

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. 02-6
WC Docket No. 06-122

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.¹ 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.²

Schools and Libraries (E-rate) CC Docket No. 02-6

Dismissed³

Boylan Central Catholic High School, IL, Application No. 1001031, Request for Review, CC Docket No. 02-6 (filed Feb. 2, 2017)

¹ 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. Similarly, we have reclassified as Requests for Review those appeals seeking a waiver of the Commission's rules but are actually seeking review of a USAC decision.

² 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).

³ 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, 4729, para. 2 (WCB 2015) (*La Canada Unified School District Order*) (dismissing an appeal that properly belongs before USAC pursuant to Commission rules). As a reminder to all applicants, the FCC Form 486 deadline is procedural and therefore requests to review a decision to deny funding based on a late-filed FCC Form 486 must first be filed with USAC. *Id.*

Laura E. Richards Library, ME, Application No. 1040348, Request for Waiver, CC Docket No. 02-6 (filed Jan. 31, 2017)

Maynard Public School District, AR, Application No. 1044320, Request for Waiver, CC Docket No. 02-6 (filed Jan. 26, 2017)

Richard Wright Public Charter School for Journalism and Media Arts, DC, Application No. 856403, Request for Waiver, CC Docket No. 02-6 (filed Jan. 27, 2017)

West Holmes Local School District, OH, Application No. 161013712, Request for Review, CC Docket No. 02-6 (filed Feb. 2, 2017)

Dismissed as Moot⁴

Affiniti, LLC (Grants-Cibola County School District), NM, Application No. 955337, Request for Waiver, CC Docket No. 02-6 (filed Feb. 8, 2016)

GCI (Bering Strait School District), AK, Application No. 945633, Request for Waiver, CC Docket No. 02-6 (filed May 25, 2016)

Woodstock Community Unit District 200, IL, Application No. 1022278, Request for Waiver, CC Docket No. 02-6 (filed Nov. 9, 2016)

Dismissed as Moot⁵

McCloud Union Elementary School District, CA, Application No. 161025132, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2016)

Wheaton Area Schools, MN, Application No. 161048482, Request for Waiver, CC Docket No. 02-6 (filed Apr. 7, 2016)

Dismissed on Reconsideration⁶

Duluth Public Library, MN, Application No. 161010125, Request for Waiver, CC Docket 02-6 (filed Jan. 23, 2017)

⁴ See, e.g., *Requests for Review of Decision of the Universal Service Administrator by Diversified Computer Solutions, Inc.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 5250, 5251, para. 3 (WCB 2012) (dismissing appeals as moot where invoicing records demonstrate that the entity was fully compensated for the funding it requested and all submitted invoices funded).

⁵ 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 (WCB 2012) (dismissing as moot requests for review where USAC approved the underlying funding request).

⁶ 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).

Oskaloosa Christian School, IA, Application No. 161034412, Petition for Reconsideration, CC Docket No. 02-6 (filed Mar. 6, 2017)

St. Michael School, OH, Application No. 161061994, Petition for Reconsideration, CC Docket No. 02-6 (filed Jan. 30, 2017)

Wesleyan Academy, PR, Application No. 895296, Petition for Reconsideration, CC Docket No. 02-6 (filed Nov. 29, 2016)

Granted⁷

*FCC Form 486 – Late-Filed*⁸

Lexington County School District One, SC, Application No. 1051214, Request for Waiver, CC Docket No. 02-6 (filed Feb. 17, 2017)

*Ministerial and/or Clerical Error—Invoicing*⁹

Our Lady of Mt. Carmel School, OH, Application No. 860246, Request for Review and/or Waiver, CC Docket No. 02-6 (filed June 16, 2016)

Denied

*Failure to Consider Price of Eligible Services as Primary Factor in Vendor Selection*¹⁰

⁷ 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).

⁸ *See, e.g., Requests for Review and Waiver of the Decision of the Universal Service Administrator by Alaska Gateway School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 21 FCC Rcd 10182, 10185, para. 6 (WCB 2006) (*Alaska Gateway Order*) (granting appeals where applicants filed their FCC Forms 486 late as the result of immaterial clerical, ministerial or procedural errors, or filed late due to circumstances beyond their control); *Requests for Waiver of Decisions of the Universal Service Administrator by Archdiocese of New Orleans, Louisiana et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 31 FCC Rcd 11747, 11751, para. 11 (WCB 2016) (establishing a more rigid standard for late-filed FCC Forms 486 but continuing to apply the current *Alaska Gateway Order*-based standard to appeals filed with USAC or the Commission before January 30, 2017).

