

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

**In the Matter of:**

Petition for Waiver of Decisions	)	
of the Schools and Libraries Division	)	
of the Universal Service Administrative	)	
Company for Poquoson City Public Schools	)	Form 471 Number
Poquoson, Virginia	)	126532
	)	
Joint Board on Universal Service	)	CC Docket No. 02-6

Petition for Waiver  
Poquoson City Public Schools  
Entity Number 126532  
Form 471 Number 637907  
Funding Request Numbers 1766451 and 1766453

In accordance with Sections 54.719 through 54.721 of the Commission’s rules, now comes Poquoson City Public Schools, through its consultant, before the Commission requesting waiver of the Form 471 filing deadline of February 7, 2008. We ask also that the original waiver appeal attached hereto be accepted as timely filed.

**Background**

In correspondence dated May 7, 2008 the Schools and Libraries Division of the Universal Service Administrative Company (Administrator) indicating that the Year 2008 Form 471 for Poquoson would not be considered because it was filed after the designated filing window for E-Rate applications.

Poquoson had prepared a letter of appeal dated May 7, 2008 and attached here as “Appeal.” Poquoson mistakenly sent the appeal to the Administrator at an address used by Poquoson for all other correspondence – namely an address for the “Schools and Libraries Division” in Lawrence, Kansas. Proof of mailing is attached here as “Receipt.”

In late April, 2009 it was revealed to the consultant that the appeal was sent not to the Commission but to the Administrator. Because appeals to the Commission are rarely decided in less than a year, no further action had been initiated. However knowing that appeals to the Administrator are routinely processed in 90 days or less, the consultant submitted a status request to the Administrator, Administrator Case Number 21-889716. The Administrator indicated that it had no record of receipt of an appeal.

In correspondence dated May 20, 2009, the Administrator denied the appeal as being untimely filed.

## **Discussion**

Poquoson asks the Commission to consider the attached May 7, 2008 waiver request to be timely filed. The request was submitted to the Administrator within 60 days of the Administrator's Out-of-Window letter dated May 7, 2008 and attached here as "Poquoson OOW Letter."

Poquoson reviewed the appeal prepared by its consultant, signed the appeal and mailed it to the address for virtually all other Administrator correspondence – Lawrence, Kansas. The Administrator having received correspondence which was obviously an appeal, should have forwarded the appeal to the appropriate department . The appeals department would have either acted on the appeal or forwarded it to the Commission for consideration.

We note that there is ample precedent for the Administrator to forward appeals to the Commission for consideration.<sup>1</sup> Clearly, this appeal was addressed to the Commission and should have been forwarded to the Commission.

## **Conclusion**

Poquoson City, through its consultant, asks the Commission to consider the attached appeal as timely filed and consider the appeal on its merits. Poquoson City also asks that Commission decisions subsequent to May 7, 2008 be considered when reviewing this appeal. Specifically, we ask that precedent in the Arkansas Decision be considered.<sup>2</sup>

Respectfully submitted this 25<sup>th</sup> day of May, 2009,

Greg Weisiger

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<sup>1</sup> See correspondence from the Universal Service Administrative Company to the Federal Communications Commission, Docket No. 02-6, Dated March 27, 2009; May 23, 2008; May 22, 2008; March 14, 2008.

<sup>2</sup> Arkansas Department of Information Systems, DA 08-1418, Rel. June 13, 2008, Docket No. 02-6.

