



# PUBLIC NOTICE

Federal Communications Commission  
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## STREAMLINED RESOLUTION OF REQUESTS RELATED TO ACTIONS BY THE UNIVERSAL SERVICE ADMINISTRATIVE COMPANY

**CC Docket No. 96-45**  
**CC Docket No. 02-6**  
**WC Docket No. 02-60**  
**WC Docket No. 03-109**  
**WC Docket No. 06-122**  
**WC Docket 13-184**

Pursuant to our procedure for resolving requests for review, requests for waiver, and petitions for reconsideration of decisions related to actions taken by the Universal Service Administrative Company (USAC) that are consistent with precedent (collectively, Requests), the Wireline Competition Bureau (Bureau) grants, dismisses, or denies the following Requests.<sup>1</sup> The deadline for filing petitions for reconsideration or applications for review concerning the disposition of any of these Requests is 30 days from release of this Public Notice.<sup>2</sup>

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### **Schools and Libraries (E-rate)**

**CC Docket No. 02-6**

#### **Dismiss on Second Reconsideration**<sup>3</sup>

Jacksonville Independent School District, TX, Application No. 958760, Petition for Reconsideration, CC Docket No. 02-6 (filed July 27, 2016)

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<sup>1</sup> See *Streamlined Process for Resolving Requests for Review of Decisions by the Universal Service Administrative Company*, CC Docket Nos. 96-45 and 02-6, WC Docket Nos. 02-60, 06-122, 08-71, 10-90, 11-42, and 14-58, Public Notice, 29 FCC Rcd 11094 (WCB 2014). Section 54.719(b) of the Commission's rules provides that any person aggrieved by an action taken by a division of USAC, after first seeking review at USAC, may seek review from the Commission. Section 54.719(c) of the Commission's rules provides that parties seeking waivers of the Commission's rules shall seek review directly from the Commission. 47 CFR § 54.719(b)-(c). In this Public Notice, we have reclassified as Requests for Waiver those appeals seeking review of a USAC decision that appropriately should have requested a waiver of the Commission's rules.

<sup>2</sup> See 47 CFR §§ 1.106(f), 1.115(d); see also 47 CFR § 1.4(b)(2) (setting forth the method for computing the amount of time within which persons or entities must act in response to deadlines established by the Commission).

<sup>3</sup> See, e.g., *Petition for Reconsideration by Yakutat School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket 02-6, Order, 27 FCC Rcd 10868 (WCB 2012) (dismissing a second petition for reconsideration, where the first petition for reconsideration was untimely filed, because it relies on arguments that fail to identify any material error, omission, or reason warranting reconsideration and relies on arguments that have been fully considered and rejected by the Commission within the same proceeding).

#### Dismiss on Reconsideration<sup>4</sup>

Community Consolidated School District #180, IL, Application No. 964164, Petition for Reconsideration, CC Docket No. 02-6 (filed Aug. 22, 2016)

Edenton-Chowan Public Schools, NC, Application No. 953922, Petition for Reconsideration, CC Docket No. 02-6 (filed May 3, 2016)

Exira-Elk Horn-Kimballton Community School District, IA, Application Nos. 161051186, 161051192, 161054027, Petition for Reconsideration, CC Docket No. 02-6 (filed Aug. 30, 2016)

Industrial Independent School District, TX, Application No. 894273, Petition for Reconsideration, CC Docket No. 02-6 (filed July 15, 2016)

Inglewood Unified School District, CA, Application No. 989411, Petition for Reconsideration, CC Docket No. 02-6 (filed July 26, 2016)

South Harrison Community School Corporation, IN, Application No. 958961, Petition for Reconsideration, CC Docket No. 02-6 (filed Aug. 25, 2016)

Stanly County School District Albemarle, NC, Application No. 794048, Petition for Reconsideration, CC Docket No. 02-6 (filed June 29, 2016)

#### Dismiss on Reconsideration – Untimely<sup>5</sup>

Triton School Corporation, IN, Application No. 951037, Petition for Reconsideration, CC Docket No. 02-6 (filed Aug. 29, 2016)

#### Granted<sup>6</sup>

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<sup>4</sup> See, e.g., *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Allan Shivers Library et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order and Order on Reconsideration, 29 FCC Rcd 10356, 10357, para. 2 (WCB 2014) (dismissing petitions for reconsideration that 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).

