

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of )  
 )  
 Request for Review of the )  
 Decision of the )  
 Universal Service Administrator by )  
 )  
 Bishop Perry Middle School )  
 New Orleans, LA, *et al.* )  
 )  
 Schools and Libraries Universal Service )  
 Support Mechanism )

MAILED

MAY 22 2006

FCC Mail Room

File Nos. SLD-487170, *et al.*

CC Docket No. 02-6

**ORDER**

Adopted: May 2, 2006

Released: May 19, 2006

By the Commission: Commissioner Copps issuing a separate statement.

**I. INTRODUCTION**

1. In this Order, we grant 196 appeals of decisions by the Universal Service Administrative Company (USAC) concerning the schools and libraries universal service support mechanism (also known as the E-rate program) denying funding due to certain clerical or ministerial errors in the application, *i.e.*, a failure to timely file an FCC Form 471, a failure to timely file a certification related to an FCC Form 470, or a failure to comply with minimum processing standards.<sup>1</sup> As explained below, we find that special circumstances exist to justify a waiver of the Commission's rules, and, accordingly, we grant these appeals and remand the underlying applications associated with these appeals to USAC for further action consistent with this Order. To ensure that the underlying applications are resolved expeditiously, we direct USAC to complete its review of each application listed in the Appendices, and issue an award or a denial based on a complete review and analysis, no later than 60 days from release of this Order. In addition, we direct USAC to modify its application review procedures as of the effective date of this Order to better inform applicants of approaching FCC Form 486 filing deadlines and also provide a 15-day opportunity to file the form if the applicant has missed the deadline.

2. As we recently noted, many E-rate program beneficiaries, particularly small entities, contend that the application process is complicated, resulting in a significant number of applications for E-rate support being denied for ministerial, clerical or procedural errors.<sup>2</sup> We find that the actions we

<sup>1</sup> In this Order, we use the term "appeals" to generically refer to requests for review of decisions, or waivers related to such decisions, issued by the Commission, the Wireline Competition Bureau, or the Administrator. A list of these pleadings is attached as Appendices A-C. One of the appeals is a petition for reconsideration of a Commission order filed by the Information Technology Department of the State of North Dakota.

<sup>2</sup> *Comprehensive Review of Universal Service Fund Management, Administration, and Oversight, Federal-State Joint Board on Universal Service, Schools and Libraries Universal Service Support Mechanism, Rural Health Care Support Mechanism, Lifeline and Linkup, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, WC Docket Nos. 05-195, 02-60, 03-109, CC Docket Nos. 96-45, 02-6, 97-21, Notice of Proposed

take here to provide relief from these types of errors in the application process will promote the statutory requirements of section 254(h) of the Communications Act of 1934, as amended (the Act), by helping to ensure that eligible schools and libraries actually obtain access to discounted telecommunications and information services.<sup>3</sup> In particular, we believe that by directing USAC to modify certain application processing procedures and granting a limited waiver of our application filing rules, we will provide for a more effective application processing system that will ensure eligible schools and libraries will be able to realize the intended benefits of the E-rate program as we consider additional steps to reform and improve the E-rate program.<sup>4</sup> Requiring USAC to take these additional steps will not reduce or eliminate any application review procedures or lessen the program requirements that applicants must comply with to receive funding. Indeed, we retain our commitment to detecting and deterring potential instances of waste, fraud, and abuse by ensuring that USAC continues to scrutinize applications and takes steps to educate applicants in a manner that fosters program participation. We also emphasize that our actions taken in this Order should have minimal effect on the overall federal Universal Service Fund (USF or the Fund), because the monies needed to fund these appeals have already been collected and held in reserve.<sup>5</sup>

## II. BACKGROUND

3. Under the E-rate program, eligible schools, libraries, and consortia that include eligible schools and libraries may apply for discounts for eligible telecommunications services, Internet access, and internal connections. The E-rate application process generally begins with a technology assessment and a technology plan.<sup>6</sup> After developing the technology plan, the applicant must file the FCC Form 470 (FCC Form 470) to request discounted services such as tariffed telecommunications services, month-to-month Internet access, cellular services, or paging services, and any services for which the applicant is seeking a new contract.<sup>7</sup> The FCC Form 470 must be posted on USAC's schools and libraries division website for at least 28 days.<sup>8</sup> The applicant must then comply with the Commission's competitive

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Rulemaking and Further Notice of Proposed Rulemaking, 20 FCC Rcd 11308 (2005) (*Comprehensive Review NPRM*).

<sup>3</sup> 47 U.S.C. § 254(h). The Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, amended the Communications Act of 1934.

<sup>4</sup> *Comprehensive Review NPRM*, 20 FCC Rcd at 11324-25, paras. 37-40 (seeking comment on the application process and competitive bidding requirements for the schools and libraries program).

<sup>5</sup> We estimate that the appeals granted in this Order involve applications for approximately \$68 million in funding for Funding Years 1999-2005. We note that USAC has already reserved approximately \$585 million to fund outstanding appeals. See, e.g., Universal Service Administrative Company, Federal Universal Service Support Mechanisms Fund Size Projections for the Fourth Quarter 2005, dated August 2, 2005. Thus, we determine that the action we take today should have minimal effect on the USF as a whole.

<sup>6</sup> 47 U.S.C. § 254(h)(1)(B); 47 C.F.R. § 54.504. Applicants seeking discounts only for telecommunications services do not need to develop a technology plan. See *Request for Review of the Decision of the Universal Service Administrator by United Talmudical Academy, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association*, CC Docket Nos. 96-45, 97-21, Order, 16 FCC Rcd 18812, 18816, para. 11 (2001). In August, 2004, the Commission revised its rules concerning technology plans. See *Schools and Libraries Fifth Report and Order*, 19 FCC Rcd at 15826-30, paras. 51-63. See *Schools and Libraries Universal Support Mechanism*, CC Docket No. 02-6, Fifth Report and Order, 19 FCC Rcd 15808, 15826-30, paras. 51-63 (2004) (*Schools and Libraries Fifth Report and Order*).

<sup>7</sup> If the technology plan has not been approved when the applicant files the Form 470, the applicant must certify that it understands that the technology plan must be approved prior to commencement of service. 47 C.F.R. § 54.504(b)(2)(vii).

<sup>8</sup> 47 C.F.R. § 54.504(b)(4).

bidding requirements set forth in sections 54.504 and 54.511(a) of the Commission's rules.<sup>9</sup> The applicant then files the FCC Form 471 (FCC Form 471), after entering into agreements for eligible services.<sup>10</sup> Section 54.507 of the Commission's rules states that fund discounts will be available on a first-come-first-served basis.<sup>11</sup> Under the Commission's rules, USAC implements an initial filing period, or filing window, for the FCC Form 471 applications that treats all schools and libraries filings within that period as if their applications were simultaneously received.<sup>12</sup>

4. The Commission has vested in USAC the responsibility of administering the application process for the schools and libraries universal service support mechanism.<sup>13</sup> Pursuant to this authority, USAC has established procedures, including "minimum processing standards," to facilitate its efficient review of the thousands of applications requesting funding that it receives.<sup>14</sup> These minimum processing standards are designed to require an applicant to provide at least the minimum data necessary for USAC to initiate review of the application under statutory requirements and Commission rules. When an applicant submits an FCC Form 470 or FCC Form 471 application that omits information required by the minimum processing standards, USAC automatically returns the application to the applicant without considering it for discounts under the program, without inquiring into the cause of the omission or without providing the applicant with the opportunity to cure the error.<sup>15</sup> For example, if an applicant failed to answer all blocks 1-6 on the FCC Form 471 or failed to submit a properly signed signature certification, the applicant's FCC Form 471 would be rejected and returned to the applicant, without further consideration.<sup>16</sup>

5. The Commission has under consideration various appeals filed by parties that have requested funding for discounted services under the schools and libraries universal service support mechanism.<sup>17</sup> The petitioners request review of decisions, or waivers related to such decisions, issued by

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<sup>9</sup> 47 C.F.R. §§ 54.504, 54.511(a).

<sup>10</sup> This form is to request discounts on those services and it contains the discount calculation worksheet and the discount funding request. The FCC Form 471 must be filed each time a school or library orders telecommunications services, Internet access, or internal connections.

<sup>11</sup> 47 C.F.R. §§ 54.507(c).

<sup>12</sup> 47 C.F.R. §§ 54.507(c).

<sup>13</sup> *Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service*, CC Docket Nos. 97-21 and 96-45, Third Report and Order in CC Docket No. 97-21 and Fourth Order on Reconsideration in CC Docket No. 97-21 and Eighth Order on Reconsideration in CC Docket No. 96-45, 13 FCC Rcd 25058 (1998).

