



# PUBLIC NOTICE

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

CC Docket No. 02-6  
WC Docket No. 06-122

Pursuant to our 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 (Bureau) grants, dismisses, or denies the following Requests.<sup>1</sup> 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.<sup>2</sup>

### Schools and Libraries (E-Rate)

CC Docket No. 02-6

Dismissed for Failure to Comply with the Commission's Basic Filing Requirements<sup>3</sup>

<sup>1</sup> See *Streamlined Process for Resolving Requests for Review of Decisions by the Universal Service Administrative Company*, CC Docket Nos. 96-45 and 02-6, WC Docket Nos. 02-60, 06-122, 08-71, 10-90, 11-42, and 14-58, Public Notice, 29 FCC Rcd 11094 (WCB 2014). Section 54.719(b) of the Commission's rules provides that any person aggrieved by an action taken by a division of USAC, after first seeking review at USAC, may seek review from the Commission. Section 54.719(c) of the Commission's rules provides that parties seeking waivers of the Commission's rules shall seek review directly from the Commission. 47 CFR § 54.719(b)-(c). In this Public Notice, we have reclassified as Requests for Waiver those appeals seeking review of a USAC decision that appropriately should have requested a waiver of the Commission's rules. Similarly, we have reclassified as Requests for Review those appeals seeking a waiver of the Commission's rules but that are, in fact, seeking review of a USAC decision.

<sup>2</sup> See 47 CFR §§ 1.106(f), 1.115(d); see also 47 CFR § 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).

<sup>3</sup> 47 CFR § 54.721 (setting forth general filing requirements for requests for review of decisions issued by USAC); *Wireline Competition Bureau Reminds Parties of Requirements for Request for Review of Decisions of the Universal Service Administrative Company*, CC Docket Nos. 96-45, 02-6, WC Docket Nos. 02-60, 06-122, 10-90, 11-42, 13-184, 14-58, Public Notice, 29 FCC Rcd 13874 (WCB 2014) (reminding parties submitting appeals to the Bureau of the general filing requirements contained in the Commission's rules which, along with a proper caption and reference to the applicable docket number, require (1) a statement setting forth the party's interest in the matter presented for review; (2) a full statement of relevant, material facts, with supporting affidavits and documentation; (3) the question presented for review, with reference, where appropriate, to the relevant Commission rule, order, or statutory provision; and (4) a statement of the relief sought and the relevant statutory or regulatory provision pursuant to which such relief is sought).

Hitchcock Independent School District, TX, No Application No., Request for Waiver, CC Docket No. 02-6 (filed Dec. 20, 2019)

Dismissed on Reconsideration<sup>4</sup>

Dayton Christian School, OH, Application No. 191042375, Petition for Reconsideration, CC Docket No. 02-6 (filed Nov. 12, 2019)

Dismissed on Reconsideration—Untimely Filed<sup>5</sup>

Portland Public Schools, ME, Application No. 191042520, Petition for Reconsideration, CC Docket No. 02-6 (filed Oct. 1, 2019)

Granted<sup>6</sup>

*Additional Discount to Match State Funding for Special Construction*<sup>7</sup>

Boundary County District 101, ID, Application No. 171039721, Request for Review and Waiver, CC Docket No. 02-6 (filed Dec. 12, 2018)<sup>8</sup>

Hooks Independent School District, TX, Application No. 171039984, Request for Review and Waiver, CC Docket No. 02-6 (filed July 3, 2018)<sup>9</sup>

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<sup>4</sup> 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 and Order on Reconsideration, 29 FCC Rcd 10356, 10357, para. 2 (WCB 2014) (dismissing 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).

<sup>5</sup> See, e.g., *Petitions for Reconsideration by Rockwood School District and Yakutat School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket 02-6, Order, 26 FCC Rcd 13004 (WCB 2011) (dismissing two petitions for reconsideration because they were filed more than 30 days after the Bureau's decisions); *Petitions for Reconsideration by Lincoln Parish School Board et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 7992, para. 1 n.1 (WCB 2011) (stating that the Bureau has the authority under 47 C.F.R § 1.106(p) to dismiss petitions for reconsideration of a Commission action that plainly do not warrant consideration by the Commission, such as petitions that are late-filed).

<sup>6</sup> We remand these applications to USAC and direct USAC to complete its review of the applications 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 these applications to USAC, we make no finding as to the ultimate eligibility of the services or the petitioners' 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 CFR § 54.507(d) (requiring non-recurring services to be implemented by September 30 following the close of the funding year); 47 CFR § 54.514(a) (codifying the invoice filing deadline).

