



# PUBLIC NOTICE

Federal Communications Commission  
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DA 24-176

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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. 21-93**  
**WC Docket No. 06-122**  
**WC Docket No. 02-60**

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 the release date 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>**

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<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). Sections 54.719(b) and 54.1718(a)(1) of the Commission's rules provide 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. Sections 54.719(c) and 54.1718(a)(3) of the Commission's rules provide that parties seeking waivers of the Commission's rules shall seek review directly from the Commission. 47 CFR §§ 54.719(b)-(c); 54.1718(a)(1)-(2). In this Public Notice, we have reclassified as Requests for Waiver any 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 any 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> The Bureau will not consider requests for review or waiver without reference to the relevant FCC Form 471 application number and supporting documentation. See 47 CFR § 54.721 (setting forth general filing requirements for requests for review of decisions issued by the Administrator, including the requirement to provide supporting documentation); see also *Wireline Competition Bureau Reminds Parties of Requirements for Request for Review of Decisions by 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

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Tempe Preparatory Academy, AZ, No Application No. Given, CC Docket No. 02-6 (filed Oct. 31, 2023)

Dismissed on Reconsideration<sup>4</sup>

Columbus City Schools, OH, Application No. 221031913, Petition for Reconsideration, CC Docket No. 02-6 (filed Jan. 31, 2024)

Dismissed to Allow Appeal USAC to Make a Determination in the First Instance<sup>5</sup>

Net56, Inc. (Wheeling School District 21), IL, Application No. 606327, Request for Waiver, CC Docket No. 02-6 (filed Dec. 3, 2013)

Granted<sup>6</sup>

*Appeal Filing Not Untimely<sup>7</sup>*

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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); *Universal Service Contribution Methodology; Request for Review by Alternative Phone, Inc. and Request for Waiver*, WC Docket No. 06-122, Order, 26 FCC Rcd 6079 (WCB 2011) (*Alternative Phone, Inc. Order*) (dismissing without prejudice a request for review that failed to meet the requirements of section 54.721 of the Commission's rules).

<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) (*Allan Shivers Library Order*) (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 *Petitions for Reconsideration by Little Falls Township School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order on Reconsideration, DA 23-110, para. 10 (WCB Feb. 8, 2023) (*Little Falls Township Order*) (dismissing without prejudice appeals that are filed with the Commission before being reviewed at USAC).

Parties seeking review of USAC decisions must first file an appeal with USAC. See 47 CFR § 54.719(a). Although Net56, Inc. appealed to USAC in the first instance, USAC denied its appeal on new and unrelated grounds that the petitioner did not have the opportunity to address with USAC. As a result, Net56, Inc. had no choice but to file its appeal with the Commission. Because this is an appeal that USAC has not had an opportunity to review, we now direct USAC on remand to review Net56, Inc.'s appeal and make a determination in the first instance.

<sup>6</sup> We remand these applications to USAC and direct USAC to complete its review of the applications and issue a funding decision 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, e.g., *Requests for Review of the Decision of the Universal Service Administrator by Calhoun School*, CC Docket Nos. 96-45 and 97-21, Order, 18 FCC Rcd 356, para. 8-9 (WCB 2003) (*Calhoun School Order*) (finding that an appeal was not untimely because petitioner was seeking review of a different decision than the one USAC was basing the 60-day appeal deadline clock from); *Request for Review of a Decision of the Universal Service Administrator by Sundale Elementary School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd 4124 (WCB 2014) (*Sundale Elementary School District Order*) (remanding an appeal to USAC that was timely filed); 47 CFR § 54.720(a). We make no finding on the underlying

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La Paloma Academy, AZ, Application No. 449071, Request for Review, CC Docket No. 02-6 (filed Mar. 24, 2021)<sup>8</sup>

Yeled Vyalda Early Childhood Center, NY, Application No. 181024801, Request for Waiver, CC Docket No. 02-6 (filed May 22, 2020)

*Contract Agreement in Place*<sup>9</sup>

Union Elementary School District, CA, Application No. 201009772, Request for Waiver, CC Docket No. 02-6 (filed Mar. 19, 2021)

*Eligible Services*<sup>10</sup>

Burt Township School District, MI, Application No. 211039613, Request for Review, CC Docket No. 02-6 (filed June 4, 2021, supplemented Aug. 23, 2021)

*Incorrect Service Start Date on FCC Form 486*<sup>11</sup>

Rutland Township Community Consolidated School District #230, IL, Application No. 201005287, Request for Waiver, CC Docket No. 02-6 (filed Apr. 26, 2021)

*Ministerial and/or Clerical Errors*<sup>12</sup>

Montgomery County Public Schools, MD, Application No. 191027905, Request for Waiver, CC Docket No. 02-6 (filed Mar. 30, 2021)

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issues in these appeals and remand these applications to USAC to make a determination on the merits. *See supra* note 6.

