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Sent To **SLD- Forms - Form 500**
Street, Apt. No.,
or PO Box No. **3833 Greenway Dr.**
City, State, ZIP+4 **Lawrence KS 66046**

Hall, Kay

From: Anthony Dixon [adixon@coahoma.k12.ms.us]
Sent: Wednesday, August 05, 2009 8:16 AM
To: Hall, Kay
Subject: FW: Case # 21-926209 ATTN: Megan

This was their response.

From: Allred, Megan R [mailto:Megan.Allred@vangent.com]
Sent: Wednesday, August 05, 2009 7:50 AM
To: adixon@coahoma.k12.ms.us
Subject: RE: Case # 21-926209 ATTN: Megan

Anthony,

The rule is on this is that you have 120 days from the date the form 486 is filed to change the service start date back. If 486 is filed late you can not change back. Also if you try to change service start date back after the 120 days we would count back 120 days from the date you filed the form 500 and that would be the new service start date which would be later then the date it is currently. If you need to change the service start date back at this time you will need to file an appeal.

Thank you,

Megan Allred

From: Anthony Dixon [mailto:adixon@coahoma.k12.ms.us]
Sent: Monday, August 03, 2009 9:23 AM
To: SLD Problem Resolution
Subject: Case # 21-926209 ATTN: Megan

Megan,

The reason we have filed the Form 500 (referencing **FRN 1343379**) is to adjust the Funding Year Service Start Date reported on a previously filed Form 486 from 9/2/2007 to 8/1/2007. According to the instructions of the Form 500 as referenced in the attached Form 500 Instructions provided on the website

<http://www.universalservice.org/res/documents/sl/pdf/500i.pdf> on page 1 Section 1 second paragraph. These instructions state:

The Form 500 must be filed to accomplish the following:

To adjust the Funding Year Service Start Date reported on a previously filed Form 486 for this Funding Year

Please advise as to why you are stating in your email correspondence "**On this form you are trying to change the service start date back for the FRN 1343379 which can not be done. I will need for you to send me a request to cancel this form.**", when the instructions of the Form 500 specifically state that is what you can use the form for.

The service start date for this FRN was entered incorrectly on the original 486 and the submitted Form 500 is to correct that service start date. Please advise as to first – why we cannot do this on this form – and second if we cannot correct on this Form 500 then what form are we to use to make this correction?

I've attached the document and thank you so much for your prompt response to this request.

Hall, Kay

From: Anthony Dixon [adixon@coahoma.k12.ms.us]
Sent: Monday, August 03, 2009 8:25 AM
To: Hall, Kay
Subject: FW: E-Rate Problem Resolution; Form 500; Case # 21-926209

This is what I was talking about last week.

Anthony

From: SLD Problem Resolution [mailto:SLD-Problem-Resolution@prod.vangent.com]
Sent: Wednesday, July 29, 2009 8:07 AM
To: adixon@coahoma.k12.ms.us
Subject: E-Rate Problem Resolution; Form 500; Case # 21-926209

Date: 07/29/2009

Contact Name: Anthony Dixon
Applicant Name: Coahoma County School District
Contact Phone Number: 662-624-5448
Form Type: 500
Application Number(s): 596789

Response Due Date: 08/13/2009

We are making this contact with you to obtain the necessary information to successfully data enter your form 500. Below is the information we need from you so that we may complete data entry of your form:

On this form you are trying to change the service start date back for the FRN 1343379 which can not be done. I will need for you to send me a request to cancel this form.

Please fax or email the requested information to my attention. If you have any questions, please feel free to contact me.

It is important that we receive all of the information requested **within 15 calendar days** so we can complete data entry. **Failure to do so may result in rejection of your form. This means your form will not be data entered. If you need additional time to prepare your response, please let me know as soon as possible. If you are unable to provide the requested information because your school has closed or will shortly close for summer break, let me know when you will be available to respond to these questions.**

Please advise me if the Contact Person on the application(s) has changed from that on the original application. This change must include the form type, application number(s), and be signed by the original application's Contact Person, the original application's Authorized Person or a school official (with name and title provided).

Should you wish to cancel your form, please clearly indicate in your response that it is your intention to cancel the form or funding request(s). Include in any cancellation request the application number(s), the form type(s) and/or funding request number(s), and the complete name, title and signature of the authorized individual.

Cell: 662-295-0430



From: Anthony Dixon [mailto:adixon@coahoma.k12.ms.us]
Sent: Monday, August 03, 2009 8:25 AM
To: Hall, Kay
Subject: FW: E-Rate Problem Resolution; Form 500; Case # 21-926209

This is what I was talking about last week.

Anthony

From: SLD Problem Resolution [mailto:SLD-Problem-Resolution@prod.vangent.com]
Sent: Wednesday, July 29, 2009 8:07 AM
To: adixon@coahoma.k12.ms.us
Subject: E-Rate Problem Resolution; Form 500; Case # 21-926209

Date: 07/29/2009

Contact Name: Anthony Dixon
Applicant Name: Coahoma County School District
Contact Phone Number: 662-624-5448
Form Type: 500
Application Number(s): 596789

Response Due Date: 08/13/2009

We are making this contact with you to obtain the necessary information to successfully data enter your form 500. Below is the information we need from you so that we may complete data entry of your form:

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Please fax or email the requested information to my attention. If you have any questions, please feel free to contact me.

It is important that we receive all of the information requested **within 15 calendar days** so we can complete data entry. **Failure to do so may result in rejection of your form. This means your form will not be data entered. If you need additional time to prepare your response, please let me know as soon as possible. If you are unable to provide the requested information because your school has closed or will shortly close for summer break, let me know when you will be available to respond to these questions.**

Please advise me if the Contact Person on the application(s) has changed from that on the original application. This change must include the form type, application number(s), and be signed by the original application's Contact Person, the original application's Authorized Person or a school official (with name and title provided).

