GILROY UNIFIED SCHOOL DISTRICT

7810 Arroyo Circle, Gilroy, CA 95020

March 29, 2016

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 No. 16-220, February 29, 2016

Authorized person who can best discuss this Appeal with you

John E. Harvey Jr.
eRate 360 Solutions, LLC
322 Route 46W, Suite 280W
Parsippany, NJ 07054

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Information

Entity	Gilroy Unified School District
Billed Entity Number	144283
Funding Year	2012-13
471 Number	830048
Funding Request Number	2255018
Service Provider / SPIN	Verizon California Inc. / 143004769
Reimbursement Requested	$141,564.38

Document Being Appealed:	Public Notice: DA No. 16-220, February 29, 2016[1]
Decision on Request:	"Untimely Filed Request for Review"
Explanation:	"…our rules specify that an affected party seeking review of a USAC decision shall file its request within 60 days from the date of that decision, not the Bureau's action in dismissing the appeal. See 47 CFR § 54.720(b)." [2]

[1] DA 16-220, February 29, 2016, "Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company", p. 8. Footnote 24.

[2] Ibid, p. 8 footnote 24

Petition for Reconsideration:

Gilroy Unified School District (the District) believes the Commission erred in its decision in Public Notice: DA No. 16-220, released February 29, 2016. The Commission erred by reviewing this under 47 CFR §54.720 (b) Filing deadlines. We believe it should correctly have been reviewed under 47 e-CFR §54.719 (c), and as such our request for waiver filed on 3/11/15 should be granted, and our appeal should be remanded to USAC for review on its merits.

We originally filed a Request for Waiver, on 3/11/2015[3], regarding USAC's 1/16/15 denial of our request for a deadline extension. Our understanding of the Commission's rules is that an appeal of a denial of a deadline extension requires a waiver of the Commission Rules regarding deadline extensions. Under 47 e-CFR §54.719 (c): *"Parties seeking waivers of the Commission's rules shall seek relief directly from the Commission."* [4]

This is further emphasized on the USAC website *"Parties seeking a waiver of FCC rules (i.e. late payment fees, waiver of form deadlines, etc.) should file an appeal directly with the FCC because USAC cannot waive FCC rules."* [5]

The District filed a timely request for a deadline extension, to allow the re-filing of a BEAR for FRN 2255018. Upon receiving the Administrator's Decision on Invoice Deadline Extension Request dismissing our extension request, the District in good faith interpreted and followed the Commission's rules under e-CFR §54.719 (c) and filed a Request for Waiver of the deadline directly to the Commission.

In its decision in Public Notice DA 15-983, Released: August 31, 2015 we believe the FCC erred in not reviewing the specific issues of our properly presented Request for Waiver. The reason cited by the Commission was, *"…dismissing an appeal that properly belongs before USAC pursuant to Commission rules."* [6]

The District strongly believes this is a legitimate and proper Request for Waiver filed in good faith with the FCC based on our belief that Commission rules regarding appeals of denied deadline extensions require an FCC waiver of Commission rules.

However, based on the Commission's (we believe erroneous) decision to dismiss dated 8/31/2015, we filed the appeal with USAC. Since we had to await the issuance of the Commission's decision, the appeal to USAC was sent on 9/25/2015.[7] USAC's decision on appeal states:

> *"Our records show that your appeal was postmarked more than 60 days after the date your FCC Form 472 (BEAR) Notification Letter was issued, as shown above. Federal Communications Commission (FCC) rules require applicants to postmark appeals within 60 days of the date on the decision letter being appealed.*

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[3] Request for Waiver from Gilroy Unified School District to Federal Communications Commission, re of "*Administrator's Decision on Invoice Deadline Extension Request regarding FRN 2255018, issued on January 16*", dated 3/11/2015.

[4] 47 e-CFR §54.719 (c)

[5] http://www.usac.org/about/about/program-integrity/appeals.aspx

[6] Appeals Disposition Public Notice 8-31-15 p.1 footnote 3

[7] Letter of Appeal from Gilroy Unified School District to Schools and Libraries Division, re: "FCC Public Notice - Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company (DA 15-983, released 8/31/2015) regarding Gilroy Unified School District, Application No. 830048, Request for Waiver, CC Docket No. 02-6 (filed Mar. 11, 2015)", dated 9/25/2015

FCC rules do not permit the Universal Service Administrative Company (USAC) to consider your appeal."[8]

There was no consideration to the fact that a Request for Waiver was properly lodged with the FCC and we were in good faith following the Commission's rules.

Conclusion:

There being no evidence of fraud, waste and abuse of program funds, Gilroy Unified School District is of the opinion that we are being deprived of $141,564.38 because the vendor refused to certify the timely submitted BEAR form[9] and required the District to complete additional SPI documentation that necessitated third-party contact and certification. [10]

If the District's belief that appeal of a deadline extension denial requires a waiver of Commission Rules is flawed we ask the Commission not to penalize the District for interpreting erroneously but to remand this application back to USAC to make a determination on its merits.

We thank the Commission for its reconsideration in this matter; 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[11]

Date: 3/29/2016

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(preferred mode of contact)

[8] Letter from Schools and Libraries Division, Universal Service Administrative Company to Richard Larson, eRate 360 Solutions (consultant for Gilroy Unified School District), dated Friday, November 17, 2015, re: appeal dated September 25, 2015 regarding FRN 2255018.

[9] Email from the SLD to Matthew Hetman, eRate 360 Solutions consultant for Gilroy USD, and Whitney Hansen, Verizon California Inc., on October 23, 2014, subject: "*Online BEAR Certification Results*", reporting Verizon California Inc failure to certify FRN 2255018 in BEAR Invoice 2096134.

[10] Email from Whitney Hansen, Business Sales Support Specialist, Verizon, to Matthew Hetman, eRate 360 Solutions consultant for Gilroy USD, on October 23, 2014, subject: "*Verizon Data Gathering Form for FY2012 & FY2013 Gilroy US*"

[11] "Letter of Agency" from Alvaro Meza, Assistant Superintendent – Business Services for Gilroy Unified School District, authorizing employees of eRate 360 Solutions, LLC, to perform e-rate services on behalf of Gilroy USD.

NOTE 1,2

Federal Communications Commission
Washington, D.C. 20554

Memo

To: Richard Larson, for
(Greater Albany Public Schools)

From: Ryan B. Palmer, Chief
Telecommunications Access Policy Division
Wireline Competition Bureau
Federal Communications Commission

Date: March 2, 2016

Re: DA No. 16-220, released February 29, 2016

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. 16-220, Released February 29, 2016.

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.

PUBLIC NOTICE

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

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

DA 16-220
Released: February 29, 2016

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

CC Docket No. 02-6
WC Docket No. 06-122
WC Docket No. 02-60

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.[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 to File Appeal with USAC[3]

Chatfield School District 227, MN, Application No. 946913, Request for Review, CC Docket No. 02-6 (filed Jan. 22, 2016)

Fridley School District 14, MN, Application No. 950028, Request for Review, CC Docket No. 02-6 (filed Feb. 11, 2015)

KIPP San Antonio, TX, Application No. 946492, Request for Waiver, CC Docket No. 02-6 (filed Nov. 30, 2015)

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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 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 (WCB 2014). Section 54.719(b) of the Commission's rules provides that any person aggrieved by an action taken by a division of USAC, after first seeking review at USAC, may seek review from the Commission. Section 54.719(c) of the Commission's rules provides that parties seeking waivers of the Commission's rules shall seek review directly from the Commission. 47 CFR §§ 54.719(b)-(c).

[2] *See* 47 CFR §§ 1.106(f), 1.115(d); *see also* 47 CFR § 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] *See, e.g.*, *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, 30 FCC Rcd 4729, para. 2 (WCB 2015) (dismissing an appeal that properly belongs before USAC pursuant to Commission rules).

