



PUBLIC NOTICE

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STREAMLINED RESOLUTION OF REQUESTS RELATED TO ACTIONS BY THE UNIVERSAL SERVICE ADMINISTRATIVE COMPANY

CC Docket No. 96-45
CC Docket No. 02-6
WC Docket No. 02-60
WC Docket No. 06-122

Pursuant to our revised procedure for resolving requests for review, requests for waiver, and petitions for reconsideration of decisions related to actions taken by the Universal Service Administrative Company (USAC) that are consistent with precedent (collectively, Requests), the Wireline Competition Bureau grants and denies the following Requests.¹ The deadline for filing petitions for reconsideration or applications for review concerning the disposition of any of these Requests is 30 days from release of this Public Notice.²

¹ See *Streamlined Process for Resolving Requests for Review of Decisions by the Universal Service Administrative Company*, CC Docket No. 96-45, CC Docket No. 02-6, WC Docket No. 02-60, WC Docket No. 06-122, WC Docket No. 08-71, WC Docket No. 10-90, WC Docket No. 11-42, WC Docket No. 14-58, Public Notice, DA 14-1330 (Wireline Comp. Bur. rel. Sept. 15, 2014). 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). The Wireline Competition Bureau (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).

² See 47 C.F.R. §§ 1.106, 1.115. See also 47 C.F.R. § 1.4(b)(2) (setting forth the method for computing the amount of time within which persons or entities must act in response to deadlines established by the Commission).

Schools and Libraries (E-rate)
CC Docket No. 02-6

Grants³

*Late-Filed FCC Form 471 Applications*⁴

Carinos Charter School, Application Nos. 991896, 991900, Request for Waiver, CC Docket No. 02-6 (filed Sept. 25, 2014)

San Juan BOCES, Application No. 993068, Request for Waiver, CC Docket No. 02-6 (filed Sept. 16, 2014)

Wauseon School District, Application No. 947569, Request for Waiver, CC Docket No. 02-6 (filed Sept. 25, 2014)

*Ministerial and/or Clerical Errors*⁵

A.W. Brown Fellowship Charter School, Application No. 936338, Request for Waiver, CC Docket No. 02-6 (filed Sept. 24, 2014)

³ We remand the underlying applications to USAC. In remanding these applications to USAC, we make no other findings as to the ultimate eligibility of the underlying services or the petitioners' applications.

⁴ See, e.g., *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; or filed their FCC Forms 471 on time, but failed to timely file their certifications, and denying waivers where petitioners failed to present special circumstances justifying waivers of our rules); *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).

⁵ See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Archer Public Library et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 23 FCC Rcd 15518 (Wireline Comp. Bur. 2008); *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Ann Arbor Public Schools et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 17319 (Wireline Comp. Bur. 2010); *Request for Waiver and Review of Decisions of the Universal Service Administrator by Erie I BOCES et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 28 FCC Rcd 13381 (Wireline Comp. Bur. 2013) (addressing appeals and petitions for reconsideration seeking waivers of the Commission's E-rate rules in order to correct ministerial or clerical errors on petitioners' E-rate applications or associated forms). We also waive sections 54.507(d) and 54.514(a) of the Commission's rules and direct USAC to waive any procedural deadline that might be necessary to effectuate our ruling. See 47 C.F.R. § 54.507(d) (requiring non-recurring services to be implemented by September 30 following the close of the funding year); 47 C.F.R. § 54.514(a) (codifying the invoice filing deadline).

*No Signed Contract When Application Filed*⁶

American Samoa Education Agency, Application No. 951995, Request for Waiver, CC Docket No. 02-6 (filed July 8, 2014)

Ballard School District R2, Application No. 889362, Request for Waiver, CC Docket No. 02-6 (filed Nov. 26, 2013)

Council Bluffs Community School District, Application No. 919140, Request for Waiver, CC Docket No. 02-6 (filed Jan. 22, 2014)

Des Moines Independent School District, Application No. 855345, Request for Waiver, CC Docket No. 02-6 (filed July 26, 2013)

Gan Yisroel, Application No. 883027, Request for Review, CC Docket No. 02-6 (filed June 10, 2014)

Garrett County Community Action Committee, Application No. 834292, Request for Waiver, CC Docket No. 02-6 (filed Nov. 12, 2013)

