



# PUBLIC NOTICE

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

### CC Docket Nos. 96-45 and 02-6

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>

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

##### CC Docket Nos. 96-45 and 02-6:

#### Dismissed<sup>3</sup>

Detroit Service Learning Academy, MI, Application No. 1051826, Request for Waiver, CC Docket No. 02-6 (filed Oct. 7, 2016)

Kynetic Technologies, LLC (Crowley Independent School District), TX, Application No. 1009254, Request for Review, CC Docket No. 02-6 (filed Oct. 5, 2016)

#### Dismissed as Moot<sup>4</sup>

<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., *Request for Review of a Decision of the Universal Service Administrator by La Canada Unified School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 30 FCC Rcd 4729, para. 2 (WCB 2015) (dismissing an appeal that properly belongs before USAC pursuant to Commission rules).

Weiser School District #431, ID, Application No. 942405, Request for Review, CC Docket No. 02-6 (filed July 7, 2016)

Dismissed for Failure to Comply with the Commission's Basic Filing Requirements<sup>5</sup>

Falls Church City Public Schools, No Application Number Given, Request for Waiver, CC Docket No. 02-6 (filed May 4, 2016)

Orlando Telephone Company, No Application Number Given, Funding Request Number (FRN) 2379424, Request for Waiver, CC Docket No. 02-6 (filed June 3, 2016)

Orlando Telephone Company, No Application Number Given, FRN 2472514, Request for Waiver, CC Docket No. 02-6 (filed June 3, 2016)

Orlando Telephone Company, No Application Number Given, FRN 2609420, Request for Waiver, CC Docket No. 02-6 (filed June 3, 2016)

Dismissed on Reconsideration<sup>6</sup>

DeLand-Weldon Community Unit School District #57, IL, Application Nos. 938851, 966807, Petition for Reconsideration, CC Docket No. 02-6 (filed Oct. 12, 2016)

Eagle Communications (Abilene Unified School District 435), KS, Application No. 937847, Petition for Reconsideration, CC Docket No. 02-6 (filed Sept. 20, 2016)

Granted<sup>7</sup>

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<sup>4</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 as moot requests for review where USAC approved the underlying funding request).

<sup>5</sup> 47 CFR § 54.721 (setting forth general filing requirements for requests for review of decisions issued by the Administrator, including the requirement that the request for review include supporting documentation); see also *Wireline Competition Bureau Reminds Parties of Requirements for Request for Review of Decisions by the Universal Service Administrative Company*, CC Docket Nos. 96-45, 02-6, WC Docket Nos. 02-60, 06-122, 10-90, 11-42, 13-184, 14-58, Public Notice, 29 FCC Rcd 13874 (WCB 2014) (reminding parties submitting appeals to the Bureau of the general filing requirements contained in the Commission's rules which, along with a proper caption and reference to the applicable docket number, require (1) a statement setting forth the party's interest in the matter presented for review; (2) a full statement of relevant, material facts with supporting affidavits and documentation; (3) the question presented for review, with reference, where appropriate, to the relevant Commission rule, order or statutory provision; and (4) a statement of the relief sought and the relevant statutory or regulatory provision pursuant to which such relief is sought); *Universal Service Contribution Methodology; Request for Review by Alternative Phone, Inc. and Request for Waiver*, WC Docket No. 06-122, Order, 26 FCC Rcd 6079 (WCB 2011) (dismissing without prejudice a request for review that failed to meet the requirements of section 54.721 of the Commission's rules).

<sup>6</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>7</sup> We remand these applications to USAC and direct USAC to complete its review of the applications, and issue a (continued....)

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

Boston Public Library, MA, Application No. 462857, Request for Review, CC Docket No. 02-6 (filed Nov. 9, 2005)

Clare-Gladwin Regional Education Service, MI, Application No. 476925, Request for Review, CC Docket No. 02-6 (filed Apr. 12, 2006)

Lanett City School District, AL, Application No. 532429, Request for Review, CC Docket No. 02-6 (filed Oct. 19, 2006)

Lee County School District, AL, Application No. 515258, Request for Review, CC Docket No. 02-6 (filed Feb. 25, 2007)

Lowndes County School District, AL, Application No. 502211, Request for Review, CC Docket No. 02-6 (filed Oct. 30, 2006)

*Granted on Reconsideration (Sua Sponte) – Violation of the Competitive Bidding 28-Day Rule*<sup>9</sup>

Minneapolis School District 1, MN, Application No. 455463, Request for Waiver, CC Docket No. 02-6 (filed Mar. 11, 2009)

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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>8</sup> See, e.g., *Requests for Waiver and Review of 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, 8739-40, para. 9 (2007) (permitting applicants to remove ineligible services that triggered denials of their funding requests). We permit Boston Public Library to remove the Intrusion Detection System (IDS), Intrusion Prevention System (IPS), and any of the other seven components of its funding year 2005 request that are not core components of the basic operating system of a firewall service from its 2005 funding request. We permit the Lanett City, Lee County, and Lowndes County school districts to remove the Tandberg Border Controller, which is not eligible as a component of basic firewall service, from their 2006 funding requests. We permit Clare-Gladwin Regional Education Service District Gladwin to remove the three items that comprise network management hardware, which we find ineligible, from its 2005 funding request.

