



# SCHOOL BOARD OF POLK COUNTY

P.O. BOX 391  
BARTOW, FL 33831

1915 SOUTH FLORAL AVE.  
BARTOW, FL 33830

January 13, 2016

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** regarding Administrator's Decision on Appeal – Funding Year 2015-2016, re Polk County School Board, Form 471 Application Number 1038734, issued November 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](mailto:rlarson@erate360.com)  
(preferred mode of contact)

### Application Information

<u>Entity</u>	Polk County School Board
<u>Billed Entity Number</u>	127814
<u>471 Number</u>	1038734
<u>Funding Request Number</u>	2841983
<u>Service Provider / SPIN</u>	Bright House Networks / 143016611
<u>Pre-Discount Cost – per Form 471</u>	\$905,904.00
<u>Pre-Discount Cost – Corrected</u>	\$1,080,596.33
<u>Pre-Discount Cost – Increase</u>	\$174,692.33
<u>Funding Request Increase (@ 80%)</u>	\$139,753.86

Document Being Appealed: Administrator's Decision on Appeal – Funding Year 2015-2016, re Polk County School Board, Form 471 Number 1038734, issued November 16, 2015<sup>1</sup>

Decision: Appeal not considered by Schools and Libraries Division

Explanation: "Our records show that your appeal was postmarked more than sixty (60) days after the date the Universal Service Administrative Company's (USAC's) Funding Commitment Decision Letter was issued .... Federal Communications Commission (FCC) rules require applicants to postmark appeals within 60 days of the date of the USAC decision or action that is being appealed. Your appeal, as noted above, was postmarked after the appeal deadline. FCC rules do not permit the USAC to consider your appeal."

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<sup>1</sup> Letter from Schools and Libraries Division, USAC, to Tina M. Barrios, PhD, Assistant Superintendent Information Systems and Technology, entitled "Administrator's Decision on Appeal – Funding Year 2015-2016", re Form 471 Application Number 1038734, issued November 16, 2015.

**Request for Waiver:**

Polk County School Board (the District) requests that the FCC waive the rule requiring that the appeal filed on 9/24/2015 had to be postmarked no more than sixty (60) days after the date the Funding Commitment Decision Letter (FCDL) was issued. This waiver would allow SLD to consider the District's appeal which requests correction of the pre-discount cost for FRN 2841983 by \$174,692.33 and E-rate funding by \$139,753.86. The District presents mitigating factors below, and respectfully points out that the appeal was postmarked only two days after the 60-day appeal deadline of 9/22/2015.

**Mitigating Circumstances:**

In FY 2015 and in years prior to 2015, the District applied for funding of its WAN services; these FRNs only included the service cost because we did not realize that the taxes and fees applied to these service costs were eligible. In the years prior to FY 2015, we invoiced USAC using the Form 472 (BEAR form), and only included the service cost. Our BEAR forms were properly approved by the service provider without comment, and the District was unaware that it was missing out on E-rate funding of substantial costs of taxes and fees.

For FY 2015, we requested that the service provider, Bright House Networks (BHN), utilize the "SPI method" of billing and only bill us the 20% of eligible costs on its monthly invoices. However, in mid-September, 2015, BHN advised the District that BHN could not provide E-rate discounts on the more-than-\$14,000 of E-rate eligible taxes and fees on its monthly invoices because the District had not provided for such taxes and fees in the pre-discount cost of the FRN.

The District staff was unfamiliar with the E-rate rules governing eligibility of taxes and fees, and was faced with appealing to SLD to allow correction of this error even though they had never filed an appeal before and knew nothing about the E-rate appeal process. By the time the staff had researched these items, determined how to prepare and document an appeal, and drafted and documented the appeal, it was 9/23/15. It was at that time that the staff discovered that they had overlooked the 60-day deadline rule for filing an appeal, and that they were a day past the 9/22/2015 deadline.<sup>2</sup>

There was no waste, fraud, or abuse of the E-rate program on anyone's part – it was simply a case of staff members who had other full-time responsibilities being overwhelmed by the intricacies of the E-rate system.