Garvey Elementary School District, Application No. 911666, Request for Waiver, CC Docket No. 02-6 (filed Jan. 6, 2014)

Garvey Elementary School District, Application No. 911751, Request for Waiver, CC Docket No. 02-6 (filed Jan. 6, 2014)

Higgs, Carter, King Gifted and Talented Charter School, Application No. 580708, Request for Review, CC Docket No. (filed Aug. 9, 2013)

⁶ See, e.g., *Request for Waiver of the Decision of the Universal Service Administrator by Barborton City School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 23 FCC Rcd 15526 (Wireline Comp. Bur. 2008) (granting appeals on the merits in instances where applicants demonstrated they were in compliance with the Commission's rule to have a signed contract in place prior to filing their applications and granting a waiver of that rule in circumstances where applicants, while not having a signed contract, had some form of an agreement in place during the relevant funding year prior to the filing of their applications); *Requests for Review and/or Waiver of the Decisions of the Universal Service Administrator by Amphitheater Unified School District 10 et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 28 FCC Rcd 7536 (Wireline Comp. Bur. 2013) (granting a waiver of the Commission's rule that E-rate applicants have a signed contract in place before filing an FCC Form 471 in circumstances where applicants had some form of an agreement in place during the relevant funding year prior to the filing of their applications). We also waive sections 54.507(d) and 54.514(a) of the Commission's rules and direct USAC to waive any procedural deadline that might be necessary to effectuate our ruling. See 47 C.F.R. § 54.507(d) (requiring non-recurring services to be implemented by September 30 following the close of the funding year); 47 C.F.R. § 54.514(a) (codifying the invoice filing deadline). Consistent with precedent, we also find good cause exists to waive section 54.720(a) of the Commission's rules, which requires that petitioners file their appeals within 60 days of an adverse USAC decision, for Garvey Elementary School District, Application Nos. 911666, 911751; and Rockingham County Public Library. 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*, Order, 26 FCC Rcd 11019, 11019, para. 2 (Wireline Comp. Bur. 2011) (waiving the filing deadline for petitioners who submitted their appeals to the Commission or USAC only a few days late).

Howell Carnegie District Library, Application No. 982487, Request for Waiver, CC Docket No. 02-6 (filed Sept. 17, 2014)

Kelso School District #458, Application No. 903558, Request for Waiver, CC Docket No. 02-6 (filed May 2, 2014)

King George County School District, Application No. 932052, Request for Review, CC Docket No. 02-6 (filed Mar. 13, 2014)

Ohelelozer, Application No. 886168, Request for Review, CC Docket No. 02-6 (filed July 18, 2014)

Onslow County School District, Application No. 922428, Request for Waiver, CC Docket No. 02-6 (filed Jan. 2, 2014)

Parker School District 60-4, Application No. 918817, Request for Review, CC Docket No. 02-6 (filed June 3, 2014)

Rockingham County Public Library, Application No. 913874, Request for Waiver, CC Docket No. 02-6 (filed Nov. 15, 2013)

Rockwood School District R 6, Application No. 903901, Request for Waiver, CC Docket No. 02-6 (filed Dec. 31, 2013)

Spartanburg County Public Libraries, Application No. 628682, Request for Waiver, CC Docket No. 02-6 (filed May 23, 2013)

Tiferes Bnos, Application Nos. 881817, 881819, Request for Review, CC Docket No. 02-6 (filed Aug. 27, 2014)

Upper Dauphin Area School District, Application No. 909836, Request for Waiver, CC Docket No. 02-6 (filed Jan. 23, 2014)

Washington Township School District, Application No. 903343, Request for Waiver, CC Docket No. 02-6 (filed Mar. 12, 2014)

Wayne Highlands School District, Application No. 907406, Request for Waiver, CC Docket No. 02-6 (filed Aug. 28, 2013)

Denials

*Late-Filed FCC Form 471 Applications*⁷

Ayuda DBA Happy Kids Child Care, Application No. 969291, Request for Waiver, CC Docket No. 02-6 (filed Sept. 18, 2014)

Esperanza School Association of Chicago, Application No. 994188, Request for Waiver, CC Docket No. 02-6 (filed Sept. 16, 2014)

⁷ See *supra* note 4.

