

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
Request for Review by Sprint Local of Decision)
of the Schools and Libraries Division of the)
Universal Service Administrative Company) CC Docket No. 02-6
)
Administrator's Decision on Appeal)
Funding Year 2001-2002)
Re: Hampton County School District 2, Estill, SC)
Form 471 Application Numbers: 234858, 234895,)
234919, and 234944)
Billed Entity Numbers: 31937 and 31938)
Funding Request Numbers: 593824, 593970,)
593703, 593580 and 593604)

APPEAL OF SPRINT LOCAL TELEPHONE COMPANIES

Sprint Local Telephone Companies, pursuant to Section 54.719 of the Commission's Rules, hereby respectfully submits an appeal of the decisions of the Administrator of the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) regarding the above-referenced Funding Request Numbers (FRNs).¹ As described below, the Hampton County School District 2 ("Hampton 2") did file its Form 486 after the prescribed deadline; however, this oversight was attributable in significant part to the disarray which resulted from the tragic death of Hampton 2's E-rate coordinator.

1. Background

Because the reduction in Hampton 2's E-rate approved funding was based on a missed deadline, Sprint offers below a chronology of events.

¹ The *USAC Appeal Decisions*, all dated January 22, 2004, are included as Attachment 1.

September 4, 2001: USAC released Funding Commitment Decision Letters (FCDLs) approving Hampton 2's request for internal connections services to be provided by Sprint for Estill Elementary School and Estill Middle School.

October 31, 2001: Hampton 2's E-rate coordinator, Amy Joyce Nix, was killed in an automobile accident.

September 2002: Sprint completed installation of the internal connections projects for Hampton 2 (actual service start dates were September 7, 2002 and September 26, 2002).

March 25, 2003: Hampton 2 submitted Form 486s for Estill Elementary School and Estill Middle School. These forms should have been filed by January 2003, 120 days after the September 2002 service start dates.

April 9, 2003: USAC issued Form 486 Notification Letters adjusting the service start dates to March 25, 2003, reducing the approved E-rate funding accordingly.

September 24, 2003: Hampton 2 filed an appeal of the Form 486 Notification Letter, asking that USAC "revis[e] the Service Start Date to September, 2002," so that Hampton 2 might collect its Funding Year 2001 award.

January 22, 2004: USAC issued four "Decision on Waiver Request" letters (Attachment 1), stating that USAC was not permitted to consider requests for waiver. It is these decisions which are the subject of the instant appeal.²

2. Relief Requested

As an initial matter, Sprint does not dispute the validity or the need for administrative rules establishing deadlines for paperwork submissions. Given the volume

² Although USAC dismissed Hampton 2's "request for waiver," Hampton 2's filing should more properly have been treated as an appeal of USAC's Form 486 Notification Letters (which adjusted the service start dates).

of applications and other forms submitted, it is obvious that the E-rate program cannot be efficiently administered without a schedule of prescribed due dates. However, the Commission has authority to suspend, waive, or amend its rules for good cause,³ and Courts have held that good cause exists to waive a Commission rule if special circumstances warrant a deviation from the general rule, and such a deviation will serve the public interest.⁴

Good cause exists in this case to waive the rules relating to the Form 486 filing due date. There is no dispute that the internal connection products at issue here were eligible for E-rate funding, or that Hampton 2 is an eligible educational institution; rather, the issue here is whether it is reasonable to penalize Hampton 2 for a missed deadline, given the extenuating circumstances in which it found itself. Sprint believes such penalty is not reasonable. Hampton 2 is a small and quite poor (90% discount) school district, and it lacked the resources to hire multiple people to administer its E-rate projects. Thus, when Hampton 2's E-rate coordinator was killed, there simply was no other person on staff who had the knowledge and training to step into her job and ensure that the requisite forms were filed in a timely manner. Indeed, this position remained unfilled for many months after Ms. Nix's death because of the limited pool of qualified applicants in this rural school district.

Grant of the instant appeal is in the public interest. As is true for many school districts, Hampton 2 is facing severe budget limitations and is relying heavily upon E-rate funds to help pay for the facilities installed by Sprint. If Hampton 2 does not receive these E-rate funds, it will be forced to forego some other worthwhile project intended to

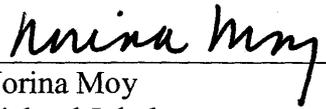
³ 47 C.F.R. Section 1.3.

⁴ See *WAIT Radio V. FCC*, 418 F.2d 1153 (D.C. Cir. 1969); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164 (D.C. Cir. 1990).

improve the educational environment for its students. The Commission should therefore grant this appeal, and direct USAC to approve E-rate funding for FRNs 593824, 593970, 593703, 593580 and 593604 based upon a September 2002 service start date.

Respectfully submitted,

SPRINT LOCAL TELEPHONE CO.



