

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of
Requests for Review/Waiver of the
Decision of the
Universal Service Administrator by
Accelerated Charter
Los Angeles, California et al.
Schools and Libraries Universal Service
Support Mechanism
File No. SLD-865371 et al.
CC Docket No. 02-6

ORDER

Adopted: November 5, 2014

Released: November 5, 2014

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

1. Consistent with precedent, we grant two and deny three requests for review and/or waiver 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). In each case, USAC denied, as untimely, petitioners' requests for an extension of the service implementation deadline.

2. Based on our review of the record, we find that the petitioners in Appendix A were unable to complete implementation on time for reasons beyond the service providers' control, one of the criteria provided for in our rules as a justification for an extension of the services implementation

1 Request for Waiver of the Funding Year Deadline for the Implementation of the Non-Recurring Services by Cleveland Municipal School District; Federal-State Joint Board on Universal Service, CC Docket 96-45, Order, 17 FCC Rcd 3176 (Com. Car. Bur. 2002) (denying an extension of the services implementation deadline when petitioner failed to satisfy the grounds for an extension provided for by the Commission's rules); Request for Review of Decisions of the Universal Service Administrator by Academy Charter School et al., CC Docket No. 02-6, Order, 29 FCC Rcd 5820 (Wireline Comp. Bur. 2014) (granting extensions of the services implementation deadline when petitioners were unable to complete implementation on time for reasons beyond the service providers' control and made significant efforts to secure the necessary extensions).

2 The requests we grant are identified in Appendix A, and those that we deny are identified in Appendix B. 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 47 C.F.R. § 54.507(d) (requiring non-recurring services to be implemented by September 30 following the close of the funding year, and providing criteria for applicants to request an extension). A request for an extension must be submitted to USAC on or before the September 30 deadline. See USAC, Service Delivery Deadlines and Extension Requests, http://www.usac.org/sl/applicants/before-youre-done/delivery-extension.aspx (last visited Sept. 19, 2014).

deadline.<sup>4</sup> Moreover, although they failed to timely submit requests to extend the implementation deadline, the petitioners identified in Appendix A, made significant efforts to secure the necessary extensions.<sup>5</sup> Furthermore, there is no evidence of waste, fraud and abuse in the record at this time. Therefore, we grant the petitions identified in Appendix A and remand the applications to USAC for further action consistent with this Order. To ensure that the appeals are resolved expeditiously, we direct USAC to complete its review of the submitted invoices and issue an award or a denial based on a complete review and analysis no later than 60 calendar days from its receipt of the submitted invoices. In remanding these appeals to USAC, we make no finding as to the ultimate eligibility of the services requested or the petitioners' applications.

3. We deny the request from Eaton County Intermediate School District (Eaton County), identified in Appendix B, because we find that Eaton County failed to make significant efforts to notify USAC of its need to have an extension of the implementation deadline.<sup>6</sup> We deny the request from Edgecombe County Schools, identified in Appendix B, because it did not demonstrate that it failed to complete implementation on time for any of the reasons that satisfy the Commission's criteria for implementation deadline extensions and it failed to make significant efforts to notify USAC of its need to have an extension of the implementation deadline.<sup>7</sup> We deny the request of Many Farms School, identified in Appendix B, because Many Farms School did not demonstrate that it failed to complete implementation on time for any of the reasons that satisfy the Commission's criteria for implementation deadline extensions.<sup>8</sup>

4. 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 and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291 and 54.722(a), that the

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<sup>4</sup> The qualifying criteria are: (1) the applicant's funding commitment decision letter is issued by USAC on or after March 1 of the funding year for which discounts are authorized; (2) the applicant receives a service provider change authorization or service substitution authorization from USAC on or after March 1 of the funding year for which discounts are authorized; (3) the applicant's service provider is unable to complete implementation for reasons beyond the service provider's control; or (4) the applicant's service provider is unwilling to complete installation because funding disbursements are delayed while USAC investigates the application for program compliance. 47 C.F.R. § 54.507(d). The service providers for both Accelerated Charter and AMIkids Acadiana realized toward the end of the installation period that it would be impossible to timely complete their projects due to circumstances beyond their control. *See* Accelerated Charter Request for Review at 2; AMIkids Acadiana Request for Review at 2.

<sup>5</sup> Both Accelerated Charter and AMIkids Acadiana notified USAC that their contract end dates were being extended beyond the service delivery deadline by timely filing FCC Forms 500. When they realized a written request to extend the service delivery deadline was also necessary, they promptly filed their extension requests with USAC. *See* Accelerated Charter Request for Review at 2; AMIkids Acadiana Request for Review at 1-2.

<sup>6</sup> Eaton County waited more than five months after the implementation deadline to file an extension request with USAC, noting that its technology director was leaving at the time and failed to inform other staff members of the need for an extension. *See* Eaton County Request for Waiver at 1.

<sup>7</sup> *See supra* note 4. Edgecombe County Schools said it could not implement its services in a timely manner because it determined, after receiving its funding commitment, that it needed to install additional networking equipment to accommodate the internal connections funding request. It waited a year and a half after the implementation deadline to file an extension request with USAC, waiting until "it seemed prudent" after the completion of the separate infrastructure upgrade that would allow the internal connections project at issue to proceed. *See* Edgecombe County Schools Request for Review or Waiver at 1-2. Because we deny its request for an implementation deadline extension, its request for a service substitution and permission to file an FCC Form 486 are dismissed as moot.

<sup>8</sup> *See supra* note 4. Many Farms School said it could not implement its services in a timely manner because of an unusually high turnover rate of staff members, including members on its IT management team. *See* Many Farms School Request for Waiver at 1.

requests for review filed by petitioners in Appendix A ARE GRANTED and the applications ARE REMANDED to USAC for further consideration in accordance with the terms of this Order.

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 and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291 and 54.722(a), that the requests for review and waiver filed by the petitioners listed in Appendix B ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Ryan B. Palmer  
Chief  
Telecommunications Access Policy Division  
Wireline Competition Bureau

**APPENDIX A****Requests for Review Granted**

<b>Petitioner</b>	<b>Application Number</b>	<b>Funding Year</b>	<b>Date Request for Review Filed</b>
Accelerated Charter Los Angeles, CA	865371	2012	June 25, 2014
AMIkids Acadiana Tampa, FL	866041	2012	July 18, 2014

**APPENDIX B****Requests for Review/Waiver Denied**

<b>Petitioner</b>	<b>Application Number</b>	<b>Funding Year</b>	<b>Date Request for Waiver Filed</b>
Eaton County Intermediate SD Charlotte, MI	767357	2010	July 21, 2014
Edgecombe County Schools Tarboro, NC	807540	2011	June 27, 2014
Many Farms School Many Farms, AZ	820074	2011	June 26, 2014