

Request for Review: JIT Chabad BEN 16062663  
CC Docket No. 02-6 CC Docket 96-45

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**Request for Review**

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

Re: Name: **JIT Chabad**  
BEN: **16062663**  
Funding Year: **2012**  
Applications: **841276 & 841394**  
USAC ADL: **01/17/2013**

March 4, 2013

Dear Sirs.

This is a letter for a request for review regarding the above captioned USAC Notification regarding the following FRNs:

FRN#: 2282587 - First Media Group- NOT FUNDED  
FRN#: 2282670 - First Media Group- NOT FUNDED  
FRN#: 2282715 - First Media Group- NOT FUNDED  
FRN#: 2282748 - First Media Group- NOT FUNDED  
FRN#: 2282771 - First Media Group- NOT FUNDED  
FRN#: 2282855 - First Media Group- NOT FUNDED  
FRN#: 2282869 - First Media Group- NOT FUNDED  
FRN#: 2283084 – Chabad Lubavitch Center - NOT FUNDED  
FRN#: 2283108- Comcast Business Communications – NOT FUNDED  
FRN#: 2283115- AT&T Mobility– NOT FUNDED  
FRN#: 2283137- AT&T Corp.– NOT FUNDED

All FRNs had the same denial reason as follows:

The FRN is denied because the entities requesting service within the FRN CHABAD OUTREACH CENTER does not meet the statutory definition of elementary and secondary schools to receive Schools and Libraries support.

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For all FRNs:

In the State of Florida, Preschools are licensed with the Florida Department of Children and Families and not with the Department of Education. There may have been some confusion regarding the name of the entity applying for funding. The name of the Preschool is JIT Chabad and has been corrected in USAC's database. Chabad Outreach Center is the parent organization. See DOC01 for verification of licensure and eligibility as an educational institution.

The FCC has ruled in:

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Requests for Review and/or Requests for Waiver of Decisions of the Universal Service Administrator by	)	
	)	
Imagine College Preparatory High School St. Louis, Missouri, <i>et al.</i>	)	File Nos. SLD-752453, <i>et al.</i>
	)	
Schools and Libraries Universal Service Support Mechanism	)	CC Docket No. 02-6
	)	

**ORDER**

**Adopted: May 31, 2012**

**Released: May 31, 2012**

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

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Consistent with precedent,<sup>1</sup> we grant five requests from petitioners<sup>2</sup> seeking 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> In each case, USAC denied or reduced funding because it found that the applicants **failed to respond to its requests for additional information within the USAC-specified time frame**. Based on our review of the record, we find that the five petitioners have demonstrated that good cause exists to justify waiver of USAC's filing deadline and allow the applicants another opportunity to respond to USAC's requests for further information.<sup>4</sup> We also dismiss an appeal filed by Yeshiva Mesivta Wiznitz USA (Yeshiva) because its

Federal Communications Commission FCC 01-73  
Before the  
Federal Communications Commission  
Washington, D.C. 20554  
In the Matter of  
Request for Review of a Decision of the  
Universal Service Administrative Company by  
Naperville Community Unit  
School District 203

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<sup>1</sup> *Requests for Review of the Decision of the Universal Service Administrator by Alpaugh Unified School District et al.*, File Nos. SLD-523576, *et al.*, CC Docket No. 02-6, Order, 22 FCC Rcd 6035 (2007) (*Alpaugh Unified School District Order*) (granting 78 appeals of applicants denied funding because they failed to respond to USAC's request for information within the USAC-specified time frame); *Requests for Review and/or Waiver of the Decision of the Universal Service Administrator by Burlington Township School District, et al.*, File Nos. SLD-739222, *et al.*, CC Docket No. 02-6, Order, 26 FCC Rcd 10951 (Wireline Comp. Bur. 2011) (granting five appeals of applicants denied funding because they failed to respond to USAC's request for information within the USAC-specified time frame).

<sup>2</sup> The requests for review and those for waiver and review that are granted by this order are listed in Appendix A. The applications covered by those requests for review are listed in Appendices A and B.

<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> Generally, the Commission's rules may be waived if good cause is 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) (*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.

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Naperville, Illinois  
Federal-State Joint Board on Universal  
Service  
Changes to the Board of Directors of the  
National Exchange Carriers Association, Inc.  
(  
(  
File No. SLD-203343  
CC Docket No. 96-45

CC Docket No. 97-21  
ORDER

Adopted: February 22, 2001 Released: February 27, 2001

II. DISCUSSION

9. **At the outset, we emphasize that our primary objective is to ensure that schools and libraries benefit from the schools and libraries universal service support mechanism as contemplated by the statute.** For purposes of considering this Request for Review, this means we must balance the need to minimize administrative costs, while expediting fair and efficient review of applications. With that objective in mind, we consider the circumstances surrounding SLD's return of Naperville's FCC Form 471 for failure to meet SLD's minimum processing standards.

And in

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

In the Matter of )  
)  
Request for Review of the )  
Decision of the )  
Universal Service Administrator by )  
)  
Bishop Perry Middle School ) File Nos. SLD-487170, *et al.*  
New Orleans, LA, *et al.* )  
)  
Schools and Libraries Universal Service ) CC Docket No. 02-6

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Support Mechanism )

**ORDER**

**Adopted: May 2, 2006**

**Released: May 19, 2006**

By the Commission: Commissioner Copps issuing a separate statement.

While the Bureau has enforced existing filing deadlines for the E-rate program,<sup>5</sup> we find that good cause exists to waive the procedural deadline in these cases. We find that given that the violation at issue is procedural, not **substantive**, we find that a complete rejection of each of these applications is not warranted, especially given that the error in these cases is not the fault of the applicants. **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 revealed by the record in these matters. 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.**<sup>6</sup> We therefore grant these appeals and remand them to USAC for further processing consistent with this Order.

We therefore submit that JIT Chabad is a licensed pre-school in the state of Florida. Therefore all FRNS should be FUNDED or else the school will experience undue hardship that goes counter to the goals of the E-rate program.

Sincerely,



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LOA Attached

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<sup>5</sup> See, e.g., *North Dakota Order*, 17 FCC Rcd at 7389, para. 13; *Wilmington Public Schools Order*, 17 FCC Rcd at 12071, paras. 7-8; *South Barber Order*, 16 FCC Rcd at 18437-38, para. 7.

<sup>6</sup> See 47 U.S.C. § 254(h).