<sup>5</sup> See, e.g., *Petitions for Reconsideration by Rockwood School District and Yakutat School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket 02-6, Order, 26 FCC Rcd 13004 (WCB 2011) (dismissing two petitions for reconsideration because they were filed more than 30 days after the Bureau's decisions).

*Eligible Entities*<sup>7</sup>

Chesterfield County Public Schools, VA, Application No. 978732, Request for Review, CC Docket No. 02-6 (filed Jan. 21, 2016)

Turlock Unified School District, CA, Application No. 937218, Request for Review, CC Docket No. 02-6 (filed Mar. 7, 2016)

*Eligible Services*<sup>8</sup>

Brooks County Schools, GA, Application No. 421062, Request for Review, CC Docket No. 96-45, CC Docket No. 97-21 (filed June 6, 2005)

*Late-Filed FCC Form 471 Applications – Circumstances Beyond Applicant's Control*<sup>9</sup>

Brevard County School District, FL, Application Nos. 995008, 995568, Request for Waiver, CC Docket No. 02-6 (filed Dec. 12, 2014)

J Lewis Crozer Library, PA, Application No. 161059786, Request for Waiver, CC Docket 02-6 (filed Aug. 16, 2016)

NACA Inspired School Network Consortium, NM, Application Nos. 161061608, 161060996, Request for Waiver, CC Docket No. 02-6 (filed Aug. 18, 2016)

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<sup>6</sup> We remand these applications to USAC and direct USAC to complete its review of the applications, and issue a funding commitment or a denial based on a complete review and analysis, no later than 90 calendar days from the release date of this Public Notice. In remanding these applications to USAC, we make no finding as to the ultimate eligibility of the services or the petitioners' applications. We also waive sections 54.507(d) and 54.514(a) of the Commission's rules and direct USAC to waive any procedural deadline that might be necessary to effectuate our ruling. *See* 47 CFR § 54.507(d) (requiring non-recurring services to be implemented by September 30 following the close of the funding year); 47 CFR § 54.514(a) (codifying the invoice filing deadline).

<sup>7</sup> *See, e.g., Requests for Review of Decisions of the Universal Service Administrator by Bootheel Consortium; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 22 FCC Rcd 8747, 8750, para. 6 (2007) (finding that although a transmission route to serve an eligible entity passed through an ineligible entity, the service was eligible because the ineligible entity did not use any of the discounted service).

<sup>8</sup> *See, e.g., Requests for Waiver and Review of Decisions of the Universal Service Administrator by Aberdeen School District 5 et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 2080 (WCB 2012) (finding that USAC erred in its eligibility determination regarding the services petitioners sought for funding); *see also Request for Review by the Department of Education of the State of Tennessee of the Decision of the Universal Service Administrator; Request for Review by Integrated Systems and Internet Solutions, Inc. of the Decision of the Universal Service Administrator; Request for Review by Education Networks of America of the Decision of the Universal Service Administrator; Federal-State Joint Board on Universal Service; Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket Nos. 96-45 and 97-21, Order, 14 FCC Rcd 13734, 13754-13755 (1999) (establishing that although facilities located on an applicant's premises should be presumed to be internal connections, an applicant may rebut that presumption by demonstrating that the facilities should be deemed part of an end-to-end service).

<sup>9</sup> *See, e.g., Requests for Waiver of Decisions of the Universal Service Administrator by Academy for Academic Excellence et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 22 FCC Rcd 4747, 4748-49, para. 4 (WCB 2007) (granting waivers where the applicants filed after the close of the filing window due to delays beyond its control).

The Stanwich School, CT, Application Nos. 161057967, 161058357, Request for Waiver, CC Docket No. 02-6 (filed June 9, 2016, supplemented June 10, 2016)

*Late-Filed FCC Form 471 Applications – Filed Within 14 Days of the Close of the Window*<sup>10</sup>

Apalachicola Municipal Library, FL, Application No. 161060498, Request for Waiver, CC Docket No. 02-6 (filed Sept. 6, 2016)

Bromley East Charter School, CO, Application No. 161061577, Request for Waiver, CC Docket 02-6 (filed Aug. 4, 2016)

*Signed Contract Requirement*<sup>11</sup>

Mater Academy of International Studies, FL, Application No. 898918, Request for Review, CC Docket No. 02-6 (filed Aug. 16, 2016)

*Technology Plan Requirements*<sup>12</sup>

New Mexico School for the Deaf, NM, Application Nos. 699883, 749043, 749552, 822109, 822110, Request for Waiver, CC Docket No. 02-6 (filed Apr. 30, 2012)

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<sup>10</sup> See, e.g., *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, para. 8 (2010) (*Academy of Math and Science Order*) (finding special circumstances existed to justify granting waiver requests where, for example, petitioners filed their FCC Forms 471 within 14 days of the filing window deadline).

