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SENT VIA: Electronic Filing

July 23, 2012

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

**Re: CC Docket No. 02-6**  
**APPEAL FOR RECONSIDERATION OF REQUEST FOR REVIEW/WAIVER**  
**Concerning June 21, 2012 Order on December 17, 2010 Universal Service Administrative**  
**Company Schools & Library Division (SLD) Notification of Improperly Disbursed Funds**  
**Recovery Letter**  
**Funding Request Numbers: 1420443; 1420897; 1421702; 1421765; 1422315; 1526403;**  
**1445099; 1445198**  
**Billed Entity Name: East St. Louis School District No. 189**  
**Billed Entity Number: 136412**  
**Form 471 Application Numbers: 511426; 511431; 516224; 516308; 516727; 516729; 524764**  
**Funding Year: 2006 (7/1/2006 – 6/30/2007)**

Secretary Dortch:

Our law firm represents East St. Louis School District No. 189 (District). On behalf of the District Board of Education, I write to appeal for reconsideration of request for review/waiver in the above-referenced matter. The District hereby appeals for reconsideration of the attached June 21, 2012 Order<sup>1</sup> wherein the Federal Communications Commission (FCC) denied the District's request for review/waiver of the December 17, 2010 Universal Service Administrative Company Schools & Library Division (SLD) Notification of Improperly Disbursed Funds Recovery Letters for the Funding Request Numbers described above.

The FCC may waive any provision of its rules for good cause shown. 47 C.F.R. § 1.3. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990). In addition, the FCC 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, 1159 (D.C. Cir. 1969); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d at 1166. Waiver of the FCC's rules is appropriate only if both (i) special circumstances warrant a deviation from the general rule, and

<sup>1</sup>The District notes that it never received notice of the June 21, 2012 Order from the FCC, but did independently learn of the issuance of same just recently.

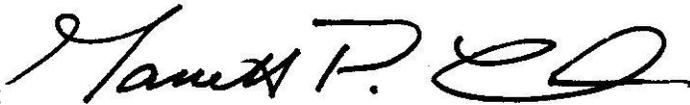
(ii) such deviation will serve the public interest. *NetworkIP, LLC v. FCC*, 548 F.3d 116, 125-128 (D.C. Cir. 2008); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d at 1166.

Special circumstances exist such that the FCC should waive the 60-day deadline rule for submitting requests for review/waiver and further waive the rules under which recovery is sought. Indeed, the person to whom the SLD recovery letters were sent was no longer a District Administrator, and the new District administrative team promptly filed a request for review/waiver upon gaining knowledge of such recovery efforts. Furthermore, the District does not have the funds to satisfy this alleged debt in order to be removed from “red light status”. The District is an urban school district serving approximately six thousand seven hundred (6,700) students with high poverty, homelessness and urban decay. Currently, while all District students qualify for free breakfast and lunch, the District is experiencing significant annual funding declines from the State of Illinois of approximately Eight Million Dollars (\$8,000,000.00) due to declining enrollment and the State’s dire financial conditions. Therefore, the District’s operating fund balance is anticipated to become negative in this fiscal year 2013 (July 1, 2012 to June 30, 2013). Clearly, the public interest of District residents will be served by such deviation from FCC rules because enforcing such rules against the District under these circumstances would create an insurmountable financial hardship for the District.

For the foregoing reasons, East St. Louis School District No. 189 respectfully requests that the FCC reconsider and vacate its June 21, 2012 Order, grant the District’s appeal, reverse the December 17, 2010 Universal Service Administrative Company Schools & Library Division (SLD) Notification of Improperly Disbursed Funds Recovery Letter for Funding Request Numbers referenced above and waive the rules applicable thereto, and order such other relief as FCC deems just and proper.

The District may supplement this appeal for reconsideration, as necessary. In the meantime, if you have any questions or comments, please contact me at your convenience at the contact information below.