Perry Central Community School Corporation, Application No. 993155, Request for Waiver, CC Docket 02-6 (filed Sept. 17, 2014)

*Late-Filed FCC Form 471 Application – Petition for Reconsideration*⁸

Galena Public Library, Application No. 993588, Petition for Reconsideration, CC Docket No. 02-6 (filed Sept. 9, 2014)

*Ministerial and/or Clerical Errors*⁹

Erie 1 BOCES, Application No. 949782, Request for Waiver, CC Docket No. 02-6 (filed Sept. 22, 2014)

*Untimely Filed Requests for Review*¹⁰

Academy of St. Benedict (Laffin Street), Application No. 875605, Request for Waiver, CC Docket No. 02-6 (filed June 9, 2014)

Boston School District, Application Nos. 914871, 914892, Request for Waiver, CC Docket No. 02-6 (filed July 28, 2014)

Denali Borough School District, Application No. 898262, Request for Waiver, CC Docket No. 02-6 (filed July 30, 2014)

Erie 1 BOCES, Application No. 889314, Request for Waiver, CC Docket No. 02-6 (filed Sept. 9, 2014)

Gilbert Unified School District 41, Application No. 893342, Request for Waiver, CC Docket No. 02-6 (filed July 16, 2014)

Kingston City School District, Application No. 807752, Request for Waiver, CC Docket No. 02-6 (filed Mar. 24, 2014)

Mohave Accelerated Learning Center, Application No. 869537, Request for Waiver, CC Docket No. 02-6 (filed Sept. 4, 2014)

⁸ See, e.g., *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Allan Shivers Library et al., Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, DA 14-256 (Wireline Comp. Bur. rel. Aug. 28, 2014) (denying petitions for reconsideration that fail to identify any material error, omission, or reason warranting reconsideration, and rely on arguments that have been fully considered and rejected by the Bureau within the same proceeding).

⁹ See *supra* note 5.

¹⁰ See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Agra Public Schools I-134 et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 5684 (Wireline Comp. Bur. 2010); *Requests for Review or Waiver of Decisions of the Universal Service Administrator by Bound Brook School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd 5823 (Wireline Comp. Bur. 2014) (both orders denying appeals on the grounds that the petitioners failed to submit their appeals either to the Commission or to USAC within 60 days, as required by the Commission's rules, and did not show special circumstances necessary for the Commission to waive the deadline).

New Day Charter School, Application No. 905299, Request for Waiver, CC Docket No. 02-6 (filed Sept. 15, 2014)

Pickens County School District, Application No. 759955, Request for Waiver, CC Docket No. 02-6 (filed Apr. 1, 2014)

Pima County Public Library, Application No. 872928, Request for Waiver, CC Docket No. 02-6 (filed July 7, 2014)

Pinecrest Creek Academy, Application No. 916992, Request for Waiver, CC Docket No. 02-6 (filed May 20, 2014)

Ridgeview Classical Schools, Application No. 862512, Request for Waiver, CC Docket No. 02-6 (filed Apr. 29, 2014)

Soille San Diego Hebrew Day School, Application No. 930540, Request for Waiver, CC Docket No. 02-6 (filed June 25, 2014)

West Side Montessori Center, Application Nos. 875110, 875129, Request for Waiver, CC Docket No. 02-6 (filed June 5, 2014)

Rural Health Care (RHC)
WC Docket No. 02-60

Grants

Failure to Comply with Commission's Competitive Bidding Requirements¹¹

Yukon-Kushkokwin Health Corporation, RHC Nos. 10197, 10214, 10217, Request for Review, WC Docket No. 02-6 (filed May 27, 2014)

Yukon-Kushkokwin Health Corporation, RHC Nos. 10182, 10188, 10197, 10214, 10217, Request for Review, WC Docket No. 02-6 (filed Oct. 13, 2013)

Norton Sound Health Corporation, RHC No. 10672, WC Docket No. 02-6 (filed Apr. 3, 2014)

Norton Sound Health Corporation, RHC No. 10674, WC Docket No. 02-6 (filed Aug. 25, 2014)