<sup>9</sup> See *Requests for Waiver of Decisions of the Universal Service Administrator by Central Technology Center et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 5086, 5086, para. 1 (WCB 2012) (finding good cause to waive section 54.503(c)(4) of the Commission's rules for Minneapolis Public Schools).

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

Education Achievement Authority of Michigan, MI, Application No. 161057918, Request for Waiver, CC Docket No. 02-6 (filed Aug. 12, 2016)

Texas Serenity Academy, TX, Application Nos. 161058042, 161058200, Request for Waiver, CC Docket 02-6 (filed Sept. 30, 2016)

*Ministerial and/or Clerical Error – FCC Form 471*<sup>11</sup>

Grant Parish Library, LA, Application No. 161058235, Request for Review, CC Docket No. 02-6 (filed Sept. 22, 2016)

Pajaro Valley Unified School District, CA, Application No. 1030547, Request for Review, CC Docket No. 02-6 (filed May 25, 2016)

Preston County School District, WV, Application No. 1000406, Request for Review, CC Docket No. 02-6 (filed Feb. 17, 2016)

Synergetics Diversified Computer Services (Leake County School District), MS, Application No. 1038199, Request for Review, CC Docket No. 02-6 (filed Sept. 26, 2016)

*Necessary Resources*<sup>12</sup>

Richland County School District 1, SC, Application No. 854240, Request for Review, CC Docket No. 02-6 (filed Aug. 26, 2016)

*Signed Contract Requirement*<sup>13</sup>

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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). Consistent with precedent, we also find good cause exists to waive section 54.720(a) or (b) of the Commission's rules for Education Achievement Authority of Michigan, which requires that petitioners file their appeals within 60 days of an adverse USAC decision. See, e.g., *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) (*ABC Unified School District Order*) (waiving the filing deadline for petitioners that submitted their appeals to the Commission or USAC only a few days late).

<sup>11</sup> See, e.g., *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Ann Arbor Public Schools et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 17319, 17319-20, para. 2, n.5 (WCB 2010) (permitting applicants to correct clerical errors like failing to enter an item from the source list onto the application or entering the discounted price rather than the pre-discounted price or indicating the wrong service category or term of service on FCC Form 471).

<sup>12</sup> See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Academy of Excellence et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 22 FCC Rcd 8722, 8725-26, para. 6 (2007) (finding that the applicants had the necessary resources to use their eligible E-rate services effectively).

<sup>13</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, e.g., *ABC Unified School District Order*, 26 FCC Rcd at 11019, para. 2 (waiving the filing deadline for petitioners that

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Somerset Academy South Miami Elementary and Middle School, FL, Application No. 899399, Request for Review, CC Docket No. 02-6 (filed Aug. 16, 2016)

Somerset Bay Academy (North Lauderdale), FL, Application No. 899436, Request for Review, CC Docket No. 02-6 (filed Aug. 16, 2016)

*Violation of the Competitive Bidding 28-Day Rule*<sup>14</sup>

Minneapolis School District 1, MN, Application No. 570627, Request for Waiver, CC Docket No. 02-6 (filed Mar. 11, 2009)

*Waiver of Appeal Filing Deadline*<sup>15</sup>

Bergen Catholic School, NJ, Application No. 161041082, Request for Waiver, CC Docket No. 02-6 (filed Oct. 5, 2016)

Napoleon School District, ND, Application No. 1010676, Request for Waiver, CC Docket No. 02-6 (filed Sept. 16, 2016)

Public Preparatory Network Inc., NY, Application No. 1022348, Request for Waiver, CC Docket No. 02-6 (filed Mar. 28, 2016)

Partially Granted

*Eligible Services*<sup>16</sup>

Baker Hall School, NY, Application No. 492990, Request for Review, CC Docket Nos. 96-45 and 02-6 (filed Mar. 12, 2007)

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submitted their appeals to the Commission or USAC only a few days late).

<sup>14</sup> See *Requests for Waiver of Decisions of the Universal Service Administrator by Central Technology Center et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 5086, 5086, para. 1 (WCB 2012) (finding good cause to waive section 54.503(c)(4) of the Commission's rules for Minneapolis Public Schools).

<sup>15</sup> See, e.g., *ABC Unified School District Order*, 26 FCC Rcd at 11019, para. 2 (waiving the filing deadline for petitioners that submitted their appeals to the Commission or USAC only a few days late). We make no finding on the underlying issues in these appeals and remand these applications back to USAC to make a determination on the merits. See *supra* note 7.

