

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
Requests for Review of Decisions of the Universal
Service Administrator by
Ben Gamla Palm Beach
Boynton Beach, Florida et al.
Schools and Libraries Universal Service Support
Mechanism
File Nos. SLD-862285 et al.
CC Docket No. 02-6

ORDER

Adopted: February 21, 2014

Released: February 21, 2014

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

1. Consistent with precedent, we grant nine requests from petitioners seeking review of
decisions made by USAC under the E-rate program (more formally known as the schools and libraries
universal service support program). In each case, USAC denied funding because it found that the
applicant failed to respond to its request for additional information within the USAC-specified time
frame. Based on our review of the record, we find that good cause exists to direct USAC to give the
applicants another opportunity to respond to USAC's requests for further information. Consistent with

1 Requests for Review of the Decisions of the Universal Service Administrator by Alpaugh Unified School District et
al.; Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Order, 22 FCC Rcd 6035
(2007) (directing the Universal Service Administrative Company (USAC) to waive its response inquiry time for 78
applicants who provided a reasonable basis for delay in responding to USAC's inquiries, because rigid adherence to
USAC's procedural rule would not, in these instances, further the purposes of section 254(h) of the Communications
Act of 1934, as amended, or serve the public interest, and the grant of the subject appeals would have a minimal
impact on the universal service fund); Requests for Review of Decisions of the Universal Service Administrator by
Deer Creek Independent School District et al.; Schools and Libraries Universal Service Support Mechanism, CC
Docket No. 02-6, Order, 28 FCC Rcd 7104 (Wireline Comp. Bur. 2013) (granting four requests for review for
applicants that had been denied funding because they failed to respond to USAC's request for information within the
USAC-specified time frame).

2 The requests for review are listed in the Appendix.

3 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).

4 Section 54.722(a) of the Commission's rules provides that requests for review will be considered and acted upon
by the Wireline Competition Bureau. 47 C.F.R. § 54.722(a).

precedent,⁵ we also find that good cause exists to waive, for William W. and Josephine Dorn Community Charter School (Dorn Community Charter School), section 54.720(a) of the Commission's rules,⁶ which requires applicants to seek review of a USAC decision within 60 days, because we find Dorn Community Charter School filed its appeal within a reasonable amount of time once it received USAC's decision letter.⁷

2. We therefore remand the underlying applications listed in the appendix to USAC for further action consistent with this order. To ensure that the underlying applications are resolved expeditiously, we direct USAC to complete its review of the submitted documentation related to each application and issue a funding commitment or denial based on a complete review and analysis no later than 90 calendar days from its receipt of the submitted documentation. In remanding these applications to USAC, we make no finding as to the ultimate eligibility of the services or the petitioners' applications.

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

⁵ 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 (Wireline Comp. Bur. 2011) (granting petitioners waivers of filing deadline for appeals because they submitted their appeals to the Commission within a reasonable period of time after receiving actual notice of USAC's adverse decision).

⁶ 47 C.F.R. § 54.720(a) (requiring appeals to be filed within 60 days of a decision by USAC).

⁷ 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.

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 54.720(a) of the Commission's rules, 47 C.F.R. § 54.720(a), IS WAIVED for William W. and Josephine Dorn Community Charter School, Albuquerque, New Mexico.

FEDERAL COMMUNICATIONS COMMISSION

Kimberly A. Scardino
Chief
Telecommunications Access Policy Division
Wireline Competition Bureau

APPENDIX

Petitioner	Application Number	Funding Year	Date Request for Review/Waiver Filed
Ben Gamla Palm Beach Boynton Beach, Florida	862285	2012	Dec. 28, 2012
Congregation Yeshiva of Greater Monsey Monsey, New York	862296	2012	Jun. 25, 2013
D.C. Bilingual Public Charter School Washington, DC	872204	2012	Dec. 12, 2013
Mesivta of Coral Springs Coral Springs, Florida	840123	2012	Sept. 25, 2013
Ridgefield School District Ridgefield, New Jersey	896478	2013	Dec. 12, 2013
Ridgefield School District Ridgefield, New Jersey	913566	2013	Dec. 12, 2013
Special Education of Deal Eatown, New Jersey	866749	2012	Sept. 16, 2013
Watts Learning Center Los Angeles, California	858390	2012	Apr. 25, 2013
William W. and Josephine Dorn Community Charter School Albuquerque, New Mexico	865306	2013	May 20, 2013