

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of
Requests for Review of the
Decisions of the
Universal Service Administrator by
Aiken County Public Schools
Aiken, SC, et al.
Schools and Libraries Universal Service
Support Mechanism
File No. SLD-397612, et al.
CC Docket No. 02-6

ORDER

Adopted: April 18, 2007

Released: May 8, 2007

By the Commission:

I. INTRODUCTION

1. In this Order, we grant 59 appeals of decisions by the Universal Service Administrative Company (USAC) denying petitioners' requests for funding under the schools and libraries universal service support mechanism (also known as the E-rate program). The requests were denied because USAC found that the applicants violated section 54.504(d) of the Commission's rules, which requires USAC to deny a request for E-rate support if 30 percent or more of a request for discounts is for ineligible services. We find that 23 petitioners (Group A Petitioners) provided sufficient evidence to demonstrate that at least 70 percent of the requested services are eligible for support and thus the entire application should not have been denied. For the remaining 36 petitioners (Group B Petitioners), we find that good cause exists to justify, on our own motion, waivers of section 54.504(d) to permit petitioners to remove ineligible services from their funding requests. Accordingly, we grant all 60 appeals and remand the underlying applications associated with these appeals to USAC for further action consistent with this Order.

2. To ensure that the underlying applications are resolved expeditiously, we direct USAC to complete its review of each application listed in the Appendices and issue an award or a denial based on a complete review and analysis no later than 90 days from release of this Order. In addition, we direct USAC to provide all applicants, beginning with Funding Year 2007 applications, with a 15-day opportunity to amend their applications to eliminate all ineligible services or provide additional

1 47 C.F.R. § 54.504(d). In this Order, we use the term "appeals" to generically refer to requests for review or to waivers related to decisions issued by USAC. A list of these requests for review is provided in Appendix A and B. 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 Appendix A (listing Group A Petitioners).

3 See Appendix B (listing Group B Petitioners).

documentation to USAC justifying the requested services where USAC finds that the applicant has requested an ineligible service.<sup>4</sup>

## II. BACKGROUND

3. Under the E-rate program, eligible schools, libraries, and consortia that include eligible schools and libraries may apply for discounts for eligible telecommunications services, Internet access, and internal connections.<sup>5</sup> Applicants may only seek support for services eligible for support.<sup>6</sup> Each year, the Commission releases a revised list of eligible services to assist applicants in their efforts to request only eligible services.<sup>7</sup> When USAC reviews an application and identifies an ineligible service, it will deny funding for that service. In addition, if the amount requested for ineligible services exceeds 30 percent of the total amount for any individual funding request, the Commission's rules require USAC to deny the entire funding request.<sup>8</sup>

4. E-rate funds are allocated according to rules of priority.<sup>9</sup> Under the Commission's rules, first priority for E-rate funding is given to requests for telecommunications services and Internet access (Priority One services).<sup>10</sup> The available remaining funds are allocated to requests for support for internal connections and basic maintenance of internal connections (Priority Two services).<sup>11</sup> Requests for

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<sup>4</sup> USAC should also apply this direction to applicants with appeals pending before USAC as of the effective date of this Order. *Cf. Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-487170, et al., CC Docket 02-6, Order, 21 FCC Rcd 5316, 5318-20, 5326-27 paras. 9, 23 (2006) (*Bishop Perry Order*).

<sup>5</sup> 47 C.F.R. §§ 54.501-503.

<sup>6</sup> *See* 47 C.F.R. § 54.504; Instructions for Completing the Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (October 2000), at 17 (FCC Form 471 Instructions) (stating that applicants may not seek support for ineligible services, entities, or uses); *see also Request for Review by Chelmsford Public Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-121771, CC Dockets No. 96-45 and 97-21, Order, 17 FCC Rcd 761, 762, para. 3 (Com. Car. Bur. 2002).

<sup>7</sup> *See* 47 C.F.R. § 54.522.