<sup>8</sup> On remand, we instruct USAC to review La Paloma Academy's appeal with respect to the merits of the original Commitment Adjustment Letter dated March 5, 2020.

<sup>9</sup> *See, e.g., Request for Waiver of the Decision of the Universal Service Administrator by Barberton City School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 23 FCC Rcd 15526, 15532, para. 10 (WCB 2008) (*Barberton City School District*) (granting on the merits when petitioners submitted evidence to the Commission demonstrating that they had a valid, signed contract in place).

<sup>10</sup> *See, e.g., Requests for Waiver and Review of Decisions of the Universal Service Administrator by Aberdeen School District 5 et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 2080 (WCB 2012) (*Aberdeen School District 5 Order*) (finding that USAC erred in its eligibility determination regarding the services petitioners sought for funding).

<sup>11</sup> *Request for Review and/or Waiver by Glendale Unified School District, Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 21 FCC Rcd 1040 (WCB 2006) (*Glendale Unified School District Order*); *see also Request for Waiver by Harvey Public Library District, Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 23 FCC Rcd 15419 (WCB 2008) (*Harvey Public Library District Order*) (both orders granting waiver requests when the applicants inadvertently listed the wrong service start date on their FCC Forms 486).

<sup>12</sup> *See, e.g., Requests for Review of Decisions of the Universal Service Administrator by Ann Arbor Public Schools*, CC Docket No. 02-6, Order, 25 FCC Rcd at 17319, 17319-20, para. 2, n.20 (WCB 2010) (*Ann Arbor Public Schools Order*) (granting waivers where the applicant selected the wrong category of service in its FCC Form 471); *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) (*Archer Public Library Order*) (permitting applicant to correct a pre-discount price on its FCC Form 471 to conform to the price on the source document).

North Royalton City School District, OH, Application No. 191019677, Request for Waiver, CC Docket No. 02-6 (filed Mar. 29, 2021)

St. Helen School, OH, Application No. 191035087, Request for Waiver, CC Docket No. 02-6 (filed Apr. 6, 2021)

Tarrytown Union Free School District, NY, Application No. 201018167, Request for Waiver, CC Docket No. 02-6 (filed Mar. 25, 2021)

*Ministerial and/or Clerical Errors – Competitive Bidding*<sup>13</sup>

Jurupa Unified School District, CA, Application No. 201021538, Request for Waiver, CC Docket No. 02-6 (filed Mar. 29, 2021)

*Ministerial and/or Clerical Errors – Invoicing*<sup>14</sup>

Phonscope Inc. (New Caney Independent School District), TX, Application No. 191028808, Request for Waiver, CC Docket No. 02-6 (filed Apr. 8, 2021)

The Collegiate School of Memphis, TN, Application No. 221031311, Request for Waiver, CC Docket No. 02-6 (filed Jan. 4, 2024)

*Permissible Service Implementation Delay*<sup>15</sup>

Sumner-Bonney Lake School District, WA, Application No. 221026636, Request for Waiver, CC Docket No. 02-6 (filed Jan. 26, 2024)

*Service Chosen Within Scope of FCC Form 470*<sup>16</sup>

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<sup>13</sup> See, e.g., *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Aberdeen School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 1941, 1941-42, para. 1 (WCB 2012) (*Aberdeen School District Order*) (finding good cause to waive sections 54.504 and 54.511 of the Commission’s rules because the competitive bidding errors made on their applications were ministerial or clerical and do not warrant a complete rejection of their applications).

<sup>14</sup> See *Requests for Review and/or Waiver of Decisions of the Universal Service Administrator by Accomack County Public School et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, DA 23-48, paras. 8-10 (WCB Jan. 19, 2023) (*Accomack County Public School Order*) (permitting applicants to correct clerical errors related to invoicing, including where petitioners’ invoice filing deadline extension requests were not processed because petitioners inadvertently requested an invoice filing deadline extension for the wrong funding year or left off one or more funding request numbers from a timely-filed invoice filing deadline extension request due to a clerical or computer error).