Norina Moy
Richard Juhnke
401 9th St., NW, Suite 400
Washington, DC 20004
(202) 585-1915

March 19, 2004

Attachment 1



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Waiver Request

January 22, 2004

Dennis Thompson, Jr.
Estill Elementary School
319 4th Street, P.O. Box 1028
Estill, SC 29918

RECEIVED
JAN 23 2004

Re: Your Request for Waiver of the Form 486 filing deadline
For Program Year 2001-2002

SUPT'S OFFICE
HAMPTON SCHOOL DIST. #2

Application Number: 234858
Billed Entity: 31938
Your Correspondence Dated: 9/24/2003

The Schools and Libraries Division received your request, cited above, for a waiver of the Form 486 filing deadline for the Schools and Libraries Universal Service Support Mechanism (E-Rate).

Federal Communications Commission (FCC) rules do not permit the Schools and Libraries Division (SLD) to consider requests for waivers.

If you believe there is a basis for further examination of your request, you may file a waiver request with the FCC. You should refer to CC Docket No. 02-6 on the first page of your waiver request to the FCC. If you are submitting your waiver request 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 a waiver request with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau via e-mail at question@universalservice.org, toll-free via fax at 1-888-276-8736 or toll-free via phone at 1-888-203-8100. We strongly recommend that you use the electronic filing options.

Schools and Libraries Division
Universal Service Administrative Company



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Waiver Request

January 22, 2004

Dennis Thompson, Jr.
Estill Elementary School
319 4th Street, P.O. Box 1028
Estill, SC 29918

RECEIVED
JAN 26 2004

SUPT'S OFFICE
HAMPTON SCHOOL DIST. #2

Re: Your Request for Waiver of the Form 486 filing deadline
For Program Year 2001-2002

Application Number: 234895
Billed Entity: 31938
Your Correspondence Dated: 9/24/2003

The Schools and Libraries Division received your request, cited above, for a waiver of the Form 486 filing deadline for the Schools and Libraries Universal Service Support Mechanism (E-Rate).

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Schools and Libraries Division
Universal Service Administrative Company



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Waiver Request

January 22, 2004

Dennis Thompson, Jr.
Estill Middle School
319 4th Street, P.O. Box 1028
Estill, SC 29918

RECEIVED
JAN 26 2004

Re: Your Request for Waiver of the Form 486 filing deadline
For Program Year 2001-2002

SUPT'S OFFICE
HAMPTON SCHOOL DIST. #2

Application Number: 234919
Billed Entity: 31937
Your Correspondence Dated: 9/24/2003

The Schools and Libraries Division received your request, cited above, for a waiver of the Form 486 filing deadline for the Schools and Libraries Universal Service Support Mechanism (E-Rate).

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If you believe there is a basis for further examination of your request, you may file a waiver request with the FCC. You should refer to CC Docket No. 02-6 on the first page of your waiver request to the FCC. If you are submitting your waiver request 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 a waiver request with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau via e-mail at question@universalservice.org, toll-free via fax at 1-888-276-8736 or toll-free via phone at 1-888-203-8100. We strongly recommend that you use the electronic filing options.

Schools and Libraries Division
Universal Service Administrative Company



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Waiver Request

January 22, 2004

Dennis Thompson, Jr.
Estill Middle School
319 4th Street, P.O. Box 1028
Estill, SC 29918

RECEIVED
JAN 26 2004

Re: Your Request for Waiver of the Form 486 filing deadline
For Program Year 2001-2002

SUPT'S OFFICE
HAMPTON SCHOOL DIST. #2

Application Number: 234944
Billed Entity: 31937
Your Correspondence Dated: 9/24/2003

The Schools and Libraries Division received your request, cited above, for a waiver of the Form 486 filing deadline for the Schools and Libraries Universal Service Support Mechanism (E-Rate).

Federal Communications Commission (FCC) rules do not permit the Schools and Libraries Division (SLD) to consider requests for waivers.

If you believe there is a basis for further examination of your request, you may file a waiver request with the FCC. You should refer to CC Docket No. 02-6 on the first page of your waiver request to the FCC. If you are submitting your waiver request 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 a waiver request with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau via e-mail at question@universalservice.org, toll-free via fax at 1-888-276-8736 or toll-free via phone at 1-888-203-8100. We strongly recommend that you use the electronic filing options.

Schools and Libraries Division
Universal Service Administrative Company

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **APPEAL OF SPRINT LOCAL TELEPHONE COMPANIES** was filed by electronic mail on this the 19th day of March, 2004 to the below-listed parties.


Christine Jackson

March 19, 2004

William Maher, Chief
Wireline Competition Bureau
Federal Communications Commission
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Washington, DC 20554

Narda Jones, Esq.
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Dennis Thompson
Superintendent
Hampton County School District 2
319 4th Street
Estill, SC 29918