Should you wish to cancel your form, please clearly indicate in your response that it is your intention to cancel the form or funding request(s). Include in any cancellation request the

application number(s), the form type(s) and/or funding request number(s), and the complete name, title and signature of the authorized individual.

Thank you for your cooperation and continued support of the Universal Service Program.

Megan Allred

Schools and Libraries Division

Problem Resolution Phone: 888-203-8100

FAX: 888-276-8736

E-mail: sld-problem-resolution@prod.vangent.com

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

In the Matter of)	
)	
Request for Waiver of a Decision of the Universal Service Administrator by)	
)	
Harvey Public Library District Harvey, Illinois)	File No. SLD-307716
)	
Schools and Libraries Universal Service Support Mechanism)	CC Docket No. 02-6

ORDER

Adopted: October 30, 2008

Released: October 30, 2008

By the Acting Chief, Telecommunications Access Policy Division, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, we grant the request by Harvey Public Library District (Harvey) appealing a decision by the Universal Service Administrative Company (USAC) that denied funding under the schools and libraries universal service support mechanism (also known as the E-rate program) for Funding Year (FY) 2002.¹ As explained below, we find that special circumstances exist to justify a waiver of USAC's procedures and remand the appeal to USAC for action consistent with this Order. To ensure that the underlying matter is resolved expeditiously, we direct USAC to reinstate the funding commitment no later than 60 days from release of this Order.²

II. BACKGROUND

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries may apply for discounts for eligible telecommunications services, Internet access, and internal connections.³ Once the school or library has complied with the Commission's competitive bidding requirements and entered into agreements for eligible services, it must file an FCC Form 471 application to notify USAC of the services that have been ordered, the service providers with whom the applicant has entered into an agreement, and an estimate of

¹ Letter from Jay Kalman, Harvey Public Library District, to Federal Communications Commission, dated Jan. 19, 2006 (Request for Waiver). Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Universal Service Administrative Company may seek review from the Commission. 47 C.F.R. § 54.719(c). Funding Year 2005 started on July 1, 2002 and ended on June 30, 2003.

² In performing a complete review and analysis of the underlying applications, USAC shall either grant the application, or, if denying the application, provide the applicant with any and all grounds for denial.

³ 47 C.F.R. §§ 54.501-54.503.

funds needed to cover the discounts to be given for eligible services.⁴ Also on the FCC Form 471, applicants must list the "service start date," the date on which services will start in the funding year for which applicants are applying.⁵ USAC then issues a Funding Commitment Decision Letter (FCDL) indicating the discounts, if any, to which the applicant is entitled. After the Funding Year begins and the discounted services begin to be provided, the school or library submits to USAC an FCC Form 486, which indicates that the service has begun and demonstrates approval of the technology plan.⁶ Applicants must list the actual service start date on the FCC Form 486.⁷ USAC will only accept invoices from the service provider and issue disbursements for discounts on eligible services after receipt of the FCC Form 486.⁸

3. *Harvey Request for Review.* Harvey filed its FCC Form 471 for Funding Request Numbers (FRNs) 810261 and 810395 on January 14, 2002, noting that the service start date for the two FRNs was July 1, 2002.⁹ Harvey received its FCDL on December 30, 2002 and filed its FCC Form 486 on February 22, 2003.¹⁰ On its FCC Form 486, Harvey listed its Funding Year service start date as February 7, 2003, the date that the service provider finished its work, instead of the actual service start date of January 25, 2003.¹¹ On September 2, 2003, USAC sent Harvey's service provider, Logical Network Services (Logical), notification that it was not reimbursing FRNs 980062 and 980113 because the service start date was before the services received date on the FCC Form 486.¹² In an e-mail dated September 17, 2003, Logical filed an appeal with USAC.¹³ On March 26, 2004, USAC issued an Administrator's Decision on Invoice Appeal denying the appeal because the information submitted indicated that the services were delivered outside the dates for which the discounts applied.¹⁴ The next day, on March 27, 2004, Harvey filed an invoice deadline extension with USAC to allow its services to be

⁴ 47 C.F.R. § 54.504(c); 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).

⁵ FCC Form 471 Instructions at 25.

⁶ Instructions for Completing the Schools and Libraries Universal Service, Receipt of Service Confirmation Form (FCC Form 486), OMB 3060-0853 (August 2003) at 2 (FCC Form 486 Instructions).

⁷ FCC Form 486 Instructions at 12-13.

⁸ FCC Form 486 Instructions at 2. *See also Federal-State Joint Board on Universal Service, Children's Internet Protection Act*, CC Docket No. 96-45, Order, 17 FCC Rcd 12443, 12444, para. 4 (2002) (CIPA II Order); 47 C.F.R. § 54.520.

⁹ FCC Form 471, Harvey Public Library District, certified Jan. 14, 2002 (Harvey FCC Form 471).

¹⁰ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Jay Kalman, Harvey Public Library District, dated Dec. 30, 2002 (Funding Commitment Decision Letter); FCC Form 486, Harvey Public Library District, dated Feb. 22, 2003 (Harvey FCC Form 486).

¹¹ Request for Waiver at 1-2; *see also* Harvey FCC Form 486.

¹² E-mail from Schools and Libraries Division, Universal Service Administrative Company, to Sheila Brady, Logical Network Services, dated Sept. 2, 2003.

¹³ E-mail from Sheila Brady, Logical Network Services, to Schools and Libraries Division, Universal Service Administrative Company, dated Sept. 17, 2003 (Logical Request for Appeal).

