

Request for Waiver (USAC)

CC Docket No. 02-6 - CC Docket No. 96-45

To: FCC
Date: May 9, 2008
Re: "Funding Year 2008 Form 471 Postmarked Outside of Window Filing Letter

From Billed Entity Name: Watertown-Mayer Public Schools
Billed Entity Number 133622
Form 470 Application # 53149000063080
Form 471 Application # 618604

Decision: Taken from a USAC letter dated May 7, 2008. "Your Form 471 application was postmarked on 02/08/2008, which is after the Funding Year 2008-2009 filing window closed at 11:59 p.m. EST on Thursday, February 7, 2008. Program rules require us to hold your application pending final review of those applications that were filed within the filing window."

Request: To waive the Form 471 filing deadline, due to special circumstances.

Rational: Form 471 was filed one day late due to a clerical error on my part. The details of this error are described in further detail at the end of this request. The consequence of filing late is a loss of e-rate funding for Fiscal Year 2008-2009, which will place a financial burden on our district. In May of 2006, the FCC released the Bishop Perry Decision, File Nos. SLD-487170. In this decision, the FCC stated that good cause exists to waive the deadline for filing Form 471 when the violation was caused by a clerical error. Below is an excerpt from Section III, paragraph 14 of their decision:

"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. Under Bureau precedent deadlines have been strictly enforced for the E-rate program, 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. We therefore grant these appeals and remand them to USAC for further processing consistent with this Order."

To whom it may concern:

I am writing on behalf of Watertown-Mayer Public Schools to request a waiver for Watertown-Mayer School District. I recently received a notice that our district's Form 471 has been certified "Out of Window." The consequences of being certified Out of Window is to lose E-Rate funding for fiscal year 2008-2009. The deadline for filing Form 471 was February 7, 2008 and the district's form was filed on February 8, 2008, one day late.

Here are the circumstances surrounding the filing: A 28 day waiting period is required between filing Form 470 and Form 471. My district's form 470 was filed January 11, 2008, 8 hours after the January 10, 2008 deadline. According to the regulations, the consequence of this late filing means that we could not file Form 471 until

February 8, 2008, consequently missing the filing window deadline of February 7, 2008. I accept full responsibility for missing the deadline. However, I am asking for a waiver because; 1) I believe there were some unusual circumstances involved in missing the deadline, and 2) losing one year of e-rate funding will put a severe financial burden on a school district that already has a diminishing fund balance.

Reason for missing deadline: As stated above, I accept full responsibility for missing the deadline. There were some extenuating circumstances that contributed to the late filing. Our district opened a new elementary school this fall, completely remodeled our high school, and replaced all technology in our middle school data closets. We were not allowed to start placing technology in our new data closets until 1 week before school started. Needless to say, this fall was a very hectic time with many long days and nights of work. I am still dealing with construction issues on a daily basis. I started the 470 filing process late November of 2007. I believed I had completed the 470 filing, but in the confusion of the building process I did not finish. I had only completed the paper copy and had not filed the online form. I discovered my mistake on the morning of January 11 when I went to the USAC website to begin filing form 471 online. Only at that point did I realize I had not submitted our district's form 470.

Financial Consequences: Watertown-Mayer Public Schools is a small district with financial concerns. Opening a new school has resulted in a financial burden on our district. Although anticipated, we are facing a diminishing fund balance. E-rate has greatly helped finance our telecommunications and data communications over the past ten years. To lose e-rate funding, even for one year, will greatly impact our educational programs. Roughly estimating, I believe I may need to cut my budget by approximately 30% if we do not receive funding in 2008-2009.

In conclusion, I am asking that you please consider a waiver of the "Out of Window Status" and allow my school district to receive E-Rate funding. I realize it was my responsibility to assure form 470 was properly filed. I also know that it was a clerical error on my part that prevented a timely filing, and that the integrity of the process will not be compromised. I am also concerned that students will suffer if we do not receive this year's funding. I have filed my district's e-rate documents each of the ten years the program has been in existence, and have never missed a deadline. I know this does not rationalize missing it this year, but I want you to know that I do not have a history of asking for waivers.

Thank you for your consideration in this matter.

Dan Sieling

District Technology Director
Watertown-Mayer Public Schools
952-955-0610 (work)
952-955-0601 (fax)
dsieling@wm.k12.mn.us (email)