**Streamlined Resolution of Requests Related to Actions by the USAC:**

The District respectfully refers to the recent ruling in the 10/30/2015 "FCC Public Notice - Streamlined Resolution of Requests Related to Actions by the USAC" regarding "*Waiver of Appeal Filing Deadline.*" The Commission determined that, in accordance with the "ABC Unified School District Order," it would "*waiv[e] the filing deadline for petitioners that submitted their appeals to the Commission or USAC only a few days late.*"<sup>3</sup> We submit that the District's 9/24/2015 appeal to SLD, being only two days after the 9/22/2015 deadline, should be considered "only a few days late" and worthy of a waiver by the Commission.

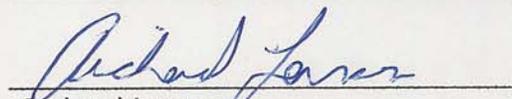
The District appreciates the Commission's consideration of this appeal. We are available to respond to questions or to provide any further information requested by the Commission.

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<sup>2</sup> The deadline for this appeal was 60 days after the FCDL date of 7/24/2015.

<sup>3</sup> FCC Public Notice - Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company (DA 15-1237, released 10/30/2015); p.6, footnote 19.

**Authorized signature for this Appeal** <sup>4</sup>



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

Date: 1/13/16

Phone: (888) 535-7771 ext 102  
Fax: (866) 569-3019  
Email: [rlarson@erate360.com](mailto:rlarson@erate360.com)

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<sup>4</sup> "Letter of Agency" from Kathryn LeRoy, Superintendent of Polk County Schools, authorizing employees of eRate 360 Solutions, LLC, to perform e-rate services on behalf of the District.



**Universal Service Administrative Company**  
Schools & Libraries Division

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**Administrator's Decision on Appeal – Funding Year 2015-2016**

November 16, 2015

Tina M. Barrios, Ph.d  
Polk County School Board  
1915 South Floral Avenue  
Bartow, FL 33830

Re: Applicant Name: POLK COUNTY SCHOOL BOARD  
Billed Entity Number: 127814  
Form 471 Application Number: 1038734  
Funding Request Number(s): 2841983  
Decision Letter Date: July 24, 2015  
Date Appeal Postmarked: September 24, 2015  
Your Correspondence Dated: September 23, 2015

Our records show that your appeal was postmarked more than sixty (60) days after the date the Universal Service Administrative Company's (USAC's) Funding Commitment Decision Letter was issued, as shown above. Federal Communications Commission (FCC) rules require applicants to postmark appeals within 60 days of the date of the USAC decision or action that is being appealed. Your appeal, as noted above, was postmarked after the appeal deadline. FCC rules do not permit USAC to consider your appeal.

If you wish to appeal this decision, you may file an appeal pursuant to 47 C.F.R. Part 54, Subpart I. Detailed instructions for filing appeals are available at:  
<http://www.usac.org/sl/about/program-integrity/appeals.aspx>.

Schools and Libraries Division  
Universal Service Administrative Company



# PUBLIC NOTICE

**NOTE 3**

Federal Communications Commission  
445 12<sup>th</sup> St., S.W.  
Washington, D.C. 20554

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

DA 15-1237

Released: October 30, 2015

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

**CC Docket No. 96-45**  
**CC Docket No. 97-21**  
**CC Docket No. 02-6**  
**WC Docket No. 02-60**  
**WC Docket No. 06-122**

Pursuant to our 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, dismisses, or denies the following Requests.<sup>1</sup> 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.<sup>2</sup>

### Schools and Libraries (E-rate)

**CC Docket No. 02-6**

### Dismiss on Reconsideration<sup>3</sup>

Canisius High School, NY, Application No. 937603, Petition for Reconsideration, CC Docket No. 02-6 (filed May 27, 2015)

<sup>1</sup> See *Streamlined Process for Resolving Requests for Review of Decisions by the Universal Service Administrative Company*, CC Docket Nos. 96-45 and 02-6, WC Docket Nos. 02-60, 06-122, 08-71, 10-90, 11-42, and 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).

<sup>2</sup> 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).