<sup>15</sup> See, e.g., *Request for Review/Waiver of the Decision of the Universal Service Administrator by Accelerated Charter et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd 13652, 13652-53, para. 2 (WCB 2014) (*Accelerated Charter Order*) (granting late-filed extensions of the service implementation deadline when applicants demonstrated they were unable to complete implementation on time for reasons beyond the service providers’ control and made significant efforts to secure the necessary extensions in a timely manner).

<sup>16</sup> Jackson Hinds Library System sought bids on 1 Gbps connections for its 15 libraries, but also noted that it would “like to explore various bandwidth options” and that “[a]lternative proposals and upgrade paths will be considered.” It chose the most cost effective option which offered 1 Gbps service to 14 library locations and 100 Mbps at the 15th location. USAC reduced funding to the Jackson Hinds Library System because of the one library receiving a 100

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Jackson Hinds Library System, MS, Application No. 201024820, Request for Review, CC Docket No. 02-6 (filed Apr. 12, 2021)

Granted in Part/Denied in Part

*Considering Price of Ineligible Items as Primary Factor*<sup>17</sup>

Saddleback Valley Unified School District, CA, Application Nos. 201022787, 201022937, Request for Waiver, CC Docket No. 02-6 (filed May 3, 2021)

Denied

*Competitive Bidding Violation*<sup>18</sup>

Flint City School District, MI, Application No. 899468, Request for Review and/or Waiver, CC Docket No. 02-6 (filed May 9, 2014)

*Cost-Effectiveness*<sup>19</sup>

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Mbps connection “because the 100 Mbps internet service was not requested on the FCC Form 470 and RFP that established the competitive bidding process for this FRN.”

Consistent with our obligation to conduct a de novo review of appeals of decisions made by USAC, we grant this request for review. *See* 47 CFR § 54.723. Based on the facts and circumstances of this case, we disagree with USAC’s conclusion and find that the winning bid was properly selected with the terms of service within the scope of the FCC Form 470. *See, e.g., Request for Review of a Decision of the Universal Service Support Mechanism by Grand Rapids Public Schools*, CC Docket No. 06-6, Order, 23 FCC Rcd 15413, 15416, para. 6 (WCB 2008) (*Grand Rapids Public Schools Order*) (conducting de novo review of the facts and circumstances to determine that USAC’s decision was in error).

<sup>17</sup> We grant Saddleback Valley Unified School District’s waiver request with respect to application number 201022787. We find that the applicant would have selected the same vendor if it had excluded the price of ineligible items from the “cost” criterion. In this instance, the E-Rate eligible cost and the E-Rate ineligible cost were both lower than the next closest bid. We deny Saddleback Valley Unified School District’s waiver request with respect to application number 201022937 because the applicant selected a vendor where the E-Rate eligible cost was higher than the next closest bid. *See, e.g., Requests for Review of Decisions of the Universal Service Administrator by Coolidge Unified School District 21; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 28 FCC Rcd 16907 (WCB 2013) (*Coolidge Unified School District 21 Order*) (waiving sections 54.504 and 54.511 of the Commission’s rules only in instances where the record demonstrated that the applicant would have selected the same vendor if it had excluded the price of ineligible items from the “cost” criterion because the E-Rate eligible cost and the E-Rate ineligible cost were both lower than the next closest bid).

<sup>18</sup> *See, e.g., Aberdeen School District Order*, 22 FCC Rcd at 8763, para. 10 (2007) (denying appeal where applicant failed to file a new FCC Form 470 and solicit bids in the year for which it sought services, thereby circumventing the competitive bidding process).

<sup>19</sup> *See, e.g., Request for Review of A Decision of the Universal Service Administrator by Truth or Consequences Municipal Schools*, CC Docket No. 02-6, Order, 27 FCC Rcd 10078 (WCB 2012) (*Truth or Consequences Municipal Schools Order*) (denying appeal where applicant failed to evaluate all the bids it received); *Requests for Review of Decisions of the Universal Service Administrator by Central Islip Free Union School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 8630, 8636, paras. 11-12 (WCB 2011) (*Central Islip Free Union School District Order*) (denying appeal where there is no documentation showing how bids were evaluated, scored, or ranked).