<sup>16</sup> See, e.g., *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Billings School District 2; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 5032, 5034, paras. 4-5 (WCB 2012) (deciding that the petitioner was seeking eligible fiber installation and leased telecommunications services for a wide area network (WAN), but that funding should be reduced by the ineligible portion of the non-recurring charge attributable to installation of fiber between school buildings on the same property — i.e. fiber connections that did not cross a public right of way). Regarding FRN 1443076, we direct USAC to determine whether the petitioner may have included costs for fiber connecting school buildings on the same property. USAC shall remove any costs attributed to this ineligible portion from the funding request and process the remaining eligible portion. *Id.* Regarding FRN 1443081, USAC correctly determined that the petitioner's funding request for basic maintenance of the internal connection components of its WAN is ineligible for E-rate support. 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) (*AllWays, Inc. Order*) (upholding denials of funding requests for services that are not eligible for E-rate support).



## Denied

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

Lowndes County School District, AL, Application No. 820078, Request for Review, CC Docket No. 02-6 (filed July 5, 2012)

Mobile County School District, AL, Application No. 523962, Request for Review, CC Docket No. 02-6 (filed Dec. 5, 2006)

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

Gan Chabad, CA, Application No. 797494, Request for Review, CC Docket No. 02-6 (filed Sept. 17, 2012)

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

Network Cabling, Inc. dba N.C.I. (Navajo Preparatory School), NM, Application No. 475813, Request for Waiver, CC Docket No. 02-6 (filed Mar. 4, 2016)

San Diego Independent School District, TX, Application No. 815356, Request for Waiver, CC Docket No. 02-6 (filed May 4, 2015, supplement filed June 30, 2016)

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<sup>17</sup> See, e.g., *AllWays, Inc. Order*, 27 FCC Rcd at 1968-69, para. 1 (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); *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 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., *Requests for Waiver and Review of Decisions of the Universal Service Administrator by CCRC Community Link et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 5326, para. 1 (WCB 2012) (denying support to entities that failed to show that they were eligible for E-rate support); *Request for Review of the Decision of the Universal Service Administrator by Beginning With Children Charter School and Yeshiva Karlin-Stolin; 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, 18 FCC Rcd 936, 940, para. 11 (CCB 2003) (emphasizing that the ultimate burden of proof remains on the applicant).

<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.

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

Brooks County Public Library, GA, Application No. 161061813, Request for Waiver, CC Docket 02-6 (filed Sept. 28, 2016, supplement filed Oct. 20, 2016)

Clarksburg CII School District, MO, Application Nos. 161060746, 161060752, Request for Waiver, CC Docket 02-6 (filed Sept. 14, 2016)

DeQueen Public Schools, AR, Application No. 161061760, Request for Waiver, CC Docket No. 02-6 (filed Sept. 2, 2016)

John Paul II Catholic School, Application No. 161061780, Request for Waiver, CC Docket No. 02-6 (filed Sept. 13, 2016)

Kern County Superintendent of Schools, CA, Application No. 161051919, Request for Waiver, CC Docket 02-6 (filed Sept. 16, 2016)

Omega Alpha Academy, AZ, Application No. 161058692, Request for Waiver, CC Docket 02-6 (filed Oct. 3, 2016)

Paramount School of Excellence, IN, Application No. 161058885, Request for Waiver, CC Docket 02-6 (filed Sept. 27, 2016)

San Luis Obispo County Office of Education, CA, Application No. 161061669, Request for Waiver, CC Docket No. 02-6 (filed June 20, 2016, supplement filed Sept. 6, 2016)

Skyline R-II School District, MO, Application No. 161061801, Request for Waiver, CC Docket 02-6 (filed Sept. 16, 2016)

Springfield Elementary School, OH, Application No. 161032415, Request for Waiver, CC Docket 02-6 (filed Sept. 29, 2016)

*Ministerial and/or Clerical Errors – FCC Form 471*<sup>21</sup>

Grace Christian School, VA, Application No. 1022424, Request for Review, CC Docket No. 02-6 (filed Sept. 30, 2016)

*Untimely-Filed Request for Review*<sup>22</sup>

QuantumShift Communications, Inc. (Cathedral School for Boys), CA, Application No. 740568, Request for Review, CC Docket No. 02-6 (filed Oct. 7, 2016)

St. John Evangelist School, AZ, Application Nos. 1013332, 1040178, Request for Waiver, CC

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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 Waiver and Review of Decisions of the Universal Service Administrator by Assabet Valley Regional Vocational District, Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 1924, 1925, para. 1 (WCB 2012) (finding petitioners had not demonstrated good cause to justify waivers permitting changes to the applicants' E-rate applications).

<sup>22</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).

Docket No. 02-6 (filed Feb. 25, 2016)

Wesleyan Academy, PR, Application No. 895296, Request for Review, CC Docket No. 02-6 (filed Oct. 4, 2016)

Westphalia Independent School District, TX, Application No. 161048517, Request for Waiver, CC Docket 02-6 (filed Aug. 16, 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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