<sup>3</sup> 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, 10357, para. 2 (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); *Petition for Reconsideration by Henrico County School District, Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order on Reconsideration, 28 FCC Rcd 13015, 13016-17, para. 4 (denying a petition for reconsideration when the petition relied on facts or arguments not previously presented to the Commission). See 47 C.F.R. § 1.106(p)(1)-(3).

Dismiss on Reconsideration – Untimely<sup>4</sup>

Coushatta Tribal Library, LA, Application No. 1051875, Petition for Reconsideration, CC Docket No. 02-6 (filed Aug. 27, 2015)

Granted<sup>5</sup>

*Discount Calculation*<sup>6</sup>

Library of Virginia, VA, Application No. 940841, Request for Review, CC Docket No. 02-6 (filed Mar. 27, 2015)

*Waiver of Price as Primary Factor Requirement: Applicant Selected Lowest-price Solution*<sup>7</sup>

Ewing Marion Kauffman School, MO, Application No. 914773, FRN 2493298, Request for Review and/or Waiver, CC Docket No. 02-6 (filed Feb. 20, 2015)

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<sup>4</sup> See, e.g., *Petitions for Reconsideration by Rockwood School District and Yakutat School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket 02-6, Order, 26 FCC Rcd 13004 (Wireline Comp. Bur. 2011) (dismissing two petitions for reconsideration because they were filed more than 30 days after the Bureau's decisions); *Petitions for Reconsideration by Lincoln Parish School Board et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 7992, para. 1 n.1 (Wireline Comp. Bur. 2011) (stating that the Bureau has the authority under 47 C.F.R. § 1.106(p) to dismiss petitions for reconsideration of a Commission action that plainly do not warrant consideration by the Commission, such as petitions that are late-filed).

<sup>5</sup> 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).

<sup>6</sup> 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); *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). Section 54.505(b)(2) of the Commission's rules says that the level of poverty for library systems is based on the percentage of student enrollment that is eligible for the National School Lunch Program in the public school system where the libraries are located. 47 C.F.R. § 54.505(b)(2) (2013).

<sup>7</sup> See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Allendale County School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 6109, 6115-17, paras. 10-12 (Wireline Comp. Bur. 2011) (waiving the requirement that an applicant be able to demonstrate that it used price as the primary factor in vendor selection when the applicant selected the lowest priced option and there was no evidence of waste, fraud or abuse).

*Failure to Timely Respond to USAC with Information*<sup>8</sup>

Yeshiva Ohr Torah, NY, Application No. 802447, Request for Waiver, CC Docket No. 02-6 (filed July 6, 2012)

*Granted on Reconsideration – Discount Calculation*<sup>9</sup>

Richmond City Library, VA, Application No. 940708, Petition for Reconsideration, CC Docket No. 02-6 (filed Sept. 17, 2014)

*Service Provider Involvement*<sup>10</sup>

South City Preparatory Academy, MO, Application No. 815727, Request for Review, CC Docket No. 02-6 (filed April 10, 2013)

*Invoice Deadline Extension Requests Less Than 12 Months Late*<sup>11</sup>

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<sup>8</sup> 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 for applicants that had been denied funding because they failed to respond to USAC’s request for information within the USAC-specified time frame).

<sup>9</sup> See, e.g., *Petitions for Reconsideration by Callisburg Independent School District; School and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order and Order on Reconsideration, 28 FCC Rcd 9459, 9461, para. 5 (Wireline Comp. Bur. 2013) (granting petition for reconsideration where, upon reconsideration of the record, we do not find that the evidence supports our previous determination); *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); *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). Section 54.505(b)(2) of the Commission’s rules says that the level of poverty for library systems is based on the percentage of student enrollment that is eligible for the National School Lunch Program in the public school system where the libraries are located. 47 C.F.R. § 54.505(b)(2) (2013).

<sup>10</sup> See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Greeley Public School District*, CC Docket No. 02-6, Order, 28 FCC Rcd 6898, 6900-01, para. 5 (Wireline Comp. Bur. 2013) (granting appeal where employee of school system identified as the contact on the FCC Form 470 was also the employee of a service provider that “did not bid on the funding requests that are associated with the E-rate applications” at issue).