Cincinnati City School District, OH, Application Nos. 868322, 930434, Request for Review, CC Docket No. 02-6 (filed Dec. 1, 2014)

*Late-Filed Invoice or Invoice Deadline Extension*<sup>20</sup>

Bettendorf Community School District, IA, Application Nos. 221023467, 221023482, Request for Waiver, CC Docket No. 02-6 (filed Feb. 6, 2024)

Fort Morgan School District RE 3, CO, Application No. 221016282, Request for Waiver, CC Docket No. 02-6 (filed Jan. 29, 2024)

North Butler School District, IA, Application No. 221039482, Request for Waiver, CC Docket No. 02-6 (filed Feb. 5, 2024)

*Red Light Rule Violation Prevented Timely Invoicing*<sup>21</sup>

Robert Treat Academy, NJ, Application No. 191016177, Request for Waiver, CC Docket No. 02-6 (filed Mar. 26, 2021)

*Relying on FCC Form 470 That Did Not Seek Bids on Types of E-Rate Services Later Requested*<sup>22</sup>

Bristol School District #1, WI, Application No. 201028163, Request for Waiver, CC Docket No. 02-6 (filed Apr. 16, 2021)

College Place Public Schools, WA, Application No. 191013289, Request for Waiver, CC Docket No. 02-6 (filed Dec. 12, 2022)

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<sup>20</sup> 47 CFR § 54.514. *See also, 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, 3836, para. 8 (WCB 2016) (*Ada School District Order*) (denying requests for waiver of the Commission's invoice filing deadline rule for petitioners that failed to demonstrate extraordinary circumstances justifying a waiver).

<sup>21</sup> Petitioners are seeking a waiver of the invoice deadline because a debt owed to USAC prevented the entities from having their invoices approved for payment ("red light rules"). We find that USAC properly denied the petitioners' invoices because the entities were on red light at the time of the invoice filings. *See, e.g., Requests for Review of Decisions of the Universal Service Administrator by Net56, Inc., Wheeling School District 21, Schools and Libraries Support Mechanism*, CC Docket No. 02-6, Order, 28 FCC Rcd 13122, 13126, para. 6 (WCB 2013) (*Net56 Order*) (denying a request for review because the E-Rate applicant owed a debt to USAC). Commission rules specify that entities must pay debts within 30 days of receiving notice of the debt and that failing to do so results in the dismissal of applications or requests for authorization ("red light rules"). *See* 47 CFR § 1.1910(b)(3). We note that subsequent repayment of the delinquent amount that is in violation of the red light rule does not reverse the dismissal of the petitioner's request. *See id.* (denying funding of applications for E-Rate funding even though the red light debt had been satisfied). We also find that a waiver of the invoice deadline is not merited under these circumstances. *See* 47 CFR § 54.514. *See also, e.g., Ada School District Order*, 31 FCC Rcd at 3836, para. 8 (denying requests for waiver of the Commission's invoice filing deadline rule for petitioners that failed to demonstrate extraordinary circumstances justifying a waiver).

<sup>22</sup> *See, e.g., Request for Review of a Decision of the Universal Service Administrator by Albert Lea Schools et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 24 FCC Rcd 4533, 4541, para. 14 (WCB 2009) (*Albert Lea Schools Order*); *Petition for Reconsideration by Chicago Public Schools; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd 9289, 9289-90, para. 5 (WCB 2014) (*Chicago Public Schools Order*) (denying appeals of applicants that filed FCC Forms 470 that did not include the types of services for which the applicants later requested E-Rate funding).

Hamilton County Community Unit District No. 10, IL, Application No. 201013688, Request for Waiver, CC Docket No. 02-6 (filed Apr. 29, 2021)

*Untimely Filed Appeals or Waiver Requests*<sup>23</sup>

Adelphoi Education School District, PA, Application No. 211018229, Request for Waiver, CC Docket No. 02-6 (filed Jan. 24, 2024)

Beth Rochel School, NY, Application No. 763927, Request for Waiver, CC Docket No. 02-6 (filed Jan. 8, 2024)

Capital City Public Charter School, DC, Application No. 231030634, Request for Waiver, CC Docket No. 02-6 (filed Feb. 6, 2024)

Sweetser, ME, Application No. 221008000, Request for Waiver, CC Docket No. 02-6 (filed Dec. 12, 2023)

Warren Township Schools, NJ, Application No. 221010538, Request for Waiver, CC Docket No. 02-6 (filed Dec. 27, 2023)

**Emergency Connectivity Fund Program**  
**WC Docket No. 21-93**

**Dismissed as Moot – USAC Took Action Requested**<sup>24</sup>

Lodi School District, WI, Application No. ECF202201820, Request for Waiver, WC Docket No. 21-93 (filed Feb. 9, 2024)<sup>25</sup>

**Granted**<sup>26</sup>

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<sup>23</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, 5688, para. 6 (WCB 2010) (*Agra Public Schools Order*); *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, 5823, para. 1 (WCB 2014) (*Bound Brook School District Order*) (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 demonstrate special circumstances required for the Commission to waive the rule).

