

**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)	637907
)	
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 before the Commission requesting waiver of the Form 471 filing deadline of February 7, 2008. We request this waiver because of E-Rate coordinator personnel changes at Poquoson and a misunderstanding of program rules regarding multi-year contracts.

On May 7, 2008 the Schools and Libraries Division of the Universal Service Administrative Company (Administrator) issued correspondence to Poquoson indicating the Form 471 Number 637907 was filed outside the Program Year 2008 funding window and would therefore not be considered for funding. Due to extenuating circumstances, we ask for waiver of program rules and consider this application to be filed within the Year 2008 filing window.

Background

Poquoson City Public schools is a small school division in the commonwealth of Virginia located at the tip of the Lower Peninsula of eastern Virginia. The discount rate for Poquoson is a relatively low 40 percent.

In early January 2008 the chief technician for Poquoson had a family emergency and took immediate leave.¹ E-Rate coordinator for Poquoson also served as the director of technology and acted as chief technician during the emergency leave. During early January a number of network failures required the full attention of the director. In addition, Poquoson was designing a new school at the time and network design diagrams, equipment selection, and school board approval was priority at the time. The technology director played a key role in design of the new school.

¹ Because of privacy concerns, the nature of the emergency cannot be revealed.

By late January the director began preparation for the 2008 application., It was discovered at that time a Form 470 had not been filed by January 10, 2008 – the last possible day to file a Form 470 and wait the required 28 days before filing a Form 471. Poquoson called the Virginia Department of Education for advice but the state coordinator had left in August, 2007. Poquoson called the Schools and Libraries Division on January 24, 2008 (Case #21-683889). The Administrator help line suggested filing a Form 470, waiting the required 28 days, selecting the most cost effective service provider, filing a Form 471 and requesting a waiver through the Commission. At no time during the call with the Administrator was the suggestion made that a Form 471 could be filed within the Year 2008 filing window for any multi-year contracts that cited a previously filed Form 470. Such contracts do not need to be re-bid and do not require the posting of a Form 470 each year.

On February 28, 2008 Poquoson signed a contract with the Mid-Atlantic division of E-Rate Central to provide E-Rate consulting services. The consultant suggested immediately filing a Form 471 for existing contracts for which a Form 470 had been previously filed. Poquoson submitted the application here under appeal on February 28.

The services for which discounts are sought under existing contracts are Telecommunications and Internet Access provided by Verizon Business Global and Verizon Virginia respectively. The total funding request for the two contracts is approximately \$16,000.

The Commission has noted in numerous decisions that the E-Rate program is relatively complex and responsible personnel are often assigned E-Rate duties on a part-time basis. In some cases, as the situation here before the Commission with this appeal, a personnel emergency precipitated the missed deadline. This situation was compounded with the departure of the Virginia state E-Rate coordinator during the critical filing window season. In previous years the Virginia Department of Education provided E-Rate updates and contacted applicants individually when deadlines approached. Poquoson received no communication from the Department during the filing year.

In the Bishop Perry Order, FCC 06-54, released May 19, 2006, the Commission stated:

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.⁴⁰ 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.⁴² We therefore grant these appeals and remand them to USAC for further processing consistent with this Order.

The Bishop Perry Order also instructed the Administrator to conduct targeted outreach to inform applicants of program rules and regulations. The Commission also instructed the Administrator to inform applicants that had filed timely Forms 470 but had failed to file Form 470 certifications or subsequent Forms 471 of filing deadlines. Unfortunately, Poquoson did not file a Form 470 in a timely manner and was therefore never the recipient of Commission mandated notification. Further, Poquoson was not the recipient of targeted outreach during the Year 2008 fund cycle.

Conclusion

Poquoson City Public Schools seeks waiver of Form 471 filing deadline for this application. This funding, while relatively small compared to large school systems, is vital to the effective operation of the Poquoson telecommunications network. This application constitutes eligible services procured in accordance with program, state, and local regulations and in no way wastes program resources.

Poquoson has initiated steps to ensure ongoing compliance with program deadlines and program rules and realizes the importance of strict adherence to such rules.

Respectfully submitted this 7 day of May, 2008,



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