Ascension Public School, LA, Application No. 922191, Request for Review, CC Docket No. 02-6 (filed Sept. 15, 2015)

*Late-Filed FCC Form 471 Applications Filed within 14 days of the Close of the Window*<sup>12</sup>

Archbishop Spalding High School, MD, Application No. 1018893, Request for Waiver, CC Docket No. 02-6 (filed Aug. 27, 2015)

Manchester City Library, NH, Application No. 1030407, Request for Waiver, CC Docket 02-6 (filed July 7, 2015)

St Albert the Great School, KY, Application No. 1018837, Request for Waiver, CC Docket 02-6 (filed Aug. 27, 2015)

*Service Implementation Delay*<sup>13</sup>

Dr. Richard Izquierdo Health and Science Charter School, NY, Application No. 813343, Request for Review, CC Docket No. 02-6 (filed June 19, 2015)

Fahari Academy Charter School, NY, Application No. 854812, Request for Review, CC Docket No. 02-6 (filed June 22, 2015)

Universal Vare Middle Charter School, PA, Application No. 873042, Request for Review and/or Waiver, CC Docket No. 02-6 (filed Oct. 16, 2015)

*Service Substitution*<sup>14</sup>

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<sup>11</sup> See, e.g., *Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company*, CC Docket Nos. 96-45, 97-21, 02-6, WC Docket No. 06-122, Public Notice, DA 15-983 (Wireline Comp. Bur. rel. Aug. 31, 2015) (granting invoice deadline extension requests less than 12 months late that were made in good faith and within a reasonable period of time after services were provided); *Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 8870, 8967, para. 242 (2014) (directing the Bureau and USAC to consider whether late invoice requests from funding years prior to 2014 were made in good faith and within a reasonable period of time after the services were provided, or whether other extraordinary circumstances exist that support an extension). Consistent with precedent, we also find good cause exists to waive section 54.720(a) or (b) of the Commission's rules, which requires that petitioners file their appeals within 60 days of an adverse USAC decision, for Ascension Parish School District. 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*, CC Docket No. 02-6, Order, 26 FCC Rcd 11019, para. 2 (Wireline Comp. Bur. 2011) (*ABC Unified School District Order*) (waiving the filing deadline for petitioners that submitted their appeals to the Commission or USAC only a few days late).

<sup>12</sup> See, e.g., *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Academy of Math and Science et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 9256, 9259, 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).

<sup>13</sup> See, e.g., *Request 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).

Edison Charter Academy, CA, Application No. 840079, Request for Review, CC Docket No. 02-6 (filed May 26, 2015)

Morgan Independent School District, TX, Application No. 796255, Request for Review, CC Docket No. 02-6 (filed April 10, 2013)

Waubun School District 435, MN, Application No. 747903, Request for Review, CC Docket No. 02-6 (filed May 28, 2013)<sup>15</sup>

*Signed Contract Requirement*<sup>16</sup>

Calhoun County School District, MS, Application No. 1030400, Request for Review and/or Waiver, CC Docket No. 02-6 (filed Oct. 21, 2015)

*Technology Plan Requirements*<sup>17</sup>

Detroit Public Library, MI, Application Nos. 768410, 768476, Request for Review, CC Docket No. 02-6 (filed Dec. 17, 2012)

Linden Seventh-Day Adventist School, NY, Application No. 866163, Request for Waiver, CC Docket No. 02-6 (filed May 15, 2015)

*Violation of the Competitive Bidding 28-Day Rule*<sup>18</sup>

(Continued from previous page) \_\_\_\_\_

<sup>14</sup> See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Beaufort County Public School District et al.; Schools and Libraries Universal Service Support Mechanism*, 29 FCC Rcd 3124, 3125, para. 3 (Wireline Comp. Bur. 2014) (granting service substitution appeals when the petitioners missed USAC's deadline for service substitution requests but complied with the Commission's requirements for service substitutions under 47 C.F.R. § 54.504(d) and had a reasonable explanation for missing the deadline).