<sup>7</sup> See *Request for Review and Waiver by Houston Independent School District*, CC Docket No. 02-6, Order, DA 20-29, paras. 6-8 (WCB Jan. 8, 2020) (*Houston Order*) (finding that the applicant met the requirements to receive an additional discount to match state funding for a special construction project).

*Ministerial and/or Clerical Errors*<sup>10</sup>

Adelanto Elementary School District, CA, Application No. 181001892, Request for Review and/or Waiver, CC Docket No. 02-6 (Dec. 20, 2019)

Blochman Union Elementary School District, CA, Application No. 191017385, Request for Waiver, CC Docket No. 02-6 (Dec. 13, 2019)

Carroll County School District, GA, Application No. 181001800, Request for Review and/or Waiver, CC Docket No. 02-6 (Oct. 5, 2018, supplemented Jan. 15, 2020)

Donna Independent School District, TX, Application No. 161006847, Request for Waiver, CC Docket No. 02-6 (Dec. 19, 2019)

Mary Louis Academy, NY, Application No. 191024799, Request for Waiver, CC Docket No. 02-6 (Oct. 31, 2019, supplemented Jan. 6, 2020)

Midway Independent School District, TX, Application No. 181022937, Request for Waiver, CC Docket No. 02-6 (Jan. 6, 2020)

Denied*Failure to Respond to USAC's Request for Information on E-Rate Requirement*<sup>11</sup>

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<sup>8</sup> We also grant a waiver of the deadline to file appeals because the appeal would not have been necessary but for a USAC mistake. *See, e.g., 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, 17319, para. 1 (WCB 2010) (*Ann Arbor Order*) (granting waivers of appeal filing deadlines because the appeals involved errors by USAC). Even though Boundary requested and qualified for additional funding to match state funding for its special construction project, USAC did not include that additional funding in its funding commitment and provided no explanation for its omission. Additionally, we grant Boundary a waiver to correct its ministerial and clerical error on its application requesting an incorrect amount of funding to match state funding and find that Boundary's discount rate should be increased an additional 10% to match state funding for this special construction project. *See id.* at 17320, para. 2, n.21 (permitting applicants to correct typographical errors).

<sup>9</sup> We find that Hooks met the requirements to receive an additional discount to match state funding and grant Hooks a limited waiver to permit it to update its FCC Form 471 application to request an additional discount to match the funding provided by Texas. *See Houston Order* at para. 6. Hooks could not include its request for an additional discount on its application because Texas did not appropriate state funding for special construction projects for Texas schools until after Hooks filed its application. Further, Hooks received its notification of award of state funding after USAC issued its funding commitment, so Hooks was not able to update its application to request the additional discount.

<sup>10</sup> *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, 15521 n.19 (WCB 2008) (permitting applicant to correct a pre-discount price on its FCC Form 471 to conform to the price on the source document); *Ann Arbor Order*, 25 FCC Rcd at 17320-21, para. 2 & nn.5, 8, 9, 20, 26 (permitting applicant to correct a date on its FCC Form 471 or related form; permitting applicant to add an omitted item on its FCC Form 471 that was on its source list; permitting applicant to correct a mislabeling of a service category on its FCC Form 471; permitting applicant to correct wrong application number; permitting applicant to correct wrong service provider identification number (SPIN)).

<sup>11</sup> *See, e.g., Petitions for Reconsideration by Blessed Sacrament School et al.; School and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 30 FCC Rcd 14274, 14282, para. 20 (WCB 2015)

(continued....)

Raynor Services, Inc. (Gulf Shores Academy), TX, Application No. 475236, Request for Review, CC Docket No. 02-6 (filed Mar. 6, 2009)

*Late-Filed FCC Form 471 Applications*<sup>12</sup>

Marian Catholic High School, IL, Application No. 191042747, Request for Waiver, CC Docket No. 02-6 (filed Nov. 1, 2019)

National University Academy, CA, Application No. 191042507, Request for Waiver, CC Docket No. 02-6 (filed July 1, 2019)

Ryan School District, OK, No Application No., Request for Waiver, CC Docket No. 02-6 (filed Jan. 9, 2020)

*Invoice Deadline Extension Requests*<sup>13</sup>

SECOM (Springfield School District, Swink School District, Eads School District, Plainview School District, Southeastern BOCES), CO, Application Nos. 181042147, 181039280, 181035452, 181036719, 181038506, Request for Waiver, CC Docket No. 02-6 (filed Dec. 18, 2019)