<sup>24</sup> See, e.g., *Requests for Review and/or Requests for Waiver of the Decisions of the Universal Service Administrator by Al Noor High School et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 8223, 8224, para. 2 (WCB 2012) (*Al Noor High School Order*) (dismissing as moot requests for review where USAC had taken the action the petitioner requested).

<sup>25</sup> To the extent a waiver for early delivery is needed, we grant Lodi School District a waiver for the early delivery of the equipment. See *infra* note 27.

<sup>26</sup> We remand these applications to USAC and direct USAC to complete its review of the applications and issue a funding decision 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 54.1711(d) and (e) of the Commission's rules and direct USAC to waive any procedural deadline that might be necessary to effectuate our ruling. See 47 CFR § 54.1711(d)-(e) (codifying the invoice filing deadline and establishing the service delivery dates for equipment, other non-recurring services, and recurring services).

*Early Delivery*<sup>27</sup>

County of Woodford Schools, IL, Application No. ECF202201820, Request for Waiver, WC Docket No. 21-93 (filed Feb. 9, 2024)

St. Mary's Elementary School, MN, Application No. ECF202107744, Request for Waiver, WC Docket No. 21-93 (filed Jan. 24, 2024)

*Responsible Party for Recovery of Improperly Disbursed Funds*<sup>28</sup>

Quality Education & Development (Magen Israel Gan Israel Center), NY, Application No. ECF202104588, Request for Review and/or Waiver, WC Docket No. 21-93 (filed Dec. 14, 2023)<sup>29</sup>

*Waiver of Appeal Filing Deadline*<sup>30</sup>

Rhode Island Mayoral Academy Blackstone Valley, RI, Application No. ECF202114948, Request for Waiver, WC Docket No. 21-93 (filed Feb. 1, 2024)

*Waiver of the ECF Invoice Filing Deadline*<sup>31</sup>

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<sup>27</sup> See *Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company*, CC Docket No. 02-6, WC Docket Nos. 21-93, 06-122, Public Notice, 37 FCC Rcd 7445, 7459 n.25 (WCB 2022) (granting requests for waivers for equipment delivered before the start of the approved funding year).

<sup>28</sup> See *Federal-State Joint Board on Universal Service et al.*, CC Docket No. 96-45 et al., Order on Reconsideration and Fourth Report and Order, 19 FCC Rcd 15252, 15257, para. 15 (2004) (providing that the recovery action is to be directed to the party or parties that committed the rule or statutory violation in question). Consistent with the Commission's decision to adopt the similar appeal and waiver rules that govern all of the Universal Service Fund programs, including the E-Rate program, and to leverage existing E-Rate processes and forms in the Emergency Connectivity Fund program, we rely on E-Rate program precedent to resolve these petitions for waiver of the Emergency Connectivity Fund program rules. See 47 CFR § 54.1710 (a)(1)(xiii) (stating that failure to comply with ECF program rules may result in recovery of funding).

<sup>29</sup> Today's decision is limited to the issue of who is a responsible party for the recovery action that was raised in Quality Education & Development's appeal. We note that there is also a request for review and/or waiver filed by the applicant, Magen Israel Gan Israel Center, appealing the administrator's decision to recover funding for application no. ECF202104588, which remains pending before the Bureau. To the extent Quality Education & Development's filing is also appealing the administrator's decision to recover funding, we make no finding herein and that issue remains pending before us.

<sup>30</sup> See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by ABC Unified School District*, CC Docket No. 02-6, Order, 26 FCC Rcd 11019, para. 2 (WCB 2011) (*ABC Unified School District Order*) (granting waivers of appeal filing deadline when the petitioners submitted their appeals or waiver requests only a few days late or within a reasonable period of time after receiving actual notice of USAC's adverse decision). We make no finding on the underlying issues in these appeals and remand these applications back to USAC to make a determination on the merits. See *supra* note 26.