<sup>11</sup> See, e.g., *Requests for Waiver of the Decision of the Universal Service Administrator by Adams County School District 14 et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 22 FCC Rcd 6019, 6022-23, paras. 8-9 (2007) (granting a waiver of the Commission's contract rules for applicants where clerical errors made it appear as though they signed their contracts after submitting their FCC Form 471). Consistent with precedent, we also find good cause exists to waive section 54.720(a) or (b) of the Commission's rules, which requires that petitioners file their appeals within 60 days of an adverse USAC decision. See *Requests for Review and/or Waiver of Decisions of the Universal Service Administrator by ABC Unified School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 11019, para. 2 (WCB 2011) (waiving the filing deadline for petitioners that submitted their appeals to the Commission or USAC only a few days late).

<sup>12</sup> See, e.g., *Requests for Review or Waiver of the Decisions of the Universal Service Administrator by Brownsville Independent School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 22 FCC Rcd 6045, 6049, para. 8 (2007) (waiving technology plan rules for petitioners that missed deadlines for developing or obtaining approval of their technology plans).

*Violation of the Competitive Bidding 28-Day Rule*<sup>13</sup>

King Chavez Academy of Excellence, CA, Application No. 901207, Request for Waiver, CC Docket No. 02-60 (filed Mar. 5, 2014)<sup>14</sup>

Partially Granted

*Allowing Deduction of Ineligible Costs*<sup>15</sup>

Academy of Accelerated Learning, Inc., TX, Application No. 1029538, Request for Review, CC Docket No. 02-6 (filed June 21, 2016)

Denied

*Cost-Effectiveness Requirements for Individual Data Plans and Air Cards*<sup>16</sup>

KIPP Indianapolis, Inc., IN, Application No. 1025964, Request for Waiver, CC Docket 02-6, WC Docket 13-184 (filed Oct. 9, 2015)

Indiana School for the Blind and Visually Impaired, IN, Application No. 1026343, Request for Waiver, CC Docket 02-6, WC Docket 13-184 (filed Oct. 16, 2015)

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<sup>13</sup> See, e.g., *Application for Review of the Decision of the Universal Service Administrator by Aberdeen School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 22 FCC Rcd 8757, 8761-62, para. 6-7 (2007) (granting a waiver of the Commission's rules to allow applicants to correct clerical errors in their FCC Forms 471 that made it incorrectly appear as though they violated the requirement that they wait at least 28 days from the posting of their FCC Form 470 before selecting a service provider).

<sup>14</sup> This appeal was incorrectly filed in WC Docket No. 02-60 on March 5, 2014 with a supplemental filing made in CC Docket No. 02-6 on April 28, 2014.

<sup>15</sup> See, e.g., *Requests for Review of the Decisions of the Universal Service Administrator by Aiken County Public Schools et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 22 FCC Rcd 8735, 8737-40, paras. 6, 9-10 (2007) (directing USAC to reassess applicants funding requests after ineligible services are removed). See also *Schools and Libraries Universal Service Support Mechanism, A National Broadband Plan for Our Future*, CC Docket No. 02-6, GN Docket No. 09-51, Sixth Report and Order, 25 FCC Rcd 18762, 18808-09, para. 105 (2010) (declining to extend E-rate support to anti-virus and anti-spam software and intrusion protection and intrusion prevention) (*Sixth Report and Order*). To the extent the firewall solution at issue, labelled "CIPA Firewall Firebox M440" bundle provides a content filtering component that does not qualify as ancillary to the firewall – e.g., the "WebBlocker" component of the firewall bundle may provide content filtering – the associated costs must be allocated out of the request. See 47 CFR 54.504(e). See also *Federal-State Joint Board on Universal Service; Children's Internet Protection Act*, CC Docket No. 96-45, Report and Order, 16 FCC Rcd 8204, paras. 54-55 (2001) (explaining that the Children's Internet Protection Act (CIPA) prohibits recipients from obtaining discounts under the universal service support mechanism for the purchase or acquisition of technology protection measures necessary for CIPA). The petitioner asserts that approximately \$1000.00 of the firewall bundle is ineligible and seeks a cost allocation. We direct USAC, with the help of the petitioner, to review the funding requests at issue, remove the ineligible costs, and process the eligible portion of the request.

