b>Application Number</b>	<b>Funding Year</b>	<b>Date Request for Review/Waiver Filed</b>
Cherokee-Crawford School District 247 Cherokee, KS	800166	2011	July 2, 2013