<sup>14</sup> See, e.g., Instructions for Completing the Universal Service Schools and Libraries Services Ordered and Certification Form (FCC Form 471), OMB 3060-0806 (December 2002) (FCC Form 471 Instructions) at 6-9.

<sup>15</sup> See, e.g., USAC website, Form 471 Minimum Processing Standards and Filing Requirements for FY 4, <http://www.sl.universalservice.org/reference/471mps.asp> (Minimum Processing Standards).

<sup>16</sup> *Id.* But note, in the *Naperville Order*, the Commission determined that USAC should not return an application without consideration for having omitted information required by USAC's minimum processing standards where: (1) the request for information is a first-time information requirement on a revised form, thereby possibly leading to confusion on the part of the applicants; (2) the omitted information could be easily discerned by USAC through examination of other information included in the application; and (3) the application is otherwise substantially complete. *Request for Review by Naperville Community Unit School District 203, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-203343, CC Dockets No. 96-45 and 97-21, Order, 16 FCC Rcd 5032,5037-38, paras. 12-15 (2001) (*Naperville Order*).

<sup>17</sup> See Appendices A-C.

the Commission, the Wireline Competition Bureau, or USAC.<sup>18</sup> The decisions at issue involve the denial of funding based on an applicant's failure to timely file an FCC Form 471, a failure to timely file certifications related to an FCC Form 470, or a failure to comply with minimum processing standards.<sup>19</sup>

6. The Commission may waive any provision of its rules on its own motion and for good cause shown.<sup>20</sup> A rule may be waived where the particular facts make strict compliance inconsistent with the public interest.<sup>21</sup> In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.<sup>22</sup> In sum, waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.<sup>23</sup>

### III. DISCUSSION

7. In this item, we consider 196 appeals of decisions denying requests for funding from the schools and libraries universal service support mechanism based on an applicant's failure to timely file an FCC Form 471, a failure to timely file the certifications related to an FCC Form 470, or a failure to comply with minimum processing standards. We consider these three groups of applicants separately below.

8. Generally, the petitioners argue that immaterial clerical, ministerial or procedural errors resulted in rejection of their requests. Some also dispute that an error was made at all. For the reasons discussed below, we waive the relevant Commission rules, and grant all pending appeals pertaining to decisions denying funding due to a failure to comply with minimum processing standards, a failure to timely file an FCC Form 471, or a failure to timely file certifications related to an FCC Form 470, and remand the underlying applications associated with these appeals to USAC for further action consistent with this Order. In remanding these applications to USAC, we make no finding as to the ultimate eligibility of the requested services.

9. In many instances here we depart from prior Commission precedent.<sup>24</sup> For the reasons described below, however, we find that the departure is warranted and in the public interest. Although we base our decision to grant these requests in part on the fact that many of the rules at issue here are

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<sup>18</sup> For purposes of this Order, decisions by both the Schools and Libraries Division and USAC will be collectively referred to as decisions issued by USAC.

<sup>19</sup> See Appendices A-C.

<sup>20</sup> 47 C.F.R. §1.3.

<sup>21</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

<sup>22</sup> *WAIT Radio v. FCC*, 418 F.2d 1153, 1157, (D.C. Cir. 1969), *affirmed by WAIT Radio v. FCC*, 459 F.2d 1203 (D.C. Cir. 1972), *cert. denied*, 409 U.S. 1027 (1972).

<sup>23</sup> *Northeast Cellular*, 897 F.2d at 1166.

<sup>24</sup> See, e.g., *Request for Review by St. John's School, Schools and Libraries Universal Service Support Mechanism, Order*, 20 FCC Rcd 8171 (2005); *Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the national Exchange Carrier Association, Inc., Bruggemeyer Memorial Library, Order*, 14 FCC Rcd 13170 (1999); see also *Naperville Order*, 16 FCC Rcd at 5036 -5037, para. 11 (Although the Commission granted Naperville's request for review, it affirmed that "consistent with the Commission's rule requiring applicants to submit a 'completed' FCC Form 471, SLD's minimum processing standards provide an efficient means to minimize unnecessary administrative costs by reducing the number of substantially incomplete applications that SLD must review and process," and concluded that "it is appropriate for SLD to require the information requested by Item 22[in Form 471], and for SLD to return applications that fail to provide this information in any form.").

procedural, such a decision is in the context of the purposes of section 254 and cannot be applied generally to other Commission rules that are procedural in nature. Specifically, section 254 directs the Commission to “enhance . . . access to advanced telecommunications and information services for all public and non-profit elementary and secondary school classrooms, health care providers and libraries.”<sup>25</sup> Because applicants who are eligible for funding will now receive the opportunity for that funding where previously it was denied for minor errors, we believe granting waivers of these rules in these instances, particularly in light of the limited 15-day correction period we impose, will better ensure that universal service support is distributed first to the applicants who are determined by our rules to be most in need, and thus, further the goals of section 254. We caution, however, that even in the context of the schools and libraries program, the waivers here should not be read to mean that applicants will not be required in the future to comply fully with our procedural rules, which are vital to the efficient operation of the E-rate program. To ensure these issues are resolved expeditiously, we direct USAC to complete its review of the applications listed in the Appendices and issue an award or a denial based on a complete review and analysis no later than 60 days from release of this Order.

10. Applications Denied for Failing to Meet the Minimum Processing Standards. Sixty-three applicants were denied funding for failing to meet USAC’s minimum processing standards.<sup>26</sup> Some of these appeals involved clerical errors on the part of petitioners who inadvertently left portions of the FCC Form 470 or FCC Form 471 blank or made minor errors while completing the form.<sup>27</sup> Some petitioners

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<sup>25</sup> See 47 U.S.C. § 254(h).

<sup>26</sup> See Appendix C. We estimate that these 63 appeals involve applications for approximately \$34 million in funding for Funding Years 1999-2005 and note that these funds have already been collected and held in reserve. Also covered in this Order is one application that does not technically involve a minimum processing error. Alexander City Schools discovered it had incorrectly requested a lesser amount of money than it needed. Even though it promptly notified USAC of its error – within nine days – USAC found that because the correction was made after the close of the filing window, USAC could not correct the amount of funding. See Request for Review by Alexander City Schools.

<sup>27</sup> Request for Review by Alexander City Schools; Request for Review by Athens City Schools; Request for Review by Bay St. Louis-Waveland School District; Request for Review of Bucksport School Department; Request for Review of Calumet City School District No. 155; Request for Review of Clovis Unified School District; Request for Review and Waiver of Colegio San Antonio; Request for Review of Colton School District #53; Request for Review of Cooperative Educational Service Agency #12; Request for Review of Creighton School District; Request for Review of Elsa Public Library; Request for Review of Emery Unified School District; Request for Review of Fairfax County Public Schools; Request for Review of Forsyth County Public Library; Request for Review of Franklin Lakes School District; Request for Review of French Camp Academy; Request for Review of Henderson County Public Library; Request for Review of Hood River County School District; Request for Review of Incarnation School; Request for Review of Jackson District Library; Request for Review of Lawrence County School District; Request for Review of Leary Independent School District; Request for Review of Mabton School District 120; Request for Review of Marshfield Public Schools; Request for Review of Maumee City School District; Request for Review of McKittrick School District; Request for Review of Memphis City Schools; Request for Review of Mililani-Mauka Elementary School; Request for Review of Northampton Public Schools; Request for Waiver of Radford City Schools; Request for Review of Rangeley Public Library; Request for Review of Richards Independent Schools; Request for Review of Richford High School; Request for Review of Santa Cruz Catholic School; Request for Review of Sevier County Library; Request for Review of St. Joseph the Carpenter Schools; Request for Review of St. Lawrence Catholic School; Request for Review of St. Mary’s Academy; Request for Review of Suffolk Cooperative Library System; Request for Review of Sweetser; Request for Review of Teton County Library; Request for Review and Waiver of Toledo Academy of Learning; Request for Review of Unger Memorial Library; Request for Review of Upper Adams School District; Request for Review of Vidalia City School District; Request for Review of Volusia County Schools; Request for Review of West Genesee Central School District; Petition for Reconsideration of City of Newport News; Application for Review of Des Moines Public Schools; Petition for Reconsideration of King and Queen County Public Schools.

experienced technical problems, either with their own equipment or while interfacing with USAC's electronic filing mechanism, and failed to properly file electronically.<sup>28</sup> Other petitioners used outdated USAC forms.<sup>29</sup> Some other petitioners claim that the rules and instructions for filing an FCC Form 470 or FCC Form 471 are vague and unclear and that the resulting misunderstandings led to minor mistakes on their applications.<sup>30</sup> Finally, others maintain that they did not violate the minimum processing standards at all.<sup>31</sup>