Lanesboro Public School, MN, Application No. 952769, Request for Review, CC Docket No. 02-6 (filed Jan. 22, 2016)

Leadore Community Library, ID, Application No. 941794, Request for Waiver, CC Docket No. 02-6 (filed Dec. 15, 2015)

Marshall County Memorial Library, TN, Application No. 1006789, Request for Review, CC Docket No. 02-6 (filed Feb. 11, 2016)

Dismiss for Failure to Comply with the Commission's Basic Filing Requirements[4]

Fazil Bhimani, MN, No Application Number Given, CC Docket No. 02-6 (filed Jan. 22, 2016)

Fazil Bhimani, MN, No Application Number Given, CC Docket No. 02-6 (filed Jan. 22, 2016)

Sedona Charter School, AZ, No Application Number Given, CC Docket No. 02-6 (filed Jan. 5, 2016)

Vision Net, MT, No Application Number Given, CC Docket No. 02-6 (filed Jan. 27, 2016)

Dismiss as Moot[5]

Collinsville Public Library, AL, Application No. 977992, Request for Review, CC Docket No. 02-6 (filed Apr. 28, 2015)

Harambee Institute of Science and Technology Charter School, PA, Application No. 874945, Request for Review, CC Docket No. 02-6 (filed June 25, 2015)

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[4] 47 CFR § 54.721 (setting forth general filing requirements for requests for review of decisions issued by the Administrator, including the requirement that the request for review include supporting documentation); *see also Wireline Competition Bureau Reminds Parties of Requirements for Request for Review of Decisions by the Universal Service Administrative Company*, CC Docket Nos. 96-45, 02-6, WC Docket Nos. 02-60, 06-122, 10-90, 11-42, 13-184, 14-58, Public Notice, 29 FCC Rcd 13874 (WCB 2014) (reminding parties submitting appeals to the Bureau of the general filing requirements contained in the Commission's rules which, along with a proper caption and reference to the applicable docket number, require (1) a statement setting forth the party's interest in the matter presented for review; (2) a full statement of relevant, material facts with supporting affidavits and documentation; (3) the question presented for review, with reference, where appropriate, to the relevant Commission rule, order or statutory provision; and (4) a statement of the relief sought and the relevant statutory or regulatory provision pursuant to which such relief is sought); *Universal Service Contribution Methodology; Request for Review by Alternative Phone, Inc. and Request for Waiver*, WC Docket No. 06-122, Order, 26 FCC Rcd 6079 (WCB 2011) (dismissing without prejudice a request for review that failed to meet the requirements of section 54.721 of the Commission's rules).

[5] *See Requests for Review and/or Requests for Waiver of the Decisions of the Universal Service Administrator by Al Noor High School et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 8223, 8224, para. 2 (WCB 2012) (dismissing as moot requests for review where USAC approved the underlying funding request).

Dismiss on Reconsideration[6]

Biblioteca Abelardo Díaz Alfaro, PR, Application No. 807387, Petition for Reconsideration, CC Docket No. 02-6 (filed Apr. 27, 2015)

Yeshiva D'Monsey, NY, Application No. 693241, Petition for Reconsideration, CC Docket No. 02-6 (filed Nov. 3, 2015)

Dismiss on Reconsideration - Untimely[7]

Black Mesa Community School, AZ, Application No. 873629, Petition for Reconsideration, CC Docket No. 02-6 (filed Jan. 27, 2016)

Granted[8]

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

Center for Advance Learning, CA, Application No. 1041418, Request for Review, CC Docket No. 02-6 (filed Feb. 2, 2016)

Erie Rise Leadership Academy Charter School, PA, Application No. 993108, Request for Review, CC Docket No. 02-6 (filed Feb. 16, 2016)

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[6] *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 (WCB 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).

[7] *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 (WCB 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, 7992, para. 1 n.1 (WCB 2011) (stating that the Bureau has the authority under 47 CFR § 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).

[8] 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 CFR § 54.507(d) (requiring non-recurring services to be implemented by September 30 following the close of the funding year); 47 CFR § 54.514(a) (codifying the invoice filing deadline).

[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 (WCB 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).

Discount Calculation - Urban/Rural Classification[10]

St. Anthony Grade School, HI, Application No. 944613, Request for Review, CC Docket No. 02-6 (filed Sept. 18, 2014)[11]

Eligible Services[12]

Hackley Public Library, MI, Application No. 838141, Request for Review and/or Waiver, CC Docket No. 02-6 (filed May 22, 2015)

Scranton Public Library, PA, Application Nos. 442455, 495363, 541934, 592057, 649268, 713891, 776424, Request for Review, CC Docket No. 02-6 (filed July 22, 2011)

Ministerial and/or Clerical Errors – FCC Form 471[13]

St. Catherine School, WI, Application No. 1017995 (FRN 2763124), Request for Review, CC Docket No. 02-6 (filed Dec. 15, 2015)

Strive Preparatory School - District, CO, Application No. 1011445, Request for Review and Waiver, CC Docket No. 02-6 (filed Jan. 11, 2016, supplemented Feb. 8, 2016)

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[10] *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, 10708, para. 12 (WCB 2006) (remanding applications for further processing when it appeared that USAC reduced the requested discount rate without providing the applicants with a sufficient opportunity to provide supporting evidence).

[11] A review of the record indicates that USAC denied petitioner's request for a rural discount based on an erroneous conclusion that St. Anthony Grade School is located in Honolulu County, Hawaii. Petitioner's application states that the school is located in the town of Wailuku. Petitioner's location in Wailuku is not disputed in the record. Wailuku is located in Maui County, not Honolulu County. We remand this application to provide petitioner with the opportunity to support its requested discount based on its accurate location. We express no opinion regarding petitioner's ultimate eligibility for a rural discount. Consistent with precedent, we also find good cause exists to waive sections 54.720(a) and (b) of the Commission's rules, which requires that petitioners file their appeals within 60 days of an adverse USAC decision. *Requests for Review and/or Requests for Waiver of Decisions of the Universal Service Administrator by Animas School District 6 et al.; Schools and Libraries Universal Service Support Mechanism,* CC Docket No. 02-6, Order, 26 FCC Rcd 16903, 16905, para. 4 (WCB 2011) (granting petitioners waivers of our filing deadline for appeals because their late-filed appeal would never have been necessary absent an error on the part of USAC); 47 CFR §§ 54.720(a), (b).

[12] *See Requests for Waiver and Review of Decisions of the Universal Service Administrator by Aberdeen School District 5 et al.*; *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 2080 (WCB 2012) (finding that USAC erred in its eligibility determination regarding the services petitioners sought for funding and reversing USAC's decision to reclassify services).

[13] *See, e.g., 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, 17320 nn.5 & 13 (WCB 2010) (permitting applicant to add item it failed to enter from pre-existing documentation associated with the application and to correct mischaracterization of non-discounted price as the pre-discount price). Consistent with precedent, we also find good cause exists to waive sections 54.720(a) and (b) of the Commission's rules, which requires that petitioners file their appeals within 60 days of an adverse USAC decision. *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 (WCB 2011) (waiving the filing deadline for petitioners that submitted their appeals to the Commission or USAC only a few days late); 47 CFR §§ 54.720(a), (b).

Trinity Lutheran School, IA, Application No. 1011029, Request for Review, CC Docket No. 02-6 (filed July 23, 2015)

Necessary Resources[14]

Northside Children's Day Center, NY, Application No. 145762, Request for Review and/or Waiver, CC Docket No. 02-6 (filed Apr. 25, 2005)[15]

Service Substitution[16]

Cornerstone Sch-Nevada, MI, Application No. 758131, Request for Review, CC Docket No. 02-6 (filed Jan. 29, 2013)

Waiver of Appeal Filing Deadline[17]

Bastrop Independent School District, TX, Application No. 962244, Request for Waiver, CC Docket No. 02-6 (filed Jan. 27, 2016)

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[14] *See, e.g., Requests for Review of Decisions of the Universal Service Administrator by Academy of Excellence et al.; Schools and Libraries Universal Service Support Mechanism* CC Docket No. 02-6, Order, 22 FCC Rcd 8722, 8727-28 (2007) (granting applicants the chance to reduce their funding requests to levels such that they had the necessary resources to use them effectively before being reevaluated by USAC when there was no evidence of fraud or abuse and their initial requests appeared to represent a good faith effort to purchase only what they could use effectively).

[15] We also grant this appeal with respect to the issue about its technology plan. *See, e.g., Requests for Review or Waiver of the Decisions of the Universal Service Administrator by Brownsville Independent School District et al.; Schools and Libraries Universal Service Support Mechanism,* CC Docket No. 02-6, Order, 22 FCC Rcd 6045, 6049, para 8 (2007) (waiving procedural aspects of the technology plan rules for petitioners that failed to show that they had an approved technology plan in place for the relevant funding year).