⁹ *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, 17320 (WCB 2010) (permitting applicants to correct clerical errors, including entering a wrong service start or end date).

¹⁰ *See, e.g., Request for Review of a Decision of the Universal Service Administrator by Fall River Public School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 28 FCC Rcd 7427, 7429, para. 5 (WCB 2013) (denying appeal where applicant failed to consider price as primary factor in its vendor selection process and where it was not clear from the record that applicant selected the lowest-cost provider). In its request for waiver, the petitioner appears to include ineligible services in its comparison of the bids for Internet access pricing. Request for Review at 3, n.12. *See, generally, Request for Review of the Decision of the Universal Service Administrator by Ysleta Independent School District et al.; 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, 97-

(continued....)

Roanoke County Public Schools, VA, Application No. 161005853, Request for Waiver, CC Docket No. 02-6 (filed Mar. 17, 2017)

*Improper Service Provider Involvement*¹¹

All Saints Elementary School, NY, Application No. 302170, Request for Review, CC Docket No. 02-6 (filed Sept. 28, 2010)

Immaculate Conception School, NY, Application No. 295277, Request for Review, CC Docket No. 02-6 (filed Sept. 28, 2010)

Immaculate Conception Grade School, NY, Application Nos. 302191, 349380, 388978, 440709, Requests for Review, CC Docket No. 02-6 (filed Sept. 28, 2010, June 17, 2009, and May 27, 2009)¹²

Incarnation Elementary School, NY, Application No. 302176, Request for Review, CC Docket No. 02-6 (filed Sept. 28, 2010)

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21, Order, 18 FCC Rcd 26407, 26430, para. 52 (2003) (explaining that "[t]he prices relevant to our competitive bidding requirements are those of eligible services"); *Requests for Review of Decisions of the Universal Service Administrator by Spokane School District 81; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 28 FCC Rcd 6026 (WCB 2013) (denying appeal where applicant failed to use the price of eligible services as the primary factor).

¹¹ See, e.g., *Requests for Waiver and Review of Decision of the Universal Service Administrator by Networks and More! Inc. et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 2564, 2565, para. 2 (WCB 2012) (denying an appeal when the service provider assisted the applicant with the preparation of its FCC Form 470 and emphasizing that "even clerical or data entry assistance, is a violation of the Commission's competitive bidding rules"). See also, e.g., *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9076, para. 480 (1997) (subsequent history omitted) (requiring competitive bidding processes to be fair and open such that no bidders receive an unfair advantage); *Request for Review by Mastermind Internet Services, Inc.; Federal-State Joint Board on Universal Service; Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket No. 96-45, Order, 16 FCC Rcd 4028, 4033 (2000) (stating that a service provider participating in the competitive bidding process cannot be involved in the preparation of the entity's technology plan, FCC Form 470 or RFP). We also reject the argument by some of the schools that USAC was seeking recovery beyond an administrative time limitation. See *Application for Review of a Decision of the Wireline Competition Bureau by Net 56, Inc.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Memorandum Opinion and Order, 32 FCC Rcd 963, 966-67, paras. 9-11 (2017) (clarifying that the Commission's recommendation that investigations be completed within five years of the final delivery of service for a specific funding year is a policy preference and not an absolute bar to recovery).

¹² For funding year 2002, petitioners argue that Computer Technical Services, Inc. (CTS) was the service provider for Immaculate Conception Grade School. We note, however, that the school filed its FCC Form 471 application requesting services from Elite Systems, Inc. and received a Funding Commitment Decision Letter before requesting an operational SPIN change to CTS in May 2003. This operational SPIN change occurred after the competitive bidding violation, and USAC must seek recovery consistent with the *Schools and Libraries Fourth Report and Order*, which allows USAC to pursue recovery actions against the party or parties responsible for the rule or statutory violation in question. See *Federal-State Joint Board on Universal Service; Changes to the Board of Directors for the National Exchange Carrier Association, Inc.; Schools and Libraries Universal Service Support Mechanism*, CC Docket Nos. 96-45, 97-21, 02-6, Order on Reconsideration and Fourth Report and Order, 19 FCC Rcd 15252, 15257, para. 15 (2004). For funding years 2003, 2004, and 2005, we find that CTS assisted in the preparation of the FCC Form 470.