<sup>15</sup> While we grant Waubun School District 435's appeal and permit the service substitution process to proceed, on remand USAC should make a final determination as to whether the applicant has met the requirement that the product or service has the same functionality as the original product and was within the scope of the controlling FCC Form 470. See 47 C.F.R. § 54.504(d)(1)(i), (iv).

<sup>16</sup> See, e.g., *Request for Waiver of the Decision of the Universal Service Administrator by Barberton City School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 23 FCC Rcd 15526, 15529-30, para. 6 (Wireline Comp. Bur. 2008) (granting waivers of the signed contract requirement in instances where applicants misunderstood the program rules and submitted their FCC Form 471 applications after completing their vendor selection, and shortly before signing a contract).

<sup>17</sup> See, e.g., *Requests for Review or Waiver of the Decisions of the Universal Service Administrator by Brownsville Independent School District et al.*, CC Docket No. 02-6, Order, 22 FCC Rcd 6045, 6049, para. 8 (2007) (granting the appeals and waiving technology plan rules for petitioners that, among other things, had technology plans in place, but failed to get formal approval in a timely fashion).

<sup>18</sup> See, e.g., *Application for Review of the Decision of the Universal Service Administrator by Aberdeen School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 22 FCC

(continued...)

Educational Service Unit #4, NE, Application No. 848022, Request for Waiver, CC Docket No. 02-6 (filed Jan. 10, 2014)

*Waiver of Appeal Filing Deadline*<sup>19</sup>

Pillager School District 116, MN, Application No. 917369, Request for Waiver, CC Docket No. 02-6 (filed Aug. 13, 2015)

St. Mary School, OH, Application No. 1017186, Request for Review and/or Waiver, CC Docket No. 02-6 (filed Oct. 16, 2015)

Denied

*Ineligible Entities*<sup>20</sup>

Merkos Chabad Lubavitch Organization, AZ, Application No. 818419, Request for Review, CC Docket No. 02-6 (filed Apr. 9, 2012)

*Failure to Maintain and Provide Copies of Bids or Other Documentation in Support of Bid Evaluation Process*<sup>21</sup>

Ewing Marion Kauffman School, MO, Application No. 914773, FRN 249272, Request for Review and/or Waiver, CC Docket No. 02-6 (filed Feb. 20, 2015)

*Late-Filed FCC Form 471 Applications*<sup>22</sup>

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Rcd 8757 (2007) (granting waivers of violations of the 28-day rule when the applicants only missed the deadline by one to three days, thereby allowing their requests for services to be competitively bid for a meaningful period of time).

<sup>19</sup> See, e.g., *ABC Unified School District Order*, 26 FCC Rcd at 11019, para. 2 (waiving the filing deadline for petitioners that submitted their appeals to the Commission or USAC only a few days late). We make no finding on the underlying issues in these appeals and remand these applications back to USAC to make a determination on the merits. See *supra* note 5.

<sup>20</sup> See, e.g., *Request for Review of the Decisions of the Universal Service Administrator by Eagle Hill School, et al., Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 24 FCC Rcd 12714, 12718, para. 8 (Wireline Comp. Bur. 2009) (holding that if a pre-K program does not meet its state's definition of elementary education, the program is not eligible for E-rate support).

<sup>21</sup> See, e.g., *Request for Review of the Decision of the Universal Service Administrator by Central Islip Free Union School District, et al., Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 8630, 8634-36, paras. 9, 11-12 (Wireline Comp. Bur. 2011) (denying appeal where the applicant failed to produce documentation regarding its vendor selection process, i.e., documents describing the bid evaluation criteria and weighting, bid evaluation worksheets, correspondence between the beneficiary and prospective bidder, and, thus, could not demonstrate compliance with the E-rate program's competitive bidding rules; also explaining that the applicant must be able to provide evidence showing that its vendor evaluation process took place before the contract award date).

<sup>22</sup> 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).