<sup>8</sup> *See* 47 C.F.R. § 54.504(d); *see also Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202, 9215-9216, paras. 38-41 (2003) (*Schools Second Report and Order*) (codifying the 30 percent rule); ; *Request for Review of the Decision of the Universal Service Administrator by Ysleta Independent School District*, File Nos. SLD-321479 et al., CC Docket Nos. 96-45 and 97-21, Order, 18 FCC Rcd 26407, 26435 n.175 (2003) (recognizing the 30 percent policy); *Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service*, CC Docket Nos. 97-21 and 96-45, Third Report and Order in CC Docket No. 97-21 and Fourth Order on Reconsideration in CC Docket No. 97-21 and Eighth Order on Reconsideration in CC Docket No. 96-45, 13 FCC Rcd 25058, 25067, para. 16 (1998); *Request for Review by Brooklyn Public Library, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-149423, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 18598, 18602, n.23, 18607, n.46 (2000).

<sup>9</sup> *See* 47 C.F.R. § 54.507(g).

<sup>10</sup> 47 C.F.R. § 54.507(g)(1)(i).

<sup>11</sup> 47 C.F.R. § 54.507(g)(1)(ii).

Priority Two services may be denied because available funds are exhausted.<sup>12</sup> To help USAC process Priority One services first, the directions for filing FCC Form 471 instruct applicants not to combine Priority One and Priority Two funding requests on the same FCC Form 471.<sup>13</sup> Furthermore, if a single funding request includes both Priority One and Priority Two services and more than 30 percent of the request is for Priority Two services. USAC's practice has been to treat the entire request as a request for Priority Two services only. This can result in denial of funding for the eligible Priority One services when E-rate program funds are exhausted before an applicant's Priority Two requests are granted.<sup>14</sup>

### III. DISCUSSION

5. In this item, we grant the petitioners' requests for review and, to the extent necessary, we waive the Commission's rules denying an applicant's entire funding request if more than 30 percent of the funding request is for ineligible services.<sup>15</sup> We therefore remand the underlying applications to USAC for further consideration consistent with this Order. To ensure that the underlying applications are resolved expeditiously, we direct USAC to complete its review of each application listed in the Appendices and issue an award or denial based on a complete review and analysis no later than 90 days from the release of this Order. We make no finding as to any other aspects of the funding requests at this time.<sup>16</sup>

6. Group A Petitioners' requests for E-rate funding were erroneously denied in full by USAC because USAC improperly determined that more than 30 percent of each of the funding requests was for ineligible services. We reverse USAC's decisions for the Group A Petitioners. We find that in eight cases, USAC appears to have denied funding based on a misunderstanding of the services the petitioners were seeking to have funded.<sup>17</sup> In two cases, we find that some, although not all, of the services USAC

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<sup>12</sup> See, e.g., 47 C.F.R. § 54.507(g); Schools and Libraries News Brief (Jan. 19, 2007) <<http://www.universalservice.org/sl/tools/news-briefs/preview.aspx?id=73>> (retrieved Mar. 6, 2007) (announcing that there were insufficient funds for Funding Year 2005 to fund Priority Two services for applicants eligible for only 80 percent or lower discounts).

<sup>13</sup> See, e.g., Instructions for Completing the Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 at 1, 5 (Nov. 2004) (FCC Form 471 Instructions).

<sup>14</sup> See, e.g., Letter from Schools & Libraries Division, Universal Service Administrative Company, to Thomas Bigler, Lancaster County Career & Technical Center, dated July 8, 2002.

<sup>15</sup> See 47 C.F.R. § 54.504(d). The Commission may waive any provision of its rules on its own motion and for good cause shown. 47 C.F.R. §1.3. A rule may be waived 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, 1157, (D.C. Cir. 1969), *affirmed by WAIT Radio v. FCC*, 459 F.2d 1203 (D.C. Cir. 1972), *cert. denied*, 409 U.S. 1027 (1972). In sum, waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule. *Northeast Cellular*, 897 F.2d at 1166.

<sup>16</sup> Nothing in this order is intended to authorize or require payment of any claim that has previously been released by a service provider or applicant, including in a civil settlement or criminal plea agreement with the United States.