¹⁴ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Sheila Brady, Logical Network Services, dated March 26, 2004 (Administrator's Decision on Invoice Appeal).

funded.¹⁵ USAC denied the extension on procedural grounds because the deadline extension was postmarked more than 60 days after the date of the FCC Form 486 Notification Letter.¹⁶

4. On January 19, 2006, Harvey filed the instant Request for Waiver with the Commission.¹⁷ In its Request for Waiver, Harvey admits that the e-rate coordinator inadvertently put down the wrong service delivery date.¹⁸ At the time, the office containing the E-rate documentation was flooded and much of the paperwork was damaged.¹⁹ In the confusion, the wrong date was entered on the library district's FCC Form 486.²⁰

III. DISCUSSION

5. Consistent with precedent,²¹ we waive USAC's procedures in this instance and grant Harvey's Request for Waiver.²² If Harvey had posted the correct service start date (January 25, 2003), Harvey would have been in compliance with program rules. We find that, although Harvey committed an unintentional, clerical error when it listed the incorrect service start date on its FCC Form 486, it adhered to the other core program requirements. As the Commission has stated, some applicants have contended that the E-rate program can be complicated, resulting in a significant number of applications for E-rate support being denied for ministerial or clerical errors.²³ We find that the action we take here promotes the statutory requirements of section 254(h) of the Communications Act of 1934, as amended (the "Act"), by helping to ensure that Harvey obtains access to discounted telecommunications and information

¹⁵ E-mail from Jay Kalman, Harvey Public Library District, to Schools and Libraries Division, Universal Service Administrative Company, dated March 27, 2004 (Harvey Request for Appeal).

¹⁶ See *infra* n.25.; Letter from Schools and Libraries Division, Universal Service Administrative Company, to Jay Kalman, Harvey Public Library District, dated Nov. 28, 2005 (Administrator's Decision on Appeal).

¹⁷ Request for Waiver.

¹⁸ Request for Waiver at 1.

¹⁹ *Id.* at 1-2.

²⁰ *Id.*

²¹ *Request for Review and/or Waiver by Glendale Unified School District, Schools and Libraries Universal Service Support Mechanism*, File No. SLD-143548, CC Docket No. 02-6, Order, 21 FCC Rcd 1040 (Wireline Comp. Bur. 2006) (granting a waiver request when the school district inadvertently listed as its service start date the date that it submitted the FCC Form 486 to USAC, instead of the actual service start date).

²² The Commission may waive any provision of its rules on its own motion and for good cause shown. 47 C.F.R. § 1.3. A rule may be waived where the particular facts make strict compliance inconsistent with the public interest. *Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*). In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *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). 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. *Northeast Cellular*, 897 F.2d at 1166.

²³ *Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, Schools and Libraries Universal Service Support Mechanism*, et al., CC Docket No. 02-6, Order, 21 FCC Rcd 5316, 5316, para. 2 (2006).

services.²⁴ Finally, we note that granting this appeal should have a minimal effect on the Universal Service Fund (USF or the Fund).²⁵ We therefore grant a waiver of USAC's procedures to Harvey and remand its application to USAC for further action consistent with this order.²⁶ In remanding this application to USAC, we make no finding as to the ultimate eligibility of the services or the petitioner's application.²⁷ We remind USAC of its obligation to independently determine whether the disbursement of universal service funds would be consistent with program requirements, Commission rules and orders, or applicable statutes and to decline to disburse funds where this standard is not met.

6. Finally, we emphasize that the Commission is 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 appeal addressed here, the Commission reserves the right to conduct audits and investigations to determine compliance 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 disbursed improperly or in a manner inconsistent with the statute or the Commission's rules. To the extent the Commission finds that funds were not used properly, the Commission will require USAC to recover such funds through its normal processes. We emphasize that the Commission retains 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. The Commission remains committed to ensuring the integrity of the program and will continue to aggressively pursue instances of waste, fraud, or abuse under the Commission's procedures and in cooperation with law enforcement agencies.

²⁴ 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. Nothing in this order is intended to authorize or require payment of any claim that has previously been released by a service provider or applicant, including in a civil settlement or criminal plea agreement with the United States.

²⁵ The appeal granted in this Order involves an application for \$167,760 in funding. We note that USAC has already reserved sufficient funds to address outstanding appeals. See, e.g., Universal Service Administrative Company, Federal Universal Service Support Mechanisms Fund Size Projections for the Fourth Quarter 2008 (Aug. 1, 2008). Thus, we determine that the action we take today should have minimal impact on the Universal Service Fund as a whole.

²⁶ In performing a complete review and analysis of the underlying applications, USAC shall either grant the application, or, if denying the application, provide the applicant with any and all grounds for denial. In addition to waiving the relevant rules and procedures that relate to Harvey's listing the wrong service start date, we note that Harvey was not in violation of section 54.720 of the Commission's rules that establishes deadlines for affected parties to seek review of decisions issued by USAC. 47 C.F.R. § 54.720. USAC noted that Harvey's invoice deadline extension request was postmarked more than 60 days after the date of the Form 486 Notification Letter. See Administrator's Decision on Appeal. While this is true, the event that Harvey was seeking to appeal was the notification that its invoices were denied, which was sent to Logical on September 2, 2003. Logical had already filed a timely appeal concerning this invoice denial on September 17, 2003. Harvey's subsequent invoice deadline extension request was merely following up on this USAC decision as a prelude to filing an FCC Form 500 in an attempt to change the service start date on its FCC Form 486. We therefore find that Harvey was not in violation of section 54.720 of the Commission's rules for submitting its extension request more than 60 days from the date of the Form 486 Notification Letter and determine Harvey's claims on the merits.

²⁷ Additionally, nothing in this order is intended: (1) to authorize or require payment of any claim that previously may have been released by a service provider or applicant, including in a civil settlement or plea agreement with the United States; or (2) to authorize or require payment to any person or entity that has been debarred from participation in the E-rate program.

IV. ORDERING CLAUSES

7. 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 pursuant to authority delegated in sections 0.91, 0.291, 1.3 and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3 and 54.722(a), that the Request for Waiver filed by Harvey Public Library District IS GRANTED.

8. 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 pursuant to authority delegated in sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), USAC SHALL COMPLETE its review of the remanded application and ISSUE an award or denial based on a complete review and analysis the funding commitment no later than 60 calendar days from release of this Order.