<sup>31</sup> See, e.g., *Requests for Waiver by Bluum USA Inc et al.; Establishing Emergency Connectivity Fund to Close the Homework Gap*, WC Docket No. 21-93, Order, DA 24-109, paras. 6, 9 (WCB Feb. 6, 2024) (extending the ECF program's invoice filing deadline for first and second application filing window funding requests by 60 days because the applicant or service provider was unable to timely file due to administrative issues). We waive the petitioners' invoice filing deadline and provide 60 days from the release date of this Public Notice to file invoices with USAC.

Freer Independent School District, TX, Application No. ECF202105651, Request for Waiver, WC Docket No. 21-93 (filed Jan. 15, 2024)

Jones Academy, OK, Application No. ECF202109516, Request for Waiver, WC Docket No. 21-93 (filed Feb. 6, 2024)

Mineral Springs Public Schools, Application No. ECF202113556, Request for Waiver, WC Docket No. 21-93 (filed Dec. 15, 2023)

**Contribution Methodology**  
**WC Docket No. 06-122**

Dismissed Without Prejudice

*Request for Waiver of Form 499-A Late Filing Fees*<sup>32</sup> □

MOATiT, LLC, Request for Waiver, WC Docket No. 06-122 (filed Nov. 13, 2023) □ □

Dismissed as Moot

□

*Request for Waiver of Form 499-A Late Filing Fees*<sup>33</sup> □

Ontario Systems LLC, Letter of Appeal, WC Docket No. 06-122 (filed Dec. 11, 2023)

*Request for Waiver of Form 499-Q Revision Deadline and Expungement of Debt*<sup>34</sup> □

Kingsburg Media Foundation, Letter of Appeal, WC Docket No. 06-122 (filed Nov. 1, 2023) □ □

**Rural Health Care Program**  
**WC Docket No. 02-60**

Granted

*Competitive Bidding – Ministerial and/or Clerical Error*<sup>35</sup>

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<sup>32</sup> 47 CFR § 54.721. See, e.g., *Universal Service Contribution Methodology, Request for Review of Decision of Universal Service Administrator and Request for Waiver by CML Communications LLC*, WC Docket No. 06-122, Order, 26 FCC Rcd 335 (WCB 2011); *Universal Service Contribution Methodology, Request for Review of Decision of Universal Service Administrator and Request for Waiver by Alternative Phone, Inc.*, WC Docket No. 06-122, Order, 26 FCC Rcd 6079 (WCB 2011); *Universal Service Contribution Methodology, Request for Review of Decision of Universal Service Administrator by Dorial Telecom LLC*, WC Docket No. 06-122, Order, 26 FCC Rcd 3799 (WCB 2011) (all finding requests procedurally defective for failure to comply with 47 C.F.R. § 54.721).

<sup>33</sup> See *Universal Service Contribution Methodology, Requests for Waiver of Decisions of the Universal Service Administrator by Ambess Enterprises Inc., et al.*, WC Docket No. 06-122, Order, 25 FCC Rcd 3722 (WCB 2010) (*Ambess Enterprises Order*) (dismissing several petitions for waiver of USAC decisions because subsequent USAC action has provided relief sought by petitioners).

<sup>34</sup> See *id.* (dismissing several petitions for waiver of USAC decisions because subsequent USAC action has provided relief sought by petitioners).

<sup>35</sup> See *Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, New Orleans, LA, et al.*, CC Docket No. 02-6, Order, 21 FCC Rcd 5316, 5320 (2006) (granting appeals of decisions by USAC due to minor clerical or ministerial errors in the applications). When Compass submitted its FCC Form

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Compass Health, Inc., MO, Request for Review, WC Docket No. 02-60, Funding Request No. RHC20230021890 (filed Nov. 16, 2023)

*Service Provider Identification Number Change Request*<sup>36</sup>

Palmetto State Providers Network, SC, Petition for Reconsideration, WC Docket No. 02-60, Funding Request No. RHC20220012612 (filed Jan. 31, 2024)

*Waiver of Appeal Filing Deadline*<sup>37</sup>

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462, it mistakenly selected the competitive bidding exemption of “Annual Undiscounted Cost of \$10,000 or less” when in fact no competitive bidding exemption applied. See 47 CFR § 54.622(a). Compass received no bids in response to its request for Healthcare Connect Fund Program supported services to its Osceola site for funding year 2023. Compass then selected a service provider of its choosing. Accordingly, we find that Compass properly selected a service provider according to program rules, and that the mistaken indication of a bidding exemption amounts to a harmless error. We therefore grant Compass’ appeal and remand the funding request to USAC for further action. See *Promoting Telehealth in Rural America*, WC Docket No. 17-310, Report and Order, 34 FCC Rcd 7335, 7376, n.186 (*Promoting Telehealth Report and Order*) (stating that, when no bids are received, the health care provider has the option to “(1) repost the [Request for Services] for an additional 28 days to solicit bids; (2) use a current contract as a ‘standing bid’ to obtain the requested service or equipment; or (3) select a service provider of its choosing.”).

