

**Before the
Federal Communications Commission
Washington, DC 20554**

| | | |
|---|---|-------------------------------|
| In the Matter of |) | |
| |) | |
| Requests for Review and Waiver of Decisions |) | |
| of the Universal Service Administrator by |) | |
| |) | |
| State of Arkansas |) | |
| Department of Information Systems |) | File Nos. SLD-395179, 414047, |
| Little Rock, Arkansas, <i>et al.</i> |) | 430652, 446008, <i>et al.</i> |
| |) | |
| Schools and Libraries Universal Service |) | CC Docket No. 02-6 |
| Support Mechanism |) | |

ORDER

Adopted: June 13, 2008

Released: June 13, 2008

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

I. INTRODUCTION

1. In this order, we grant two appeals of decisions by the Universal Service Administrative Company (USAC) filed by the State of Arkansas Department of Information Systems (Arkansas DIS) on behalf of itself and 15 other school and library applicants within the state of Arkansas.¹ USAC denied 60 requests for funding from these 16 applicants on the grounds that the applicants failed to timely submit an FCC Form 471, FCC Form 486, or FCC Form 472 for Funding Years (FYs) 2004 and 2005 under the schools and libraries universal service support mechanism, also known as the E-rate program.² Upon review of these records, we find that the issue raised in the first appeal relating to 59 of the funding requests was addressed by the Wireline Competition Bureau (Bureau) in the *Alaska Gateway Order*.³ We find that the issue raised in the second appeal relating to one funding request was addressed by the

¹ Letters from Becky Rains, State of Arkansas Department of Information Systems, to Federal Communications Commission, CC Docket No. 02-6 (filed Dec. 13, 2005 and Oct. 5, 2007) (FY 2004 Arkansas DIS Request for Waiver); Letter from Becky Rains, State of Arkansas Department of Information Systems, to Federal Communications Commission, CC Docket No. 02-6 (filed July 21, 2006) (FY 2005 Arkansas DIS Request for Review and Waiver) (collectively, Arkansas DIS Requests for Review). The relevant applicants, application numbers, and funding request numbers (FRNs) are attached at Appendices A and B. In this order, we use the term “appeals” to generally refer to requests for review of decisions by USAC. 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 Funding Years start July 1st and run through June 30th of the following year.

³ See *Request for Review of the Decision of the Universal Service Administrator by Alaska Gateway School District, Tok, AK, et al., Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-412028, *et al.*, CC Docket No. 02-6, Order, 21 FCC Rcd 10182 (Wireline Comp. Bur. 2006) (*Alaska Gateway Order*) (finding good cause to waive USAC’s FCC Form 486 filing deadline for several applicants).

Commission in the *Bishop Perry Order*.⁴ Therefore, we remand the underlying applications to USAC for further action consistent with the *Alaska Gateway Order* and the *Bishop Perry Order*. To ensure that the underlying applications are resolved expeditiously, we direct USAC to complete its review of each application listed in Appendices A and B and issue an award or a denial based on a complete review and analysis no later than October 31, 2008 for those applications listed in Appendix A and no later than 30 calendar days after the release date of this order for the application listed in Appendix B.⁵

II. BACKGROUND

2. 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.⁶ Once the school or library has complied with the Commission's competitive bidding requirements and entered into an agreement for eligible services, it must file an FCC Form 471 application to notify USAC of the services that have been ordered, the service providers with whom the applicant has entered into an agreement, and an estimate of the funds needed to cover the discounts to be given for eligible services.⁷ After the FCC Form 471 has been processed, USAC then issues a funding commitment decision letter indicating the funding, if any, the applicant is approved to receive.⁸

3. After the funding year begins and the applicant begins receiving services at the discounted rate, the applicant submits an FCC Form 486 to USAC. The FCC Form 486 indicates that the service has begun, specifies the service start date and demonstrates that the applicant has received approval of its technology plans.⁹ The timely submission of an FCC Form 486 ensures that disbursements for discounts on eligible services occur in a prompt and efficient manner. Because the FCC Form 486 indicates the actual service start date, USAC will only issue disbursements to the service provider for discounts on eligible services after receipt of the form.¹⁰ The FCC Form 486 must be

⁴ *Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, New Orleans, LA, et al., Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-487170, et al., CC Docket No. 02-6, Order, 21 FCC Rcd 5316 (2006) (*Bishop Perry Order*) (waiving the Commission's rules to allow applicants additional time to file their FCC Forms 471).

⁵ In performing a complete review and analysis of each underlying application, USAC shall either grant the underlying application before it, or, if denying the application, provide the applicant with any and all grounds for denial.

⁶ 47 C.F.R. §§ 54.501-54.503.