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

FEDERAL COMMUNICATIONS COMMISSION

Jennifer K. McKee
Acting Chief
Telecommunications Access Policy Division
Wireline Competition Bureau

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)	
)	
Request for Review and/or Waiver of the)	
Decision of the)	
Universal Service Administrator by)	
)	
Glendale Unified School District)	File No. SLD-143548
Glendale, California)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

ORDER

Adopted: February 1, 2006

Released: February 1, 2006

By the Deputy Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. Glendale Unified School District, Glendale, California, (Glendale) filed a Request for Review and/or Waiver of a decision by the Universal Service Administrative Company (USAC or Administrator).¹ The USAC decision at issue denied funding for discounted services in Funding Year 2003 of the schools and libraries universal service mechanism. As explained below, we find that special circumstances exist to justify a waiver of the Commission's rules and remand the application associated with this appeal to USAC for further action consistent with this Order.

II. BACKGROUND

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.² Once the school or library has complied with the Commission's competitive bidding requirements and entered into agreements for eligible services, it must file an FCC Form 471 application to notify the Administrator of the services that have been ordered, the service providers with whom the applicant has entered into an agreement, and an estimate of funds needed to cover the discounts to be given for eligible services.³ Also on the FCC Form 471, applicants must list the "service start date," the date on which services will start in the funding year

¹ Letter from Mary W. Boger and Michael F. Escalante, Glendale Unified School District, Glendale, California, to Federal Communications Commission, filed November 4, 2005 (Request for Review and/or Waiver). Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Universal Service Administrative Company may seek review from the Commission. 47 C.F.R. § 54.719(c).

² 47 C.F.R. §§ 54.501-54.503.

³ 47 C.F.R. § 54.504(c); 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).

for which applicants are applying.⁴ USAC then issues a funding commitment decision letter indicating the discounts, if any, to which the applicant is entitled. After the funding year begins and the discounted service commences, the approved recipient of discounted services submits to USAC an FCC Form 486, which indicates that the service has begun and demonstrates approval of technology plans.⁵ Applicants must list the actual service start date on the FCC Form 486.⁶ USAC will only accept invoices from the service provider and issue disbursements for discounts on eligible services after receipt of the FCC Form 486.⁷

3. Glendale filed its FCC Form 471 for Funding Request Numbers (FRNs) 980062 and 980113 on February 4, 2003, noting that the service start date for the two FRNs was July 1, 2003.⁸ Glendale received its Funding Commitment Decision Letter on March 3, 2004 and filed its FCC Form 486 on March 8, 2004.⁹ On its FCC Form 486, Glendale listed its funding year service start date as March 8, 2004, the date that it submitted the form to USAC, instead of July 1, 2003, the actual service start date.¹⁰ On June 22, 2004, Glendale submitted its FCC Form 472 Billed Entity Applicant Reimbursement Form (BEAR Form), seeking reimbursement for work billed from November 2003 to May 2004 pursuant to FRNs 980062 and 980113.¹¹ On November 19, 2004, USAC sent Glendale notification that it was not reimbursing certain expenses associated with the FRNs 980062 and 980113 because the service start date was before the services received date on the FCC Form 486.¹² On November 4, 2005, Glendale then filed the instant Request for Review and/or Waiver with the Commission.¹³

III. DISCUSSION

4. The Commission may waive any provision of its rules on its own motion and for good cause shown.¹⁴ A rule may be waived where the particular facts make strict compliance inconsistent with

⁴ FCC Form 471 Instructions at 25.

⁵ Instructions for Completing the Schools and Libraries Universal Service, Receipt of Service Confirmation Form (FCC Form 486), OMB 3060-0853 (August 2003) at 2 (FCC Form 486 Instructions).

⁶ FCC Form 486 Instructions at 12-13.

⁷ FCC Form 486 Instructions at 2. *See also Federal-State Joint Board on Universal Service, Children's Internet Protection Act*, CC Docket No. 96-45, Order, 17 FCC Rcd 12443, 12444, para. 4 (2002) (CIPA II Order); 47 C.F.R. § 54.520.

⁸ FCC Form 471, Glendale Unified School District, certified February 4, 2003 (Glendale FCC Form 471).

⁹ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Patrick Kennedy, Glendale Unified School District, dated March 3, 2004 (Funding Commitment Decision Letter); FCC Form 486, Glendale Unified School District, dated March 8, 2004 (Glendale FCC Form 486).

¹⁰ Glendale FCC Form 486 at 4.

¹¹ FCC Form 472 Billed Entity Applicant Reimbursement Form, Glendale Unified School District, dated June 22, 2004 (Glendale BEAR Form).

¹² Letter from Schools and Libraries Division, Universal Service Administrative Company, to Patrick Kennedy, Glendale Unified School District, dated November 19, 2004 (Form 472 (BEAR Form) Notification Letter).

¹³ Request for Review and/or Waiver.

¹⁴ 47 C.F.R. §1.3.

the public interest.¹⁵ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.¹⁶ 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.¹⁷

5. Based on the facts and circumstances in this specific case, we waive the relevant Commission rules and procedures. We find that although Glendale committed an unintentional, clerical error when it listed the incorrect service start date on its FCC Form 486, it adhered to the core program requirements. As we recently noted, the E-rate program is fraught with complexity from the perspective of beneficiaries, resulting in a significant number of applications for E-rate support being denied for ministerial or clerical errors.¹⁸ We find that the action we take here promotes the statutory requirements of section 254(h) of the Communications Act of 1934, as amended (the "Act"), by helping to ensure that Glendale obtains access to discounted telecommunications and information services.¹⁹ Although processing standards are necessary for the efficient administration of the program, strict adherence to such application procedures in this case would result in an outcome conflicting with the statutory goal mandated by Congress of preserving and advancing universal service among schools and libraries most in need of support. As we consider fundamental reform to the schools and libraries universal service mechanism, the public interest and goals of section 254(h) of the Act are best served by waiving our rules pertaining to Glendale's failure to insert the correct service start date on its FCC Form 486. We therefore grant a waiver to Glendale and remand its application to USAC for further action consistent with this order.