11. Based on the facts and circumstances of these specific cases, we find that good cause exists to waive the minimum processing standards established by USAC. Minimum processing standards are necessary to ensure the efficient review of the thousands of applications requesting funding that USAC receives. In these circumstances, applicants committed minor errors in filling out their application forms. For example, among other problems, applicants inadvertently forgot to fill in a box, had computer problems, used an outdated form that requests primarily the same information as the current one, or misread the instructions. We do not believe that such minor mistakes warrant the complete rejection of each of these applicants' E-rate applications, especially given the requirements of the program and the thousands of applications filed each year.<sup>32</sup> Importantly, applicants' errors could not have resulted in an advantage for them in the processing of their application. That is, the applicants' mistakes, if not caught by USAC, could not have resulted in the applicant receiving more funding than it was entitled to. In addition, at this time, there is no evidence of waste, fraud or abuse, misuse of funds, or a failure to adhere to core program requirements. Furthermore, we find that the denial of funding requests inflicts undue hardship on the applicants. In these cases, we find that the applicants have demonstrated that rigid compliance with the application procedures does not further the purposes of section 254(h) or serve the public interest.<sup>33</sup> We therefore grant these appeals and remand them to USAC for further processing consistent with this Order.

12. *Applications Denied for Filing Outside the FCC Form 471 Filing Window.* We also have before us for consideration 103 appeals of USAC decisions that denied funding for applications that were filed outside of the FCC Form 471 filing window.<sup>34</sup> Some petitioners maintain that they submitted the

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<sup>28</sup> Request for Review of Burnt Hills-Ballston Lake Central School District; Request for Review of West Sioux Community School District.

<sup>29</sup> Request for Review by Perrysburg Exempt Village School; Request for Review by Lawrence County School District; Request for Review by Maumee City School District; Request for Review of Maine School Administrative District No. 36; Request for Review of Moencopi Day School.

<sup>30</sup> Request for Review of City of Boston; Request for Review of Department of Neighborhood Development; Request for Review of Tennessee School Boards Association; Application for Review of Paramus School District.

<sup>31</sup> Request for Review of Biblioteca Electronica de Rio Hondo; Request for Review of Sarah A. Reed Children's Center; Request for Review of South Winneshiek Community School District.

<sup>32</sup> The initial application is 14 pages long. See USAC website, Schools and Libraries Universal Service

Description of Services Requested and Certification Form 470, available at <http://www.universalservice.org/res/documents/sl/pdf/470.pdf>.

<sup>33</sup> See 47 U.S.C. § 254(h).

<sup>34</sup> See Appendix B. We estimate that these 103 appeals involve applications for approximately \$30 million in funding for Funding Years 1999-2005, and note that these funds have already been collected and held in reserve. In the case of Fairfax School District R3, Minnesota Transition School, Minnewaska Area Schools, Our Lady of The Lake School, and St. Francis of Assisi School, the applicants had not yet submitted their completed FCC Forms 471 before filing their requests for review with the Commission but anticipated that their forms would be filed outside the FCC Form 471 filing window. See Request for Review of Fairfax School District R3; Request for Waiver of

relevant information on time.<sup>35</sup> Given that it is difficult to determine in these cases whether the error was the fault of the applicant, USAC or a third party, we give the applicants the benefit of the doubt. We find that a slight delay in USAC's receipt of the applications in each of these cases does not warrant the complete rejection of each of these applicants' E-rate applications. Therefore, we find that good cause exists to waive section 54.507 of the rules for these applications.<sup>36</sup>

13. The rest of the petitioners assert a waiver is appropriate for one of two reasons: either someone on the applicants' staff made a mistake or had a family emergency that prevented them from filing on time or the delay in the filing or receipt of the application was due to circumstances out of the applicants' control. Specifically, in the first group, some of these appeals involve applicants whose staff members inadvertently failed to file the application forms in a timely manner.<sup>37</sup> Another group of petitioners state that they were unable to comply with the filing deadline due to staff illness or relatives of staff members who were ill.<sup>38</sup> Other petitioners claim that the rules and instructions for filing an FCC

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Minnesota Transition School; Request for Waiver of Minnewaska Area Schools; Request for Waiver of Our Lady of The Lake School; Request for Waiver of St. Francis of Assisi School.

<sup>35</sup> Request for Review of Centerville School District 60-1; Request for Appeal of Colonial Intermediate Unit 20; Request for Review of Derby Public Schools; Request for Review of Ferndale Area School District; Request for Review of Kent City Schools; Request for Review of Mel Blount Youth Home; Request for Review of North Panola School District; Request for Review of Oglala Lakota Technology Consortium; Request for Review and Waiver of Perrysburg Exempt Village School District.

<sup>36</sup> See 47 C.F.R. § 54.507(c).

<sup>37</sup> Request for Waiver of Assabet Valley Regional Vocational School District; Request for Review of Barnwell County School District 45; Request for Review of Bath County School District; Request Waiver of Beavertown Community Library; Request for Review of Brown County School Corporation; Request for Review of Caruthers Unified School District; Request for Review of Central Catholic High School; Application for Review of Chawanakee Joint Elementary School District; Request for Review of Clearwater Memorial Library; Request for Waiver of Clinton County Board of Education; Request for Review of Coahoma County Public Schools; Requests for Review of Consorcio de Escuelas y Bibliotecas; Request for Review and Waiver of CPC Behavioral Healthcare; Request for Review of Delta County School District; Request for Review of Fairfax School District R3; Request for Review of Germantown School District; Request for Waiver of Hawaii State Public Library; Petitioner for Reconsideration of High Bridge Board of Education; Request for Waiver of Holmes District School Board; Request for Review of Hubbard Independent School District; Request for Waiver of Indian Oasis Baboquivari District 40; Request for Waiver of Island Trees Public Library; Request for Waiver of Jefferson School District; Request for Review of Los Alamitos Unified School District; Request for Review of Madera Unified School District; Request for Review of Malone Independent School District; Request for Waiver of McClure Community Library; Request for Waiver of Middleburg Community Library; Request for Waiver of Minnesota Transition School; Request for Waiver of Minnewaska Area Schools; Request for Review of Montfort & Allie B. Jones Memorial Library; Request for Waiver of Mount Ayr Community School District; Request for Waiver of Mount Saint John School; Request for Waiver of Mt. Carroll Township Public Library; Request for Review of Our Lady of Refuge; Request for Waiver of Pinon Dormitory; Request for Waiver of Queen of Apostles Catholic School; Request for Waiver of Richmond Public Library; Request for Review of Rylander Memorial School; Request for Waiver of Selinsgrove Community Library; Petitioner for Reconsideration of Siskiyou County Library; Request for Review of Southeast Delco School District; Request for Review of Southeastern Libraries Cooperating; Request for Review of St. Clement's Regional Catholic School; Request for Review of St. Elizabeth Interparochial School; Request for Waiver of St. Francis of Assisi School; Request for Waiver of SuperNet Consortium; Request for Waiver of Tiverton School Department; Request for Waiver Wabash Valley Educational Center; Request for Review of Wallington Public Schools; Request for Waiver of Walnut Community School District; Request for Waiver of Washington Local School District; Request for Waiver of Westside Holistic Family Services; Request for Review of Whitfield County School District; Request for Waiver of Wilkinson County School District; Request for Review of Wilson Memorial Library.

<sup>38</sup> Request for Waiver of Augusta County Library; Request for Review of Bonnie Brae Educational Center School; Request for Review of Garvey School District; Request for Waiver of Gaston County School District; Request for

Form 471 are vague and unclear and that the resulting misunderstandings led to forms being filed after the filing window.<sup>39</sup>

14. Based on the facts and circumstances of these specific cases, we find that good cause exists to waive the deadline for filing the FCC Form 471 found in section 54.507 of the Commission's rules.<sup>40</sup> Under Bureau precedent deadlines have been strictly enforced for the E-rate program,<sup>41</sup> including those pertaining to the FCC Form 471. We nevertheless find that good cause exists to waive the deadline in these cases. Generally, these applicants claim that staff mistakes or confusion resulted in the late filing of their FCC Form 471s. We note that the primary jobs of most of the people filling out these forms include school administrators, technology coordinators and teachers, as opposed to positions dedicated to pursuing federal grants, especially in small school districts. Even when a school official has learned how to correctly navigate the application process, unexpected illnesses or other family emergencies can result in the only official who knows the process being unavailable to complete the application on time. Given that the violation at issue is procedural, not substantive, we find that the complete rejection of each of these applications is not warranted. Notably, at this time, there is no evidence of waste, fraud or abuse, misuse of funds, or a failure to adhere to core program requirements. Furthermore, we find that denial of funding in these cases would inflict undue hardship on the applicants. In these cases, the applicants have demonstrated that rigid compliance with USAC's application procedures does not further the purposes of section 254(h) or serve the public interest.<sup>42</sup> We therefore grant these appeals and remand them to USAC for further processing consistent with this Order.