[16] *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*, CC Docket No. 02-6, 29 FCC Rcd 3124, 3125, para. 3 (WCB 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 CFR § 54.504(d) and had a reasonable explanation for missing the deadline). Additionally, we direct USAC to grant the applicant an extension of the service implementation deadline to allow it to implement its service substitution request. *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 (WCB 2014) (allowing extensions of the deadline for service implementation when applicants meet the requirements for a service implementation deadline extension).

[17] *See, e.g., 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 (WCB 2011) (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 8.

Waiver of Competitive Bidding Requirement to Comply with State and Local Procurement Rules[18]

Riverside Unified School District, CA, Application Nos. 775641, 799564, 818678, 820175, 820454, Request for Declaratory Ruling or Waiver, CC Docket No. 02-6 (filed Dec. 10, 2015)

Waiver of Price as Primary Factor Requirement: Applicant Selected Lowest-price Solution[19]

Troup County School System, GA, Application No. 845112, Request for Review and/or Waiver, CC Docket No. 02-6 (filed Mar. 30, 2015)

Denied

FCC Form 470 with Inadequate Specificity and No Indication of Request for Proposal (RFP) on Services Being Sought[20]

Biblioteca Abelardo Díaz Alfaro, PR, Application No. 989482, Request for Review and Waiver, CC Docket No. 02-6 (filed Oct. 16, 2015)[21]

Colegio Catolico Notre Dame Secundario, PR, Application Nos. 979835, 979879, 987304, 972245, 990843, Request for Review, CC Docket No. 02-6 (filed Sept. 14, 2015)

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[18] *See, e.g., Requests for Waiver and Review of Decisions of the Universal Service Administrator by Aberdeen School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 1941, 1941, para 1 (WCB 2012) (granting waiver to San Jose Unified School District of competitive bidding rule requiring compliance with state and local procurement law when the applicant violated a state rule requiring the RFP to be published in a newspaper of general circulation but the applicant published the RFP on its website and received sufficient bid responses, and there was no evidence of waste, fraud, and abuse). This waiver applies to FRNs 2102832, 2165204, 2232257, 2233278, and 2227717.

[19] *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 (WCB 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).

[20] *See, e.g., Request for Review of the Decision of the Universal Service Administrator by Ysleta Independent School District et al.; 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, 18 FCC Rcd 26406, 26410, para. 7 (2003) (clarifying that the requirement for a bona fide request for services means that "applicants must submit a list of specified services for which they anticipate they are likely to seek discounts consistent with their technology plans, in order to provide potential bidders with sufficient information on the FCC Form 470, or on an RFP cited in the FCC Form 470, to enable bidders to reasonably determine the needs of the applicant"); *Request for Review of the Decision of the Universal Service Administrator by Washington Unified School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 28 FCC Rcd 13746, 13748, paras. 3-5 (WCB 2013) (finding that the applicant violated the Commission's competitive bidding requirements by failing to include sufficient information on its FCC Form 470 to enable prospective service providers to identify and formulate bids).

[21] Although the applicant's appeal to USAC was filed late, consistent with precedent, we 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. *See, e.g., 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, 11019, para. 2 (WCB 2011) (granting waivers of filing deadline for appeals because they submitted their appeals to the Commission within a reasonable period of time after receiving actual notice of USAC's adverse decision). Therefore, we address this appeal on the merits and deny it because of competitive bidding violations.

Consorcio Colegios Catolicos Diocesis Fajardo y Humacao, PR, Application Nos. 942769, 942755, 985436, 987380, 986857, Request for Review, CC Docket No. 02-6 (filed Sept. 15, 2015)

Consortium Escuelas Catolicas, PR, Application Nos. 979223, 978025, 991208, 978939, 991149, 987324, 987261, 978169, 983530, 983348, 982395, 978093, 978146, Request for Review, CC Docket No. 02-6 (filed Sept. 14, 2015)

Ineligible Services[22]

City of Boston, Dept. of Neighborhood Development, MA, Application No. 151059, Request for Review, CC Docket No. 02-6 (filed Mar. 18, 2004)

Ministerial and/or Clerical Errors – FCC Form 471[23]

Fall River Joint Unified SD, CA, Application No. 1012895, Request for Review and Waiver, CC Docket No. 02-6 (filed Feb. 4, 2016)

Risen Savior Lutheran School, WI, Application No. 1007714, Request for Review, CC Docket No. 02-6 (filed Oct. 13, 2015)

St. Catherine School, WI, Application No. 1017995 (FRN 2763122), Request for Review, CC Docket No. 02-6 (filed Dec. 15, 2015)

St. Paul Lutheran School, LA, Application No. 1013728, Request for Review, CC Docket No. 02-6 (filed Dec. 7, 2015)

Timothy Academy South, PA, Application No. 1014359, Request for Review, CC Docket No. 02-6 (filed Dec. 15, 2015)

The Neighborhood Academy, PA, Application No. 832296, Request for Review, CC Docket No. 02-6 (filed Oct. 31, 2012)

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[22] *See, e.g., Requests for Waiver and Review of Decisions of the Universal Service Administrator by AllWays, Inc. (Prairie Hills School District 144); Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 1968, 1969, para. 1 (WCB 2012) (upholding denials of funding requests for services that had not been designated as eligible for E-rate support). In determining which party or parties to hold responsible for violations of E-rate rules, the Commission has directed USAC to consider which party was in the better position to have prevented the violation and which party committed the act or omission that forms the basis of the violation. *See Federal-State Joint Board on Universal Service; Changes to the Board of Directors for the National Exchange Carrier Association, Inc.; Schools and Libraries Universal Service Support Mechanism*, CC Docket Nos. 96-45, 97-21, 02-6, Order on Reconsideration and Fourth Report and Order, 19 FCC Rcd 15252, 15257, para. 15 (2004) (*Schools and Libraries Fourth Report and Order*). In this case, the service provider, W.T. Rich Company, Inc. submitted to USAC invoices that included ineligible services. Under the program rules in place at the time, the applicant, City of Boston, Dept. of Neighborhood Development, was not required to review invoices and did not make any certifications with respect to whether the services on the invoices were eligible. Accordingly, we direct USAC to continue recovery proceedings against W.T. Rich Company, Inc. only.

[23] *See, e.g., Requests for Waiver and Review of Decisions of the Universal Service Administrator by Assabet Valley Regional Vocational District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 1924, 1925, para. 1 (WCB 2012) (finding petitioners had not demonstrated good cause to justify waivers permitting changes to the applicants' E-rate applications).

Untimely Filed Request for Review[24]

Crossroads Academy, FL, Application No. 1051023, Request for Review, CC Docket No. 02-6 (filed Feb. 1, 2016)

Gilroy Unified School District, CA, Application No. 830048, Request for Review, WC Docket No. 02-6 (filed Jan. 12, 2015)

Greater Albany Public Schools, OR, Application No. 846615, Request for Review, CC Docket No. 02-6 (filed Jan. 11, 2016)

Jersey Community Unit School District 100, IL, Application No. 947918, Request for Review, CC Docket No. 02-6 (filed Dec. 15, 2015)[25]

Holy Cross School, IL, Application No. 992762, Request for Waiver, CC Docket No. 02-6 (filed Feb. 10, 2016)

Little Falls Township Public Schools, NJ, Application Nos. 985116,991002, Request for Review, CC Docket No. 02-6 (filed Jan. 12, 2016)

McCleary School District 65, WA, Application No. 1051602, Request for Waiver, CC Docket No. 02-6 (filed Feb. 12, 2016)

Nevada Joint Union High School District, CA, Application Nos. 826037, 864705, Request for Waiver, CC Docket No. 02-6 (filed July 19, 2013)

Riverhead Central School District, NY, Application No. 1008865, Request for Review, CC Docket No. 02-6 (filed Feb. 1, 2016)

St. Michael School, IL, Application No. 986333, Request for Waiver, CC Docket No. 02-6 (filed Feb. 9, 2016)

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[24] *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 (WCB 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 (WCB 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). Gilroy Unified School District, Greater Albany Public Schools and Little Falls Township Public Schools argue that their USAC decision appeals should have been considered timely since they were filed with USAC within 60 days of the Bureau's decision to dismiss the appeals. We note, however, that our rules specify that an affected party seeking review of a USAC decision shall file its request within 60 days from the date of that decision, not the Bureau's action in dismissing the appeal. *See* 47 CFR § 54.720(b).