¹⁵ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

¹⁶ *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).

¹⁷ *Northeast Cellular*, 897 F.2d at 1166.

¹⁸ *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 Rulemaking and Further Notice of Proposed Rulemaking, 20 FCC Rcd 11308 (2005) (*Comprehensive Review NPRM*).

¹⁹ 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.

IV. ORDERING CLAUSE

6. 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 pursuant to authority delegated in sections 0.91, 0.291, 1.3 and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3 and 54.722(a), that the Request for Review and/or Waiver filed by Glendale Unified School District, Glendale, California, IS GRANTED.

7. 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 pursuant to authority delegated in sections 0.91, 0.291, 1.3 and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3 and 54.722(a), that the Request for Review and/or Waiver filed by Glendale Unified School District, Glendale, California, IS REMANDED to the Administrator for further consideration in accordance with the terms of this Order.

FEDERAL COMMUNICATIONS COMMISSION

Dana R. Shaffer
Deputy Chief
Wireline Competition Bureau

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)	
)	
Request for Review of the Decision)	
of the Universal Service Administrator by)	
)	
Scott County School System)	File No. SLD-399037
Huntsville, Tennessee)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

ORDER

Adopted: September 11, 2006

Released: September 11, 2006

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, we grant the Request for Review filed by the Scott County School System (Scott County) of a decision by the Universal Service Administrative Company (USAC) denying Scott County discounted services for Funding Year 2004 under the schools and libraries universal service support mechanism (E-rate program).¹ For the reasons set forth below, we waive the FCC Form 486 filing deadline for Scott County and remand its application to USAC for action consistent with this Order. We also direct USAC to complete its review of this application and issue an award or denial based on a complete review and analysis no later than 30 days from release of this Order.

II. BACKGROUND

2. 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.² After an applicant for discounted services under the E-rate program has entered into agreements for eligible services with one or more service providers, it must file an FCC Form 471 with USAC.³ The FCC Form 471 notifies USAC of the services that have been ordered and supplies an estimate of funds requested for eligible services.⁴ USAC then issues a funding commitment decision letter indicating the funding, if any, for which the applicant is approved to receive. After the funding year begins and the applicant begins receiving services at the discounted rate, the applicant submits an FCC Form 486 to USAC. The FCC Form 486 indicates that the service has begun, specifies the service start date and demonstrates that

¹ Letter from C. Michael Lay, Scott County School System, to the Federal Communications Commission, filed April 12, 2006 (Request for Review). Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Universal Service Administrative Company may seek review from the Commission. 47 C.F.R. § 54.719(c). Funding Year 2004 started on July 1, 2004 and ended on June 30, 2005.

² See 47 C.F.R. §§ 54.501-54.503.

³ See Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (October 2003) (FCC Form 471).

⁴ 47 C.F.R. § 54.504(c).

5. The Commission may waive any provision of its rules on its own motion and for good cause shown.¹⁷ A rule may be waived where the particular facts make strict compliance inconsistent with the public interest.¹⁸ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.¹⁹ 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.²⁰

III. DISCUSSION

6. Based on the facts and the circumstances of this specific case, we grant Scott County's Request for Review... We find that good cause exists to waive the FCC Form 486 filing deadline for Scott County and remand the underlying application associated with its appeal to USAC for further action consistent with this Order.

7. Under Bureau precedent, deadlines have been strictly enforced for the E-rate program, including those pertaining to the FCC Form 486.²¹ As the Commission recently noted in Bishop Perry Middle School, however, a departure from required filing deadlines may be warranted upon careful review of the Petitioner's case and when doing so will serve the public interest.²² Scott County claims that it was unaware that USAC had not received its FCC Form 486 and believed that it had submitted its form through communications with USAC representatives.²³ Upon learning that USAC did not have the form, Scott County promptly submitted the FCC Form 486 to USAC.²⁴ Given that the violation at issue is a USAC deadline, not a substantive Commission rule, we find that the complete rejection of this application is not warranted. Notably, 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 this case would inflict undue hardship on Scott County. 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.²⁵ We

¹⁷ 47 C.F.R. §1.3.

¹⁸ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

¹⁹ *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).

²⁰ *Northeast Cellular*, 897 F.2d at 1166.

²¹ See *Requests for Waiver by Lucia Mar, et al.*, File Nos. 249712, et al., *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 19 FCC Rcd 20364, 20365, para. 3 (Wireline Comp. Bur. 2004); *Request for Review by East Carroll Parish School Board, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-232946, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 24591, 24594, para. 7 (Wireline Comp. Bur. 2002).

²² See *Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, et al., Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-487170, et al., CC Docket No. 02-6, Order, 21 FCC Rcd 5316, 5316-17, 5319-20, paras. 2, 9 (2006) (*Bishop Perry Middle School*); see also *Request for Waiver of the Decision of the Universal Service Administrator by Douglas-Omaha Technology Commission, Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-427054, CC Docket No. 02-6, Order, DA 06-1656, para. 6 (rel. Aug. 18, 2006) (finding that good cause exists to waive the FCC Form 486 deadline when applicant had personnel issues that prevented the timely filing).

²³ Request for Review at 1-2.

²⁴ *Id.* at 1.

²⁵ See 47 U.S.C. § 254(h).

IV. ORDERING CLAUSES

10. 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 pursuant to authority delegated in sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Request for Review filed by Scott County School System, Huntsville, Tennessee, IS GRANTED.

11. 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 pursuant to authority delegated in sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3 and 54.722(a), that the deadline for filing the FCC Form 486 for Scott County School System, Huntsville, Tennessee, IS WAIVED and the application IS REMANDED to USAC for further consideration in accordance with the terms of this Order.

12. 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 pursuant to authority delegated in sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, that USAC SHALL COMPLETE its review of the application and ISSUE an award or a denial based on a complete review and analysis no later than 30 calendar days from release of this Order.