Mount Carmel Holy Rosary School, NY, Application No. 302177, Request for Review, CC Docket No. 02-6 (filed Sept. 28, 2010)

Notre Dame High School, NY, Application No. 302179, Request for Review, CC Docket No. 02-6 (filed Sept. 28, 2010)

Our Lady of Grace, NY, Application Nos. 340619, 391525, Request for Review, CC Docket No. 02-6 (filed June 17, 2009)

Our Lady of Pompeii School, NY, Application No. 303933, Request for Review, CC Docket No. 02-6 (filed Sept. 29, 2010)

Our Lady Queen of Angels School, NY, Application No. 302184, Request for Review, CC Docket No. 02-6 (filed Sept. 28, 2010)

Resurrection School, NY, Application No. 302192, Request for Review, CC Docket No. 02-6 (filed Sept. 28, 2010)

Sacred Heart of Jesus, NY, Application No. 302198, Request for Review, CC Docket No. 02-6 (filed Sept. 28, 2010)

Sacred Heart Private School, NY, Application No. 302200, Request for Review, CC Docket No. 02-6 (filed Sept. 28, 2010)

Santa Maria School, NY, Application No. 302201, Request for Review, CC Docket No. 02-6 (filed Sept. 28, 2010)

School of the Blessed Sacrament, NY, Application No. 302187, Request for Review, CC Docket No. 02-6 (filed Sept. 28, 2010)

St. Aloysius School, NY, Application No. 302203, Request for Review, CC Docket No. 02-6 (filed Sept. 28, 2010)

St. Ann's School, NY, Application No. 302206, Request for Review, CC Docket No. 02-6 (filed Sept. 28, 2010)

St. Ann School, NY, Application No. 302209, Request for Review, CC Docket No. 02-6 (filed Sept. 28, 2010)

St. Anselm School, NY, Application No. 302212, Request for Review, CC Docket No. 02-6 (filed Sept. 29, 2010)

St. Augustine School, NY, Application No. 302215, Request for Review, CC Docket No. 02-6 (filed Sept. 29, 2010)

St. Brigid School, NY, Application No. 302216, Request for Review, CC Docket No. 02-6 (filed Sept. 29, 2010)

St. Charles Borromeo School, NY, Application No. 302219, Request for Review, CC Docket No. 02-6 (filed Sept. 29, 2010)

St. Columba School, NY, Application No. 302220, Request for Review, CC Docket No. 02-6 (filed Sept. 29, 2010)

St. Dominic School, NY, Application Nos. 302221, 410150, Requests for Review, CC Docket No. 02-6 (filed Sept. 29, 2010 and May 27, 2009)

St. Elizabeth School, NY, Application No. 302223, Request for Review, CC Docket No. 02-6 (filed Sept. 29, 2010)

St. Francis Assisi School, NY, Application No. 302224, Request for Review, CC Docket No. 02-6 (filed Sept. 29, 2010)

St. John's Elementary School, NY, Application No. 302225, Request for Review, CC Docket No. 02-6 (filed Sept. 28, 2010)

St. Joseph of the Holy Family School, NY, Application No. 302228, Request for Review, CC Docket No. 02-6 (filed Sept. 28, 2010)

St. Joseph School, NY, Application No. 302230, Request for Review, CC Docket No. 02-6 (filed Sept. 28, 2010)

St. Joseph School, NY, Application No. 302231, Request for Review, CC Docket No. 02-6 (filed Sept. 28, 2010)

St. Joseph School, NY, Application No. 302233, Request for Review, CC Docket No. 02-6 (filed Sept. 28, 2010)

St. Luke School, NY, Application No. 301724, Request for Review, CC Docket No. 02-6 (filed Sept. 28, 2010)

St. Mark of the Evangelist Parish Elementary, NY, Application No. 302234, Request for Review, CC Docket No. 02-6 (filed Sept. 28, 2010)

St. Mary School, NY, Application No. 302237, Request for Review, CC Docket No. 02-6 (filed Sept. 28, 2010)

St. Michael Academy, NY, Application No. 302239, Request for Review, CC Docket No. 02-6 (filed Sept. 28, 2010)

St. Paul School, NY, Application No. 302240, Request for Review, CC Docket No. 02-6 (filed Sept. 28, 2010)

*Invoice Deadline Extension Requests*¹³

Amphitheater Public Schools, AZ, Application No. 1000262, Request for Waiver, CC Docket No. 02-6 (filed Nov. 8, 2016)

¹³ 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.