[25] Jersey Community Unit School District 100 filed an appeal with USAC seeking review of two separate decisions concerning the same application. We note that its appeal is untimely only in relation to the Oct. 7, 2015, Form 472 (BEAR) Notification Letter, not the Form 472 (BEAR) Notification Letter dated Nov. 12, 2015.

Violation of the Competitive Bidding 28-Day Rule[26]

Henry County School District, VA, Application No. 1013393, Request for Review, CC Docket No. 02-6 (filed Feb. 2, 2016)[27]

Contribution Methodology
WC Docket No. 06-122

Dismiss as Moot

Late 499-Q Filing Waiver Request[28]

Netwolves Network Services, LLC (f.k.a. Norstan Network Services), Petition for Waiver, WC Docket 06-122 (filed Sept. 1, 2015)

Dismiss Without Prejudice

Late Filing Fee Waiver Request[29]

Craig Communications, LLC, Petition for Waiver, WC Docket 06-122 (filed Feb. 2, 2016)

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[26] *See, e.g., Application for Review of A Decision of the Universal Service Administrator by Challis Joint School District #181; School and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 3812, 3814, para. 5 (WCB 2011) (denying request for review where applicant selected a service provider for E-rate services prior to submitting its FCC Form 470 when the rule requires the applicant to wait at least 28 days after such posting).

[27] USAC denied the appeal for Application No. 1013393 on the grounds that there was no signed contract in place when petitioner filed its FCC Form 471. However, on *de novo* review, we find that the petitioner failed to wait 28 days before making a determination to select a service provider for E-rate services. Thus, we deny this appeal on the ground that petitioner violated the Commission's competitive bidding 28-day rule.

[28] *Universal Service Contribution Methodology, Requests for Waiver of Decisions of the Universal Service Administrator by Ambess Enterprisesm Inc., et al.*, WC Docket No. 06-122, 25 FCC Rcd 3722 (WCB 2010) (dismissing several petitions for waiver of USAC decisions because subsequent USAC action has provided relief sought by petitioners).

[29] *Universal Service Contribution Methodology, Request for Review of Decision of Universal Service Administrator and Request for Waiver by CML Communications LLC*, WC Docket No. 06-122, Order, 26 FCC Rcd 335 (WCB 2011); *Universal Service Contribution Methodology, Request for Review of Decision of Universal Service Administrator and Request for Waiver by Alternative Phone, Inc.*, WC Docket No. 06-122, Order, 26 FCC Rcd 6079 (WCB 2011); *Universal Service Contribution Methodology, Request for Review of Decision of Universal Service Administrator by Dorial Telecom LLC*, WC Docket No. 06-122, Order, 26 FCC Rcd 3799 (WCB 2011) (all finding request procedurally defective for failure to comply with 47 CFR § 54.721).

Denial

Late 499-A Filing Fee Waiver Request[30]

Flatel Wireles, Inc. dba ZingPCS, Petition for Waiver, WC Docket 06-122 (filed Jan. 19, 2016)

Rural Health Care (RHC)
WC Docket No. 02-60

Grants

Invoice Deadline Extension Request[31]

Charles Cole Memorial Hospital, HCP No. 31776, FRN 1456059, WC Docket No. 02-60 (filed Dec. 29, 2015)

Failure to Comply with Invoicing Procedures[32]

AT&T Corporation, WC Docket No. 02-60 (filed June 3, 2011) (concerning Crawford Memorial Hospital and Health Services, HCP No. 10803, FRN 29817)

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[30] *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 (WCB 2010) (denying deadline waivers where claims of good cause amount to no more than simple negligence, errors by the petitioner, or circumstances squarely within the petitioner's control); *Universal Service Contribution Methodology, Requests for Waiver of Decisions of the Universal Service Administrator by ComScape Telecommunications of Raleigh-Durham, Inc. and Millennium Telecom, LLC*, WC Docket No. 06-122, Order, 25 FCC Rcd 7399 (WCB 2010) (denying waiver requests when negligence caused late filing fee); *Universal Service Contribution Methodology, Requests for Review of Decisions of the Universal Service Administrator by Achilles Networks, Inc., et al.*, WC Docket No. 06-122, Order, 25 FCC Rcd 4646, 4648-49, paras. 5, 8 (WCB 2010); *Federal-State Joint Board on Universal Service, Request for Review by National Network Communications, Inc.*, CC Docket No. 96-45, Order, 22 FCC Rcd 6783 (WCB 2007) (good cause not shown when filer claimed it did not have skilled personnel to interpret and correctly apply FCC 499 instructions).

[31] *See, e.g., Requests for Review of the Decisions of the Universal Service Administrator by Canon-McMillan School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 23 FCC Rcd 15555, 15558, para. 6 (WCB 2008) (granting relief to petitioners demonstrating good faith in complying with the invoicing deadline).

[32] We find that Crawford Memorial Hospital and Health Services (Crawford) is the party at fault in violating the Commission's invoicing procedures. We therefore direct USAC to discontinue its recovery actions against AT&T Corporation for FRN 29817 and seek recovery of funding from Crawford, the party at fault in violating the Commission's invoicing procedures. We also clarify that recovery of funds improperly disbursed under the rural health care support mechanism (i.e., the Telecommunications and Healthcare Connect Fund programs) shall be directed at the party or parties who have committed the statutory or rule violation, regardless of whether that party is a beneficiary or a service provider. *See, e.g., Schools and Libraries Fourth Report and Order*, 19 FCC Rcd 15252, 15255-57, paras. 10-15 (directing USAC to pursue recovery actions against the party or parties that violated the Commission's rules); *Request for Review of the Decision by the Universal Service Administrator by Bell South Telecommunications, Inc. and Union Parish School Board; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 11208 (WCB 2012) (seeking recovery of funding from the party that violated the Commission's rules); AT&T Petition.

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

- FCC -

NOTE 3

GILROY UNIFIED SCHOOL DISTRICT

7810 Arroyo Circle, Gilroy, CA 95020

March 11, 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" regarding FRN 2255018, 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	Gilroy Unified School District
Billed Entity Number	144283
Funding Year	2012-13
471 Number	830048
Funding Request Number	2255018
Service Provider / SPIN	Verizon California Inc. / 143004769
Reimbursement Requested	$141,564.38

Document Being Appealed: "Administrator's Decision on Invoice Deadline Extension Request" regarding FRN 2255018, issued on January 16, 2015[1]

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

Decision on Request: "This serves as acknowledgement and dismissal of your request for a deadline extension for the following FRNs"

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

Request for Waiver:

Gilroy Unified School District (the District) respectfully requests the Commission to waive its new policy on BEAR deadline extensions and instruct the Schools and Libraries Division's (SLD) to accept the District's 11/13/2014 Invoice Deadline Extension Request for FRN

[1] Email from Schools and Libraries Division, Universal Service Administrative Company (deadline@sl.universalservice.org), to Matthew Hetman (mhetman@erate360.com), eRate 360 Solutions (consultant for Gilroy USD), dated Friday, January 16, 2015; subject: "*Administrator's Decision on Invoice Deadline Extension Request*", regarding 18 FRNs including FRN 2255018.

2255018 in 471 application number 830048.[2] This will permit the service provider, Verizon California Inc. (Verizon) to submit a Form 474 (SPI) for reimbursement of $141,564.38 of E-rate discounts for this FRN. Because the District paid the full amount of the Verizon invoices, the SPI reimbursement will be a badly needed lump-sum credit to the District.

On 10/23/2014 the District's E-rate consultant, Matthew Hetman, submitted online BEAR # 2096134 for FRN 2255018[3] for Verizon's certification. Verizon refused to certify the BEAR form,[4] and on 10/23/2014 a Verizon agent explained to Mr. Hetman that they were obligated to submit a SPI for this type of FRN for a California school. In an email the same day the agent included a form for the District to complete and return to Verizon providing Verizon with information necessary to prepare a SPI form.[5]

Mr. Hetman completed the 3-page form and verified the information with the District, but was unable to provide the form to Verizon in time for Verizon to file their SPI form. Subsequently, on 11/13/2014, Mr. Hetman submitted the Invoice Deadline Extension Request.