15. The second group of petitioners failed to file an FCC Form 471 in a timely manner due to circumstances beyond their control, such as school reorganizations or inclement weather.<sup>43</sup> Some petitioners state that technical problems, either with their own equipment or while interfacing with USAC's electronic filing mechanism, prevented the FCC Form 471s from being timely filed.<sup>44</sup> Other

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Waiver Millennium Community School; Request for Waiver of Northwest Institute for Contemporary Learning, Inc.; Request for Waiver of St. Mary's School; Petition for Reconsideration of Neches Independent School District; Request for Waiver of Unadilla Community School.

<sup>39</sup> Request for Waiver of Blackwell Public Schools; Request for Waiver of Brooklyn Jesuit Prep; Request for Review of Cecil County Public Schools; Request for Review of Colleton County School District; Request for Review of Jefferson City School District; Request for Review of Laporte School District 306; Request for Waiver of Nativity Mission School; Request for Review of Pierce City School District R6; Request for Waiver of St. Ignatius Academy.

<sup>40</sup> See 47 C.F.R. § 54.507(c).

<sup>41</sup> See, e.g., *Request for Review by Information Technology Department State of North Dakota, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-245592, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 7383, 7389, para. 13 (Wireline Comp. Bur. 2002) (*North Dakota Order*); *Request for Review by Wilmington Public Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-254818, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 12069, 12071, paras. 7-8 (Wireline Comp. Bur. 2002) (*Wilmington Public Schools Order*); *Request for Review by South Barber Unified School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-158897, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 18435, 18437-38, para. 7 (Com. Car. Bur. 2001) (*South Barber Order*).

<sup>42</sup> See 47 U.S.C. § 254(h).

<sup>43</sup> Request for Waiver of Design and Engineering Services; Request for Waiver of Nelson County Public Schools; Request for Waiver of Our Lady of the Lake School.

<sup>44</sup> Request for Waiver of A.C.E. Charter High School; Request for Review of American School for the Deaf; Request for Waiver of Associated Marine Institutes, Inc.; Request for Review of Clinton Public Schools; Request

petitioners claim that they attempted to mail their FCC Form 471s on time but that problems with a third-party carrier prevented the application from arriving in a timely manner.<sup>45</sup>

16. Based on the facts and circumstances of these specific cases, we find that good cause exists to waive the deadline for filing the FCC Form 471 found in section 54.507(c) of the Commission's rules.<sup>46</sup> Under Bureau precedent, deadlines have been strictly enforced for the E-rate program,<sup>47</sup> including those pertaining to the FCC Form 471. We nevertheless find that good cause exists to waive the deadline in these cases. Generally, these applicants claim that problems with third parties or circumstances outside their control resulted in the late filing of their FCC Form 471s. We find that, given that the violation at issue is procedural, not substantive, a complete rejection of each of these applications is not warranted, especially given that the error in these cases is not the fault of the applicants. Notably, at this time, there is no evidence of waste, fraud or abuse, misuse of funds or a failure to adhere to core program requirements. Furthermore, we find that denial of funding in these cases would inflict undue hardship on the applicants. In these cases, the applicants have demonstrated that rigid compliance with USAC's application procedures does not further the purposes of section 254(h) or serve the public interest.<sup>48</sup> We therefore grant these appeals and remand them to USAC for further processing consistent with this Order.

17. *Applications Denied for Failing to Certify FCC Form 470.* We also have before us for consideration 29 appeals of USAC decisions that denied funding for applications because their FCC Forms 470 were not certified or not certified before the close of the filing window.<sup>49</sup> Some of these appeals involve applicants whose staff members inadvertently failed to file the certification before the filing window closed.<sup>50</sup> Some petitioners state that technical problems, either with their own equipment or while interfacing with USAC's electronic filing mechanism, prevented the FCC Forms 470 from being certified.<sup>51</sup> Other petitioners claim that they attempted to mail their FCC Form 470s certifications but that

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for Waiver of Howard County School District; Requests for Waiver of Jemez Mountain School District; Request for Waiver of Leggett Valley Unified School District; Request for Review of Maine School Administrative District #36; Request for Review of Meriwether County School System; Request for Review of North East Independent School District; Request for Review of Saint John Grammar School; Request for Review of Trinity Christian School; Request for Review of Watson School District #56.

<sup>45</sup> Request for Waiver of Las Vegas City Schools; Request for Review of Loogootee Community School Corporation.

<sup>46</sup> See 47 C.F.R. § 54.507(c).

<sup>47</sup> See, e.g., *North Dakota Order*, 17 FCC Rcd at 7389, para. 13; *Wilmington Public Schools Order*, 17 FCC Rcd at 12071, paras. 7-8; *South Barber Order*, 16 FCC Rcd at 18437-38, para. 7.

<sup>48</sup> See 47 U.S.C. § 254(h).

<sup>49</sup> We estimate that these 29 appeals involve applications for approximately \$4 million in funding for Funding Years 1999-2005, and note that these funds have already been collected and held in reserve.

<sup>50</sup> Request for Waiver of Bishop Perry Middle School; Request for Review of Canby School District 891; Request for Review of Candler County Board of Education; Request for Review of Cassopolis Public School; Request for Review of Construction Careers Center; Request for Review of Dunmore School District; Request for Review of Fluvanna County School District; Request for Review of Interstate 35 Community School District; Request for Review of Lydia Bruun Woods Memorial Library; Request for Review of Mabton School District 120; Request for Review of New York State Office of Children & Family Services; Request for Review of Proctor Public Schools; Request for Review of Weld County School District Six.

<sup>51</sup> Request for Review of Fort Atkinson School District; Request for Waiver of Northwestern Local School District; Request for Review of Tewksbury Public Schools; Request for Review of Unified School District 443 Information Technologies Services; Request for Review of Weld County School District Re-3(J).

the FCC Form 470 was either lost by a third-party carrier or USAC.<sup>52</sup> Still other petitioners maintain that they complied with program rules.<sup>53</sup>

18. Based on the facts and circumstances of these specific cases, we find that good cause exists to waive the requirement that the certification be filed with FCC Form 470 for these applicants. Our rules require that applicants certify that certain eligibility and program requirements are met.<sup>54</sup> Specifically, the certifications include attestations that applicants have a current technology plan, if applicable; that they will conduct the competitive bidding process in accordance with Commission rules; that the applicant is an eligible school or library or consortium; that the funding will be used for educational purposes; that the applicant has not received anything of value from the service provider, other than the requested services, in connection with the request for services; that applicants have the necessary resources to use the services purchased effectively; that the signatory has the authority to submit the request on behalf of the applicant; that the applicant has complied with applicable federal, state and local procurement laws and that violations of the rules may result in suspension or debarment from the program.<sup>55</sup> These certifications on the FCC Form 470 are important to maintain the integrity of the E-rate program and are necessary to ensure that only eligible entities receive support under the program.

19. We find, however, that a missing certification does not constitute a substantive violation, but a procedural one. We emphasize that these applicants still must file the certifications, even though they are late, for their applications to be processed by USAC. The question here is one of timing. USAC denied these applications not because the applicants refused to sign the certification, but because it was not received by USAC by the filing deadline, which meant that the applications were incomplete. Many of the applicants thought they had complied with the requirements, but due to computer error or other third-party errors, the certifications did not reach USAC.

20. While the Bureau has enforced existing filing deadlines for the E-rate program,<sup>56</sup> we find that good cause exists to waive the procedural deadline in these cases. We find that given that the violation at issue is procedural, not substantive, we find that a complete rejection of each of these applications is not warranted, especially given that the error in these cases is not the fault of the applicants. Notably, at this time, there is no evidence of waste, fraud or abuse, misuse of funds or a failure to adhere to core program requirements revealed by the record in these matters. Furthermore, we find that denial of funding in these cases would inflict undue hardship on the applicants. In these cases, the applicants have demonstrated that rigid compliance with USAC's application procedures does not further the purposes of section 254(h) or serve the public interest.<sup>57</sup> We therefore grant these appeals and remand them to USAC for further processing consistent with this Order.

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<sup>52</sup> Request for Review of Cook County School District 130; Request for Waiver of Creighton Community Public Schools; Request for Review of Gladwin County Library; Request for Review of Tamaroa Public School District #5; Request for Review of Welch Independent School District 17; Request for Review of Yeshiva Ktana of Passaic.