**BECKER, PAULSON, HOERNER & THOMPSON, P.C.**

By: 

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Mr. Lonzo Greenwood (via U.S. Mail)

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

In the Matter of	)	
	)	
Requests for Waiver and/or Review of	)	
Decisions of the	)	
Universal Service Administrator by	)	
	)	
Churchill County School District	)	SLD Nos. 664502, <i>et al.</i>
Fallon, Nevada, <i>et al.</i>	)	
	)	
Schools and Libraries Universal Service	)	CC Docket No. 02-6
Support Mechanism	)	

**ORDER**

**Adopted: June 21, 2012**

**Released: June 21, 2012**

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

1. Consistent with precedent,<sup>1</sup> we deny eight requests from petitioners<sup>2</sup> seeking waiver of our rules and/or review of decisions made by the Universal Service Administrative Company (USAC) under the E-rate program (more formally known as the schools and libraries universal service support program).<sup>3</sup> We find that the petitioners failed to submit their requests for review and/or waiver either to the Commission or to USAC within 60 days as required by the Commission's rules.<sup>4</sup> Based on our review of the record, we deny the eight requests because the petitioners have failed to show special circumstances necessary for the Commission to waive the deadline.<sup>5</sup>

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<sup>1</sup> See *Request for Review of Decisions of the Universal Service Administrator by Agra Public Schools I-134, Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-363747, *et al.*, CC Docket No. 02-6, Order, 25 FCC Rcd 5684 (Wireline Comp. Bur. 2010) (denying 104 appeals on the grounds that the petitioners failed to submit their appeals either to the Commission or to USAC within 60 days as required by the Commission's rules, and the petitioners have failed to show special circumstances necessary for the Commission to waive the deadline); see also *Requests for Review and/or Requests for Waiver of Decisions of the Universal Service Administrator by Bonnie Brae Educational Center School, Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-625470, *et al.*, CC Docket No. 02-6, Order, 27 FCC Rcd 1344 (Wireline Comp. Bur. 2012) (denying 22 appeals on the grounds that the petitioners failed to submit their appeals either to the Commission or to USAC within 60 days as required by the Commission's rules, and the petitioners have failed to show special circumstances necessary for the Commission to waive the deadline).

<sup>2</sup> The requests for waiver and/or review are listed in the Appendix.

<sup>3</sup> Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of USAC may seek review from the Commission. 47 C.F.R. § 54.719(c).

<sup>4</sup> 47 C.F.R. § 54.720.

<sup>5</sup> The Commission may waive any provision of its rules for good cause shown. 47 C.F.R. § 1.3. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the (Continued....)

2. ACCORDINGLY, IT IS ORDERED, 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 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 requests for review or requests for waiver filed by the petitioners listed in the appendix ARE DENIED.

## FEDERAL COMMUNICATIONS COMMISSION

Trent B. Harkrader  
Chief  
Telecommunications Access Policy Division  
Wireline Competition Bureau

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public interest. *Northeast 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, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166. Waiver of the Commission's rules is appropriate only if both (i) special circumstances warrant a deviation from the general rule, and (ii) such deviation will serve the public interest. *NetworkIP, LLC v. FCC*, 548 F.3d 116, 125-128 (D.C. Cir. 2008); *Northeast Cellular*, 897 F.2d at 1166.

## APPENDIX

<b>Petitioner</b>	<b>Application Number(s)</b>	<b>Funding Year</b>	<b>Date Request for Review/Waiver Filed</b>
Churchill County School District Fallon, Nevada	664502	2009	May 8, 2012
Couch School District R1 Myrtle, Missouri	772930	2011	Apr. 23, 2012
East St. Louis School District 189 East St. Louis, Illinois	511426, 511431, 516224, 516308, 516727, 516729, 524764	2006	Apr. 23, 2012
George Washington Carver Academy Highland Park, Michigan	814222	2011	May 15, 2012
Leggett Independent School District Waco, Texas	818655	2011	May 11, 2012
Monsignor Donovan High School Toms River, New Jersey	510516, 550234, 6200716, 678078	2006, 2007, 2008, 2009	Apr. 25, 2012
Northwest Artic Borough School District Kotzebue, Alaska	569600	2007	Jun. 7, 2012
Western Line School District Avon, Mississippi	754724	2010	May 10, 2012