

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

In the Matter of )
Requests for Review of Decisions of the Universal )
Service Administrator by )
Community Partnership of Madera ) File No. SLD-880246 et al.
Madera, California et al. )
Schools and Libraries Universal Service Support ) CC Docket No. 02-6
Mechanism )

ORDER

Adopted: July 17, 2014

Released: July 17, 2014

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

1. Consistent with precedent,<sup>1</sup> we grant five requests from petitioners<sup>2</sup> 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).<sup>3</sup> 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.<sup>4</sup> Consistent with precedent,<sup>5</sup> we also find that good cause exists to waive, for Derech

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) (granting 78 appeals of USAC decisions reducing or denying funding for E-rate funding for failure to respond to USAC’s request for information because the applicants provided a reasonable basis for delay in responding to USAC’s inquiries, rigid adherence to USAC’s procedural rule would not, in those circumstances 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 Ben Gamla Palm Beach et al.; Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Order, 29 FCC Rcd 1876 (Wireline Comp. Bur. 2014) (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).

Hatorah, section 54.720(a) of the Commission's rules,<sup>6</sup> which requires applicants to seek review of a USAC decision within 60 days, because we find Derech Hatorah filed its appeal within a reasonable amount of time once it received USAC's decision letter.<sup>7</sup>

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.

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<sup>5</sup> 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).

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

<sup>7</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. *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 Derech Hatorah, Lakewood, New Jersey.

FEDERAL COMMUNICATIONS COMMISSION

Vickie S. Robinson  
Acting Chief  
Telecommunications Access Policy Division  
Wireline Competition Bureau

## APPENDIX

## Requests for Review

<b>Petitioner</b>	<b>Application Number</b>	<b>Funding Year</b>	<b>Date Request for Review/Waiver Filed</b>
Community Partnership of Madera Madera, California	880246	2013	May 1, 2014 supplemented on June 9, 2014
Derech Hatorah Lakewood, New Jersey	832354	2012	Sept. 24, 2013
Keota Community School District Keota, Iowa	909388	2013	Mar. 20, 2014
South Baltimore Learning Center Baltimore, Maryland	925868	2013	Jun. 4, 2014
Yeshiva of the Telshe Alumni Riverdale, New York	907118	2013	Apr. 16, 2014