<sup>53</sup> Request for Review of Goose Creek Consolidated Independent School District; Request for Review of Morley-Stanwood Community School District; Request for Review of Sibley East Independent School District #2310; Request for Review of Temple Terrace Public Library.

<sup>54</sup> 47 C.F.R. § 54.504(b).

<sup>55</sup> *Id.*

<sup>56</sup> See, e.g., *North Dakota Order*, 17 FCC Rcd at 7389, para. 13; *Wilmington Public Schools Order*, 17 FCC Rcd at 12071, paras. 7-8; *South Barber Order*, 16 FCC Rcd at 18437-38, para. 7.

<sup>57</sup> See 47 U.S.C. § 254(h).

21. North Dakota Petition for Reconsideration. As part of this decision, we also grant a Petition for Reconsideration of an Order filed by the Information Technology Department of the State of North Dakota.<sup>58</sup> North Dakota mailed its FCC Form 471 certification after the deadline, but asserts that it did not understand when it needed to mail the certification after filing the application electronically.<sup>59</sup> In *North Dakota*, the Commission rejected North Dakota's arguments that a waiver of its filing requirements was warranted because of, *inter alia*, the complex nature of the application process and the detrimental effect the denial would have on the public schools and libraries in North Dakota.<sup>60</sup> The Commission stated that "the size and complexity of the application" did not establish good cause to waive the Commission's rules, and reiterated that all applicants are subject to the same filing rules, which are necessary for the program to be administered in an efficient and equitable basis.<sup>61</sup>

22. On reconsideration, we find that good cause exists to waive the deadline for filing the FCC Form 471. We now believe that, consistent with our reasoning above, a procedural violation should not have resulted in the rejection in North Dakota's entire application. Contrary to our earlier ruling, we note that our waiver standard allows us to consider hardship when analyzing whether particular facts meet the standard. We find here that denial of funding in this case would inflict undue hardship on the applicant. Notably, at this time, there is no evidence of waste, fraud or abuse, misuse of funds or a failure to adhere to core program requirements. Furthermore, we find that in this case, the applicant has demonstrated that rigid compliance with USAC's application procedures does not further the purposes of section 254(h) or serve the public interest.<sup>62</sup> For these reasons, we find that a waiver of our filing requirements is warranted, and we grant the Petition for Reconsideration filed by the Information Technology Department of the State of North Dakota.

23. Additional Processing Directives for USAC. As of the effective date of this Order, we require USAC to provide all E-rate applicants with an opportunity to cure ministerial and clerical errors on their FCC Form 470 or FCC Form 471, and an additional opportunity to file the required certifications. Specifically, USAC shall inform applicants promptly in writing of any and all ministerial or clerical errors that are detected in their applications, along with a clear and specific explanation of how the applicant can remedy those errors. USAC shall also inform applications promptly in writing of any missing or incomplete certifications. Applicants shall have 15 calendar days from the date of receipt of notice in writing by USAC to amend or refile their FCC Form 470, FCC Form 471 or associated certifications.<sup>63</sup> USAC shall apply this directive to all pending applications and appeals even if such applications or appeals are no longer within the filing window. The 15-day period is limited enough to ensure that funding decisions are not unreasonably delayed for E-rate applicants and should be sufficient time to

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<sup>58</sup> *Application for Review of a Decision by the Wireline Competition Bureau, Information Technology Department State of North Dakota, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-245592, CC Dockets No. 96-45 and 97-21, Order, 18 FCC Rcd 21521 (2003).

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*, 18 FCC Rcd at 21525-27, paras. 12, 17-18.

<sup>62</sup> See 47 U.S.C. § 254(h).

<sup>63</sup> Applicants will be presumed to have received notice five days after such notice is postmarked by USAC. USAC, however, shall continue to work beyond the 15 days with applicants attempting in good faith to amend their applications. This 15-day opportunity to refile or amend applications exists only where applicants have attempted to file their FCC Form 470 and FCC Form 471 within the filing window. If applicants miss the filing window entirely, they would need to file a request for waiver of the deadline with the Commission.

correct truly unintentional ministerial and clerical errors.<sup>64</sup> The opportunity for applicants to amend their filings to cure minor errors will also improve the efficiency and effectiveness of the Fund. Because applicants who are eligible for funding will now receive funding where previously it was denied for minor errors, we will ensure that funding is distributed first to the applicants who are determined by our rules to be most in need of funding. As a result, universal service support will be received by schools in which it will have the greatest impact for the most students. Furthermore, the opportunity to amend the application will improve the efficiency of the schools and libraries program. If USAC helps applicants file correct and complete applications initially, USAC should be able to reduce the money it spends on administering the fund because fewer appeals will be filed protesting the denial of funding for these types of issues. Therefore, we believe this additional opportunity to cure inadvertent administrative, ministerial, and clerical errors on applications will improve the administration of fund.

24. To complement this effort, USAC shall also develop a more targeted outreach program and educational efforts to inform and enlighten applicants on the various application requirements, including the application and certification deadlines, in an attempt to reduce these types of errors. We expect that the additional outreach and educational efforts will better assist E-rate applicants in meeting the program's requirements. Similarly, USAC shall develop a targeted outreach program designed to identify schools and libraries that have timely posted an FCC Form 470 on USAC's website but have failed to file the associated FCC Form 470 certification. USAC should also notify applicants that have filed an FCC Form 470, but have failed to file an FCC Form 471 or its certification by the close of the filing window. We believe such an outreach program will increase awareness of the filing rules and procedures and will assist applicants in filing complete and correct application. As we noted above, we believe that these changes will improve the overall efficacy of the program.

25. In addition, we note that, in the *Comprehensive Review NPRM*, we started a proceeding to address the concerns raised herein by, among other things, improving the application and disbursement process for the schools and libraries support mechanism.<sup>65</sup> Although we expect that the additional direction we have provided in this Order will help ensure that eligible schools and libraries can more effectively navigate the application procedures, this action does not obviate the need to take steps to reform and improve the program based on the record in the *Comprehensive Review* proceeding.

26. We emphasize the limited nature of this decision. As stated above, we recognize that filing deadlines and minimum processing standards are necessary for the efficient administration of the E-rate program. Although we grant the 196 subject appeals before us, our action here does not eliminate the minimum processing standards, or the deadlines for filing the FCC Form 470 and FCC Form 471, or certifications to the FCC Form 470 or 471. We continue to require E-rate applicants to submit complete and accurate information to USAC as part of the application review process. The direction we provide USAC will not lessen or preclude any application review procedures of USAC. All existing E-rate program rules and requirements will continue to apply, including USAC's minimum processing standards, the existing forms and documentation with the associated certifications, USAC's Program Integrity Assurance review procedures, and other processes designed to ensure applicants meet the applicable program requirements.

27. Finally, we are committed to guarding against waste, fraud, and abuse, and ensuring that funds disbursed through the E-rate program are used for appropriate purposes. Although we grant the appeals addressed here, we reserve the right to conduct audits and investigations to determine compliance

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<sup>64</sup> We note that applicants will retain the ability to appeal decisions denying funding requests on the grounds discussed herein.

<sup>65</sup> *Comprehensive Review NPRM*.

with the E-rate program rules and requirements. Because audits and investigations may provide information showing that a beneficiary or service provider failed to comply with the statute or Commission rules, such proceedings can reveal instances in which universal service funds were improperly disbursed or in a manner inconsistent with the statute or the Commission's rules. To the extent we find that funds were not used properly, we will require USAC to recover such funds through its normal processes. We emphasize that we retain the discretion to evaluate the uses of monies disbursed through the E-rate program and to determine on a case-by-case basis that waste, fraud, or abuse of program funds occurred and that recovery is warranted. We remain committed to ensuring the integrity of the program and will continue to aggressively pursue instances of waste, fraud, or abuse under our own procedures and in cooperation with law enforcement agencies.

#### IV. ORDERING CLAUSES

28. ACCORDINGLY, IT IS ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 1.3 and 54.722(a), that the Requests for Review and Requests for Waiver of 47 C.F.R. §§ 54.507(c) and 54.504(b) filed by the petitioners as listed in Appendices A-C ARE GRANTED.

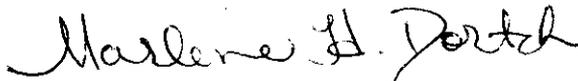
29. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 1.3 and 54.722(a), that the Requests for Review and/or Requests for Waiver filed by the petitioners as listed in Appendices A-C ARE REMANDED to USAC for further consideration in accordance with the terms of this Order.

30. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 1.3 and 54.722(a), that the Petition for Reconsideration filed by the Information Technology Department of the State of North Dakota IS GRANTED and IS REMANDED to USAC for further consideration in accordance with the terms of this Order.

31. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, USAC SHALL COMPLETE its review of each remanded application listed in the Appendices and issue an award or a denial based on a complete review and analysis no later than 60 days from release of this Order.

32. IT IS FURTHER ORDERED that this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION



Marlene H. Dortch  
Secretary

**APPENDIX A**  
**Form 470 Certification Filing Violations**  
**Requests for Review and Waivers**

<b>Applicant</b>	<b>Application Number</b>	<b>Funding Year</b>	<b>Type of Appeal</b>
Bishop Perry Middle School New Orleans, LA	487170	2005	Request for Waiver
Canby School District 891 Canby, MN	414927, 401098, 412330	2004	Request for Review
Candler County Board of Education Metter, GA	314603	2002	Request for Review
Cassopolis Public School Cassopolis, MI	256502	2001	Request for Review and Waiver
Construction Careers Center St. Louis, MO	358508	2003	Request for Review
Cook County School District 130 Blue Island, IL	357892	2003	Request for Review
Creighton Community Public Schools Creighton, NE	356062	2003	Request for Waiver
Dunmore School District Dunmore, PA	391672	2004	Request for Review
Fluvanna County School District Palmyra, VA	360642	2003	Request for Review
Fort Atkinson School District Fort Atkinson, WI	366145, 366454, 366439, 366372	2003	Request for Review.
Gladwin County Library Gladwin, MI	219040	2001	Request for Review
Goose Creek Consolidated Independent School District Baytown, TX	320463	2002	Request for Review
Hart County School System Hartwell, GA	395563	2004	Request for Review
Interstate 35 Community School District Truro, IA	479137	2005	Request for Waiver

Lydia Bruun Woods Memorial Library Falls City, NE	403265	2004	Request for Review
Mabton School District 120 Mabton, WA	461518, 461467, 461451	2005	Request for Review
Morley-Stanwood Community School District Morley, TX	378662	2003	Request for Review.
New York State Office of Children & Family Services Rensselaer, NY	376340	2003	Request for Review
Northwestern Local School District West Salem, OH	412995	2004	Request for Waiver
Proctor Public Schools Proctor, MN	235170	2001	Request for Review
Sibley East Independent School District #2310 Arlington, MN	297751	2003	Request for Review
Tamaroa Public School District #5 Tamaroa, IL	340729	2003	Request for Review
Temple Terrace Public Library Temple Terrace, FL	449438	2005	Request for Review
Tewksbury Public Schools Tewksbury, MA	308197	2002	Request for Review
Unified School District 443 Information Technologies Services Dodge City, KS	403217	2004	Request for Review
Welch Independent School District 17 Welch, OK	349714	2003	Request for Review
Weld County School District Re-3(J) Keenesburg, CO	421281, 421385, 421459, 422351, 422888, 423983, 425168, 425369, 425597, 426534, 426996, 427565, 428856, 428987, 429298, 429353, 429469, 429523, 429771, 430370, 430435, 430531, 430671, 431114, 429771, 432087, 432271, 432519, 432845, 433034	2004	Request for Review

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Weld County School District Six Greeley, CO	402863	2004	Request for Review.
Yeshiva Ktana of Passaic Passaic, NJ	259799	2001	Request for Review

**APPENDIX B  
Form 471 Filed Outside of Filing Window**

<b>Applicant</b>	<b>Application Number</b>	<b>Funding Year</b>	<b>Type of Appeal</b>
A.C.E. Charter High School Tucson, AZ	487210, 487191	2005	Request for Waiver
American School for the Deaf Hartford, CT	473646	2005	Request for Review
Assabet Valley Regional Vocational School District Marlborough, MA	491686	2005	Request for Waiver
Associated Marine Institutes, Inc. Tampa, FL	482146, 474721, 476843, 480311, 480629, 480704, 480839, 480974, 481068, 478721, 479527, 481139, 479447, 478855, 478807, 479065, 480958, 475981, 481275, 479475, 479808, 480767, 480119, 474565, 475800, 480552, 476450, 474803, 475320, 475366, 475462, 475714, 480017, 474863, 475160, 479642, 481199, 476646, 472798, 475270, 480246, 476050, 481303, 474970, 479744, 480432, 474296, 471758, 474316, 474338, 474309, 474304	2005	Request for Waiver
Augusta County Library Fishersville, VA	435101	2004	Request for Waiver
Barnwell County School District 45 Barnwell, SC	484610	2005	Request for Review
Bath County School District Owingsville, KY	392300	2004	Request for Review
Beavertown Community Library Beavertown, PA	488228	2005	Request for Waiver
Blackwell Public Schools Blackwell, OK	467916	2005	Request for Waiver

Blackwell Public Schools Blackwell, OK	467924	2005	Request for Waiver
Bonnie Brae Educational Center School Liberty Corner, NJ	486975	2005	Request for Review
Brooklyn Jesuit Prep Brooklyn, NY	480763, 481479	2005	Request for Waiver
Brown County School Corporation Nashville, IN	423655	2004	Request for Review
Caruthers Unified School District Caruthers, CA	229344	2001	Request for Review
Cecil County Public Schools Elkton, MD	465857	2005	Request for Review
Centerville School District 60-1 Centerville, SD	342315	2003	Request for Review
Central Catholic High School Toledo, OH	393964	2004	Request for Review
Clearwater Memorial Library Orofino, ID	361785	2003	Request for Review
Clinton County Board of Education Albany, KY	367905	2003	Request for Waiver
Clinton Public Schools Clinton, AR	475637	2005	Request for Review
Coahoma County Public Schools Clarksdale, MS	477513	2005	Request for Review
Colleton County School District Walterboro, SC	455022	2005	Request for Review
Colonial Intermediate Unit 20 Easton, PA	444367	2005	Request for Appeal
Consortio de Escuelas y Bibliotecas de Puerto Rico San Juan, PR	124 individual applicants— see below	2001	Request for Review
CPC Behavioral Healthcare Neptune, NJ	432289	2004	Request for Request for Waiver

Delta County School District Delta, CO	420245 424408	2004	Request for Review
Derby Public Schools Derby, CT	485648	2005	Request for Review
Design and Engineering Services The Navajo Nation Window Rock, AZ	477250, 486357, 483251	2005	Request for Waiver
Fairfax School District R3 Fairfax, MO	456149	2005	Request for Review
Ferndale Area School District Johnstown, PA	368645	2003	Request for Review
Garvey School District Rosemead, CA	492144, 492103	2005	Request for Review
Gaston County School District Gastonia, NC	487076	2005	Request for Waiver
Germantown School District Appleton, WI	488530	2005	Request for Review
Hawaii State Public Library Honolulu, HI	351332, 351403, 372750, 372786, 372857, 372883, 372950, 372980, 373018, 373092, 373221, 373245, 373271, 373305, 373421, 373443, 373654, 373664, 373676, 373688, 373703, 373717, 373792, 373816, 375664, 375707, 376842, 377120	2003	Request for Waiver
Holmes District School Board Bonifay, FL	463914	2005	Request for Waiver
Howard County School District Owings Mills, MD (filed by E-Rate Elite Services, Inc.)	310851	2002	Request for Waiver
Hubbard Independent School District Hubbard, TX	485763	2005	Request for Review
Indian Oasis Baboquivari District 40 Sells, AZ	435737	2004	Request for Waiver
Island Trees Public Library Island Trees, NY	487206	2005	Request for Waiver

Jefferson City School District Jefferson, GA	434189	2004	Request for Review
Jefferson School District Daly City, CA	489764	2005	Request for Waiver
Jemez Mountain School District Gallina, NM	480502	2005	Request for Waiver
Jemez Mountain School District Gallina, NM	481827	2005	Request for Waiver
Kent City Schools Kent, OH	231188	2001	Request for Review
Laporte School District 306 Laporte, MN	487654	2005	Request for Review
Las Vegas City Schools Las Vegas, NM	405536	2004	Request for Waiver
Leggett Valley Unified School District Leggett, CA	538735	2006	Request for Waiver
Loogootee Community School Corporation Loogootee, IN	454754, 455222	2005	Request for Review
Los Alamitos Unified School District Los Alamitos, CA	364589	2003	Request for Review
Madera Unified School District Madera, CA	230938	2001	Request for Review
Maine School Administrative District #36 Livermore Falls, ME	487135	2005	Request for Review
Malone Independent School District Malone, TX	458773	2005	Request for Review
McClure Community Library McClure, PA	488239	2005	Request for Waiver
Mel Blount Youth Home Vidalia, GA	378809	2003	Request for Review
Meriwether County School System Greenville, GA	488532, 488630, 488634, 488637, 488639	2005	Request for Review
Middleburg Community Library Middleburg, PA	487961	2005	Request for Waiver