<sup>16</sup> See *Requests for Waiver of Decisions of the Universal Service Administrator by Batesville Community School Corporation et al.; Schools and Libraries Universal Service Support Mechanism; Modernizing the E-rate Program for Schools and Libraries*; CC Docket No. 02-6, WC Docket No. 13-184, Order, 31 FCC Rcd 7731 (WCB 2016) (denying waiver requests from schools and libraries seeking support for individual data plans and air cards and upholding USAC's application of the cost-effectiveness analysis required by the Commission consistent with the public interest).

*Eligible Services*<sup>17</sup>

Laredo Independent School District, TX, Application No. 406864, Requests for Review, CC Docket No. 02-6 (filed June 15, 2005)

*Ineligible Entities*<sup>18</sup>

High Rocks Educational Corporation, WV, Application No. 1038927, Request for Review, CC Docket No. 02-6 (filed Apr. 19, 2016)

*Invoice Deadline Extension Requests*<sup>19</sup>

Airespring, Inc. (Central High Public School District 34), OK, Application No. 898637, Request for Waiver, CC Docket No. 02-6 (Sept. 16, 2016)

AMA Communications LLC (Amarillo Independent School District), TX, Application Nos. 955719 and 955779, Request for Waiver, CC Docket No. 02-6 (filed July 5, 2016)

Consolidated Communications, IL, Application Nos. 937097, 942228, 943500, 944250, 944341, 945300, 947177, 951846, 951873, 953250, 956584, 961716, 961868, 965972, 967196, 967282, 969337, 970156, 976463, 977030, and 990916, Request for Waiver, CC Docket No. 02-6 (filed June 24, 2016)

East Linn Christian Academy, FL, Application No. 975811, Request for Waiver, CC Docket No.

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<sup>17</sup> See, e.g., *Requests for Waiver and Review of Decisions of the Universal Service Administrator by AllWays, Inc. (Prairie Hills School District 144); Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 1968, 1968-69, para. 1 (WCB 2012) (upholding denials of funding requests for services that are not eligible for E-rate support). See also *Request for Review of the Decision of the Universal Service Administrator by Pike County School District; Federal-State Joint Board on Universal Service; Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 5461 (CCB 2001) (deciding that the requested services are ineligible Network Management Systems as described by the Eligible Services List (ESL), that USAC reasonably determined that the “network maintenance, monitoring, and management and coordination of network status” services requested are ineligible for funding, and that the applicant was sufficiently on notice per the ESL that the services it had applied for were ineligible); *Sixth Report and Order*, 25 FCC Rcd at 18808-09 (declining to extend E-rate support to anti-virus and anti-spam software and intrusion protection and intrusion prevention devices, and distinguishing eligible firewall services intended to prevent unauthorized access to a school or library's network, from intrusion protection and intrusion prevention devices (and anti-virus and anti-spam software) which monitor, detect, and deter threats to a network from external and internal attacks).

<sup>18</sup> See, e.g., *Request for Review of the Decisions of the Universal Service Administrator by Eagle Hill School et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 24 FCC Rcd 12714, 12715, 12718, paras. 2 & 8 (WCB 2009) (holding that if a location does not meet its state's definition of elementary or secondary school, the location is not eligible for E-rate support).

<sup>19</sup> See, e.g., *Requests for Waiver of Decisions of the Universal Service Administrator by Ada School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 31 FCC Rcd 3834, 3836, para. 8 (WCB 2016) (denying requests for waiver of the Commission's invoice extension rule for petitioners that failed to demonstrate extraordinary circumstances justifying a waiver); see also *Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 8870, 8966, para. 240 (2014) (establishing that it is generally not in the public interest to waive the Commission's invoicing rules absent extraordinary circumstances); 47 CFR § 54.514.