¹¹ *AT&T Communications, Inc. v. WilTel, Inc.*, 1 F.3d 1201 Fed. Cir. 1993) (finding that an increase in bandwidth is not a cardinal change); *Federal-State Joint Board on Universal Service, Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charge*, Fourth Order on Reconsideration, CC Docket No. 96-45, 13 FCC Rcd 5318, 5448-50, paras. 224-28 (1997) (*Universal Service Fourth Order on Reconsideration*) (finding that minor contract modifications or modifications contemplated in the underlying contract are not cardinal changes and do not require additional competitive bidding); 47 C.F.R. § 54.642 (g)(2), (h)(4) (outlining five requirements for “evergreen” contracts); *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Report and Order, 27 FCC Rcd 16678, 16791-92, paras. 261-265 (2012) (*Healthcare Connect Fund Order*) (reiterating Commission’s conclusions in the *Universal Service Fourth Order on Reconsideration* concerning cardinal changes; also stating that contracts designated as evergreen contracts are exempt from the Commission’s competitive bidding requirements for the life of the contract).

Norton Sound Health Corporation, RHC Nos. 10673, 10674, 10675, 10676, 10677, 10678, 10679, 10680, 10681, 10682, 10683, 10684, 10685, 10686, WC Docket No. 02-6 (filed Sept. 22, 2014)

*Ministerial and/or Clerical Errors*¹²

Chippewa Valley Hospital, RHC No. 12647, WC Docket No. 02-6 (filed June 30, 2014)¹³

Contribution Methodology
WC Docket No. 06-122

Grants

*Ministerial and/or Clerical Errors*¹⁴

Reliance Communications, Inc. and Reliance Communications International, Inc., Request for Review, WC Docket No. 06-122 (filed May 13, 2010, amended with updated information August 20, 2010)¹⁵

¹² See *Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, et al., Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-487170, *et al.*, CC Docket No. 02-6, Order, FCC 06-54, 21 FCC Rcd 5316, 5326-27, paras. 22-23 (2006) (directing USAC to provide applicants with an opportunity to cure ministerial and clerical errors on the FCC Forms that they submit to USAC); *Healthcare Connect Fund Order*, 27 FCC Rcd at 16785, para. 243 and n.624 (2012) (allowing health care providers the opportunity to correct clerical or ministerial mistakes in their funding applications).

¹³ We remand this application to USAC and direct USAC to complete its review of this application and issue a funding commitment or a denial based on a complete review and analysis no later than 90 calendar days from the release date of this Public Notice. In remanding this application to USAC, we make no finding as to the ultimate eligibility of the services or the petitioner's application.

¹⁴ See *Universal Service Contribution Methodology; Petition for Reconsideration by Ascent Media Group, Inc.*, WC Docket No. 06-122, Order, 28 FCC Rcd 6150 (Wireline Comp. Bur. 2013) (finding good cause for granting a waiver of the FCC Form 499-Q filing deadline where the company mistakenly reported its total projected company revenues instead of its assessable interstate and international end-user revenues, resulting in invoices that were significantly higher than what they would have been, but for the reporting error); *Universal Service Contribution Methodology; Request for Review of a Decision of the Universal Service Administrator and Request for Waiver by American Broadband & Telecommunications*, WC Docket No. 06-122, 28 FCC Rcd 10358 (Wireline Comp. Bur. 2013) (finding good case for granting a waiver of the FCC Form 499-Q deadline where a typographical error resulted in invoices for the relevant quarter that were several times the company's true-up contribution obligation for the entire year).

¹⁵ In remanding this matter to USAC, we direct USAC to accept the contributor's revised August 2009 FCC Form 499-Q as if timely filed and reverse any associated interest, fees, and penalties.

Denials

*Non-Payment of Universal Service Fund (USF) Contributions*¹⁶

Achieve Telecom Network of MA, LLC, Requests for Waiver, WC Docket No. 06-122 (filed Feb. 2, 2010 and Aug. 18, 2010, posted Oct. 20, 2014)¹⁷