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

FEDERAL COMMUNICATIONS COMMISSION

Thomas J. Navin
Chief
Wireline Competition Bureau

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)	
)	
Requests for Review and Waiver)	
of the Decision of the)	
Universal Service Administrator by)	
)	
Alaska Gateway School District)	File Nos. SLD-412028, <i>et al.</i>
Tok, AK, <i>et al.</i>)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

ORDER

Adopted: September 14, 2006

Released: September 14, 2006

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, we grant 128 appeals of decisions by the Universal Service Administrative Company (USAC) reducing or denying funding from the schools and libraries universal service support mechanism (also known as the E-rate program) on the grounds that they failed to timely submit an FCC Form 486.¹ As explained below, in each case we find that good cause exists to waive USAC's deadline for the FCC Form 486 filed with USAC and we 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 Appendix and issue an award or denial based upon a complete review and analysis no later than 90 days from the release of this Order. In addition, we direct USAC to develop targeted outreach procedures designed to better inform applicants of approaching FCC Form 486 filing deadlines and to provide applicants with a 15-day opportunity to file or amend the form.

2. As we recently noted, applicants seeking funding from the E-rate program contend that the application process is complicated and time-consuming.² As a result, a significant number of

¹In this Order, we use the term "appeals" to generically refer to requests for review of decisions, or to waivers related to such decisions, issued by the Commission, the Wireline Competition Bureau, or USAC. A list of these petitions is attached in the Appendix and we will refer to all of these parties as Petitioners. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

²*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 Rulemaking and Further Notice of Proposed Rulemaking, 20 FCC Rcd 11308 (2005) (*Comprehensive Review NPRM*).

applications for E-rate support are denied because of applicant ministerial or clerical errors. We find that the actions we take here to provide relief 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 obtain access to discounted telecommunications and information services.³ In particular, we believe that by directing USAC to enhance certain application outreach procedures and granting this limited waiver of the deadline, we will provide for a more effective application processing system that ensures eligible schools and libraries will be able to realize the intended benefits of the program as we consider additional steps to reform and improve the E-rate program.⁴ Requiring USAC to take these additional steps will not reduce or eliminate any application review procedures or 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 impact on the Universal Service Fund (USF or Fund) because the monies needed to fund these appeals have already been collected and held in reserve.⁵

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.⁶ After an applicant for discounted services under the E-rate program has entered into agreements for eligible services with one or more service providers, it must file an FCC Form 471 with USAC.⁷ The FCC Form 471 notifies USAC of the services that have been ordered and supplies an estimate of funds requested for eligible services.⁸ USAC then issues a funding commitment decision letter indicating the funding, if any, for which the applicant is approved to receive. After the funding year begins and the applicant begins receiving services at the discounted rate, the applicant submits an FCC Form 486 to USAC. The FCC Form 486 indicates that the service has begun, specifies the service start date and demonstrates that the applicant has received approval of its technology plans.⁹ The timely

³47 U.S.C. § 254(h). The Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, amended the Communications Act of 1934.

⁴*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).

⁵We estimate that the appeals granted in this Order involve applications for approximately \$11.3 million in funding for Funding Years 2000-2005. We note that USAC has already reserved sufficient funds to address outstanding appeals. *See, e.g.*, Universal Service Administrative Company, Federal Universal Service Support Mechanisms Fund Size Projections for the Third Quarter 2006, dated May 2, 2006.

⁶*See* 47 C.F.R. §§ 54.501-54.503.

⁷*See* Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (December 1997) (Funding Year 1999 FCC Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (September 1999) (Funding Year 2000 FCC Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (October 2000) (Funding Year 2001 FCC Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (November 2001) (Funding Year 2002 FCC Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (October 2003) (Funding Year 2004 FCC Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (November 2004) (Funding Year 2005 FCC Form 471) (collectively, FCC Form 471).

⁸47 C.F.R. § 54.504(c).

⁹Instructions for Completing the Schools and Libraries Universal Service, Receipt of Service Confirmation Form (FCC Form 486), OMB 3060-0853 (April 2000) (2000 FCC Form 486 Instructions); Instructions for Completing the

submission of FCC Form 486 ensures that disbursements for discounts on eligible services are done in a prompt and efficient manner. Because the FCC Form 486 indicates the actual service start date, USAC will only issue disbursements to the service provider for discounts on eligible services after receipt of the form.¹⁰

4. The deadline for receipt of the FCC Form 486, which is established by USAC, has varied over the years. In Funding Year 2000, applicants with recurring services were required to submit the FCC Form 486 postmarked by December 14, 2001.¹¹ In Funding Year 2001, the FCC Form 486 was due October 28, 2001, unless the service start date began or a funding commitment decision letter was issued after October 28, 2001.¹² In that case, the FCC Form 486 was required to be postmarked no later than 120 days after the service start date or the date of the funding commitment decision letter, whichever was later, for applicants to receive discounts retroactively to the service start date.¹³ If an applicant failed to meet this requirement, USAC adjusted the start date for discounted services to either the date that the FCC Form 486 was postmarked or, in cases where the funding commitment decision letter came after the October 28, 2001 deadline, to 120 days before the date that the FCC Form 486 was postmarked.¹⁴ In Funding Year 2002 and subsequent funding years, the FCC Form 486 had to be postmarked no later than 120 days after the date service began or no later than 120 days after the date of the funding commitment decision letter, whichever was later, to receive discounts retroactively to the service start date.¹⁵ For a late FCC Form 486, the start date for discounted services is reset to 120 days before the postmark date.¹⁶ No

Schools and Libraries Universal Service Receipt of Service Confirmation Form, OMB 3060-0853 (July 2001) (2001 FCC Form 486 Instructions); Instructions for Completing the Schools and Libraries Universal Service, Receipt of Service Confirmation Form (FCC Form 486), OMB 3060-0853 (September 2002) (2002 FCC Form 486 Instructions); Instructions for Completing the Schools and Libraries Universal Service, Receipt of Service Confirmation Form (FCC Form 486), OMB 3060-0853 (August 2003) at 2 (2003 FCC Form 486 Instructions) (collectively, FCC Form 486 Instructions).