Millennium Community School Columbus, OH	419137	2004	Request for Waiver
Minnesota Transition School Minneapolis, MN	383596	2003	Request for Waiver
Minnewaska Area Schools Glenwood, MN	FCC Form 470 Number 688010000570286	2006	Request for Waiver
Montfort & Allie B. Jones Memorial Library Bristow, OK	398439	2004	Request for Review
Mount Ayr Community School District Mount Ayr, IA	487717	2005	Request for Waiver
Mount Saint John School Deep River, CT	458882	2005	Request for Waiver
Mt. Carroll Township Public Library Mt. Carroll, IL	358693	2003	Request for Waiver
Nativity Mission School New York, NY	480269	2005	Request for Waiver
Nelson County Public Schools Lovingson, VA	433422	2004	Request for Waiver
North East Independent School District San Antonio, TX	472357, 472537, 454936, 446694	2005	Request for Review
North Panola School District Sardis, MS	484781, 485017, 482009, 483905	2005	Request for Review
Northwest Institute for Contemporary Learning, Inc. Chicago, IL	470821	2005	Request for Waiver
Oglala Lakota Technology Consortium Porcupine, SD	435405	2004	Request for Review
Our Lady of Refuge Brooklyn, NY	346749	2003	Request for Review
Our Lady of The Lake School Mandeville, LA	FCC Form 470 Number 607530000583035	2006	Request for Waiver
Perrysburg Exempt Village School District Perrysburg, OH	433571	2004	Request for Review and Waiver

Pierce City School District R6 Pierce City, MI	260567	2001	Request for Waiver
Pinon Dormitory Pinon, AZ	482087	2005	Request for Waiver
Queen of Apostles Catholic School Alexandria, VA	486686	2005	Request for Waiver
Richmond Public Library Richmond, VA	433700	2004	Request for Waiver
Rylander Memorial Library San Saba, TX	458867	2005	Request for Review
Saint John Grammar School Orange, NJ	384182	2003	Request for Review
Selinsgrove Community Library Selinsgrove, PA	487907	2005	Request for Waiver
Southeast Delco School District Folcroft, PA	421728, 421881	2004	Request for Review
Southeastern Libraries Cooperating Rochester, MN	251453	2001	Request for Review
St. Clement's Regional Catholic School Saratoga Springs, NY	386976	2004	Request for Review
St. Elizabeth Interparochial School Wyckoff, NJ	409287	2004	Request for Review
St. Francis of Assisi School Brooklyn, NY	FCC Form 470 Number 450810000564257	2006	Request for Waiver
St. Ignatius Academy New York, NY	484436	2005	Request for Waiver
St. Mary's School Leipsic, OH	488671	2005	Request for Waiver
SuperNet Consortium Whitehouse, TX	460573	2005	Request for Waiver
Tiverton School Department Tiverton, RI	487097	2005	Request for Waiver

Trinity Christian School Fayetteville, NC	432746	2004	Request for Review
Unadilla Community School Unadilla, NE	487072	2005	Request for Waiver
Wabash Valley Educational Center West Lafayette, IN	485945	2005	Request for Waiver
Wallington Public Schools Wallington, NJ	40909	2004	Request for Waiver
Walnut Community School District Walnut, IA	402680	2004	Request for Waiver
Washington Local School District Toledo, OH	434128	2004	Request for Review
Watson School District #56 Watson, OK	394230, 398535	2004	Request for Review
Westside Holistic Family Services Chicago, IL	470792	2005	Request for Waiver
Whitfield County School District Dalton, GA	387068	2004	Request for Review
Wilkinson County School District Irwinton, GA	415952, 416125, 423714, 430873, 431049, 431202	2004	Request for Waiver
Wilson Memorial Library Keota, IA	386222	2003	Request for Review

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Petitions for Reconsideration**

Chawanakee Joint Elementary School District North Fork, CA	229391	2001	Application for Review
High Bridge Board of Education High Bridge, NJ	328078	2002	Petition for Reconsideration
Neches Independent School District Neches, TX	325411	2002	Petition for Reconsideration
Siskiyou County Library Yreka, CA	325514	2002	Petition for Reconsideration

List of Appellants included as  
Consortio de Escuelas y Bibliotecas  
de Puerto Rico  
San Juan, Puerto Rico

**Applicant:**<sup>66</sup>**SLD File No.:**

Academia Adventista de Florida	227675
Academia Adventista de Mucarabones	228865
Academia Adventista del Centro Ramon Rivera Perez	228164
Academia Adventista de Maunabo	228926
Academia Adventista del Naguabo	228944
Academia Adventista del Noreste	228190
Academia Adventista del Norte	228207
Academia Adventista del Oeste	228216
Academia Adventista del Suroeste	228253
Academia Adventista Metropolitana	228978, 260779
Academia Alexandra	228742
Academia Cayey	228908
Academia Cristiana Un Nuevo Amanecer	255896
Academia de Ensenanza Moderna, Inc.	232429
Academia Paraiso de Dorado	232305
Academia Pentecostal Bethel	228265
Academia Presbiteriana Reverendo Juan E. Mercado	231427
Academia Primaria	228886
Academia Regional Adventista Central	228996
Academia Regional Adventista del Este	229001
Academia Regional Adventista del Norte	229028
Academia Regional Adventista del Sur	229041

<sup>66</sup> Applicant names are listed as they appeared on the FCC Form 471 under appeal, and differ in some cases from the names as they appeared in the pleadings. In addition, two applicants appearing in the pleadings, Biblioteca Publica Aguas Buenas and Colegio Congregacion Mita, are not listed because there is no record of these parties having submitted an application in Funding Year 2001.

Academia Sabana Llana	228960
Academia Santa Rosa de Lima	228760
Academia Santo Tomas de Aquino Elemental	229432
Academia Santo Tomas de Aquino Superior	229409
Bella Vista Adventist Academy	228788
Biblioteca Electronica Bo, Esperanza	260586
Biblioteca Electronica Municipio Autonomo de Carolina	260589
Biblioteca Electronica Municipio de Area Aibonito	243702
Biblioteca Municipal Caguas	236507
Biblioteca Municipal de Bayamon, Dr Agustin Stahl	243770
Biblioteca Municipal de Bayamon, Pilar Barbosa	244366
Biblioteca Municipal de Boquillas	244127
Biblioteca Municipal de Catano, Alberto Davila Fuentes	243846
Biblioteca Municipal de Cortes	244139
Biblioteca Municipal de Guaynabo	243958
Biblioteca Municipal de Juncos, Jose M Gallardo	244067
Biblioteca Municipal de Montebello	244183
Biblioteca Municipal de Pugnado	244159
Biblioteca Municipal de Quebradillas	260161
Biblioteca Municipal Ernesto Cora Vega	243810
Biblioteca Municipal Las Piederas	243153
Biblioteca Municipal Manati Francisco Alvarez Marrero	236736
Biblioteca Municipal Mayaguez	233513
Biblioteca Pedro Albizu Campos	236517, 244880, 254526
Biblioteca Publica Adjuntas	234495
Biblioteca Publica Aguada	237665
Biblioteca Publica Anasco-Manuel Guzman	233108
Biblioteca Publica Arecibo	243713
Biblioteca Publica Barceloneta	233178
Biblioteca Publica Camuy	237339
Biblioteca Publica Camuy, Bo. Quebrada	236860
Biblioteca Publica Cayey	237615
Biblioteca Publica Celba	236715
Biblioteca Publica Ciales	237413
Biblioteca Publica Cidra	243862
Biblioteca Publica Coamo	237300
Biblioteca Publica Comeio	260354
Biblioteca Publica de Area Corozal	237386
Biblioteca Publica de Arroyo	243758
Biblioteca Publica de Culebra	237506
Biblioteca Publica de Luquillo	244455, 260451
Biblioteca Publica Fajardo	243897
Biblioteca Publica Guanica	243933
Biblioteca Publica Guayama	236689
Biblioteca Publica Guayanilla	234409
Biblioteca Publica Gurabo	237594
Biblioteca Publica Hatillo	237581
Biblioteca Publica Humacao	244008
Biblioteca Publica Jayuya	237466
Biblioteca Publica Lajas	237564
Biblioteca Publica Las Marias	244104

