

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

In the Matter of
Request for Review of a Decision
of the Universal Service Administrator by
Dulce School District
Dulce, New Mexico
Ridgefield Park School District
Ridgefield Park, New Jersey
Schools and Libraries Universal Service
Support Mechanism
File No. SLD-814740
File No. SLD-816108
File No. SLD-816108

ORDER

Adopted: March 24, 2014

Released: March 24, 2014

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

1. Consistent with precedent, we grant the requests from Dulce School District, Dulce, New Mexico (Dulce) and Ridgefield Park School District, Ridgefield Park, New Jersey (Ridgefield Park) (together petitioners) seeking review 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).

2. In both instances, USAC reduced funding based on incorrect service start date information provided on the FCC Forms 486 submitted by Dulce and Ridgefield Park. Our review of the record supports petitioners' contentions that they inadvertently submitted incorrect service start dates when filing their FCC Forms 486 Receipt of Service Confirmation and Children's Internet Protection Act and Technology Plan Certification Form. We therefore grant petitioners' requests and direct USAC to

1 Request for Review and/or Waiver of the Decision of the Universal Service Administrator by Glendale Unified School District; Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Order, 21 FCC Rcd 1040 (Wireline Comp. Bur. 2006); Requests for Review and/or Waiver of Decisions of the Universal Service Administrator by Audubon Regional Library et al., Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Order, 27 FCC Rcd 13119 (Wireline Comp. Bur. 2012) (both orders granted requests for review from applicants who inadvertently listed the wrong service start date on their FCC Forms 486).

2 Letter from Bart Owen, Technology Coordinator, Dulce School District, to Office of the Secretary, Federal Communications Commission, CC Docket No. 02-6 (filed April 11, 2013); Letter from Sumone Kelly, Director of Technology, Ridgefield Park School District, to Office of the Secretary, Federal Communications Commission, CC Docket No. 02-6 (filed May 6, 2013).

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 Dulce School District Request for Review at 1; Ridgefield Park School District Request for Review at 1.

adjust the service start date with respect to the applications at issue.

3. On our own motion, we also waive section 54.507(d) of the Commission's rules and direct USAC to waive any procedural deadlines, such as the invoicing deadline, that might be necessary to effectuate our ruling.<sup>5</sup> We find good cause to waive section 54.507(d) because filing an appeal of a denial of funding is likely to cause Dulce and Ridgefield Park to miss the program's subsequent procedural deadlines in that funding year.<sup>6</sup>

4. We therefore remand the underlying applications for Dulce and Ridgefield Park 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 applications and issue a funding commitment or denial based on a complete review and analysis of the applications no later than 90 calendar days from the release date of this order. In remanding these applications to USAC, we make no finding as to the ultimate eligibility of the services or Dulce and Ridgefield Park's application.

5. 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 Dulce School District, Dulce, New Mexico and Ridgefield Park School District, Ridgefield Park, New Jersey ARE GRANTED and the underlying applications ARE REMANDED to USAC for further consideration in accordance with the terms of this order.

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 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(d) of the Commission's rules, 47 C.F.R. § 54.507(d), IS WAIVED for Dulce School District, Dulce, New Mexico and Ridgefield Park School District, Ridgefield Park, New Jersey, to the limited extent provided herein.

FEDERAL COMMUNICATIONS COMMISSION

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

---

<sup>5</sup> 47 C.F.R. § 54.507(d) (requiring non-recurring services to be implemented by September 30 following the close of the funding year).

<sup>6</sup> 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. *NetworkIP, LLC v. FCC*, 548 F.3d 116, 125-128 (D.C. Cir. 2008); *Northeast Cellular*, 897 F.2d at 1166.