The District was unaware the Verizon would not certify a BEAR form for FRN 2255018 – we do not know of any provision in the E-rate rules for Verizon's action. This refusal by Verizon – totally beyond the control of the District – is depriving the District of $141,564.38. Our BEAR form was filed sufficiently before the 10/28/2014 deadline to allow Verizon time to review and certify the BEAR. We respectfully request the Commission to waive its policy on BEAR deadline extensions so that Verizon can file a SPI for the $141,564.38 of discounts.

We thank the Commission for its consideration in this matter. 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[6]

Date: 3/11/15

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)

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[2] Email from the SLD to Matthew Hetman, eRate 360 Solutions consultant for Gilroy USD, on November 13, 2014, subject: "*SLD Inquiry #: 22- 694558 Received*", acknowledging SLD's receipt of Mr. Hetman's requested extension.

[3] FCC Form 472 # 2096134 for SPIN 143004769 (Verizon California Inc.), FRN 2255018 in Form 471 # 830048, submitted on 10/23/2014 8:29 AM by Gilroy USD; and email from the SLD to Matthew Hetman, eRate 360 Solutions consultant for Gilroy USD, on 10/23/2014 8:29 AM, subject: "*Online BEAR 2096134 successfully30submitted*".

[4] Email from the SLD to Matthew Hetman, eRate 360 Solutions consultant for Gilroy USD, and Whitney Hansen, Verizon California Inc., on October 23, 2014, subject: "*Online BEAR Certification Results*", reporting Verizon California Inc failure to certify FRN 2255018 in BEAR Invoice 2096134.

[5] Email from Whitney Hansen, Business Sales Support Specialist, Verizon, to Matthew Hetman, eRate 360 Solutions consultant for Gilroy USD, on October 23, 2014, subject: "*Verizon Data Gathering Form for FY2012 & FY2013 Gilroy US*"

[6] "Letter of Agency" from Alvaro Meza, Assistant Superintendent – Business Services for Gilroy Unified School District, authorizing employees of eRate 360 Solutions, LLC, to perform e-rate services on behalf of Gilroy USD.

NOTE 4

ELECTRONIC CODE OF FEDERAL REGULATIONS

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Title 47: Telecommunication

PART 54—UNIVERSAL SERVICE

Subpart I—Review of Decisions Issued by the Administrator

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§54.719 Parties permitted to seek review of Administrator decision.

(a) Any party aggrieved by an action taken by the Administrator, as defined in §54.701, §54.703, or §54.705, must first seek review from the Administrator.

(b) Any party aggrieved by an action taken by the Administrator, after seeking review from the Administrator, may then seek review from the Federal Communications Commission, as set forth in §54.722.

(c) Parties seeking waivers of the Commission's rules shall seek relief directly from the Commission.

NOTE 6

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 15-983

Released: August 31, 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. 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 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[3]

Gilroy Unified School District, Application No. 830048, Request for Waiver, CC Docket No. 02-6 (filed Mar. 11 2015)

Greater Albany Public School District, Application No. 846615, Request for Waiver, CC Docket No. 02-6 (filed Mar. 9, 2015)

Greenbrier County School District, Application No. 776848, Request for Waiver, CC Docket No. 02-6 (filed May 8, 2015)

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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 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).

[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] *See, e.g.*, *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, 30 FCC Rcd 4729, para. 2 (Wireline Comp. Bur. 2015) (dismissing an appeal that properly belongs before USAC pursuant to Commission rules).

Ventura County Office of Education, Application No. 838447, Request for Waiver, CC Docket No. 02-6 (filed Mar. 31, 2015)

Dismiss as Moot[4]

Orange County School District, Application No. 907743, Request for Review, CC Docket No. 02-6 (filed June 16, 2015)

Granted[5]

Invoice Deadline Extension Requests Less Than 12 Months Late[6]

Alta Vista Public Charter, Application No. 826515, Request for Review and/or Waiver, CC Docket No. 02-6 (filed May 22, 2015)

Ambassador Phillip V Sanchez Public Charter, Application No. 842059, Request for Review, CC Docket No. 02-6 (filed May 22, 2015)

Antelope Valley Learning Academy, Application No. 842096, Request for Review, CC Docket No. 02-6 (filed May 22, 2015)

Atlanta Public Schools, Application No. 859742, Request for Waiver, CC Docket No. 02-6 (filed June 19, 2015)

Blackhawk Christian Ministries, Application No. 856156, Request for Review and/or Waiver, CC Docket no. 02-6 (filed June 1, 2015)

CamNet, Inc. (Naa Tsis 'Aan Community School, Inc.), Application No. 871188, Request for Review, CC Docket No. 02-6 (filed May 18, 2015)

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[4] *See, e.g.*, *Requests for Review and/or Requests for Waiver of the Decisions of the Universal Service Administrator by Al Noor High School et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 8223 (Wireline Comp. Bur. 2012) (dismissing as moot requests for review where USAC approved the underlying funding request).

[5] 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).

[6] *See, e.g.*, *Requests for Review of the Decisions of the Universal Service Administrator by Canon-McMillan School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 23 FCC Rcd 15555, 15558, para. 6 (Wireline Comp. Bur. 2008) (granting relief to petitioners demonstrating good faith in complying with the invoicing deadline); *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).

Capital City Public Charter School, Application No. 838112, Request for Waiver, CC Docket No. 02-6 (filed June 22, 2015)

Cincinnati Hebrew Day School, Application No. 858580, Request for Review and/or Waiver, CC Docket No. 02-6 (filed June 1, 2015)

Cochise School District 26, Application No. 824159, Request for Review, CC Docket No. 02-6 (filed June 29, 2015)

Crescent View South Charter High School, Application No. 842165, Request for Review, CC Docket No. 02-6 (filed May 22, 2015)

Crescent View West Charter School, Application No. 842179, Request for Review, CC Docket No. 02-6 (filed May 22, 2015)

Desert Sands Charter High School, Application No. 842186, Request for Review, CC Docket No. 02-6 (filed May 22, 2015)

Diego Hills Public Charter, Application No. 842198, Request for Review, CC Docket No. 02-6 (filed May 22, 2015)

Diego Valley Public Charter, Application No. 842203, Request for Review, CC Docket No. 02-6 (filed May 22, 2015)

Diocese of Arlington E-rate Consortium, Application No. 868846, Request for Review, CC Docket No. 02-6 (filed June 1, 2015)

Economic Opportunities Council of Indian River County, Inc., Application No. 874525, Request for Review and/or Waiver, CC Docket No. 02-6 (filed May 26, 2015)

Entrepreneurship Preparatory School, Application Nos. 866613, 870992, 871362, 871750, 871919, 872069, 872221, 873138, 873708, Request for Review, CC Docket No. 02-6 (filed June 22, 2015)

Field Local School District, Application No. 855800, Request for Review and/or Waiver, CC Docket No. 02-6 (filed June 1, 2015)

Fort Wayne Community Schools, Application No. 837179, Request for Waiver, CC Docket No. 02-6 (filed Aug. 7, 2015)

Greater Lawrence Educational Collaborative, Application No. 824201, Request for Waiver, CC Docket No. 02-6 (filed June 22, 2015)

Holy Redeemer School, Application No. 866357, Request for Waiver, CC Docket No. 02-6 (filed June 26, 2015)

Howard County Public School System, Application No. 824031, Request for Waiver, CC Docket No. 02-6 (filed June 22, 2015)

Kansas City Unified School District 500, Application No. 865669, Request for Review, CC Docket no. 02-6 (filed June 8, 2015)

KIPP: Austin Public School, Application No. 868353, Request for Review, CC Docket No. 02-6 (filed July 28, 2015)

Lakewood City School District, Application Nos. 832076, 831518, Request for Review and/or Waiver, CC Docket No. 02-6 (filed June 2, 2015)

Lodi Unified School District, Application No. 824228, Request for Review, CC Docket No. 02-6 (filed May 18, 2015)

Manawa School District, Application No. 869892, Request for Review, CC Docket No. 02-6 (filed Feb. 20, 2015)

Mary Queen of Peace School, Application No. 865900, Request for Review and/or Waiver, CC Docket No. 02-6 (filed June 8, 2015)

Metro Catholic, Application No. 871583, Request for Review and/or Waiver, CC Docket No. 02-6 (filed June 8, 2015)

Mission View Public School, Application No. 842209, Request for Review, CC Docket No. 02-6 (filed May 22, 2015)