⁷ 47 C.F.R. § 54.504(c); see, e.g., *Schools and Libraries Universal Service, Services Ordered and Certification Form*, OMB 3060-0806 (November 2004) (FCC Form 471).

⁸ Each funding request listed on an applicant's FCC Form 471 must include a description of the products and services for which discounts are sought. This description is known as an "Item 21 Attachment." USAC website, Item 21 Attachments for Form 471, <http://www.universalservice.org/sl/applicants/step07/form471-attachments.aspx> (retrieved May 26, 2008).

⁹ *Instructions for Completing the Schools and Libraries Universal Service, Receipt of Service Confirmation Form* (FCC Form 486), OMB 3060-0853 at 2 (August 2003) (FCC Form 486 Instructions).

¹⁰ See, e.g., FCC Form 486 Instructions at 2; see also *Federal-State Joint Board on Universal Service, Children's Internet Protection Act*, CC Docket No. 96-45, Order, 17 FCC Rcd 12443, 12444, para. 4 (2002) (*CIPA II Order*); 47 C.F.R. § 54.520. Under the Children's Internet Protection Act (CIPA) and the Neighborhood Children's Internet Protection Act (NCIPA), Congress imposed new conditions on schools with Internet access that request discounted

(continued....)

postmarked no later than 120 days after the date service began, or no later than 120 days after the date of the funding commitment decision letter, whichever is later, to receive discounts retroactively to the service start date.¹¹ If the FCC Form 486 is filed after the later of these deadlines, the start date for discounted services resets to 120 days before the postmark date of the late-filed FCC Form 486.¹² No funding is provided for services rendered prior to the new start date and funding commitments are reduced for the relevant funding request.¹³

4. After the eligible services have been delivered, the applicant determines which payment method to use to secure reimbursement from USAC for the services rendered under the E-rate program.¹⁴ If the applicant pays the full cost of the services, then the applicant must submit an FCC Form 472, Billed Entity Application for Reimbursement (BEAR) invoice form, to secure reimbursement from USAC.¹⁵ If the applicant pays only the reduced cost of the services, then the service provider must file an FCC Form 474, Service Provider Invoice (SPI) form, to receive its reimbursement.¹⁶ Based on information provided on the FCC Form 472 or the FCC Form 474, USAC remits the E-rate support payments to the service provider.¹⁷ Service providers reimbursing applicants (billed entities) via the BEAR process must remit the amount authorized by USAC to the billed entity within 20 business days of receiving the reimbursement payment.¹⁸ The relevant invoice forms must be postmarked no later than 120 days after

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services under the E-rate program. 47 U.S.C. § 254(h)(5), 254(l). Schools seeking E-rate funding for Internet access or internal connections services must certify that they comply with these conditions on the FCC Form 486.

¹¹ *CIPA II Order*, 17 FCC Rcd at 12445, para. 5; FCC Form 486 Instructions at 6. Upon successful data entry of the FCC Form 486 and the FCC Form 486 certifications, USAC will issue an FCC Form 486 Notification Letter (FCC Form 486 NL) to both the applicant and service provider(s). USAC website, Form 486 Filing Information, <http://www.universalservice.org/sl/applicants/step10/form486-filing-information.aspx> (retrieved May 26, 2008).

¹² *CIPA II Order*, 17 FCC Rcd at 12445, para. 5; FCC Form 486 Instructions at 6.

¹³ *CIPA II Order*, 17 FCC Rcd at 12445, para. 5; FCC Form 486 Instructions at 6.

¹⁴ See *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, 9217-19, paras. 44-50 (2003) (*Second Report and Order*); see also USAC website, FCC Form 472 Billed Entity Applicant Reimbursement (BEAR) Filing Guidance, <http://www.sl.universalservice.org/reference/8bear.asp> (retrieved May 26, 2008); USAC website, Invoice Filing Information USAC, <http://www.universalservice.org/sl/applicants/step11/> (retrieved May 26, 2008). Beginning July 1, 2004, the Commission's rules require the service provider to allow the applicant to select the payment method governing the payment for services rendered in accordance with the E-rate program. See 47 C.F.R. § 54.514 (b).

¹⁵ USAC website, FCC Form 472, BEAR Form, <http://www.universalservice.org/res/documents/sl/pdf/472.pdf>, (retrieved May 26, 2008).

¹⁶ USAC website, FCC Form 474, SPI Form, <http://www.universalservice.org/res/documents/sl/pdf/474.pdf>, (retrieved May 26, 2008).

¹⁷ See *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Notice of Proposed Rulemaking, 17 FCC Rcd 1914, 1919, para. 9; see also *Second Report and Order*, 18 FCC Rcd at 9217, para. 42.