<sup>36</sup> See *Requests for Review of Decisions of the Universal Service Administrator by Bay Shore Union Free School District, et al.*, Schools and Libraries Universal Service Support Mechanism, et al., CC Docket No. 02-6, Order, 23 FCC Rcd 15537, 15540, para. 8 (WCB 2008) (permitting a service provider change in the E-rate program when the original service provider was unable to provide the requested services and all other program requirements were met.). We find on reconsideration that the petitioner’s request meets the RHC Program requirements for a service provider identification number (SPIN) change. See 47 CFR § 54.625(b)(1) – (2) (permitting a SPIN change when “[t]he applicant has a legitimate reason to change providers (e.g., breach of contract or the service provider is unable to perform)” and the “applicant’s newly selected service provider received the next highest point value in the original bid evaluation, assuming there were multiple bidders.”). Palmetto State Providers Network (PSPN) received no bids in response to its Request for Services to its Stonewall Jackson Memorial Hospital site for funding year 2022 and selected its original service provider, CDW Government, LLC (CDW), to provide the equipment. PSPN accepted equipment pricing that was then available pursuant to an existing contractual relationship with CDW. USAC issued a Funding Commitment Letter (“FCL”) to PSPN, approving funding for eligible equipment to be provided by CDW. After issuance of the FCL, CDW no longer could provide the equipment at the contracted price. Because there were no bids for Healthcare Connect Fund services, PSPN then selected a service provider of its own choosing that could provide the equipment. See *Promoting Telehealth Report and Order*, 34 FCC Rcd at 7376, n.186 (stating that, when no bids are received, the health care provider has the option to “(1) repost the [Request for Services] for an additional 28 days to solicit bids; (2) use a current contract as a ‘standing bid’ to obtain the requested service or equipment; or (3) select a service provider of its choosing.”). Accordingly, we find that PSPN has a legitimate reason for an operational SPIN change because the service provider was unable to perform, and PSPN properly selected a new service provider.

<sup>37</sup> See *Rural Health Care Support Mechanism; Promoting Telehealth in Rural America*, WC Docket Nos. 02-60 and 17-310, Order, 36 FCC Rcd 7051, 7063, para. 32 (WCB 2021) (noting that “[a] petitioner may seek a waiver of the deadline to file an appeal or waiver request if it reasonably attempted to meet the deadline but was unable to do so due to the COVID-19 pandemic and it filed within a reasonable amount of time after the deadline.”); *Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company*, CC Docket No. 02-6, WC Docket Nos. 06-122, 21-93, 02-60, and 18-213, Public Notice, DA 23-557, 2023 WL 4318190, at \*10 & n.36 (WCB 2023) (granting 60-day appeal deadline waiver because the petitioner faced unprecedented challenges caused by the COVID-19 pandemic). We grant Parkview’s request for waiver of the 60-day appeal filing deadline because Parkview’s failure to appeal the funding end date in the Funding Commitment Letter dated August 12, 2021 occurred during its peak COVID-19 hospital admissions and its severe staffing shortage related to the COVID-19 pandemic. We make no finding on the underlying substantive issues in this appeal and remand to USAC to

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Electric Plant Board of the City of Franklin (Medical Center Primary Care – Franklin & Medical Center – Franklin), KY, Request for Waiver, WC Docket No. 02-60, Funding Request Nos. RHC20220001596, RHC20220002755 (filed Feb. 22, 2024)

First Communications, Inc. (Morris Hospital, IL & Trinity Health Consortium, MI), Request for Waiver, WC Docket No. 02-60, Funding Request Nos. RHC20220012802, RHC20220010305 (filed Feb. 2, 2024)

Florida Broadband, Inc. (The Cleveland Clinic Foundation Consortium), FL, Request for Waiver, WC Docket No. 02-60, Funding Request No. RHC20220007399 (filed Feb. 26, 2024)<sup>41</sup>