Burke County Library, GA, Application Nos. 1052552, 1052553, 1052293, 1052554, 1052555, 1052556, Request for Waiver, CC Docket No. 02-6 (filed Aug. 24, 2015)

Corning Community School, IA, Application No. 1029903, Request for Waiver, CC Docket 02-6 (filed Aug. 31, 2015)

Cranston Public Library, RI, Application No. 1015048, Request for Waiver, CC Docket 02-6 (filed April 28, 2015)

Joan Macy School, CA, Application No. 1053151, Request for Waiver, CC Docket No. 02-6 (filed Aug. 12, 2015)

*Service Implementation Delay*<sup>23</sup>

Tse ii'Ahi Community School, NM, Application No. 812604, Request for Review, CC Docket No. 02-6 (filed June 11, 2015)

*Untimely Filed Request for Review*<sup>24</sup>

Martin De Porres School for Exceptional Children, NY, Application No. 903349, Request for Review, CC Docket No. 02-6 (filed Sept. 11, 2015)

West Enterprises LLC (Congregation Uvlechtechu Baderech, Inc.), NY, Application No. 761888, Request for Review, CC Docket No. 02-6 (filed Aug. 6, 2015)

**Rural Health Care**  
**WC Docket No. 02-60**

**Denied In Part (FCC Form 466) and Granted in Part (FCC Form 466-A)**

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<sup>23</sup> See, e.g., *Request 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, 13653, para. 3 (Wireline Comp. Bur. 2014) (denying late-filed extensions of the deadline for service implementation when applicants failed to demonstrate they were unable to complete implementation on time for reasons beyond the service providers' control and failed to make significant efforts to secure the necessary extensions in a timely manner).

<sup>24</sup> 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).

*Late-Filed or Never-Filed FCC Form 466 and/or FCC Form 466-A*<sup>25</sup>

Annette Island Service Unit, HCP No. 13063, Request for Review and Request for Waiver, WC Docket No. 02-60 (filed Oct. 31, 2014)

Ilanka Community Health Center, HCP No. 11932, Request for Review and Request for Waiver, WC Docket No. 02-60 (filed Jan. 27, 2014)

Kodiak Community Health Center, HCP No. 16031, Request for Review and Request for Waiver, WC Docket No. 02-60 (filed Jan. 29, 2014)

Sanford Health – Fargo Region, HCP Nos. 10798, et al., Request for Review and Request for Waiver, WC Docket No. 02-60 (filed Jan. 7, 2014)

South Central Medical & Resource Center, HCP No. 17896, Request for Waiver, WC Docket No. 02-60 (filed Oct. 22, 2014)

Spring River Mental Health & Wellness, Inc. – Riverton, KS, HCP No. 14626, Request for Waiver, WC Docket No. 02-60 (filed May 13, 2015)

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<sup>25</sup> See 47 C.F.R. § 54.675(c)(4) (establishing the FCC Form 466 deadline as June 30 of the funding year that began on the previous July 1); see also *Requests for Review of Decisions of the Universal Service Administrator by Kodiak Area Native Association et al.*, Files Nos. RHCP 11193, et al., *Rural Health Care Universal Service Support Mechanism*, WC Docket No. 02-60, Order, DA 15-1047, paras. 1-2, 7 (Wireline Comp. Bur. rel. Sept. 17, 2015) (*KANA et al. Order*) (granting appeals related to the FCC Form 466 deadline because the Commission inadvertently repealed the deadline for the time period at issue (September 20, 2006, until March 31, 2013), but emphasizing the “limited nature” of the decision). On April 1, 2013, the Commission reinstated the FCC Form 466 deadline through the *Healthcare Connect Fund Order*. See *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Report and Order, 27 FCC Rcd 16678, 16818, paras. 351-2, 16890, App. D (2012) (*Healthcare Connect Fund Order*); see also 47 C.F.R. § 54.675(c)(4). The Form 466-A deadline was not, however, reinstated. The FCC Form 466-A applied to the Rural Health Care Internet Access Program, and this Program was replaced by the Healthcare Connect Fund. See *Healthcare Connect Fund Order*, 27 FCC Rcd at 16681, n.9; see also *KANA et al. Order*, DA 15-1047 at n.4. Accordingly, to the extent that any requests for review or waiver addressed herein implicate the Form 466-A, affected applicants may submit any outstanding Forms 466-A and supporting documentation to USAC for consideration, but must do so no later than 45 days from release of this Public Notice to be considered timely filed. See *KANA et al. Order*, DA 15-1047 at paras. 3, 9. While we will permit these applicants to file Forms 466-A with USAC as appropriate, we make no finding as to the ultimate eligibility of the services or the petitioners’ applications. *Id.* at para. 6.

