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June 29, 2006

Office of the Secretary
Federal Communications Commission
445 -12th Street, S.W.
Washington, D.C. 20554

RE: Appeal to the Federal Communications Commission
Lima City School District, Billed Entity No. 130098

To Whom It May Concern:

Enclosed please find an Appeal and Request For Waiver from a decision by the Schools and Libraries Division of the USAC relative to the school noted above.

Enclosed are an original and five copies of the Appeal and Request for Waiver. Please file the original and four of the copies and return one time-stamped copy to me in the enclosed self addressed-stamped envelope.

Please direct all communication regarding this appeal to my attention at the address noted above. Thank you for your assistance in this matter.

Yours truly,

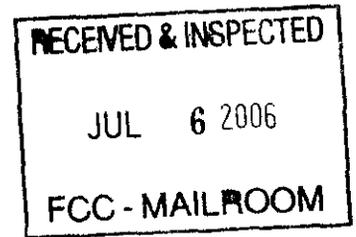


Linda Schreckinger Sadler

Encl.

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Before the
Federal Communications Commission
Washington, D.C. 20554



APPEAL AND REQUEST FOR WAIVER

In re: **Lima City School District**)
Lima, OH) **CC Docket No. 02-06**
)
)
)

TO: Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Room TW-A325
Washington, DC 20554

This Appeal and Request For Waiver is made to the Federal Communications Commission ("FCC") by Lima City School District ("Lima") by and through its duly authorized attorney, pursuant to 47 C.F.R. §§ 54.719(c) and 54.721. Pursuant to the Commission's authority as stated in 47 C.F.R. §1.3, Lima seeks a waiver for Funding Year 2005-2006 relative to:

Form 486 Application Number:	338033
Form 486 App. I.D.	LIMA486
Form 471 Application Number:	470234
FRNs:	1301372, 1301386, 1333588, and 1301542
Funding Year 2005:	07/01/2005-06/30/2006
Billed Entity Number:	130098
Date of 486 Notification Letter	May 3, 2006

Contact Information

- (1) To discuss this appeal: Linda Schreckinger Sadler Esq.
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- (2) For all other SLD purposes: Cathy Woodward
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Lima City School District
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Statement in Support of Appeal and Request For Waiver

This appeal and request for waiver stems from late filing of FCC Form 486 No. 338033 for telecommunications services provided to Lima City School District. Lima submitted the Form 486 several months beyond the 120-day deadline from the start-of-services as required by the Federal Communications Commission and Schools and Libraries Division (“SLD”) of the Universal Service Administrative Company (“USAC”). According to rules, the late filing of the Form 486 caused the service start date to be dated back to 120 days prior to the date of the electronically submitted application. This “dating back” caused Lima Schools to lose approximately 5 months of E-rate funding for telecommunications services.

The delay in submitting the Form 486 was not deliberate but due to an unfortunate series of events that befell the person delegated to handle the filings. The responsibility for the preparation and filing of the 486 was entrusted to a member of the Technology Director’s support staff. This person sustained a significant injury when she slipped on a metal grate and

fell. She tried to work despite ongoing pain and suffering. After a month, when her condition did not improve, she finally went to the doctor. X-rays revealed that she had a broken arm and torn rotator cuff. Her injuries, doctor appointments and physical therapy sessions caused her to miss significant amounts of work. Her injuries were severe enough to require she undergo surgery this summer.

The constant pain coupled with her limited and erratic attendance caused her work to suffer. Given the limited staffing of the District, the filing of the 486 “fell through the cracks.” The failure to file wasn’t noticed until Lima received notification from USAC that their internal connections funding had been approved. As soon as the filing oversight of the 486 was discovered, Lima personnel immediately proceeded to prepare and file the form. Unfortunately, by that time, 5 months of much needed funding was lost. Since Lima students attain 90% NSLP participation, this loss to the District is sorely felt.

The Commission may waive any provision of its rules on its own motion and for good cause shown.¹ A rule may be waived where the particular facts make strict compliance inconsistent with the public interest.² In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.³ 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.⁴

¹ 47 C.F.R. §1.3.

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

³ *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).

⁴ *Northeast Cellular*, 897 F.2d at 1166.

Lima believes its situation falls within the purview of these FCC exceptions. The circumstances presented constitute good cause sufficient to warrant a waiver. Lima is a poor city school district. It is clear from the facts presented herein that that the loss of five (5) months of funding will cause considerable hardship to Lima students and faculty and have detrimental financial impact to the district-at-large. It is also clear from the facts that the failure to file the Form 486 did not result from carelessness, negligence or disregard of the rules and regulations of the E-rate program, but resulted from the person responsible for the filing having suffered a severe injury. The Commission has stated its right to take hardship into consideration in assessing a request for a rule waiver, and recognizes that strict compliance with rules may be inconsistent with the public interest. Lima asserts that the impact the injury sustained by the E-rate-responsible employee - coupled with the adverse financial impact the loss five months funding will cause the District - created 'hardship' for Lima within the meaning and spirit of the Commission's prior orders. It believes these circumstances demonstrate "good cause shown" and that the waiver would be appropriate under the circumstance presented. It will serve the public interests of the constituents of Lima City School District to grant a waiver of the Form 486 filing deadline.

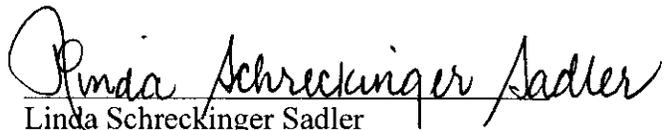
Conclusion:

Lima has demonstrated fulfillment of the requisites necessary to be granted a waiver of rules regarding the deadline for filing Form 486. Having established good cause shown, it is in the public interest and consistent with precedent for the Commission to grant Lima City School's Appeal and Request for Waiver.

Applicant hereby requests:

1. That this matter be acted upon within 90 days or less of the filing date of this appeal;
2. That the FCC grants a waiver for Lima relative to the filing of the FCC Form 486 as set forth herein.
3. That funds be set aside to totally fund the balance of Lima's funding requests.

Respectfully submitted,



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TO:

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Federal Communications Commission
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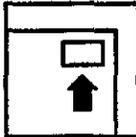
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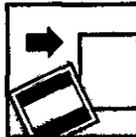
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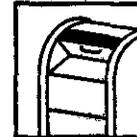
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