

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)
Requests for Waiver and Review of)
Decisions of the)
Universal Service Administrator by)
Alex Public School Dist I-56) SLD Nos. 616014, et al.
Alex, Oklahoma, et al.)
Schools and Libraries Universal Service) CC Docket No. 02-6
Support Mechanism)

ORDER

Adopted: May 3, 2012

Released: May 3, 2012

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

1. Consistent with precedent,1 we deny 10 requests from petitioners2 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).3 In each case, USAC denied or reduced funding on the grounds that the applicant failed to submit its requests for review or waiver either to the Commission or to USAC within 60 days as required by the Commission’s rules.4 Based on our review of the record, we deny the 10 requests because the petitioners have failed to show special circumstances necessary for the Commission to waive the deadline.5

1 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); 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 13442 (Wireline Comp. Bur. 2012). (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).

2 The requests for waiver and review are listed in the appendix.

3 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).

4 47 C.F.R. § 54.720.

5 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 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.

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, 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 or requests for waiver filed by the petitioners listed in the appendix ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Trent Harkrader
Chief
Telecommunications Access Policy Division
Wireline Competition Bureau

APPENDIX

Petitioner	Application Number(s)	Funding Year	Date Request for Review/Waiver Filed
Alex Public School Dist I-56 Alex, Oklahoma	616014	2008	Jan. 30, 2012
Aurora Public Schools Aurora, Colorado	695092	2009	Feb. 16, 2011
El-Hajj Malik El-Shabazz Academy Lansing, Michigan	620984	2008	Mar. 29, 2012
Franklin County School District Louisburg, North Carolina	624121	2008	Nov. 25, 2008
Joan Macy School LaVerne, California	743410	2010	Jan. 31, 2011
St. Ethelreda School Chicago, Illinois	428628	2004	Feb. 2, 2012
State of Minnesota Office of Enterprise Technology St. Paul, Minnesota	407237, 419361, 420194	2004	Sep. 1, 2005
Stetson School Barre, Massachusetts	767835, 768651	2010	Feb. 9, 2012
Timothy Academy South Clayton, Missouri	656309	2009	Jul. 19, 2010
White Shield School Parshall, North Dakota	753211	2010	Apr. 9, 2012