Guadalupe Valley Electric Cooperative, Inc. (GCMH – Sievers Medical Clinic – Shiner, Gonzales County Memorial Hospital – Sievers Medical Clinic & Connally Urgent Care Center), TX, Request for Waiver, WC Docket No. 02-60, Funding Request Nos. RHC20220001252, RHC20220001250, RHC20220001006 (filed Feb. 22, 2024)

Guttenberg Municipal Hospital & Humboldt County Memorial Hospital, IA, Request for Waiver, WC Docket No. 02-60, Funding Request Nos. RHC 202200029991, RHC20220002992, RHC20220002993, RHC 20220002994, RHC 20220003494 (filed Feb. 23, 2024)

Health Group Telecommunications, Inc. (Corry Memorial Hospital, Lecom Health, Lecom - Northwestern Area Health Center & Lecom - Waterford Family Practice), PA, Request for Waiver, WC Docket No. 02-60, All Funding Request Numbers for Funding Year 2022 (filed Feb. 25, 2024)

HNC Services (Guttenberg Municipal Hospital & Humboldt County Memorial Hospital), IA, Request for Waiver, WC Docket No. 02-60, Funding Request Nos. RHC20220003491, RHC20220003492, RHC20220002993, RHC20220002994, RHC20220003494 (filed Feb. 26, 2024)

Kinetix Broadband (Lasalle Hospital Service District #1 d/b/a Hardtner Medical Center), LA, Request for Waiver, WC Docket No. 02-60, Funding Request No. RHC20220012376 (filed Feb. 23, 2024)

MNW Telecom Inc (Goshen Health Hospital), IN, Request for Waiver, WC Docket No. 02-60, All Funding Request Numbers for Funding Year 2022 (filed Feb. 20, 2024)

New England Telehealth Consortium, NH, Request for Waiver, WC Docket No. 02-60, Funding Request No. RHC20220010853 (Feb. 26, 2024)

Panhandle Telephone Cooperative, Inc. (Ochiltree General Hospital), TX, Request for Waiver, WC Docket No. 02-60, Funding Request No. 2221787 (filed Feb. 20, 2024)

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<sup>40</sup> In addition to the funding requests listed in this entry, the petitioner's filing sought waiver for other funding requests that received a waiver of the invoice filing deadline in other entries in this Public Notice.

<sup>41</sup> In addition to the funding requests listed in this entry, the petitioner's filing sought waiver for other funding requests that received a waiver of the invoice filing deadline in other entries in this Public Notice.

River Hills Community Health Center, IA, Request for Waiver, WC Docket No. 02-60, Funding Request No. RHC20220009136 (filed Feb. 23, 2024)

Denied

*Competitive Bidding*<sup>42</sup>

Lakes Regional Community Center, TX, Request for Review, WC Docket No. 02-60, Funding Request No. 19620971 (filed Aug. 30, 2021)

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>42</sup> See *Request for Review, Franciscan Skemp Waukon Clinic, Waukon, Iowa, Rural Health Care Universal Service Support Mechanism*, WC Docket No. 02-60, Order, 29 FCC Rcd 11714, 11717 (WCB 2014) (holding that, under the *Kalamazoo* precedent, an applicant failed to comply with the Commission's competitive bidding requirements where the agreement with its selected service provider was entered into before the Allowable Contract Selection Date (ACSD) but provided for new services that were not a continuation of services from the previous funding year). See also *Request for Review of the Decision of the Universal Service Administrator by Kalamazoo Public Schools, Kalamazoo, Michigan, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket Nos. 96-45 and 97-21, Order on Reconsideration, 17 FCC Rcd 22154, 22157-58 (WCB 2002) (*Kalamazoo*) (holding that an applicant may use a contract entered into before the ACSD as a standing bid if: (1) the applicant is choosing to continue service under an existing contract; (2) the applicant competitively bid the services for the new funding year; and (3) the applicant decides, after reviewing the competitive bids, to continue with the existing contract). Lakes Regional Community Center (LRCC) filed an FCC Form 461 requesting bids for funding year 2019 services. The request was posted on February 25, 2019, thereby establishing an ACSD of March 26, 2019. Three bids were received, to which LRCC added as a "standing bid" a service agreement that it signed in June 2018 for services set to commence in April 2019 at the earliest. LRCC selected the service provider with the standing bid, but because this agreement was entered into before the ACSD and because LRCC was not continuing services under this agreement because the services had not commenced, the agreement may not serve as a standing bid consistent with the Commission's competitive bidding rules.