<sup>17</sup> See Request for Review of Aiken County Public Schools (USAC mistakenly concluded that the technical support service was ineligible because it was provided by a salaried employee of the district, when it was actually provided by a vendor's technician, which made it an eligible service); Request for Review of Glenbard Township High School 87 (although USAC concluded that services were provided by USBI, which was not an eligible telecommunications provider, the telecommunications services at issue were actually provided by MCI Worldcom, an eligible provider); Request for Review of Johnson City Independent School District (because the request for "distance learning" was actually for eligible uses of the Internet, not for telecommunications services, the service

(continued...)

deemed ineligible were eligible.<sup>18</sup> In five other cases, we agree with the petitioners that improper labeling or a misleading response by the service provider caused USAC to treat the requested services as ineligible.<sup>19</sup> In three cases, ineligible services exceeded 30 percent of the funding request only because USAC overstated the amounts attributable to the ineligible services it identified.<sup>20</sup> In four other instances, we agree with the petitioners that, although they failed to follow USAC's recommendation that they request eligible Priority One services separately from Priority Two services, their entire funding requests should not have been treated as Priority Two services simply because more than 30 percent of their funding requests were for Priority Two services.<sup>21</sup> Unless and until the Commission adopts a requirement

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was eligible even though the service provider was not an eligible telecommunications provider); Request for Review of Kenai Peninsula Borough School District (petitioner never requested the ineligible web hosting software that triggered USAC's denial of its request for eligible web hosting services); Request for Review of Onondaga-Cortland-Madison BOCES (leasing exclusive use of a few specific strands of eligible fiber did not convert this transaction into an ineligible purchase, given the other conditions of the lease); Request for Review of Pioneer Central School (USAC denied petitioner's request for wireless Internet access due to its concerns that the wireless handsets obtained by petitioner would stimulate ineligible uses (beyond eligible school locations) although petitioner had adopted a system for excluding ineligible uses); Request for Review of Seattle Public Library ((USAC denied petitioner's request for wireless Internet access to its mobile entity although the entity was a bookmobile and therefore an eligible location); Request for Review of Wapakoneta City School District (USAC denied the eligibility of services that were strictly ancillary to eligible web hosting without evaluating them according to USAC's rules for ancillary elements of web hosting service).

<sup>18</sup> See Request for Review of Por Vida, Inc. (the maintenance contract in FRN 987481 and the BrightBlue Net Connect software in FRN 987505 were eligible services based on the relevant eligible services list); Request for Review of Wiscasset School Department (the Internet services sought in funding request number (FRN) 9916658 were for eligible locations, and thus eligible for funding). In both cases, however, we find no basis on which to overrule USAC's finding that other services ordered by the two applicants were ineligible, although we grant the petitioners a waiver of rule section 54.504(d). See *infra* para. 9 (waiving the Commission's 30 percent rule to allow petitioners to remove ineligible services).

<sup>19</sup> Request for Review of Boston Public Library (the service provider's invoices grossly overstated the portion of the funding request that would finance ineligible voicemail services); Request for Review of Chippewa Hills School District (the charges improperly aggregated into the petitioner's "transportation" phone number on the service provider's aggregated bill were actually for eligible services, as indicated in the disaggregated bill); Request for Review of Cleveland Municipal School District (the service provider incorrectly indicated that substantial charges for installation, configuration, and management of the applicant's wireless LAN were associated with ineligible software purchased by the applicant, which would have rendered those services ineligible. Instead, those charges should have been associated with eligible hardware); Request for Review of Colonial School District (the request was for eligible high-speed bandwidth wide area network service, although an invoicing error by the service provider labeled it as ineligible "dark fiber"); Request for Review of Diocese of Greensburg Schools (the request was for two T-1 circuits to provide the same capacity as in previous years, although the vendor labeled the service as "redundant" circuits).

<sup>20</sup> See Request for Review of Coffeyville School District #445 (the ineligible charges for an extra phone listing were below the 30 percent threshold); Request for Review of Queen of Apostles Catholic School (the phone at issue is eligible for support for that proportion of its use that is for school-related service); Request for Review of Tuscola Intermediate School District (the funding request subtracted out the portion of the purchase that was ineligible for E-rate discounts).