Morrison Community Unit School District, Application No. 910403, Request for Review, CC Docket No. 02-6 (filed July 28, 2015)

Our Lady of Mount Carmel School, Application No. 860246, Request for Review and/or Waiver, CC Docket No. 02-6 (filed June 1, 2015)

Raymond School District, Application No. 824056, Request for Review and/or Waiver, CC Docket No. 02-6 (filed June 1, 2015)

Springfield City School District, Application No. 832076, Request for Waiver, CC Docket No. 02-6 (filed May 28, 2015)

St. Adalbert School, Application No. 871914, Request for Review and/or Waiver, CC Docket No. 02-6 (filed June 8, 2015)

St. Francis School, Application No. 862837, Request for Review and/or Waiver, CC Docket No. 02-6 (filed June 8, 2015)

St. Ignatius Elementary School, Application No. 864972, Request for Waiver, CC Docket No. 02-6 (filed June 19, 2015)

St. Bernard – Mary Akron, Application No. 860144, Request for Waiver, CC Docket No. 02-6 (filed June 19, 2015)

St. Philip the Apostle School, Application No. 874569, Request for Review and/or Waiver, CC Docket No. 02-6 (filed June 8, 2015)

St. Stanislaus School, Application No. 860840, Request for Waiver, CC Docket No. 02-6 (filed June 26, 2015)

St. Thomas Aquinas School, Application No. 860971, Request for Review and/or Waiver, CC Docket No. 02-6 (filed June 8, 2015)

Syracuse City School District, Application Nos. 832121, 832114, Request for Review and/or Waiver, CC Docket No. 02-6 (filed June 1, 2015)

The Catholic Diocese of Kansas City-St. Joseph, Application No. 868052, Request for Review and/or Waiver, CC Docket No. 02-6 (filed June 8, 2015)

Vista Real Charter High School, Application No. 842214, Request for Review, CC Docket No. 02-6 (filed May 22, 2015)

Washington County School District, Application No. 843647, Request for Waiver, CC Docket No. 02-6 (filed June 22, 2015)

West Geauga Local School District, Application No. 832141, Request for Review, CC Docket No. 02-6 (filed June 17, 2015)

Yeshivat Ohr Hatorah, Application No. 832876, Request for Review and/or Waiver, CC Docket No. 02-6 (filed May 22, 2015)

Zenith Academy, Application Nos. 870277, 870343, Request for Waiver, CC Docket No. 02-6 (filed June 19, 2015)

Zenith Academy East, Application No. 869980, Request for Review and/or Waiver, CC Docket No. 02-6 (filed June 8, 2015)

Zenith Academy East, Application No. 870230, Request for Review and/or Waiver, CC Docket No. 02-6 (filed June 8, 2015)

Late-Filed FCC Form 471 Applications Filed within 14 days of the Close of the Window[7]

Bright Beginnings for Kittitas County, Application Nos. 1051731, 1051732, Request for Waiver, CC Docket No. 02-6 (filed June 8, 2015)

Deer Park Public Library, Application No. 1051800, Request for Waiver, CC Docket No. 02-6 (filed July 1, 2015)

Failure to Consider Price as the Primary Factor in Vendor Selection Process[8]

[7] *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).

Duval County School District, Application No. 897880, Request for Review and/or Waiver, CC Docket No. 02-6 (filed July 28, 2014)

Duval County School District, Application No. 907451, Request for Review and/or Waiver, CC Docket No. 02-6 (filed July 28, 2014)

Allowing Installation of Internal Connections from Separate Vendor[9]

Charlotte-Mecklenburg County Schools, Application No. 846786, Request for Review and/or Waiver, CC Docket No. 02-6 (filed Sept. 4, 2013)

Knox County Schools, Application No. 796288, Request for Review and/or Waiver, CC Docket No. 02-6 (filed Nov. 4, 2013)

Montgomery County Public Schools, Application No. 863822, Request for Review and/or Waiver, CC Docket No. 02-6 (filed Sept. 23, 2013)

Northside Urban Pathways Charter School, Application No. 781127, Request for Review and/or Waiver, CC Docket No. 02-6 (filed May 4, 2012)

Zenith Academy, Application No. 632178, Request for Review and/or Waiver, CC Docket No. 02-6 (filed Aug. 19, 2014)

Denied

(Continued from previous page)

[8] *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, 6116-17, para. 11 (Wireline Comp. Bur. 2011) (granting waiver of sections 54.503(c)(2)(vii) and 54.511(a) of the Commission's rules, which require applicants to use price as the primary factor in the vendor selection process, where applicant ultimately selected the lowest qualified vendor from the state master contract).

[9] *See Schools and Libraries Universal Service Support Mechanism; A National Broadband Plan for Our Future; Modernizing the E-rate Program for Schools and Libraries*; CC Docket No. 02-6, GN Docket No. 09-51, WC Docket No. 13-184, Order, 29 FCC Rcd 13404, 13411, para. 18 (Wireline Comp. Bur. 2014) (clarifying that the eligible services list does not bar applicants from purchasing equipment and securing installation of that equipment from separate vendors). 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 Knox County Schools. *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) (waiving the filing deadline for petitioners that submitted their appeals to the Commission or USAC only a few days late).

FCC Form 470 with Inadequate Specificity and No Indication of Request for Proposal (RFP) on Services Being Sought[10]

Duval County School District, Application No. 918481, Request for Review and/or Waiver, CC Docket No. 02-6 (filed July 28, 2014)

Invoice Deadline Extension Requests Less Than 12 Months Late[11]

Bourbonnais School District 53, Application Nos. 859201, 864678, Request for Review, CC Docket No. 02-6 (filed June 29, 2015)

Intelligent Networks, Inc. (Global Leadership Academy Charter School), Application Nos. 753898, 754493, 813705, Request for Review, CC Docket No. 02-6 (filed May 6, 2014)

Greenwood County School District 50, Application Nos. 628321, 687788, Request for Waiver, CC Docket No. 02-6 (filed June 3, 2013)

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[10] *See, e.g.*, *Request for Review of the Decision of the Universal Service Administrator by Ysleta Independent School District et al.; 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, 18 FCC Rcd 26406, 26410, para. 7 (2003); *Requests for Review of a Decision of the Universal Service Administrator by Riverdale Unified School District and Cherokee County School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 11207 (Wireline Comp. Bur. 2011); *Request for Review of a Decision of the Universal Service Administrator by Ramirez Common School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 8430 (Wireline Comp. Bur. 2011); *Request for Review of a Decision of the Universal Service Administrator by Washington Unified School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 28 FCC Rcd 13746, 13748, paras. 3-5 (Wireline Comp. Bur. 2013) (all explaining that failure by an applicant to describe with specificity the services it is seeking to purchase on its FCC Form 470 or to indicate on the FCC Form 470 that it has a RFP available providing detail about the requested services violates the E-rate program's competitive bidding rules).

We also deny the appeal on two additional bases. First, the petitioner violated the competitive bidding 28-day rule when it selected its vendor six days prior to the closing of 28-day bidding period. *See, e.g., Request for Review of Decisions of the Universal Service Administrator by Joseph M. Hill, Trustee in Bankruptcy For Lakehills Consulting, LP; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 16586 (2011) (denying appeal where evidence demonstrated that applicant selected a winning bidder before expiration of the 28-day bidding period, in violation of competitive bidding rules). Second, good cause does not exist to justify waiver of the signed contract rule because the petitioner did not have a legally binding agreement in place at the time it filed its FCC Form 471. Rather, the evidence demonstrates that at the time the petitioner filed its FCC Form 471, it had not yet finalized the contract terms and conditions. *See, e.g., Request for Review by Waldwick School District; Schools and Libraries Universal Service Support Mechanisms*, CC Docket No. 02-6, Order, 18 FCC Rcd 22994, 22996-97, para. 8 (Wireline Comp. Bur. 2003) (*Waldwick Order*) (denying appeal because there was no binding contract in place for the E-rate funding requested when the FCC Form 471 application was submitted). USAC also denied this application after finding that price was not the primary factor in bidding selection. We recognize that the petitioner seeks a waiver of this rule. However, we do not reach petitioner's waiver request at this time because we deny this appeal based on the RFP issue, the 28-day bidding rule, and the signed contract issue.

