

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of
Requests for Waiver and Review of
Decisions of the
Universal Service Administrator by
Mary Queen of Martyrs
Milwaukee, WI, et al.
Schools and Libraries Universal Service
Support Mechanism
File Nos. SLD-497760, et al.
CC Docket No. 02-6

ORDER

Adopted: March 6, 2012

Released: March 6, 2012

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

1. We grant two requests from petitioners' seeking review of decisions made by the Universal Service Administrative Company (USAC) under the E-rate program (more formally known as the schools and libraries universal service support program). Specifically, USAC denied the petitioners' applications because it found that the petitioners failed to provide a letter of agency for consultant services rendered on their behalf or that their consultant services were rendered before their letters of agency were executed.

2. Commission rules do not require E-rate applicants to have a contract or agreement with a company or person providing E-rate consulting services. USAC may request confirmation, such as a letter of agency, from an applicant that a consultant has the authority to respond to USAC questions on its behalf. However, Commission rules do not require such a letter to be signed before the E-rate consulting services are provided. As such, the petitioners identified herein were not required to have signed letters of agency with their consultants.

3. On our own motion, we also waive section 54.507(d) of the Commission's rules and any USAC procedural deadlines, such as the invoicing deadline, that might be necessary to effectuate our

1 See Letter from Barbara O'Donnell, Principal, Mary Queen of Martyrs, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 06-2 (filed Mar. 26, 2007) (regarding funding year 2006 FCC Form 471 application number 497760); Letter from William Campbell, Director of Administrative Technology, Norwalk La Mirada Unified School District, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 06-2 (filed Nov. 1, 2007) (regarding funding year 2004 FCC Form 471 application number 422263 and funding year 2005 FCC Form 471 application number 464266).

2 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).

3 See Email from Dana Shaffer, Bureau Chief, Wireline Competition Bureau, to Scott Barash, Schools and Libraries Division, Universal Service Administrative Company (dated Sept. 13, 2007) (explaining that the Commission's rules and precedent do not require applicants to have a consulting agreement with their consultant and, therefore, USAC should not deny an application based solely on the lack of a consulting agreement).

ruling.⁴ We find good cause to waive section 54.507(d) because filing an appeal of a denial is likely to cause petitioners to miss the program's subsequent procedural deadlines in that funding year.

4. We therefore remand the underlying applications to USAC for further action consistent with this order. To ensure that the underlying applications are resolved expeditiously, we direct USAC to complete its review of each application identified herein and issue an award or a denial based on a complete review and analysis no later than 90 calendar days from the release date of this order. In remanding these applications to USAC, we make no finding as to the ultimate eligibility of the services or the petitioners' applications.

5. ACCORDINGLY, IT IS ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 0.91, 0.291, 1.3 and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3 and 54.722(a), the requests for review or requests for waiver filed by Mary Queen of Martyrs and Norwalk La Mirada Unified School District ARE GRANTED and their underlying applications ARE REMANDED to USAC for further consideration in accordance with the terms of this order.

6. 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 0.91, 0.291, 1.3 and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3 and 54.722(a), that section 54.507(d) of the Commission's rules, 47 C.F.R. § 54.507(d), IS WAIVED for Mary Queen of Martyrs and Norwalk La Mirada Unified School District to the limited extent provided herein.

FEDERAL COMMUNICATIONS COMMISSION

Gina M. Spade
Deputy Chief
Telecommunications Access Policy Division
Wireline Competition Bureau

⁴ 47 C.F.R. § 54.507(d) (requiring non-recurring services to be implemented by September 30 following the close of the funding year).