*Untimely Filed Appeals or Waiver Requests*<sup>14</sup>

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(denying request because applicant failed, after multiple requests, to adequately provide documents that go to fundamental requirements of E-Rate program and that were not mere staff clerical mistakes). Despite several requests, neither Raynor Services, Inc. nor the applicant provided USAC with proof of payment demonstrating that the applicant had paid its non-discounted share for internal connections. *See also Requests for Review of Decisions of the Universal Service Administrator by Iosco Regional Educational Service Agency; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 24 FCC Rcd. 12735, 12739-40, para. 8 (WCB 2009) (denying appeal after parties could not submit evidence demonstrating that the applicant paid the full non-discounted price of the services it purchased from the service provider); 47 C.F.R. § 54.523 (requiring that eligible schools and libraries pay the full non-discounted portion of the services or products purchased with E-rate discounts).

<sup>12</sup> *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, 9261-62, para. 13 (denying requests for waiver of the FCC Form 471 filing window deadline where petitioners failed to present special circumstances justifying waiver of our rules).

<sup>13</sup> *See, e.g., Requests for Waiver of Decisions of the Universal Service Administrator by Ada School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 31 FCC Rcd 3834, 3835, para. 7 (WCB 2016) (denying requests for waiver of the Commission's invoice extension rule for petitioners that failed to demonstrate extraordinary circumstances justifying a waiver); *see also Modernizing the E-Rate Program for Schools and Libraries*, WC Docket No. 13-184, Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 8870, 8966, para. 240 (2014) (establishing that it is generally not in the public interest to waive the Commission's invoicing rules absent extraordinary circumstances); 47 CFR § 54.514.

<sup>14</sup> *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 (WCB 2010); *Requests for Waiver or Review 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 (WCB 2014) (denying requests for review and/or waiver on the grounds that the petitioners failed to 1) submit their appeals either to the Commission or to USAC within 60 days; or failed to submit their waiver requests to the Commission within 60 days as required by the Commission's rules; and 2) did not show special circumstances necessary for the Commission to waive the deadline).

Troy Area School District, NY, Application No. 191042030, Request for Waiver, CC Docket No. 02-6 (filed Jan. 3, 2020)

Truth or Consequences Municipal Schools, NM, Application No. 191033301, Request for Waiver, CC Docket No. 02-6 (filed Jan. 3, 2020)

### **Contribution Methodology**

#### **WC Docket No. 06-122**

#### **Denied**

##### *Request for Waiver of Form 499-A Late Filing Fees<sup>15</sup>*

ACS Business Systems, Inc., Request for Waiver of Form 499-A Late Filing Fees, WC Docket No. 06-122 (filed Aug. 2, 2019)

B2 Solutions, Inc., Request for Waiver of Form 499-A Late Filing Fees, WC Docket No. 06-122 (filed Dec. 16, 2019)

Telegration, Inc., Request for Waiver of FCC Form 499-A Late Filing Fees, WC Docket No. 06-122 (filed Sep. 3, 2019)

For additional information concerning this Public Notice, please contact James Bachtell in the Telecommunications Access Policy Division, Wireline Competition Bureau, at james.bachtell@fcc.gov or (202) 418-2694.

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<sup>15</sup> See, e.g., *Universal Service Contribution Methodology; Federal-State Joint Board on Universal Service; Requests for Review of Decisions of Universal Service Administrator by Airband Communications, Inc. et al.*, WC Docket No. 06-122, CC Docket No. 96-45, Order, 25 FCC Rcd 10861 (WCB 2010) (denying deadline waivers where claims of good cause amount to no more than simple negligence, errors by the petitioner, or circumstances squarely within the petitioner's control); *Universal Service Contribution Methodology; Requests for Waiver of Decisions of the Universal Service Administrator by ComScape Telecommunications of Raleigh- Durham, Inc. and Millennium Telecom, LLC*, WC Docket No. 06-122, Order, 25 FCC Rcd 7399 (WCB 2010) (denying waiver requests when negligence caused late filing fee); *Universal Service Contribution Methodology; Requests for Review of Decisions of the Universal Service Administrator by Achilles Networks, Inc., et al.*, WC Docket No. 06-122, Order, 25 FCC Rcd 4646, 4648-49, paras. 5, 8 (WCB 2010) (good cause not shown when filers claim they were unaware of their obligation to file the forms, ignorant of the process for electronically filing the forms, or had otherwise failed to file the forms); *Federal-State Joint Board on Universal Service, Request for Review by National Network Communications, Inc.*, CC Docket No. 96-45, Order, 22 FCC Rcd 6783 (WCB 2007) (good cause not shown when filer claimed it did not have skilled personnel to interpret and correctly apply FCC 499 instructions).