<sup>21</sup> See Request for Review of Lancaster County Career & Technology Center; Request for Review of Madison County School District; Request for Review of Northern Trails Area Education Agency; Request for Review of Reading Public Library. This reverses previous Bureau precedent approving this USAC practice. See *Request for Review of the Decision of the Universal Service Administrator by Shepherd Independent School District*, File No. SLD-258144, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 22493 (Wireline Comp. Bur. 2002).

that applicants file for Priority One and Priority Two services in separate funding requests, USAC should not deny applicants funding for Priority One services based on their failure to file such separate funding requests. Lastly, in one case, we find that the petitioner fully documented its spending for eligible services.<sup>22</sup>

7. In all these cases, we reject USAC's rationale for concluding that more than 30 percent of the petitioners' funding requests were for ineligible services, thereby requiring USAC to deny the entire amount of each of those funding requests. Accordingly, we grant these appeals and remand the underlying applications to USAC to reevaluate all of these funding requests consistent with our findings here.

8. For the Group B Petitioners, we find that good cause exists to justify a waiver of section 54.504(d) of the Commission's rules. Accordingly, we permit these petitioners to revise their funding requests to remove ineligible services.<sup>23</sup> Eight petitioners acknowledge that they made errors by requesting discounts on ineligible services, but claim that the errors were accidental.<sup>24</sup> Nine other petitioners appear to have expected that USAC would give them a chance to correct any errors.<sup>25</sup> In seven cases, the petitioners erroneously sought cellular phone services that were not eligible in the funding year in which they sought them.<sup>26</sup> Lastly, some petitioners seem to have misunderstood that some of the services they requested were not eligible.<sup>27</sup>

9. Based on the facts and circumstances of these specific cases, we find that good cause exists to waive the Commission's 30 percent rule to allow the petitioners to remove ineligible services from their funding requests.<sup>28</sup> We find that, for the reasons described below, a waiver is warranted and in the public

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<sup>22</sup> See Request for Review of Washington County Virginia School District (USAC should have calculated the funding amount based on the complete set of bills that the petitioner provided rather than basing its calculation on a single, sample, monthly bill).

<sup>23</sup> See 47 C.F.R. § 54.504(d).

<sup>24</sup> See Request for Review of Annunciation Catholic Academy; Request for Review of Baker Valley Unified School District; Request for Review of Bank Street School for Children; Request for Review of Canby School District; Request for Review of Holy Cross School; Request for Review of Kansas City Unified School District #500; Request for Review of Nardin Academy; Request for Review of St. James School.

<sup>25</sup> Request for Review of Asbury Park School District; Request for Review of Birch Run Area Schools; Request for Review of Community Education Partners; Request for Review of Craig County Public Schools; Request for Review of Dearborn Public School District; Request for Review of Lowndes County Public Schools; Request for Review of Mifflinburg Area School District; Request for Review of San Lorenzo Unified School District; Request for Review of Smoky Hill/Central KS ESC.

<sup>26</sup> See Request for Review of Chambersburg Area School District; Request for Review of East Rockaway Union Free School District; Request for Review of Fillmore Central Public Schools; Request for Review of Lansing School District; Request for Review of River Trails School District 26; Request for Review of Spartanburg County School District; and Request for Review of Washington School District.

<sup>27</sup> For example, some schools did not understand that the E-rate program does not fund certain hardware for firewall service (*see, e.g.*, Request for Review of Dublin City School District) and that hosting, messaging, and video-on-demand software are generally not eligible (*see, e.g.*, Request for Review of Boone County School District; Request for Review of Grant Joint Union High School District; Request for Review of New York Public Library). *See also* Request for Review of Ajo Unified School District No. 15; Request for Review of Augusta School District; Request for Review of HLV Community School District; Request for Review of HLV Community School District (SLD-313157); Request for Review of Locust Valley Central School District; Request for Review of Perham-Dent Public Schools; Request for Review of Selma Unified School District; Request for Review of Tunkhannock Area School.