¹⁰See, e.g., 2003 Form 486 Instructions at 2. See also *Federal-State Joint Board on Universal Service, Children's Internet Protection Act*, CC Docket No. 96-45, Order, 17 FCC Rcd 12443, 12444, para. 4 (2002) (*CIPA II Order*); 47 C.F.R. § 54.520.

¹¹See November 2001 Announcements, Funding Year 3 Disbursement Closeout Process, available at <http://www.sl.universalservice.org/whatsnew/2001/112001.asp>.

¹²*Federal-State Joint Board on Universal Service, Children's Internet Protection Act*, CC Docket No. 96-45, Report and Order, 16 FCC Rcd 8182, 8188-89, 8191, paras. 10, 18 (2001) (*CIPA Order*); 47 C.F.R. § 54.520(g)(1) (2001); 2001 Form 486 Instructions. Under the Children's Internet Protection Act (CIPA) and the Neighborhood Children's Internet Protection Act (NCIPA), Congress imposed new conditions on schools with Internet access that request discounted services under the schools and libraries universal service support mechanism. 47 U.S.C. § 254(h)(5), 254(l). Schools seeking costs for Internet access or internal connections services must certify to these conditions on the FCC Form 486. For Funding Year 2001, Congress established a deadline of October 28, 2001, unless services began after that date or the funding commitment decision letter was sent after that date. 47 U.S.C. §§ 254(h)(5)(E), 254(h)(6)(E); *CIPA Order*, 16 FCC Rcd at 8188-89, 8191, paras. 10, 18. Because the October 28, 2001 deadline for that funding year is a statutory requirement, it cannot be waived.

¹³2001 Form 486 Instructions at 8-10.

¹⁴Form 2001 486 Instructions at 9-10. See, e.g., *Request for Review by East Carroll Parish School Board, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-232946, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 24591, 24594, para. 7 (Wireline Comp. Bur. 2002) (providing funding only for services provided on or after the FCC Form 486 filing date of October 30, 2001, instead of the funding year start date of July 1, 2001).

¹⁵*CIPA II Order*, 17 FCC Rcd at 12445, para. 5; 2003 Form 486 Instructions at 6.

¹⁶*Id.*

funding is provided for services rendered prior to the new start date and funding commitments are reduced for the relevant funding request.¹⁷

5. One hundred and twenty-eight Petitioners have requested a waiver of the deadlines or a review of USAC's decision to deny or reduce funding because of the Petitioners' late filings. The Commission may waive any provision of its rules on its own motion and for good cause shown.¹⁸ A rule may be waived where the particular facts make strict compliance inconsistent with the public interest.¹⁹ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.²⁰ 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.²¹

III. DISCUSSION

6. In this item, we grant 128 appeals of decisions reducing or denying requests for funding from the E-rate program and remand the underlying applications associated with these appeals to USAC for further action consistent with this Order.²² Petitioners' requests for funding were denied or reduced because USAC found that the FCC Form 486 was filed late or the form may not have been filed.²³ These Petitioners, however, either claim that the filings were on time,²⁴ that the late filings were the result of immaterial clerical, ministerial or procedural errors,²⁵ or that the late filings were due to circumstances beyond their control.²⁶

7. Based on the facts and the circumstances of these specific cases, we find that good cause exists to waive the deadline for filing the FCC Form 486 for Petitioners.²⁷ Under Bureau precedent,

¹⁷*Id.*

¹⁸47 C.F.R. §1.3.

¹⁹*Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

²⁰*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).

²¹*Northeast Cellular*, 897 F.2d at 1166.

²²Eldora Public Library (Eldora) framed its request for review as an appeal of USAC's denial of its request for an extension of the invoice deadline (FCC Form 472). Our review of the record indicates that Eldora did not file its FCC Form 486. Eldora claims that it inadvertently failed to comply with program rules because of Eldora's small staff and the complexity of the E-rate program. On our own motion, we grant a waiver of Eldora's FCC Form 486 deadline.

²³See Appendix.

²⁴See, e.g., Request for Review by Fair Haven School District; Request for Review by Oldham County Public Library; Request for Review by Schuylkill Intermediate Unit No. 29; Request for Review by Bordentown Regional School District; Request for Review by Diocese of Gallup Catholic Schools.

²⁵See, e.g., Request for Review by Quartzsite Elementary School District No. 4; Request for Review by Fort Plain Central School District; Request for Review by Good Shepard Center; Request for Review by Pueblo 60 School District; Request for Review by Lifeline Center for Child Development.

²⁶See, e.g., Request for Review by Yukon Flats School District; Request for Review by School District U 46; Request for Review by North Wasco County School District No. 21; Request for Waiver by Bay County School District; Request for Review by Western Christian High School.

²⁷Because we waive the FCC Form 486 deadline, applicants should receive funding from their actual service start date. We also direct USAC to waive any of its subsequent deadlines if related to the late-filed FCC Form 486, such as the FCC Form 472 deadline, if necessary for the processing of Petitioners' applications.

deadlines have been strictly enforced for the E-rate program, including those pertaining to the FCC Form 486.²⁸ As we recently noted in *Bishop Perry Middle School*, a departure from required filing deadlines may be warranted upon careful review of the Petitioner's case and when doing so will serve the public interest.²⁹ Generally, these applicants claim that staff mistakes or confusion, or circumstances beyond their control resulted in missing the FCC Form 486 deadline.³⁰ 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 staff dedicated to pursuing federal grants, especially in small school districts. Even when a school official becomes adept at the application process, unforeseen events or emergencies may delay filings in the event there is no other person proficient enough to complete the forms.³¹ Furthermore, some of the errors were caused by third parties or unforeseen events and therefore were not the fault of the applicants. Given that the applicants missed a USAC procedural deadline and did not violate a Commission rule, 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.³² We therefore grant these appeals and remand them to USAC for further processing consistent with this Order.