**Contribution Methodology**  
**WC Docket No. 06-122**

Denied

*FCC Form 499-A Revision Deadline Waiver Request*<sup>26</sup>

Telekom Malaysia (USA) Inc., Request for Waiver, WC Docket No. 06-122 (filed Aug. 17, 2015)

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

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<sup>26</sup> *Universal Service Contribution Methodology; Federal-State Joint Board on Universal Service; Requests for Review of Decisions of Universal Service Administrator by Airband Communications, Inc. et al.*, WC Docket No. 06-122, CC Docket No. 96-45, Order, 25 FCC Rcd 10861 (Wireline Comp. Bur. 2010) (finding that several petitioners had not met their burden of showing good cause); *Universal Service Contribution Methodology, Request for Review of a Decision of the Universal Service Administrator by IP Telecom Group, Inc.*, WC Docket No. 06-122, 26 FCC Rcd 11231 (Wireline Comp. Bur. 2011) (simple negligence is insufficiently unique to justify waiver).

## Letter of Agency

School Board of Polk County  
Billed Entity Number: 127814

### Letter of Agency For FY 17 (2014 - 2015); FY 18 (2015 - 2016); FY 19 (2016 - 2017)

I hereby authorize eRate 360 Solutions, LLC and its employees: Keith C. Oakley, Rich Larson, Carlos Alvarez, Matt Hetman, Fred Josephs, Bert Garofano, Carl Parker, and John Harvey to submit FCC Form 470, FCC Form 471, and other E-rate forms; to submit various change applications such as SPIN changes and service substitutions; and to perform other actions appropriate to the E-rate process, to the Schools and Library Division of the Universal Service Administrative Company on behalf of **School Board of Polk County** 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 **School Board of Polk County**. By signing this Letter of Agency, I make the following certifications

- (a) I certify that **schools in our district** are all schools under the statutory definitions of elementary and secondary schools found in the No Child Left Behind Act of 2001, 20 U.S.C. §§ 7801(18) and (38), that do not operate as for-profit businesses and do not have endowments exceeding \$50 million.
- (b) I certify that our **school district** has 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 **school district** did not receive, either directly from a service provider listed on any FCC Form 471 filed by this Billed Entity for this funding year or through assistance from a service provider listed on any FCC Form 471 filed by this Billed Entity for this funding year, any of the funds to pay the non-discount share of the services requested through the FCC Form 471 process and to secure access to the resources necessary to make effective use of those discounts.
- (d) I certify that our school district is responsible for selecting the service provider(s) and that in exercising that responsibility has reviewed all applicable FCC, state, and local procurement/competitive bidding requirements, and that our school district complies with them
- (e) 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 FCC at 47 C.F.R. § 54.500(et seq.). Additionally, I certify that the entity or entities listed on this application have not received anything of value or a promise of anything of value, other than services and equipment sought by means of this form, from the service provider, or any representative or agent thereof or any consultant in connection with this request for services.
- (f) I certify that our **school district** has 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.
- (g) 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.
- (h) I certify that I will retain required documents for a period of at least ten 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.

- (i) I certify that I am authorized to order E-rate eligible 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.
- (j) 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.
- (k) I certify that the non-discount portion of the costs for eligible services will not be paid by the service provider. The pre-discount costs of eligible services featured on this FCC Form 471 are net of any rebates or discounts offered by the service provider. I acknowledge that, for the purpose of this rule, 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: School Board of Polk County  
Date: 11/3/15  
Signature: Kathryn M. LeRoy  
Printed Name: Kathryn LeRoy  
Title: Superintendent