<sup>28</sup> See 47 C.F.R. § 54.504(d).

interest. We believe that the petitioners made good faith efforts to exclude the ineligible services from their funding requests and expect that the petitioners would have done so if informed by USAC that the requested services were ineligible. We note that those tasked with working on E-rate applications are typically school administrators, technology coordinators, teachers and librarians who may have little experience with distinguishing between eligible and ineligible services for the E-rate program. This may be particularly true of staff at small school districts or libraries.<sup>29</sup> We also note that the relevant technologies and service offerings are constantly improving and evolving, and the Commission's eligible services list is modified on an annual basis.<sup>30</sup>

10. Moreover, we find that denying the petitioners' requests would create undue hardship and prevent these otherwise eligible schools and libraries from receiving funding that they need to bring advanced telecommunications and information services to their students and patrons. By contrast, waiving the 30 percent rule for these petitioners and granting only the portions of these requests that are for eligible services will further the goal of section 254 of the Act – ensuring access to discounted telecommunications and information services to schools and libraries – and therefore serve the public interest.<sup>31</sup> In particular, we believe that by directing USAC to provide applicants with an opportunity to justify the requested services as eligible or remove ineligible services from their funding requests, we will provide for a more effective application processing system and ensure that eligible schools and libraries are able to realize the intended benefits of the E-rate program as the Commission considers additional steps to reform and improve the E-rate program.<sup>32</sup> Requiring USAC to take these additional steps will not reduce or eliminate any application review procedures or lessen the program requirements. Although the 30 percent rule is an important element in helping the Commission guard against the waste of program funds, there is no evidence at this time in the record that the petitioners engaged in activity to defraud or abuse the E-rate program. We further note that granting these requests should have minimal effect on the Fund as a whole.<sup>33</sup> Therefore, we remand the appeals to USAC for further consideration consistent with this Order.

11. *Additional Processing Directives for USAC.* As of the effective date of this Order, when USAC has reason to believe that an applicant's funding request includes ineligible services, USAC shall: (1) inform the applicant promptly in writing of deficiencies in its funding request, and (2) permit the applicant 15 calendar days from the date of receipt of notice in writing by USAC to revise its funding request to remove the ineligible services or allow the applicant to provide additional documentation to show why the services are eligible.<sup>34</sup> USAC shall advise an applicant, where there is a disagreement

<sup>29</sup> See *Bishop Perry Order*, 21 FCC Rcd at 5323 para. 14.

<sup>30</sup> See 47 C.F.R. § 54.522.

<sup>31</sup> 47 U.S.C. § 254(h).

<sup>32</sup> See *Comprehensive Review of Universal Service Fund Management, Administration, and Oversight, Federal-State Joint Board on Universal Service, Schools and Libraries Universal Service Support Mechanism, Rural Health Care Support Mechanism, Lifeline and Linkup, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, WC Docket Nos. 05-195, 02-60, 03-109, CC Docket Nos. 96-45, 02-6, 97-21, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 20 FCC Rcd 11308, 11324-25, paras. 37-40 (2005) (*Comprehensive Review NPRM*) (seeking comment on the application process and competitive bidding requirements for the E-rate program).

<sup>33</sup> We estimate that the appeals granted in this Order involve applications for approximately \$7 million in funding for Funding Years 1999-2005. We note that USAC has already reserved sufficient funds to address outstanding appeals. See, e.g., Universal Service Administrative Company, Federal Universal Service Support Mechanisms Fund Size Projections for the Second Quarter 2007, dated Jan. 31, 2007. Thus, we determine that the action we take today should have minimal effect on the universal service fund as a whole.

<sup>34</sup> See *Bishop Perry Order*, 21 FCC Rcd at 5326-27 para. 23.

about the eligibility of a service, to resubmit the request for the service at issue in a separate funding request.<sup>35</sup> If the applicant does not remove the ineligible services from the funding request, USAC should reject the entire funding request in accordance with the 30 percent rule. USAC shall apply this directive to all applications beginning in Funding Year 2007 and to all appeals pending with USAC as of the effective date of this Order. The 15-day period should provide sufficient time for applicants to modify their funding requests to remove ineligible services.<sup>36</sup> Further, if USAC assists applicants in removing ineligible services from funding requests prior to issuing its funding commitment decisions, USAC should be able to reduce administrative costs that it would otherwise spend on appeals of the funding requests it denies. Therefore, we believe providing applicants with an additional opportunity to remove ineligible services from their funding requests will improve the administration of the Fund and the efficiency of the E-rate program.