Biblioteca Publica Loiza	233070
Biblioteca Publica Maricao	233628
Biblioteca Publica Maricao-Indiana Alta	237436
Biblioteca Publica Maunabo, Rafael Rodriguez Gonzales	260104
Biblioteca Publica Municipal Computarizada de Naranjito	260232
Biblioteca Publica Penuelas	244332
Biblioteca Publica Rio Grande	236756
Biblioteca Publica Sabana Grande	237551
Biblioteca Publica Salinas	244170
Biblioteca Publica San Juan-Cantera Rosa Sanchez	236946
Biblioteca Publica San Juan-La Peria	244233, 260772
Biblioteca Publica San Lorenzo	236812
Biblioteca Publica Santa Isabel Pedro M Alomar	237746
Biblioteca Publica Toa Alta	244264
Biblioteca Publica Toa Baja	233246, 237587
Biblioteca Publica Utuado	244326
Biblioteca Publica Vieques	237716
Biblioteca Publica Villalba	236778
Biblioteca Publica Yabucoa	244349
Biblioteca Publica Yauco	237499
Biblioteca San Sebastian	244244
Colegio Bilingue Light Of The Children	228801
Colegio Catolico Notre Dame Elemental	214568, 229355
Colegio Catolico Notre Dame Secundario	229379
Colegio Cedi	232404
Colegio Emmanuel, Inc.	232226
Colegio Immaculada Concepcion	229197
Colegio Nacional	232314
Colegio Nuestra Senora del Carmen	229214
Colegio Nuestra Senora del Rosario – Ciales	229122
Colegio Nuestra Senora del Rosario – Vega Baja	229226
Colegio Presbiteriano San Sebastian	230479
Colegio Sagrada Familia	229244
Colegio San Antonio	228813
Colegio San Felipe	229093
Colegio San Jose	229291
Colegio San Juan Bautista	223597, 229170
Colegio San Juan Bosco	224671, 229127, 29137
Colegio San Miguel Elemental	222815, 229075
Colegio San Miguel Secundario	222816, 229059
Colegio San Rafael	222317, 225416, 229329, 260627
Colegio San Vicente Ferrer	230419
Colegio Sana Rosa Superior	231235
Colegio Santa Rosa Elemental	230444
Colegion Congregación Mita	255793
Escuela Evangelica Unida de Fajardo	231480
Fajardo Community Private School	232444
Hogar Colegio La Milagrosa	229145
Liceo Aguadillano	228839
Piaget Bilingual Academy Of Manati	258270
Saint Patrick's Bilingual School	232457

**APPENDIX C**  
**Minimum Processing Standards Violations**

<b>Applicant</b>	<b>Application Number</b>	<b>Funding Year</b>	<b>Type of Appeal</b>
Alexander City Schools Alexander City, AL	440884	2005	Request for Review
Athens City Schools Athens, TN	476573	2005	Request for Review
Bay St. Louis-Waveland School District Bay St. Louis, MS	434001, 434002, 434003, 434008	2004	Request for Review
Biblioteca Electronica de Rio Hondo Comerio, PR	489565	2005	Request for Review
Bucksport School Department Bucksport, ME	471929	2005	Request for Review
Burnt Hills-Ballston Lake Central School District Scotia, NY	434258	2004	Request for Review
Calumet City School District No. 155 Calumet City, IL	442354	2005	Request for Review
City of Boston, Department of Neighborhood Development Boston, MA	330664	2002	Request for Review
Clovis Unified School District Clovis, CA	320217	2002	Request for Review
Colegio San Antonio Isabela, PR	434925	2004	Request for Review and Waiver
Colton School District #53 Colton, OR	434227	2004	Request for Review
Cooperative Educational Service Agency #12 Ashland, WI	481695	2005	Request for Review
Creighton School District Phoenix, AZ	471774	2005	Request for Review
Elsa Public Library Elsa, TX	472948	2005	Request for Review

Emery Unified School District Emeryville, CA	386068	2003	Request for Review
Fairfax County Public Schools Arlington, VA	NEC.471.03-13- 00.29600003	1999	Request for Review
Forsyth County Public Library Winston-Salem, NC	386053	2003	Request for Review
Franklin Lakes School District Franklin Lakes, NJ	438092	2003	Request for Review
French Camp Academy French Camp, MS	386007	2003	Request for Review
Henderson County Public Library Lexington, TN	489560	2005	Request for Review
Hood River County School District Hood River, Oregon	463073	2004	Request for Review
Incarnation School Queens Village, NY	484104	2005	Request for Review
Jackson District Library Jackson, MI	386004	2003	Request for Review
Lawrence County School District Monticello, MS	423967, 424237	2004	Request for Review
Leary Independent School District Hooks, TX	386045	2003	Request for Review
Leary School of Virginia Alexandria, VA	429541	2004	Request for Review
Mabton School District 120 Mabton, WA	330366, 331297	2002	Request for Review
Maine School Administrative District No.36 Livermore Falls, ME	434452	2004	Request for Review
Marshfield Public Schools Marshfield, MA	454206	2005	Request for Review
Maumee City School District Maumee, OH	433796	2004	Request for Review

McKittrick School District McKittrick, CA	457558	2005	Request for Review
Memphis City Schools Memphis, TN	386323	2003	Request for Review
Mililani-Mauka Elementary School Mililani, HI	435235	2004	Request for Review
Moencopi Day School Tuba City, AZ	388623	2004	Request for Review
Northampton Public Schools Northampton, MA	434124	2004	Request for Review
Radford City Schools Radford, VA	328239	2002	Request for Review
Rangeley Public Library Rangeley, ME	412504	2004	Request for Review
Richards Independent Schools Richards, Texas	466139, 466553	2005	Request for Review
Richford High School Richford, VT	478956	2005	Request for Review
Santa Cruz Catholic School Tucson, AZ	477761	2005	Request for Review
Sarah A. Reed Children's Center Erie, PA	478696	2005	Request for Review
Sevier County Library De Queen, AR	489555	2005	Request for Review
South Winneshiek Community School District Calmar, IA	434742	2004	Request for Review
St. Lawrence Catholic School Tampa, FL	364085	2003	Request for Review
St. Joseph the Carpenter School Cranford, New Jersey	293467	2002	Request for Review
St. Mary's Academy Champlain, NY	464088	2005	Request for Review

Suffolk Cooperative Library System, Bellport, NY	206068	1999	Request for Review
Sweetser Saco, Maine	472924	2005	Request for Review
Tennessee School Boards Association Nashville, TN	331527	2002	Request for Review
Teton County Library Jackson, WY	386021	2003	Request for Waiver
Toledo Academy of Learning Toledo, OH	472874	2005	Request for Review and Waiver
Unger Memorial Library Plainview, Texas	457480	2005	Request for Review
Upper Adams School District Biglerville, PA	384741	2003	Request for Review
Vidalia City School District Vidalia, GA	435029	2004	Request for Review
Vidalia City School District Vidalia, GA	462880	2005	Request for Review
Vidalia City Schools Vidalia, GA	435053	2004	Request for Review
Volusia County Schools DeLand, FL	264583	2001	Request for Review
West Genesee Central School District Syracuse, NY	146585	1999	Request for Review
West Sioux Community School District Hawarden, IA	435404	2004	Request for Review

**Minimum Processing Standards Violations  
Petition for Reconsideration**

City of Newport News Newport News, VA	NEC.471.12-16- 99.2700001	2000	Petition for Reconsideration
Des Moines Public Schools Des Moines, IA	267486	2001	Application for Review

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King and Queen County Public Schools King and Queen Courthouse, VA	NEC.471.01-19- 00.05000968	2000	Petition for Reconsideration
Paramus School District Paramus, NJ (filed by Thomas Communications & Technologies, LLC)	386049	2003	Application for Review

**SEPARATE STATEMENT OF  
COMMISSIONER MICHAEL J. COPPS**

Re: *Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School New Orleans, LA, et al.; Schools and Libraries Universal Service Support Mechanism, Order (File Nos. SLD-487170, et al., CC Docket No. 02-6)*

E-Rate plays a decisive role in providing schools and libraries with the communications tools they need for our children and communities to compete and prosper in this digital age. Because access to E-Rate is so important, we need to be dead serious about rooting out abuses and punishing those few bad actors who would exploit the program. But that is not the case in the select appeals before the Commission today. Clearly, these cases are not about waste, fraud or abuse. These are about limited, and I believe, relatively minor ministerial errors. When a school inadvertently provides the right information on a slightly dated but virtually identical form, when technical problems prevent an applicant from interfacing with USAC's electronic filing system and when a third-party carrier prevents an application from arriving in a timely manner, flat-out funding denial is a harsh consequence. It can be especially harsh when, as was the case in one application here, a minor clerical error led to a denial of E-Rate funding for an entire state. In fact, it becomes hard to square denial for slight clerical errors like these with our duties under the statute to further the deployment of advanced services. For these reasons, I support today's decision.