02-6 (filed Mar. 14, 2016)

Flint Community School District, MI, Application No. 899468, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2016)

Hickman Mills School District C1, MO, Application No. 951140, Request for Waiver, CC Docket No. 02-6 (filed Aug. 16, 2016)

Powhatan County Public Library, VA, Application No. 940847, Request for Waiver, CC Docket No. 02-6 (filed June 22, 2016)

*Late-Filed FCC Form 471 Applications*<sup>20</sup>

Bellingham School District, MA, Application No. 161061659, Request for Waiver, CC Docket No. 02-6 (filed Aug. 16, 2016)

La Crescent Montessori & STEM School, MN, No Application Number Given, Request for Waiver, CC Docket No. 02-6 (filed May 31, 2016)

Midland Community Library, SD, Application No. 161061652, Request for Waiver, CC Docket No. 02-6 (filed Aug. 16, 2016)

Providence St. Mel School, IL, Application No. 161061641, Request for Waiver, CC Docket No. 02-6 (filed Aug. 29, 2016)

St. Casimir Catholic School, MD, Application Nos. 161050123, 161050117, Request for Waiver, CC Docket No. 02-6 (filed May 26, 2016)

St. Francis de Sales School, OH, Application Nos. 161058533, 161059284, Request for Waiver, CC Docket No. 02-6 (filed Apr. 15, 2016)

*Untimely-Filed Request for Review*<sup>21</sup>

DeLand-Weldon Community Unit School District #57, IL, Application Nos. 938851, 966807, Request for Waiver, CC Docket No. 02-6 (filed Aug. 22, 2016)

Merced City School District, CA, Application No. 856650, Request for Review, CC Docket No. 02-6 (filed Aug. 17, 2016)

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<sup>20</sup> See, e.g., *Academy of Math and Science Order*, 25 FCC Rcd at 9259, para. 8 (denying requests for waiver of the FCC Form 471 filing window deadline where petitioners failed to present special circumstances justifying waiver of our rules).

<sup>21</sup> See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Agra Public Schools I-134 et al.*; *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 5684 (WCB 2010); *Requests for Waiver or Review of Decisions of the Universal Service Administrator by Bound Brook School District et al.*; *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd 5823 (WCB 2014) (denying 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 did not show special circumstances necessary for the Commission to waive the deadline).

Plano Community Unit School District No. 88, TX, Application Nos. 161055957, 161056010, Request for Review, CC Docket No. 02-6 (filed Aug. 26, 2016)

The People for People Charter School Inc., PA, Application No. 990962, Request for Review, CC Docket No. 02-6 (filed Sept. 1, 2016)

Wesleyan Academy, PR, Application No. 871807, Request for Review, CC Docket No. 02-6 (filed Sept. 8, 2016)

*Violation of the Competitive Bidding 28-Day Rule*<sup>22</sup>

North Crawford School District, WI, Application No. 916597, Request for Review and/or Waiver, CC Docket No. 02-6 (filed Mar. 4, 2014)

Ben Porat Yosef School, NJ, Application Nos. 161055865, 161055650, 161052672, Request for Waiver, CC Docket No. 02-6 (filed June 22, 2016)

**Contribution Methodology**  
**WC Docket No. 06-122**

**Granted**

*Request for Waiver of FCC Form 499-A Revision Deadline*<sup>23</sup>

Terral Telephone Company, Inc., Request for Waiver, WC Docket 06-122 (filed Aug. 25, 2016)

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<sup>22</sup> See, e.g., *Application for Review of a Decision of the Universal Service Administrator by Challis Joint School District #181; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd. 3812, 3814, para. 5 (WCB 2011) (denying request for review where applicant selected a service provider for E-rate services prior to submitting its FCC Form 470 when the rule requires the applicant to wait at least 28 days after such posting).

<sup>23</sup> See, e.g., *Universal Service Contribution Methodology, Request for Waiver by Experior Networks; Request for Review by Coaxial Cable Television Corporation of Decision of Universal Service Administrator*, WC Docket No. 06-122, Order, 30 FCC Rcd 4711 (WCB 2015) (granting requests to waive the FCC Form 499-A revision deadline to provide an opportunity for petitioners to correct errors that incorrectly placed them in non-*de minimis* status).



## **Lifeline**

### **WC Docket No. 03-109, CC Docket No. 96-45**

#### **Granted**

##### *Waiver of Rules Due to Natural Disaster*<sup>24</sup>

AT&T, Request for Review, WC Docket No. 03-109 (filed Feb. 1, 2010)

T-Mobile USA, Inc., Request for Review, WC Docket No. 03-109 (filed Feb. 16, 2010)

TracFone Wireless, Inc., Request for Review, WC Docket No 03-109, CC Docket No. 96-45 (filed Mar. 8, 2010).