Bagdad Unified School District, AZ, Application No. 968294, Request for Waiver, CC Docket No. 02-6 (filed Feb. 26, 2016)

Centralia School District 401, WA, Application Nos. 1008165, 1008194, 1008204, 1008214, 1008220, Request for Waiver, CC Docket No. 02-6 (filed Mar. 10, 2017)

Contra Costa County DOIT Telecommunications, CA, Application No. 951956, Request for Waiver, CC Docket No. 02-6 (filed Jan. 24, 2017)

Emmons School District 33, IL, Application No. 1039895, Request for Waiver, CC Docket No. 02-6 (filed Jan. 30, 2017)

The New America School – Las Cruces, NM, Application No. 1026869, Request for Waiver, CC Docket No. 02-6 (filed Nov. 21, 2016)

Willow Lake School District 12-3, SD, Application No. 1047005, Request for Waiver, CC Docket No. 02-6 (filed Feb. 16, 2017)

*Late-Filed FCC Form 471 Applications*¹⁴

Cashmere School District 222, WA, Application Nos. 161062371, 161062369, 161062367, Request for Waiver, CC Docket 02-6 (filed Jan. 24, 2017)

Ringwood School District, NJ, Application No. 161062146, Request for Waiver, CC Docket 02-6 (filed Jan. 5, 2017)

Savannah –Chatham County Public School System, GA, Application Nos. 161062519, 161062521, 161062522, 161062524, Request for Waiver, CC Docket 02-6 (filed Feb. 9, 2017)

Western Yell County School District, AR, Application No. 161062308, Request for Waiver, CC Docket 02-6 (filed Jan. 3, 2017)

*Untimely Filed Requests for Review*¹⁵

Crook County Library, OR, Application No. 161061586, Request for Waiver, CC Docket 02-6 (filed Dec. 9, 2016)

Genesee Joint School District No. 282, ID, Application No. 1050374, Request for Waiver, CC Docket No. 02-6 (filed Jan. 31, 2017)

¹⁴ See, e.g., *Request 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) (denying requests for waiver of the FCC Form 471 filing window deadline where petitioners failed to present special circumstances justifying waiver of our rules).

¹⁵ 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).

Contribution Methodology
WC Docket No. 06-122

Granted

*Request for Review of Decision of Universal Service Administrator*¹⁶

Cablevision Systems Corporation, Request for Review, WC Docket No. 06-122 (filed May 19, 2014)

Remand to USAC

*Request for Review of Universal Service Administrator Decision*¹⁷

Global IT Communications, Request for Review, WC Docket 06-122 (filed Sept. 16, 2016)

For additional information concerning this Public Notice, please contact Kate Dumouchel in the Telecommunications Access Policy Division, Wireline Competition Bureau, at kate.dumouchel@fcc.gov or at (202) 418-7400.

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¹⁶ The Federal Communications Commission (FCC) may hold one entity or individual liable for the acts or omissions of a different, related entity: (i) where there is a common identity of officers, directors, or shareholders; (ii) where there is common control between the entities; and (iii) when it is necessary to preserve the integrity of the Communications Act and to prevent the entities from defeating the purpose of statutory provisions. *See Telseven, LLC, Calling 10, LLC, Patrick Hines a/k/a P. Brian Hines*, Forfeiture Order, 31 FCC Rcd 1629, 1633, para. 11 (2016) (*Telseven Forfeiture Order*). *But see Dole Food Co. v. Patrickson*, 538 U.S. 468, 475-6 (2003) (*Dole Food*) (“The doctrine of piercing the corporate veil, however, is the rare exception, applied in the case of fraud or certain other exceptional circumstances. . . .”). In this instance, we find no evidence that Cablevision Systems Corporation (Cablevision) meets any of these requirements, and thus there is no basis for piercing the corporate veil to hold it responsible for the past due universal service contribution obligations of Cleveland PCS, LLC. Because we find that there are insufficient grounds to pierce the corporate veil in this instance, we do not address Cablevision’s additional arguments presented in its appeal. *See* Cablevision Request for Review.

¹⁷ *Universal Service Contribution Methodology; Federal-State Joint Board on Universal Service; Requests for Review of Decisions of Universal Service Administrator by American Telecommunications System Inc. et al.*, WC Docket No. 06-122, Memorandum Opinion and Order, 32 FCC Rcd 535 (WCB 2017) (directing USAC to consider whether petitioners can demonstrate by a preponderance of the evidence that their respective wholesale providers had contributed to the universal service fund on the telecommunications revenues at issue).