12. We emphasize the limited nature of this decision. Although we grant the requests for review addressed here, this Order does not alter the obligation of participants in the E-rate program to comply with the Commission's rules by requesting only eligible services.<sup>37</sup> We continue to require E-rate applicants to submit complete and accurate information to USAC as part of the application review process. The direction we provide USAC will not lessen or preclude any application review procedures of USAC. Indeed, we retain our commitment to detecting and deterring potential instances of waste, fraud, and abuse by ensuring that USAC continues to scrutinize applications and takes steps to educate applicants in a manner that fosters program participation. All existing E-rate program rules and requirements will continue to apply, including the existing forms and documentation, USAC's Program Integrity Assurance review procedures, and other processes designed to ensure applicants meet the applicable program requirements.

13. USAC shall also continue its outreach program and educational efforts to inform applicants and service providers of which services are eligible for E-rate support in an attempt to reduce the number of denied applications. We expect that the additional outreach and educational efforts required by this Order will better assist E-rate applicants in meeting the program's requirements. Further, we believe such an outreach program will increase awareness of the filing rules and procedures and will improve the overall efficacy of the E-rate program and reduce the occurrence of circumstances justifying waivers such as those granted above. We also encourage applicants to contact USAC with questions prior to filing their applications and, if they are in doubt regarding the eligibility of certain services, to request those services in a separate funding request. As noted above, the Commission has initiated a proceeding addressing the concerns raised herein by, among other things, improving the application and disbursement process for the E-rate program.<sup>38</sup>

14. Finally, we emphasize that the Commission is committed to guarding against waste, fraud, and abuse and ensuring that funds disbursed through the E-rate program are used for appropriate purposes. Although we grant the appeals addressed here, the Commission reserves the right to conduct audits and investigations to determine compliance with the E-rate program rules and requirements. Because audits and investigations may provide information showing that a beneficiary or service provider failed to comply with the statute or Commission rules, such proceedings can reveal instances in which universal service funds were improperly disbursed or in a manner inconsistent with the statute or the

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<sup>35</sup> USAC shall accept this additional, separate funding request as if it were filed during the filing window as long as the original funding request was received during the filing window.

<sup>36</sup> We note that applicants will retain the ability to appeal decisions ultimately denying funding requests.

<sup>37</sup> 47 C.F.R. §§ 54.501-503.

<sup>38</sup> *Comprehensive Review NPRM*, 20 FCC Rcd at 11324-25, paras. 37-40; see note 31, *supra*.

Commission's rules. To the extent the Commission finds that funds were not used properly, the Commission will require USAC to recover such funds through its normal processes. We emphasize that the Commission retains the discretion to evaluate the uses of monies disbursed through the E-rate program and to determine on a case-by-case basis that waste, fraud, or abuse of program funds occurred and that recovery is warranted. The Commission remains committed to ensuring the integrity of the program and will continue to aggressively pursue instances of waste, fraud, or abuse under the Commission's procedures and in cooperation with law enforcement agencies.

#### IV. ORDERING CLAUSES

15. 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 1.3 and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 1.3 and 54.722(a), that the Requests for Review filed by the petitioners as listed in Appendix A and B ARE GRANTED AND REMANDED to the extent provided herein.

16. 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 1.3 and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 1.3 and 54.722(a), that section 54.504(d) of the Commission's rules, 47 C.F.R. § 54.504(d) IS WAIVED to the extent provided herein.

17. 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, USAC SHALL COMPLETE its review of each remanded application listed in Appendix A and B and ISSUE an award or a denial based on a complete review and analysis no later than 90 calendar days from release of this Order.