## **Rural Health Care (RHC)**

### **WC Docket No. 02-60**

#### **Dismissed as Moot**

Mountain Lakes Medical Center, Request for Review, HCP No. 16125, WC Docket No. 02-60 (filed July 22, 2016)<sup>25</sup>

Franciscan Skemp Prairie du Chien Clinic, HCP No. 14919, Request for Review, WC Docket No. 02-60 (filed May 28, 2008)<sup>26</sup>

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<sup>24</sup> See, e.g., *Requests for Waiver of Sections 54.504(c), 54.504(f), 54.507(c), and 54.507(g) of the Commission's Rules et al.*, Order, 25 FCC Rcd 1653, 1661, para. 5 (2010) (granting waiver from strict compliance with E-rate rules in light of devastation and great need arising from Hurricane Katrina and lack of evidence indicating “waste, fraud, or abuse, misuse of funds, or a failure to adhere to core program requirements”); *Request for Waiver or Review of a Decision of the Universal Service Administrator et al.*, Order, 31 FCC Rcd, 7727, 7729, paras. 10-12 (WCB 2016) (granting waiver from strict compliance with the special universal service rules put in place to assist those affected by Hurricane Katrina in light of the confusion and destruction present, the need to quickly put processes in place to comply with the special rules, and an apparent good faith attempt at full compliance); *Connect America Fund et al.*, Order, 27 FCC Rcd 15007, 15008, para. 4 (WCB 2012) (granting a waiver from strict compliance with the rules in light of hardships due to Hurricane Sandy); *Requests for Review of Decisions of the Universal Service Administrator by Approach Learning and Assessment Centers, et al.*, Order, 23 FCC Rcd 15510, 15515, paras. 11-12 (WCB 2008) (excusing E-rate program rules violation in light of devastation in the aftermath of Hurricane Katrina).

<sup>25</sup> See, e.g., *Universal Service Contribution Methodology; Requests for Waiver of Decisions of the Universal Service Administrator by Ambess Enterprise, Inc. et al.*, WC Docket No. 06-122, 25 FCC Rcd 3722 (WCB 2010) (dismissing petitions for waiver of USAC decisions because subsequent USAC action has provided relief sought by petitioners).

<sup>26</sup> See, e.g., *Requests for Review and/or Requests for Waiver of the Decisions of the Universal Service Administrator by Al Noor High School et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 8223, 8224, para. 2 (WCB 2012) (dismissing appeals as moot where USAC approved the underlying funding request).

Denied

*Ineligible Services*<sup>27</sup>

Jamestown Hospital, Request for Review and/or Waiver, HCP No. 14320, WC Docket No. 02-60 (filed Apr. 20, 2016)

For additional information concerning this Public Notice, please contact James Bachtell in the Telecommunications Access Policy Division, Wireline Competition Bureau, at (202) 418-7400.

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<sup>27</sup> The RHC Telecommunications Program provides support to eligible health care providers for eligible telecommunications services. *See Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9105, para. 627 (1997) (concluding that only telecommunications services should be designated for support under the RHC Telecommunications Program). In this instance, Jamestown submitted an application seeking support for dark fiber in the RHC Telecommunications Program. *See* FCC Form 466, Jamestown Hospital (submitted June 30, 2014). USAC denied Jamestown's request after determining that dark fiber is not eligible for support because it has not been designated by the Commission as an eligible telecommunications service. *See* Letter from USAC, Rural Health Care Division, to Mr. Todd Hudspeth, Jamestown Hospital (dated Mar. 28, 2016). We agree with USAC's determination. The Commission has not classified dark fiber as a telecommunications service, and thus, it is not eligible for support under the RHC Telecommunications Program. *See, e.g., Schools and Libraries Universal Service Support Mechanism and A National Broadband Plan for Our Future*, CC Docket 02-6, Sixth Report and Order, 25 FCC Rcd 18762, 18766-67, para. 9 (2010). Further, the underlying record in this instance does not reveal the existence of special circumstances warranting a waiver of RHC program rules. *See Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (stating that waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule). Consequently, we deny Jamestown's request for review. We note that the RHC Healthcare Connect Fund Program currently supports dark fiber when the fiber is "lit" and in use by the eligible health care provider. *See Rural Health Care Support Mechanism*, WC Docket No. 02-60, Report and Order, 27 FCC Rcd 16678, 16734-35, para. 122 (2012). Going forward, should Jamestown desire support for its dark fiber connectivity solutions, it should complete the application process under the RHC Healthcare Connect Fund Program.