



June 10, 2010

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street SW  
Washington, DC 20554  
CERTIFIED # \_\_\_\_\_

Re **CC Docket No. 02-6**

Petition for Waiver of FCC Form 472 filing deadline

Funding Request No. 974967 (FY 2003), 975154 (FY 2003), 1105266 (FY 2004), 1105295 (FY 2004), 1105365 (FY 2004), 1105399 (FY 2004), 1105440 (FY 2004), 1105491 (FY 2004), 1327630 (FY 2005), 1331863 (FY 2005), 1333164 (FY 2005), 1342930 (FY 2005), 1484713 (FY 2006), 1493388 (FY 2005), 1493389 (FY 2005), 1493390 (FY 2005), 1493391 (FY 2005), 1615725 (FY 2007), 1615810 (FY 2007), 1624292 (FY 2007), 1624312 (FY 2007), 1760192 (FY 2008), 1760370 (FY 2008), 1761612 (FY 2008), 1761993 (FY 2008)

Petition for Waiver of FCC Form 486 filing deadline

Form 471 Application No. 354032 (FY2003), 393974 (FY2004), 479566 (FY2005), 483775 (FY2005), and 581931 (FY2007)

Applicant: Hancock County Library System, BEN 128696

Dear Ms. Dortch,

With this letter Hancock County Library System (HCLS) requests a waiver of the Form 472 filing deadline for the captioned funding requests for Funding Years 2003, 2004, 2005, 2006, 2007, and 2008 under the schools and libraries universal service support mechanism (E-rate). HCLS also requests a waiver of the Form 486 filing deadline in the case of each captioned funding application for which a Form 486 was not filed for each associated funding request, or for which a Form 486 was filed in an untimely basis.

**Background**

HCLS serves the approximately 41,000 citizens of Hancock County, Mississippi. According to the U.S. Census Bureau 2008 American Community Survey, per capita income in Hancock County is about \$21,400, compared to U.S. per capita income of \$27,600. The combination of limited resources to support community institutions and the status of our library system as perhaps the most important affordable information

and research resource to our citizens makes E-Rate support vital to our library system and to our community.

In the fall of 2003, the library director at the time signed a contract to migrate the library text-based automation system to a Windows-based system. The Coordinator of Tech Services, Sandra Marshall, had been responsible for filing the E-Rate paperwork in 2003, and to my knowledge, she filed reliably for the funding until she left in December of 2003. When I was hired as the Coordinator of Tech Services (her replacement) in January of that year, I asked to be relieved of the E-rate filing duties, as I knew that the very complex computer system migration was going to take all of my time and attention.

The person who was given the responsibility of filing the E-Rate paperwork, the Director of Operations, did apply for receiving funding, but she apparently did not carry through on the filing of the requests for reimbursement. The Executive Director was apparently not aware of this lapse on the part of this employee, as she certainly would have demanded that the employee account for why she was not filing for the funding, but I don't believe she had any knowledge of this lapse. I certainly did not as well.

As Coordinator of Tech Services, I did finish the computer system migration in 2004 and 2005, but I left in August of 2005 to take another job only 3 weeks before Katrina decimated the library system. When I returned as the new Executive Director in April of 2009, I discovered that this employee who was responsible for filing the E-Rate from 2004 until 2009 apparently did not file for reimbursement during much of this time, even though she applied to receive the funding in every year without fault.

In August 2005 our area suffered the largest natural disaster in United States history – Hurricane Katrina. In two of the four areas which our libraries serve, 100% of all homes, businesses and government buildings were totally destroyed by a thirty-seven foot high storm surge wall of water. When the storm was over, there was little left except twenty foot high piles of debris and thousands of homeless people. The rest of the area had 75% of all structures destroyed, and most of the homes in those areas were flooded with 6-8 feet of flood water and mud.

Two of our libraries were totally destroyed, one of which was topped by a 41-foot tidal wave. One other library, which housed our main administrative offices, was flooded and unable to open for months as it was needed as a headquarters for the National Guard. Essentially the library system was left with only one branch that was damaged, but operational after repairs.

As you can imagine, our first priority was locating our staff who had all mostly evacuated. Within the first 20 days after the storm, we found enough staff to open a storm recovery center at our one surviving branch and began to see how we could help our community begin to recover. For the first few months, the Executive Director, who had lost her home to the storm, and whose eighty-year-old parents also lost their home, was focusing her efforts on filing for federal funding to help rebuild our libraries and

answering questions from insurance adjusters at the site of the three library branches that were not operational. During a trip to Seattle to meet with the officials from the Bills and Melinda Gates Foundation (which eventually provided an enormous amount of help to Gulf Coast Katrina Libraries) she was stricken with acute appendicitis which turned into peritonitis. She almost died, and she was hospitalized in Washington for quite some time before she was stable enough to return home to recover.

