

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of
Requests for Waiver and Review of
Decisions of the
Universal Service Administrator by
Boston Renaissance School
Boston, Massachusetts et al.
Schools and Libraries Universal Service
Support Mechanism
File Nos. SLD-882704 et al.
CC Docket No. 02-6

ORDER AND ORDER ON RECONSIDERATION

Adopted: February 24, 2014

Released: February 24, 2014

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

1. Consistent with precedent,1 we address requests from petitioners seeking review of 33 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)2 and two petitions for reconsideration of decisions of the Wireline Competition Bureau (Bureau).3 The petitioners seek waivers of the FCC Form 471 application filing window deadline under the E-rate program.4 Based on

1 See 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, 9259-60, paras. 8 & 9 (2010) (finding special circumstances exist to justify granting waiver requests where, for example, petitioners filed their FCC Forms 471 within 14 days after the FCC Form 471 filing window deadline; filed their FCC Forms 471 on time, but failed to timely file their certifications; or filed within 30 days despite medical issues); Requests for Waiver and Review of Decisions of the Universal Service Administrator by Anderson Elementary School et al.; Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Order, 27 FCC Rcd 5319, 5319-20, para. 2 (Wireline Comp. Bur. 2012) (treating late-filed item 21 attachments like late-filed certifications); Requests for Waiver and Review of Decisions of the Universal Service Administrator by Ashtabula Area City Schools et al.; Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Order, 28 FCC Rcd 4051 (Wireline Comp. Bur. 2013) (dismissing petitions for reconsideration because the petitioners failed to identify any material error, omission, or reason warranting reconsideration, and relied on arguments fully considered and rejected by the Bureau within the same proceeding).

2 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 The Bureau has the authority to act on petitions requesting reconsideration of final actions taken pursuant to delegated authority. 47 C.F.R. § 1.106(a)(1).

4 The requests for review are listed in Appendices A, B, and C. The petitions for reconsideration are listed in Appendix D. Section 54.507(c) of the Commission's rules provides for E-rate funds to be made available on a first-come, first-served basis, but requires USAC to implement an initial funding window that treats all applicants filing within that window as if their applications were simultaneously received. 47 C.F.R. § 54.507(c). Although some petitioners did not explicitly request a waiver of the FCC Form 471 application filing window deadline, we treat as

(continued...)

the facts and special circumstances of these specific cases, we find that good cause exists to grant the requests for review for the applications of the petitioners listed in Appendices A and B.<sup>5</sup> We grant the seven requests listed in Appendix A, because each of those petitioners filed its applications within 14 days of the close of the filing window.<sup>6</sup> We grant the waiver requests listed in Appendix B because each of those ten petitioners filed their application within 14 days of the close of the filing window, except for the related certifications or item 21 attachments, or they filed within 30 days of the close of the filing window, despite an unexpected serious illness or death of the person responsible for submitting the form or a close family member of that person.<sup>7</sup> At this time, we find no evidence of waste, fraud and abuse in the record with respect to the petitioners for which we grant relief. We therefore remand the underlying applications listed in Appendices A and B to USAC for further action consistent with this order. In remanding these applications to USAC, we make no finding as to the ultimate eligibility of the services or the petitioners' applications.

2. We deny the requests of the 17 applicants listed in Appendix C because we find that the petitioners have failed to present special circumstances justifying waivers of the Commission's rules.<sup>8</sup> We also dismiss the two petitions for reconsideration because they fail to identify any material error, omission, or reason warranting reconsideration or rely on arguments that have been fully considered and rejected by the Bureau within the same proceeding.<sup>9</sup>

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

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 54.507(c) of the Commission's rules, 47 C.F.R. § 54.507(c), IS WAIVED for the petitioners listed in Appendices A and B, to the limited extent provided herein.

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,

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requests for waiver all of the requests for review involving FCC Form 471 applications that were submitted after the relevant filing window deadline.

<sup>5</sup> See Appendices A and B. 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.

<sup>6</sup> See Appendix A.

<sup>7</sup> See Appendix B.

<sup>8</sup> See Appendix C.

<sup>9</sup> See Appendix D; 47 C.F.R. § 1.106(p)(1), (3).

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 waiver and review filed by the petitioners listed in Appendix C ARE DENIED.

6. 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, 1.106 and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, 1.106 and 54.722(a), that the petitions for reconsideration filed concerning the applications listed in Appendix D ARE DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION

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

## APPENDIX A

**Requests for Waiver and Review Granted  
FCC Form 471 Applications Filed Within 14 Days of the Close of the Filing Window**

| <b>Petitioner</b>                                     | <b>Application Number(s)</b> | <b>Funding Year</b> | <b>Date Request for Review/Waiver Filed</b> |
|---|------------------------------|---------------------|---|
| Colorado Alliance of Research Libraries<br>Denver, CO | 931707                       | 2013                | Mar. 19, 2013                               |
| Hubbard Public Library<br>Hubbard, IA                 | 931742, 931753               | 2013                | Oct. 21, 2013                               |
| Jewish Educational Media<br>Brooklyn, NY              | 931577                       | 2013                | Sept. 24, 2013                              |
| Our Lady of Perpetual Help School<br>Brooklyn, NY     | 931656, 931659               | 2013                | Oct. 21, 2013                               |
| Rhode Island School for Deaf<br>Providence, RI        | 930952                       | 2013                | Oct. 23, 2013                               |
| St. Joseph's Grade School<br>Tom's River, NJ          | 931649                       | 2013                | Mar. 20, 2013                               |
| Trinity Independent School District<br>Trinity, TX    | 932230, 932268,<br>932269    | 2013                | Oct. 18, 2013                               |