¹⁶ See 47 U.S.C. § 254(d) (every telecommunications carrier that provides interstate telecommunications services shall contribute to the USF); 47 C.F.R. §§ 54.713(a)-(b) (contributors that fail to make full payment on or before the due date of a monthly USF assessment are subject to late fees, penalties, and interest); Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (1996); 47 C.F.R. Part 1, Subpart O; 31 U.S.C. § 3711(a); *Amendment of Parts 0 and 1 of the Commission's Rules*, MD Docket No. 02-339, Report and Order, 19 FCC Rcd 6540 (2004); USAC, Program Integrity: Appeals, <http://www.usac.org/cont/about/program-integrity/appeals.aspx> (last visited Oct. 3, 2014) (contributors are required to pay the amount shown on an invoice even if the contributor disagrees with USAC's assessment of its universal service contributions obligation and has filed an appeal with USAC or the Commission; USAC has formalized this as the pay-and-dispute policy); *Universal Service Contribution Methodology; Emergency Request for Review of Universal Service Administrator Decision by Level 3 Communications, LLC, et al.*, WC Docket No. 06-122, Order, 25 FCC Rcd 1115, 1120, para. 9 (Wireline Comp. Bur. 2010) (noting that the contributor could have avoided incurring late fees, interest charges, and penalties by paying the full invoiced amount in compliance with the pay-and-dispute policy); *Universal Service Contribution Methodology; Requests for Waiver of Decisions of the Universal Service Administrator by Achieve Telecom Network of Massachusetts, LLC, et al.*, WC Docket No. 06-122, Order, 23 FCC Rcd 17903 (Wireline Comp. Bur. 2008) (denying petitioners separate requests for waiver of the late filing fees by failing to comply with the USAC's pay-and-dispute policy).

¹⁷ Achieve claimed that it had not "recognized revenues from any telecommunications business for a substantial period of time," see August 18, 2010 Request at 1, but that would not justify a waiver of contribution obligations incurred when Achieve did have such revenues.

*Untimely Filed FCC Forms 499-A and Q Worksheets*¹⁸

Intelafone, LLC, Request for Review, Docket No. 06-122 (filed Sept. 11, 2013)

For additional information concerning this Public Notice, please contact Vickie Robinson at (202) 418-7400, in the Telecommunications Access Policy Division, Wireline Competition Bureau.

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¹⁸ See *Universal Service Contribution Methodology, Request for Waiver by BelWave Communications*, WC Docket 06-122, Order, 27 FCC Rcd 11176 (Wireline Comp. Bur. 2012) (denying a request for waiver of late filing fees where the company claimed it was unaware of its obligation to file an FCC Form 499-A for the years at issue); *Universal Service Contribution Methodology, Request for Waiver by Mercury Wireless*, WC Docket 06-122, Order, 27 FCC Rcd 11178 (Wireline Comp. Bur. 2012) (denying a request for waiver where the company claimed to be unaware of its obligation to file an FCC Form 499-A for the years at issue); *Requests for Review of a Decision of the Universal Service Administrator by Achilles Networks, Inc., et al.*, WC Docket 06-122, Order, 25 FCC Rcd 4646 (Wireline Comp. Bur. 2012) (denying requests for reversal of late fees associated with the untimely filing of the FCC Forms 499-A and 499-Q); *Universal Service Contribution Methodology, Petition for Waiver of Universal Service Fund Rules by Outfitter Satellite, Inc.*, WC Docket No. 06-122, Order, 28 FCC Rcd 1358 (Wireline Comp. Bur. 2013) (denying a request for waiver based on a claim of financial hardship); *Universal Service Contribution Methodology, Request for Waiver by Baltimore Washington Telephone Company*, WC Docket 06-122, Order, 27 FCC Rcd 12994 (Wireline Comp. Bur. 2012) (denying request for waiver and reversal of late fees despite claim that the late fees were excessive and punitive relative to the size and revenues of the company). See also 47 C.F.R. § 54.713(a) (“A contributor that fails to file a Telecommunications Reporting Worksheet and subsequently is billed by the Administrator shall pay the amount for which it is billed”), (c) (“If a universal service fund contributor is more than 30 days delinquent in filing a Telecommunications Reporting Worksheet Form 499-A or 499-Q, the Administrator shall assess an administrative remedial collection charge equal to the greater of \$100 or an amount computed using the rate of the U.S. prime rate (in effect on the date the applicable Worksheet is due) plus 3.5 percent, of the amount due per the Administrator’s calculations.”); *Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight, et al.* WC Docket No. 05-195 *et al.*, Order, 22 FCC Rcd 16372, 16379-80, para. 14 (2007) (“[I]f a contributor is more than 30 days delinquent in filing an FCC Form 499-A or 499-Q... [t]he sanction will be the greater of \$100 per month or the amount derived from a rate of interest equal to the U.S. prime rate plus 3.5 percent assessed on the amount due”); 47 C.F.R. § 54.708 (filing obligations of *de minimis* interconnected Voice over Internet Protocol providers).