¹⁸ See 47 C.F.R. § 54.514(b); see also *Second Report and Order*, 18 FCC Rcd at 9219, para. 51.

the date of the FCC Form 486 NL or 120 days after the last day to receive service, whichever is later.¹⁹ An applicant may request an extension of the filing deadline.²⁰

5. The Arkansas DIS submitted two appeals of decisions by USAC denying 60 requests for funding from 16 applicants on the grounds that they failed to timely submit an FCC Form 471, FCC Form 486, or FCC Form 472 for FYs 2004 and 2005 under the E-rate program. In its requests for review and waiver, the Arkansas DIS argues, on behalf of itself and 15 other applicants, that the untimely or missed filings were the result of either clerical, ministerial, or procedural errors on the part of staff members.²¹

III. DISCUSSION

6. We grant Arkansas DIS' requests for review and waiver.²² We consider these two requests separately below.²³

7. FY 2004 Applications Denied for Untimely Filed or Missing FCC Forms 486 or 472. Arkansas DIS requests a waiver of the FCC Form 486 or FCC Form 472 filing deadlines for itself and 14 other applicants for FY 2004.²⁴ The requests for funding were denied or reduced because USAC found that the FCC Forms 486 or FCC Forms 472 were filed late or not filed at all.²⁵ Arkansas DIS argues that the late or missed filings were a result of E-rate personnel changes and confusion with E-rate program rules.²⁶

¹⁹ See USAC website, Invoice Deadlines and Extension Requests, <http://www.universalservice.org/sl/applicants/step11/invoice-deadlines-extension-requests.aspx> (retrieved May 26, 2008); *supra* n.11 (describing the FCC Form 486 NL).

²⁰ See <http://www.universalservice.org/sl/applicants/step11/invoice-deadlines-extension-requests.aspx> (retrieved May 26, 2008).

²¹ See Arkansas DIS Requests for Review.

²² 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). 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.

²³ We estimate that the appeals granted in this order involve applications for approximately \$6.6 million in funding. We note that USAC has already reserved sufficient funds to address the outstanding appeals. Universal Service Administrative Company, Federal Universal Service Support Mechanisms Fund Size Projections for the Third Quarter 2008 (May 2, 2008). Thus, we determine that the action we take today should have minimal impact on the universal service fund as a whole.

²⁴ See FY 2004 Arkansas DIS Request for Waiver; Appendix A.

²⁵ See FY 2004 Arkansas DIS Request for Waiver.

²⁶ *Id.*

8. Consistent with precedent,²⁷ and based on the facts and the circumstances of these specific cases, we find that good cause exists to waive the deadline for filing the FCC Forms 486 and any subsequent deadlines, such as the deadline for submitting the FCC Forms 472, for the processing of the underlying applications associated with this request.²⁸ Generally, Arkansas DIS claims that staff mistakes or confusion resulted in missing the FCC Form 486 or FCC Form 472 deadlines, or untimely filing the FCC Form 486.²⁹ As the Bureau found in the *Alaska Gateway Order*, given that the applicants missed a USAC procedural deadline and did not violate a Commission rule, we find that the complete rejection of each of these applications is not warranted.³⁰ We note that the primary jobs of most of the people filling out these forms include school administrators, technology coordinators and teachers, as opposed to staff dedicated to pursuing federal grants, especially in small school districts or libraries. Thus, even when a school or library official becomes adept at the application process, unforeseen events or emergencies may delay filings in the event there is no other person proficient enough to complete the forms. Furthermore, some of the errors may have been caused by third parties or unforeseen events and therefore were not the fault of these applicants. Notably, at this time, there is no evidence of waste, fraud or abuse, misuse of funds, or a failure to adhere to core program requirements. Accordingly, we grant Arkansas DIS' request for waiver of the FCC Form 486 and FCC Form 472 filing deadlines and remand the underlying applications to USAC for further processing consistent with this order. We direct USAC to complete its review of each application listed in Appendix A and issue an award or a denial based on a complete review and analysis no later than November 30, 2008.³¹

9. During this period, we direct USAC to contact the applicants at issue to identify those schools and libraries that did not file their FCC Forms 486 within 120 days from the date of their funding commitment decision letter or service start date, whichever is later, or their FCC Form 472 within the relevant timeframe.³² Consistent with the Bureau's direction in the *Alaska Gateway Order*, the purpose of this outreach effort is to provide the applicants with an opportunity to file their FCC Forms 486 or 472.³³ Since many of the schools at issue, however, are not in session during the summer months, applicants will have until October 31, 2008 to submit complete and accurate information to USAC.