[11] *See, e.g.*, *Requests for Waiver or Review of Decisions of the Universal Service Administrator by Hancock County Library System et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 30 FCC Rcd 4723, 4726-27, para. 10 (Wireline Comp. Bur. 2015) (*Hancock County Library Order*) (denying requests for invoice deadline extensions from funding years prior to 2014 less than 12 months late that failed to provide a "reasonable basis" for a substantial delay).

Webb City School District R-VII, Application No. 864169, Request for Review, CC Docket No. 02-6 (filed June 23, 2015)

Invoice Deadline Extension Requests More Than 12 Months Late[12]

Bourbonnais School District 53, Application Nos. 164131, 584151, 636206, 694010, 758841, Request for Review, CC Docket No. 02-6 (filed June 29, 2015)

Diocese of Syracuse – Western Region, Application Nos. 474624, 511267, 554312, 554321, 597041, 597042, 663936, 664190, 665776, 726009, Request for Review, CC Docket No. 02-6 (filed July 29, 2013)

Eaton County Intermediate School District, Application No. 742223, Request for Waiver, CC Docket No. 02-6 (filed July 21, 2014)

Fair Grove School District R10, Application Nos. 626879, 682135, 753818, Request for Review, CC Docket No. 02-6 (filed July 8, 2013)

Florence City School District, Application No. 682646, Request for Review and Waiver, CC Docket No. 02-6 (filed Aug. 2, 2013)

Greenwood County School District 50, Application No. 745703, Request for Waiver, CC Docket No. 02-6 (filed June 3, 2013)

McKeesport Area School District, Application No. 602465, Request for Review and Waiver, CC Docket No. 02-6 (filed Aug. 14, 2013)

Seneca R-7 School District, Application No. 796098, Request for Waiver, CC Docket No. 02-6 (filed June 26, 2014)

St. Raymond High School for Boys, Application Nos. 572072, 613074, 749777, 813455, Request for Review, CC Docket No. 02-6 (filed Aug. 1, 2013)

Summit Academy, Application No. 637660, Request for Waiver, CC Docket No. 02-6 (filed June 19, 2014)

Late-Filed FCC Form 471 Applications[13]

Cartwright Memorial Library, Application No. 1051932, Request for Waiver, CC Docket No. 02-6 (filed July 21, 2015)

Crystal City School District 47, Application Nos. 1052431, 1052435, 1052436, 1052437, 1052438, Request for Waiver, CC Docket No. 02-6 (filed July 27, 2015)

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[12] *See, e.g.*, *Hancock County Library Order*, 30 FCC Rcd at 4726, para. 9 (denying requests for invoice extensions from funding years prior to 2014 that failed to demonstrate "extraordinary circumstances" that would justify filing invoice extension requests more than 12 months late).

[13] *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).

Early View Academy of Excellence, Application Nos. 1051853, 1051837, Request for Waiver, CC Docket 02-6 (filed July 8, 2015)

Hankinson School District 8, Application No. 1052292, Request for Waiver, CC Docket 02-6 (filed July 14, 2015)

Lakeland R-III School District, Application No. 1052131, Request for Waiver, CC Docket 02-6 (filed July 14, 2015)

Sacred Heart Elementary School - Lewistown, Application No. 1051811, Request for Waiver, CC Docket 02-6 (filed July 14, 2015)

Reinstating Cancelled Funding Requests[14]

St. Gerard Majella School, Application No. 855984, Request for Review, CC Docket No. 02-6 (filed Apr. 3, 2013)

Signed Contract Requirement[15]

Duval County School District, Application No. 918393, Request for Review and/or Waiver, CC Docket No. 02-6 (filed July 28, 2014)[16]

Untimely Filed Request for Review[17]

Babove JIQ, Application No. 911791, Request for Waiver, CC Docket No. 02-6 (filed Aug. 7, 2014)

High Island School District, Application No. 823465, Request for Waiver, CC Docket 02-6 (filed Aug. 10, 2015)

Hispanic Information and Telecommunications Network, Inc. (Biblioteca Municipal Rincon, Luis Murioz Marin et al.), Application Nos. 327608, 329315, 329323, 329675, 329773, 329978,

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[14] *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, 11793, para. 4 (Wireline Comp. Bur. 2014) (denying a request to reinstate funding purposefully canceled by the applicant).

[15] *See, e.g., Waldwick Order*, 18 FCC Rcd at 22996-97, para. 8 (denying appeal because there was no binding contract in place for the E-rate funding requested when the FCC Form 471 application was submitted).

[16] USAC also denied this application after finding that price was not the primary factor in bidding selection. We recognize that the petitioner seeks a waiver of this rule. However, we do not reach petitioner's waiver request at this time because we deny this appeal based on the signed contract issue.

[17] *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).

Request for Waiver, CC Docket No. 02-6 (filed June 5, 2015)[18]

Palm Beach Seventh-Day Bilingual School, Application No. 907224, Request for Review, CC Docket No. 02-6 (filed June 8, 2015)

Roxbury Library Association, Application No. 994050, Request for Review, CC Docket 02-6 (filed Aug. 17, 2015)

St. Joseph School for the Deaf, Application No. 937026, Request for Review, CC Docket No. 02-6 (filed July 15, 2015)

Discount Calculation Correction[19]

Providence School District, Application No. 842064, Request for Review, CC Docket No. 02-6 (filed Dec. 7, 2012)

Contribution Methodology
WC Docket No. 06-122
CC Docket No. 96-45
CC Docket No. 97-21

Remand to USAC

Further Consideration of Wholesale-Resale Relationship[20]

Grande Communications Networks, LLC, Request for Review, WC Docket No. 06-122 (filed Dec. 28, 2009)

McLeodUSA Telecommunications Services, Inc., Request for Review, CC Docket No. 96-45, 97-21 (filed Oct. 1, 2007)

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[18] Hispanic Information and Telecommunications Network, Inc. (Biblioteca Municipal Rincon, Luis Murioz Marin et al.) argues that it timely filed its appeal with USAC in relation to the date on the invoice rejection letters it received. We find that its appeal is still untimely, however, since it was filed more than 190 days late in relation to the FCC Form 486 Notification Letter actually rendering the adverse decision that led to the invoice denials. *See, e.g., Requests for Waiver and/or Review of Decisions of the Universal Service Administrator by Baltimore County Public Schools et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 9043, para. 1 (2012) (noting that the appeal filing deadline is based on the initial adverse decision date and not the date of subsequent actions taken by USAC).

[19] *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Beth Rivka School et al.; Schools and Libraries Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 10653, 10662, para. 20 (Wireline Comp. Bur. 2010) (denying applicant requests to remove entities with lower discount rates from applications so as to raise the applicant's average discount rate above the funding threshold).

[20] *Universal Service Contribution Methodology; Application for Review of Decision of the Wireline Competition Bureau filed by Global Crossing Bandwidth, Inc., Request for Review of the Decision of the Universal Service Administrator and Emergency Petition for Stay by U.S. TelePacific Corp. d/b/a TelePacific Communications, XO Communications Services, Inc. Request for Review of Decision of the Universal Service Administrator; Universal Service Administrative Company Request for Guidance*, WC Docket No. 06-122, Order, 27 FCC Rcd 13780 (2012) (providing guidance to Universal Service Administrative Company on how to proceed when considering revenue classification in the context of the wholesale-resale relationship). This remand to USAC is limited to the wholesale-resale relationship issues raised in these two appeals.

Granted

End-User DSL Internet Access[21]

McLeodUSA Telecommunications Services, Inc. Request for Review of Decision by Universal Service Administrator, CC Docket No. 96-45, 97-21 (filed Oct. 1, 2007)[22]

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

- FCC -

[21] *Appropriate Framework for Broadband Access to Internet over Wireline Facilities et al.*, CC Docket Nos. 02-33, 95-20, and 98-10, Notice of Proposed Rulemaking, 17 FCC Rcd 3019, 3051-52, para. 72 (2002) (explaining that wireline telecommunications carriers are required to contribute to universal service only to the extent they provide broadband transmission services or other telecommunications services on a stand-alone basis); *Appropriate Framework for Broadband Access to the Internet over Wireline Facilities*, *et al.*, CC Docket No. 02-33, 01-337, 95-20, 98-10, WC Docket Nos. 04-242 and 05-271, Report and Order and Notice of Proposed Rulemaking, 20 FCC Rcd 14853, 14872, para. 31 (explaining that Computer II unbundling obligations do not apply to facilities-based enhanced service providers other than traditional wireline carriers); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report to Congress, 13 FCC Rcd 11501, 11530, para. 60 (1998) (stating that "offerings by non-facilities-providers combining communications and computing components should always be deemed enhanced.").