8. We emphasize the limited nature of this decision. Because the FCC Form 486 contains the Children's Internet Protection Act (CIPA) certification, all applicants must file the form with USAC.³³ While we have waived the deadline for filing, we do not waive the requirement of the filing itself. Furthermore, we recognize that filing deadlines are necessary for the efficient administration of the schools and libraries E-rate program. Although we grant the subject appeals before us, our action here does not eliminate USAC's deadline for filing the FCC Form 486. We continue to require E-rate applicants to submit complete and accurate information to USAC as part of the application review process. However, as of the effective date of this Order, we require USAC to develop additional outreach and educational efforts to inform applicants of the application requirements in an attempt to reduce these types of filing errors. Specifically, USAC shall develop a targeted outreach program designed to identify schools and libraries that have not filed their FCC Form 486 120 days from the date of their funding commitment decision letter or service start date, whichever is later.³⁴ The purpose of this outreach effort

²⁸See *Requests for Waiver by Lucia Mar Unified School District, et al., Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-249712, et al., CC Docket No. 02-6, Order, 19 FCC Rcd. 20364, para. 3 (Wireline Competition Bur. Rel. May 28, 2004); *Request for Review by East Carroll Parish School Board, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-232946, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 24591, 24594, para. 7 (Wireline Comp. Bur. 2002).

²⁹*Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, et al., Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-487170, et al., CC Docket No. 02-6, Order, 21 FCC Rcd 5316, para. 9 (rel. May 19, 2006) (*Bishop Perry Middle School*).

³⁰Some Petitioners claim that they postmarked the FCC Form 486 on time. Given that we are waiving USAC's deadline for these applicants who mistakenly or knowingly filed late, we give these Petitioners the benefit of the doubt and, to the extent necessary, waive the FCC Form 486 filing deadline for them as well.

³¹For example, Western Christian High School's sole Universal Service Fund official suffered a debilitating stroke and was unable to meet the Form 486 deadline. Request for Review by Western Christian High School at 1.

³²See 47 U.S.C. § 254(h).

³³Those applicants that filed their FCC Form 486 with their appeal to the Commission must also file the form with USAC, if they have not already done so.

³⁴The service start date can be determined from Block 5 of the applicant's FCC Form 471.

will be to provide the applicant with an additional opportunity to file or amend its FCC Form 486. When an applicant has missed the deadline to file its FCC Form 486, applicants will have 15 calendar days from the date of receipt of notice in writing by USAC to file or amend its FCC Form 486.³⁵ Again, this direction will not limit or preclude any application review procedures of USAC; instead, this 15-day period will provide E-rate applicants with a limited additional opportunity to file or amend its FCC Form 486. 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 correct truly unintentional ministerial and clerical errors.³⁶ The opportunity for applicants to file or 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 file or amend the application will improve the efficiency of the schools and libraries program. If USAC helps applicants file timely and correct forms 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 file the FCC Form 486 will improve the administration of fund. In addition, we note that the Commission has initiated a proceeding to address whether particular deadlines should be modified.³⁷

9. 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, this action in no way affects the authority of the Commission or USAC to conduct audits and investigations to determine compliance 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

10. 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 pursuant to authority delegated in sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47

³⁵Such 15-day notice shall be 15 calendar days' notice, and shall commence on the date of receipt of such notice by applicant, or five (5) calendar days after such notice is postmarked as sent by USAC, whichever is sooner. 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 file or amend their FCC Form 486.

³⁶We note that applicants will retain the ability to appeal decisions denying funding requests on the grounds discussed herein.

³⁷*Comprehensive Review NPRM*, 20 FCC Rcd at 11321, para. 29.

C.F.R. §§ 0.91, 0.291, 1.3 and 54.722(a), that the Requests for Review and/or Requests for Waiver filed by the Petitioners as listed in the Appendix ARE GRANTED.

11. 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 pursuant to authority delegated in sections 0.91, 0.291, 1.3 and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), that the Requests for Review and/or Requests for Waiver filed by the Petitioners as listed in the Appendix ARE REMANDED to USAC for further consideration in accordance with the terms of this Order.

12. 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 pursuant to authority delegated in sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, USAC SHALL COMPLETE its review of each remanded application listed in the Appendix and ISSUE an award or a denial based on a complete review and analysis no later than 90 calendar days from release of this Order.

13. IT IS FURTHER ORDERED that this Order and the rules adopted herein SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Thomas J. Navin
Chief
Wireline Competition Bureau

Appendix:
FCC Form 486 Deadline Petitions

Applicant	Application Number	Funding Year	Type of Appeal
Alaska Gateway School District Tok, AK	412028	2004	Request for Review
Andrews County Library Andrews, TX	440481	2005	Request for Review
Antwerp Local School District Antwerp, OH	464507	2005	Request for Waiver
Archbishop Neale School La Plata, MD	302737	2002	Request for Waiver
Arlington Heights Memorial Library Arlington Heights, IL	415027	2004	Request for Waiver
Bay County School District Panama City, FL	398681	2004	Request for Waiver
Beaufort County School District Beaufort, SC	294836	2002	Request for Review
Berrien County School District Nashville, GA	317226	2002	Request for Waiver
Bledsoe County Public Library Pikeville, TN	301204	2002	Request for Review
Bobover Yeshiva Bnei Zion Brooklyn, NY	291074	2002	Request for Waiver
Bordertown Regional School District Bordertown, NJ	387135	2004	Request for Waiver
Brooks County School District Quitman, GA	321413	2002	Request for Waiver
Broome-Tioga BOCES Syracuse, NY	265671	2001	Request for Waiver
Brown Public Library Northfield, VT	328164	2002	Request for Waiver