## APPENDIX B

**Requests for Waiver and Review Granted  
Waivers Granted for Other Special Circumstances**

| <b>Petitioner</b>   | <b>Application Number(s)</b>      | <b>Funding Year</b> | <b>Date Request for Review/Waiver Filed</b> |
|---|-----------------------------------|---------------------|---|
| Good Shepherd Academy<br>Nutley, NJ                           | 931808                            | 2013                | Sept. 30, 2013                              |
| Hayward Unified School District<br>Hayward, CA                | 855180                            | 2012                | Dec. 13, 2013                               |
| Loudon County Public Library<br>Leesburg, VA                  | 879513                            | 2013                | Dec. 13, 2013                               |
| Madison Champaign Educational Service<br>Center<br>Urbana, OH | 925340, 925537,<br>925643, 925743 | 2013                | Jan. 13, 2014                               |
| Milbank School District 25-4<br>Milbank, SD                   | 933487                            | 2013                | Sept. 16, 2013                              |
| Mosdos Chasidei Square<br>Brooklyn, NY                        | 923721                            | 2013                | Nov. 5, 2013                                |
| Newton County School District<br>Decatur, MS                  | 913898                            | 2013                | Jan. 22, 2014                               |
| Rosebud County Library<br>Forsyth, MT                         | 917688                            | 2013                | Sept. 25, 2013                              |
| Royall School District<br>Elroy, WI                           | 927013                            | 2013                | Oct. 29, 2013                               |

| <b>Petitioner</b>                              | <b>Application Number(s)</b> | <b>Funding Year</b> | <b>Date Request for Review/Waiver Filed</b> |
|--|------------------------------|---------------------|---|
| St. Vivian Elementary School<br>Cincinnati, OH | 933209                       | 2013                | Sept. 23, 2013                              |

## APPENDIX C

## Requests for Waiver and Review Denied

| <b>Petitioner</b>   | <b>Application Number(s)</b>                                    | <b>Funding Year</b> | <b>Date Request for Review/Waiver Filed</b> |
|---|---|---------------------|---|
| Boston Renaissance School<br>Boston, MA                         | 882704  | 2013                | Jan. 17, 2014                               |
| Cape Elizabeth Schools<br>Cape Elizabeth, ME                    | 927606  | 2013                | Nov. 6, 2013                                |
| Dolton East School District 149<br>Calumet City, IL             | 935748  | 2012                | Dec. 11, 2013                               |
| Elizabeth School District<br>Elizabeth, NJ                      | 935749, 935750,<br>935751, 935769,<br>935770, 935771,<br>935772 | 2013                | Jan. 31, 2014                               |
| Ferris Independent School District<br>Ferris, TX                | 935528  | 2013                | Feb. 4, 2014                                |
| Glencoe-Silver Lake District 2859<br>Glencoe, MN                | 935928  | 2013                | Jan. 14, 2014                               |
| Howell Valley Elementary School<br>West Plains, MO              | 935628  | 2013                | Feb. 3, 2014                                |
| La Marque Independent School District<br>La Marque, TX          | 935167  | 2013                | Aug. 19, 2013                               |
| Maui Economic Opportunity Head Start<br>Wailuku, HI             | 909763  | 2013                | Sept. 24, 2013                              |
| Milan C-2 School District<br>Milan, MO                          | 931268  | 2013                | Oct. 29, 2013                               |
| Northwest Passage 1<br>Frederic, WI                             | 935228  | 2013                | Sept. 26, 2013                              |
| Philip's Academy Charter<br>Newark, NJ                          | 935708  | 2013                | Oct. 29, 2013                               |
| Pleasant Hill School District 1<br>Pleasant Hill, OR            | 933169  | 2013                | Sept. 25, 2013                              |
| St. Vivian Elementary School<br>Cincinnati, OH                  | 934467  | 2013                | Sept. 23, 2013                              |
| Shenandoah Community School District<br>Shenandoah, IA          | 907439, 933271,<br>933272                                       | 2013                | Sept. 30, 2013                              |
| Solomon Schechter Day School of Greater<br>Boston<br>Newton, MA | 935548  | 2013                | Nov. 7, 2013                                |
| Syosset Public Library<br>Syosset, NY                           | 934307  | 2013                | Oct. 30, 2013                               |

## APPENDIX D

## Petitions for Reconsideration Dismissed

| <b>Applicant</b>                                      | <b>Application Number</b> | <b>Funding Year</b> | <b>Date Request for Reconsideration Filed</b> |
|---|---------------------------|---------------------|---|
| Burlington Township School District<br>Burlington, NJ | 935048                    | 2013                | Jan. 22, 2014                                 |
| Charleston County Library<br>Charleston, SC           | 935168                    | 2013                | Jan. 6, 2014                                  |