[22] In reversing USAC's decision, we direct USAC to adjust McLeodUSA Telecommunications, Inc.'s invoices with respect to its end-user DSL Internet access revenues, to reverse any associated interest, fees, and penalties, and to issue a refund as appropriate.

NOTE 7

GILROY UNIFIED SCHOOL DISTRICT

7810 Arroyo Circle, Gilroy, CA 95020

September 25, 2015

Letter of Appeal

Schools and Libraries Division – Correspondence Unit
30 Lanidex Plaza West
PO Box 685
Parsippany, NJ 07054-0685

Re: FCC Public Notice - Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company (DA 15-983, released 8/31/2015) regarding Gilroy Unified School District, Application No. 830048, Request for Waiver, CC Docket No. 02-6 (filed Mar. 11, 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	Gilroy Unified School District
Billed Entity Number	144283
Funding Year	2012-13
471 Number	830048
Funding Request Number	2255018
Service Provider / SPIN	Verizon California Inc. / 143004769
Reimbursement Requested	$141,564.38

In their notice of 8/31/2015, the FCC determined that this appeal "*properly belongs before USAC pursuant to Commission rules.*"[1] In compliance with the FCC's decision, we are submitting this appeal to SLD for their consideration. Please note that this appeal was originally submitted to the FCC in the belief that it required a waiver of FCC rules which could only be granted by the Commission. We ask the SLD to now accept this appeal, with the hope that they will extend the deadline for invoicing USAC for FRN 2255018, thereby allowing Verizon California to submit a Form 474 for reimbursement of $141,564.38 to Gilroy Unified School District.

Appeal:

Gilroy Unified School District (the District) respectfully requests the SLD to accept the District's 11/13/2014 Invoice Deadline Extension Request for FRN 2255018 in 471 application number 830048.[2] This will permit the service provider, Verizon California Inc.

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[1] FCC Public Notice - Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company (DA 15-983, released 8/31/2015), p.1, footnote 3.

[2] Email from the SLD to Matthew Hetman, eRate 360 Solutions consultant for Gilroy USD, on November 13, 2014, subject: "*SLD Inquiry #: 22- 694558 Received*", acknowledging SLD's receipt of Mr. Hetman's requested extension.

(Verizon) to submit a Form 474 (SPI) for reimbursement of $141,564.38 of E-rate discounts for this FRN. Because the District paid the full amount of the Verizon invoices, the SPI reimbursement will be a badly needed lump-sum credit to the District.

On 10/23/2014 the District's E-rate consultant, Matthew Hetman, submitted online BEAR # 2096134 for FRN 2255018[3] for Verizon's certification. Verizon refused to certify the BEAR form,[4] and on 10/23/2014 a Verizon agent explained to Mr. Hetman that they were obligated to submit a SPI for this type of FRN for a California school. In an email the same day the agent included a form for the District to complete and return to Verizon providing Verizon with information necessary to prepare a SPI form.[5]

Mr. Hetman completed the 3-page form and verified the information with the District, but was unable to provide the form to Verizon in time for Verizon to file their SPI form. Subsequently, on 11/13/2014, Mr. Hetman submitted the Invoice Deadline Extension Request.

The District was unaware the Verizon would not certify a BEAR form for FRN 2255018 – we do not know of any provision in the E-rate rules for Verizon's action. This refusal by Verizon – totally beyond the control of the District – is depriving the District of $141,564.38. Our BEAR form was filed sufficiently before the 10/28/2014 deadline to allow Verizon time to review and certify the BEAR. We respectfully request the SLD to extend the deadline for invoicing USAC for FRN 2255018 so that Verizon can file a SPI for the $141,564.38 of discounts.

We thank the SLD for its consideration in this matter. We are available to respond to questions or to provide any further information requested by the SLD in its review of this appeal.

Authorized signature for this Appeal[6]

Richard Larson

Date: 9/25/15

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)

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[3] FCC Form 472 # 2096134 for SPIN 143004769 (Verizon California Inc.), FRN 2255018 in Form 471 # 830048, submitted on 10/23/2014 8:29 AM by Gilroy USD; and email from the SLD to Matthew Hetman, eRate 360 Solutions consultant for Gilroy USD, on 10/23/2014 8:30 AM, subject: "*Online BEAR 2096134 successfully30submitted*".

[4] Email from the SLD to Matthew Hetman, eRate 360 Solutions consultant for Gilroy USD, and Whitney Hansen, Verizon California Inc., on October 23, 2014, subject: "*Online BEAR Certification Results*", reporting Verizon California Inc. failure to certify FRN 2255018 in BEAR Invoice 2096134.

[5] Email from Whitney Hansen, Business Sales Support Specialist, Verizon, to Matthew Hetman, eRate 360 Solutions consultant for Gilroy USD, on October 23, 2014, subject: "*Verizon Data Gathering Form for FY2012 & FY2013 Gilroy US*"

[6] "Letter of Agency" from Alvaro Meza, Assistant Superintendent – Business Services for Gilroy Unified School District, authorizing employees of eRate 360 Solutions, LLC, to perform e-rate services on behalf of Gilroy USD.

NOTE 8

Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2012-2013

November 17, 2015

Richard Larson
Erate 360 Solutions, Llc
322 Route 46w, Suite 280w
Parsippany, NJ 07054

Re:	Applicant Name:	GILROY UNIFIED SCHOOL DISTRICT
	Billed Entity Number:	144283
	Form 471 Application Number:	830048
	Funding Request Number(s):	2255018
	Decision Letter Date:	December 23, 2014
	Date Appeal Postmarked:	September 25, 2015
	Your Correspondence Dated:	September 25, 2015

Our records show that your appeal was postmarked more than 60 days after the date your Administrator's Decision on Invoice Deadline Extension Request Letter was issued, as shown above. Federal Communications Commission (FCC) rules require applicants to postmark appeals within 60 days of the date on the decision letter being appealed. FCC rules do not permit the Universal Service Administrative Company (USAC) to consider your appeal.

If you believe there is a basis for further examination of your application, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be postmarked within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found under the Reference Area/"Appeals" of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

Schools and Libraries Division
Universal Service Administrative Company

Richard Larson
Erate 360 Solutions, Llc
322 Route 46w, Suite 280w
Parsippany, NJ 07054

Billed Entity Number:	144283
Form 471 Application Number:	830048
Form 486 Application Number:	

NOTE 9

mgh

From: no-reply@solixinc.com
Sent: Thursday, October 23, 2014 11:53 AM
To: whitney.hansen@verizon.com; MHETMAN@ERATE360.COM
Subject: Online BEAR Certification Results

The Service Provider for BEAR Invoice 2096134 has certified 0 out of 1 line items.
If some of your items were not certified, you are advised to contact the Service Provider.

Bear Certification Date: 10/23/2014

View Bear Form Status

NOTE 10

mgh

From: Hansen, Whitney R <whitney.hansen@verizon.com>
Sent: Thursday, October 23, 2014 11:39 AM
To: mhetman@erate360.com
Subject: Verizon Data Gathering Form for FY2012 & FY2013 Gilroy USD
Attachments: 471 DGF E-RATE 2012 (FY15)[R].doc; 471 DGF E-RATE 2013 (FY16).doc

Mr. Hetman,

Attached please find Verizon's data gathering forms for FY2012 & FY2013.
Please fill out the forms and return them to me as soon as possible.

I will process the refund request, as soon as the extensions are approved.

Please call me if you have any questions.

Thank you,

Whitney Hansen
Business Sales Support Specialist
E-rate Customer Support | Network Field Ops
Verizon Global Network Service Delivery & Assurance
Office: (866) 483-8858| Fax: (805) 375-9154

NOTE 11

Letter of Agency

Gilroy Unified School District
Billed Entity Number: 144283

Letter of Agency For FY 15 (2012 - 2013) and FY16 (2013-2014)

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 John Harvey 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 **Gilroy Unified School 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 **Gilroy Unified School District**. 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** is 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 priority two services. 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 **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.

(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: Gilroy Unified School District

Date: Feb 1, 2012

Signature:

Printed Name: Alvaro Meza

Title: Assistant Supt., Business Services