

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)
Allan Shivers Library) File No. SLD-994568 et al.
Woodville, Texas et al.)
Schools and Libraries Universal Service) CC Docket No. 02-6
Support Mechanism)

ORDER AND ORDER ON RECONSIDERATION

Adopted: August 28, 2014

Released: August 28, 2014

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

1. Consistent with precedent,¹ we address requests from 18 applicants 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)² and four petitions for reconsideration of a decision of the Wireline Competition Bureau (Bureau).³ The petitioners seek waivers of the FCC Form 471 application filing window deadline under the E-rate program.⁴ Based on

1 See Requests for Waiver and Review of Decisions of the Universal Service Administrator by Academy of Math and Science et al.; Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Order, 25 FCC Rcd 9256, 9259-60, paras. 8 & 9 (2010) (finding special circumstances exist to justify granting waiver requests where, for example, petitioners filed their FCC Forms 471 within 14 days after the FCC Form 471 filing window deadline; or filed their FCC Forms 471 on time, but failed to timely file their certifications); Requests for Waiver and Review of Decisions of the Universal Service Administrator by Anderson Elementary School et al.; Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Order, 27 FCC Rcd 5319, 5319-20, para. 2 (Wireline Comp. Bur. 2012) (treating late-filed item 21 attachments like late-filed certifications); Requests for Waiver and Review of Decisions of the Universal Service Administrator by Ashabula Area City Schools et al.; Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Order, 28 FCC Rcd 4051, 4052-53, para. 4 (Wireline Comp. Bur. 2013) (dismissing a petition for reconsideration because the petitioner failed to identify any material error, omission, or reason warranting reconsideration, and relied on arguments fully considered and rejected by the Bureau within the same proceeding).

2 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).

3 The Bureau has the authority to act on petitions requesting reconsideration of final actions taken pursuant to delegated authority. 47 C.F.R. § 1.106(a)(1).

4 The requests for review are listed in appendices A-C. Section 54.507(c) of the Commission's rules provides for E-rate funds to be made available on a first-come, first-served basis, but requires USAC to implement an initial funding window that treats all applicants filing within that window as if their applications were simultaneously received. 47 C.F.R. § 54.507(c). Although some petitioners did not explicitly request a waiver of the FCC Form 471 application filing window deadline, we treat as requests for waiver all of the requests for review involving FCC Form 471 applications that were submitted after the relevant filing window deadline.

the facts and special circumstances of these specific cases, we find that good cause exists to grant the requests for review for the applications of the petitioners listed in appendices A and B.⁵ We grant the three requests listed in Appendix A, because each of those applicants filed its application(s) within 14 days of the close of the filing window.⁶ We grant the waiver requests listed in Appendix B because each of those two petitioners filed its application within 14 days of the close of the filing window, except for the related certifications or item 21 attachments.⁷ At this time, we find no evidence of waste, fraud and abuse in the record with respect to the petitioners for which we grant relief. We therefore remand the underlying applications listed in appendices A and B to USAC for further action consistent with this Order. In remanding these applications to USAC, we make no finding as to the ultimate eligibility of the services or the petitioners' applications.

2. We deny the requests of the 13 applicants listed in Appendix C because we find that those petitioners have failed to present special circumstances justifying waivers of the Commission's rules.⁸ We also dismiss the four petitions for reconsideration listed in Appendix D because they fail to identify any material error, omission, or reason warranting reconsideration, and rely on arguments that have been fully considered and rejected by the Bureau within the same proceeding.⁹

3. 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 waiver and review filed by the petitioners listed in appendices A and B ARE GRANTED and their underlying applications ARE REMANDED to USAC for further consideration in accordance with the terms of this Order.

4. IT IS FURTHER 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 section 54.507(c) of the Commission's rules, 47 C.F.R. § 54.507(c), IS WAIVED for the petitioners listed in appendices A and B, to the limited extent provided herein.

5. IT IS FURTHER 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 waiver and review filed by the petitioners listed in Appendix C ARE DENIED.

6. IT IS FURTHER 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,

⁵ See Appendices A and B. 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. *Northeast Cellular*, 897 F.2d at 1166.

⁶ See Appendix A.

⁷ See Appendix B.

⁸ See Appendix C.

⁹ See Appendix D; 47 C.F.R. § 1.106(p)(1), (3).

0.291, 1.3, 1.106 and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, 1.106 and 54.722(a), that the petitions for reconsideration listed in Appendix D ARE DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION

Vickie S. Robinson
Acting Chief
Telecommunications Access Policy Division
Wireline Competition Bureau

APPENDIX A

**Requests for Waiver and Review Granted
FCC Form 471 Applications Filed Within 14 Days of the Close of the Filing Window**

Petitioner	Application Number(s)	Funding Year	Date Request for Review/Waiver Filed
LaMoure Colony School LaMoure, ND	992928	2014	Apr. 7, 2014
Norfolk Collegiate School Norfolk, VA	992258, 992299, 992309, 992310, 992311	2014	Aug. 11, 2014
Solomon Lutheran School Woodville, OH	992150	2014	Aug. 4, 2014

APPENDIX B

**Requests for Waiver and Review Granted
Waivers Granted for Special Circumstances**

Petitioner	Application Number	Funding Year	Date Request for Review/Waiver Filed
Anthony Independent School District Anthony, TX	925534	2013	Aug. 11, 2014
Children's Technological Academy Southfield, MI	991726	2014	July 2, 2014

APPENDIX C

Requests for Waiver and Review Denied

Petitioner	Application Number(s)	Funding Year	Date Request for Review/Waiver Filed
Beaumont Library District Beaumont, CA	993168	2014	Aug. 6, 2014
Carrabassett Valley Academy Carrabassett Valley, ME	did not file	2014	July, 28, 2014
De Kalb Public Library De Kalb, IL	993350	2014	July 18, 2014
Embudo Valley Library Dixon, NM	993308	2014	July 21, 2014
Galena Public Library Galena, IL	993588	2014	Aug. 14, 2014
Haverford School Haverford, PA	995248	2014	Aug. 11, 2014
James Irwin Charter School Colorado Springs, CO	967529, 967542, 967968	2014	Jun. 13, 2014
Manzanita Charter School Richmond, CA	did not file	2014	July 25, 2014

Petitioner	Application Number(s)	Funding Year	Date Request for Review/Waiver Filed
Pee Dee Academy Mullins, SC	995088, 995089, 995090, 995108, 995109	2014	July 29, 2014
Rocori School District Cold Spring, MN	did not file	2014	Aug. 8, 2014
Snyder County Libraries Selinsgrove, PA	995169	2014	Aug. 6, 2014
Taft School District 90 Lockport, IL	994711	2014	June 20, 2014
Wisconsin Heights School District Mazomanie, WI	966134	2014	July 16, 2014

APPENDIX D**Petitions for Reconsideration Dismissed**

Petitioner	Application Number(s)	Funding Year(s)	Date Petition for Reconsideration Filed
Allan Shivers Library Woodville, TX	994568	2014	July 9, 2014
Camden-Frontier School District Camden, MI	993152	2014	July 30, 2014
Camdenton School District R3 Camdenton, MO	993728	2014	July 16, 2014
Dayton City School District Dayton, OH	961516, 962836	2013 2012	July 30, 2014