18. IT IS FURTHER ORDERED that this Order SHALL BE EFFECTIVE upon release, in accordance with section 1.103 of the Commission's rules, 47 C.F.R. § 1.103.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary



## APPENDIX A

## Requests for Review Granted

Applicant	Application Number	Funding Year
Aiken County Public Schools Aiken, SC	397612	2004
Boston Public Library Boston, MA	331403	2002
Chippewa Hills School District Remus, MI	360011	2003
Cleveland Municipal School District Cleveland, OH	380114	2003
Coffeyville School District #445 Coffeyville, KS	343043	2003
Colonial School District Plymouth Meeting, PA	411237	2004
Diocese of Greenberg Schools Greensburg, PA	471515	2005
Glenbard Township High School 87 Glen Ellyn, IL	296171	2002
Johnson City Independent School District Johnson City, TX	251001	2001
Kenai Peninsula Borough School District Soldotna, AK	406079	2004
Lancaster County Career & Technology Center Willow Street, PA	302971	2002
Madison County School District Danielsville, GA	301201	2002
Northern Trails Area Education Agency Clear Lake, IA	219137	2001
Onondaga-Cortland-Madison BOCES Syracuse, NY	341529	2003
Pioneer Central School Yorkshire, NY	489102	2005
Por Vida, Inc. San Antonio, TX	363866	2003
Queen of Apostles Catholic School Alexandria, VA	393234	2004
Reading Public Library Reading, PA	327133	2002
Seattle Public Library Seattle, WA	499339	2006
Tuscola Intermediate School District Caro, MI	473181	2005
Wapakoneta City School District Wapakoneta, OH	407479	2004
Washington County Virginia School District Abingdon, VA	412462	2004

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<b>Applicant</b>	<b>Application Number</b>	<b>Funding Year</b>
Wiscasset School Department Wiscasset, ME	340161	2003

## APPENDIX B

## Waiver of Commission Rules Granted

<b>Applicant</b>	<b>Application Number</b>	<b>Funding Year</b>
Ajo Unified School District No. 15 Ajo, AZ	469860	2005
Annunciation Catholic Academy Altamonte Springs, FL	412512	2004
Asbury Park School District Asbury, NJ	301875	2002
Augusta School District Augusta, ME	339519	2003
Baker Valley Unified School District Baker, CA	336126	2003
Bank Street School for Children New York, NY	314992	2002
Birch Run Area Schools Birch Run, MI	387369	2004
Boone County School District Madison, WV	431035	2004
Canby School District Canby, OR	337806	2003
Chambersburg Area School District Chambersburg, PA	310106	2002
Community Education Partners Nashville, TN	507908	2006
Craig County Public Schools New Castle, VA	307375	2002
Dearborn Public School District Dearborn, MI	387609	2004
Dublin City School District Dublin, GA	482116	2005
East Rockaway Union Free School District East Rockaway, NY	328918	2002
Fillmore Central Public Schools Geneva, NE	343976	2003
Grant Joint Union High School District Sacramento, CA	316355	2002
HLV Community School District Victor, IA	313157	2002
HLV Community School District Victor, IA	413979	2004
Holy Cross School Bronx, NY	408457	2004
Kansas City Unified School District #500 Kansas City, KS	418233	2004
Lansing School District Lansing, MI	300078	2002

<b>Applicant</b>	<b>Application Number</b>	<b>Funding Year</b>
Locust Valley Central School District Locust Valley, NY	329734	2002
Lowndes County Public Schools Hayneville, AL	502211	2006
Mifflinburg Area School District Mifflinburg, PA	361108	2003
Nardin Academy Buffalo, NY	471131	2005
New York Public Library New York, NY	406051 <sup>39</sup>	2004
Perham-Dent Public Schools Perham, MN	300900	2002
River Trails School District 26 Mt. Prospect, IL	376633	2003
St. James School Gouverneur, NY	340144	2003
San Lorenzo Unified School District San Lorenzo, CA	516275	2006
Selma Unified School District Selma, CA	463015	2005
Smoky Hill/Central KS ESC Salina, KS	537060	2006
Spartanburg County School District Spartanburg, SC	366411	2003
Tunkhannock Area School Tunkhannock, PA	342051	2003
Washington School District Washington, PA	238993	2001

<sup>39</sup> Note, New York Public Library filed separate appeals for two different FRNs - 1187448 and 1187458 - in this one funding application.