

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
Le Jardin Academy
Kailua, Hawaii
Schools and Libraries Universal
Service Support Mechanism
File No. SLD-827393
CC Docket No. 02-6

ORDER

Adopted: October 6, 2014

Released: October 6, 2014

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

1. In this Order, we deny a request from Le Jardin Academy (Le Jardin) seeking review of a decision of the Universal Service Administrative Company (USAC) denying funding under the E-rate program (more formally known as the schools and libraries universal service support program) on the grounds that Le Jardin had cancelled the funding request at issue.

2. Background. On January 18, 2012, Le Jardin filed an FCC Form 471 requesting E-rate support for telecommunications services and Internet access. On September 10, 2012, Le Jardin cancelled funding request number (FRN) 2249239 for telecommunications services to be provided by SystemMetrics Corporation (SystemMetrics). On September 18, 2012, USAC issued a Funding Commitment Decision Letter to Le Jardin indicating that Le Jardin had canceled the SystemMetrics FRN.

3. On November 11, 2012, Le Jardin filed the instant request for review with the Commission. In its appeal, Le Jardin explained that it had cancelled the SystemMetrics FRN because SystemMetrics had not filed the forms necessary to be considered an E-rate provider and Le Jardin did not want to jeopardize its other funding requests. Le Jardin further explained that on November 8, 2012 SystemMetrics informed Le Jardin that it was authorized to provide E-rate services.

1 Letter from John Danley, for Richard Senturia, eRate Program, LLC, consultant for Le Jardin Academy, to the Office of the Secretary, Federal Communications Commission (filed Nov. 13, 2012) (Le Jardin Request for Review). 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).

2 See Le Jardin Academy, FCC Form 471 (filed Jan. 18, 2012).

3 E-mail from John Danley, eRate Program LLC, consultant for Le Jardin Academy, to USAC, Schools and Libraries Division (sent Sept. 10, 2012).

4 See Letter from USAC, Schools and Libraries Division, to Richard Senturia, eRate Program, LLC, consultant for Le Jardin Academy (dated September 18, 2012) (Funding Commitment Decision Letter).

5 See Le Jardin Request for Review at 1.

4. *Discussion.* We find no basis in the record for granting Le Jardin's request for review.⁶ Previously, we have found that good cause exists to grant requests to reinstate funding requests in situations where the record demonstrates that an applicant inadvertently canceled its FRN.⁷ By contrast, in this case, Le Jardin voluntarily and intentionally cancelled one of its FRNs. Therefore, based on the facts and the circumstances of this specific case, we do not find that good cause exists to grant Le Jardin's request for review.

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), the Request for Review filed by Le Jardin Academy, Kailua, Hawaii IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

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

⁶ 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.

⁷ *Requests for Review of Decisions of the Universal Service Administrator by Joseph Jingoli & Son, Inc. et al., Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 22 FCC Rcd 19227 (Wireline Comp. Bur. 2007); *Request for Review of a Decision of the Universal Service Administrator by LaPoynor Independent School District, Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 8232 (Wireline Comp. Bur. 2012) (both Orders granting petitioners' requests because petitioners sought cancellation of their funding requests inadvertently).