After the Executive Director returned, she was still not able to work full-time, and other administrative staff who had hoped to return to the area could not do so because of the lack of housing. As you can imagine, most of the administrative support effort by those who did return was taken up by a tremendous load of paperwork that was required for the recovery effort, especially from insurance and FEMA. This took a toll on the administrative staff.

Things improved for a short time in 2006 when the Deputy Director, who returned after the storm, agreed to take the Executive Director's job. For the first six months or so, he was able to take on the role of Executive Director and move paperwork successfully, including the E-Rate applications for reimbursement. This was the only time after the storm when the filings were done correctly and reimbursement was received. During this time of great stress, the Executive Director's previous cancer, which had been in remission, returned and he soon began treatment for the disease which distracted him from overseeing the E-Rate process. Eventually he became too ill to continue, and he had to be hospitalized and resigned.

A third person was recruited that the Board of Trustees hoped could be trained to take the Executive Director's job. After a short period as Interim Director, he proved to be totally incompetent for the position and left shortly before he was due to be fired. During the time from late 2006 until 2009, there was not adequate administrative staffing available to file all of the storm-related paperwork, plan for building three new library buildings and file for E-Rate reimbursement. No one fully understood the very complex E-Rate process except one administrative secretary who was trusted to file the annual request for funding and whom I thought was filing for the reimbursement. (No one else really understood the process, and they assumed that this employee was performing her job without complaint.)

When I came onboard last April and began to look at the paperwork in this employee's office after she resigned, I found, to my great surprise and horror, that she had failed to file for any of the reimbursement money to which our library system was entitled. This is money which we could have used for our recovery and for which we had paid in the form of phone and Internet service bills. Her failure to file the proper E-Rate reimbursement paperwork deprived our library system from funds which could have aided our recovery from the storm immeasurably.

## Analysis

Due to factors not reasonably within its control, HCLS was not able to file FCC Form 472s for its funding requests by the normal 120 day limit after the later of the end of the funding year and the Funding Commitment Decision Letter date. HCLS was also unable, in some instances, to fully comply with the requirement to file Form 486 by the normal 120 day limit after the latter of the service start date and the Funding Commitment Decision Letter date. To the best of our knowledge, our E-rate funding application is otherwise in full compliance with all FCC rules and USAC requirements.

In *Canon-McMillan School District*<sup>1</sup> and in *Alton Community Unit School District 11*<sup>2</sup>, the Wireline Competition Bureau (Bureau) found that in cases where a staff change or inadvertent error by staff resulted in the late filing of the FCC Form 472, and where the applicants demonstrated that they made a good faith effort to comply with E-Rate program rules, good cause exists to grant a waiver and direct USAC to process the applicant's Form 472 reimbursement application. And in both *Alcona County Library*<sup>3</sup> and *Children of Peace School*<sup>4</sup> the Bureau found that where similar special circumstances are present and a Form 486 was not filed on a timely basis, good cause exists to grant a waiver of the filing deadline and direct USAC to process the applicant's Form 472 reimbursement application.

The Bureau noted that in these cases the applicants missed a procedural deadline and did not violate a substantive rule. In the *Bishop Perry Order*<sup>5</sup>, the Commission had found that, under certain circumstances, rigid adherence to certain E-rate rules and requirements that are "procedural" in nature does not promote the goals of section 254 of the Communications Act of 1934, as amended – ensuring access to discounted telecommunications and information services to schools and libraries – and therefore does not serve the public interest. The Bureau found in *Canon-McMillan School District* that this is especially true in the case of a late FCC Form 472 filing, where the applicants are at the end of the process and have already received service and complied with all other E-rate program rules to date.

The Bureau further noted in *Canon-McMillan School District* and in *Alcona County Library* that denying the petitioners' requests would create undue hardship and prevent these otherwise eligible schools and libraries from receiving funding that they need to bring advanced telecommunications and information services to their students and patrons. That would certainly be the case if HCLS were to be denied the opportunity to request reimbursement for its eligible expenses. The consequences of a denial of funding would not further the purposes of section 254(h) of the Telecommunications Act of 1996 or serve the public interest.

---

<sup>1</sup> FCC Order DA 08-2385

<sup>2</sup> FCC Order DA 10-999

<sup>3</sup> FCC Order DA 08-2379

<sup>4</sup> FCC Order DA 10-855

<sup>5</sup> FCC Order 06-54

Ms. Marlene H. Dortch  
May 26, 2010  
Page 5 of 5

**Request for Waiver**

For the reasons stated in this letter, HCLS respectfully requests that the Federal Communications Commission grant a waiver of the Form 472 filing deadline for the cited E-rate funding requests, and that the Commission grant a waiver as necessary where a Form 486 was not timely filed.

HANCOCK COUNTY LIBRARY SYSTEM

A handwritten signature in cursive script, appearing to read "Patricia Furr".

Patty Furr  
Executive Director