10. We emphasize, however, the limited nature of this decision. Because the FCC Form 486 contains the CIPA certification, all applicants must file this form with USAC.³⁴ Furthermore, we recognize that filing deadlines are necessary for the efficient administration of the E-rate program. Thus, while we grant this request as it pertains to these applicants and waive the deadline for filing the FCC Forms 486, we do not waive the requirement of the filing itself. We continue to require E-rate applicants

²⁷ See *Alaska Gateway Order*, 21 FCC Rcd 10182.

²⁸ See Appendix A. Because we waive the FCC Form 486 deadline, applicants should receive funding from their actual service start date.

²⁹ See FY 2004 Arkansas DIS Request for Review.

³⁰ *Alaska Gateway Order*, 21 FCC Rcd at 10185-86, para. 7.

³¹ In performing a complete review and analysis of each underlying application, USAC shall either grant the underlying application before it, or, if denying the application, provide the applicant with any and all grounds for denial.

³² The service start date can be determined from Block 5 of the applicant's FCC Form 471.

³³ See *Alaska Gateway Order*, 21 FCC Rcd 10182.

³⁴ See *supra* n.10.

to submit complete and accurate information to USAC as part of the application and invoice review process. Thus, we remind applicants that it is incumbent upon them, if they seek reimbursement of payments for services rendered, to file complete and accurate FCC Forms 486 and FCC Forms 472 with USAC.³⁵ Further, in remanding these applications to USAC, we make no finding as to the ultimate eligibility of the requested services.³⁶

11. *FY 2005 Application Denied for an Untimely Filed FCC Form 471.* On February 15, 2005, Arkansas DIS filed an FCC Form 471 requesting \$27,614.00 a month for FRN 1342094 for FY 2005.³⁷ On March 8, 2005, USAC sent an FCC Form 471 Receipt Acknowledgment Letter (RAL) to Arkansas DIS.³⁸ Arkansas DIS claims that, instead of \$27,614.00 a month, the FCC Form 471 should have requested \$489,993.86 per month—a post-discount difference of more than \$4.1 million over the course of the funding year.³⁹ On May 4, 2005, Arkansas DIS filed a letter with USAC seeking an investigation into the amount entered for FRN 1342094.⁴⁰ USAC responded by noting that there were no changes to the data entered into the system for the FRN at issue and that the numbers appearing for this application “are the numbers that were entered as the application was prepared online.”⁴¹ On May 9, 2005, Arkansas DIS filed another FCC Form 471 requesting the proper amount of funding of \$489,993.86 per month.⁴² Since this request was filed after the window for filing FY 2005 applications had closed, it was denied by USAC on May 17, 2005.⁴³ On June 7, 2005, Arkansas DIS submitted an Item 21 Attachment for its initial FCC Form 471 (Application No. 446008), demonstrating that it was seeking approximately \$4.6 million in pre-discount funding for a wide area network with Southwestern Bell Company.⁴⁴ Despite the Item 21 Attachment submitted by Arkansas DIS showing that the services were

³⁵ Although applicants are generally given an opportunity to file a request for an extension of the invoice deadline with USAC, no further extensions, other than the extension provided above, will be provided to these applicants. *See supra* para. 4. We find that the extension provided above is an adequate amount of time to provide these applicants with an opportunity to file the FCC Form 472.

³⁶ 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.

³⁷ FY 2005 Request for Review and Waiver at 2; FCC Form 471, State of Arkansas Department of Information Systems (Application No. 446008) (cert. Feb. 18, 2005). The total funding commitment request for this FRN was \$269,226.00. *See id.* at Block 5.

³⁸ Letter from USAC, Schools and Libraries Division, to Becky Rains, State of Arkansas Department of Information Systems (dated Mar. 8, 2005) (RAL).

³⁹ FY 2005 Request for Review and Waiver at 2.

⁴⁰ Letter from Becky Rains, State of Arkansas Department of Information Systems, to USAC, Schools and Libraries Division, (dated May 4, 2005) (RAL Request).

⁴¹ E-mail from USAC, Schools and Libraries Division, to Becky Rains, State of Arkansas Department of Information Systems (dated May 10, 2005).

⁴² *Id.* at 3; FCC Form 471, State of Arkansas Department of Information Systems (Application No. 489075) (cert. May 9, 2005). The total funding commitment request for this FRN was \$4,440,004.74. *See id.* at Block 5.

⁴³ Letter from USAC, Schools and Libraries Division, to Becky Rains, State of Arkansas Department of Information Systems (dated May 17, 2005). The FY 2005 application filing window opened on December 14, 2004, and closed on February 18, 2005.

⁴⁴ E-mail from Becky Rains, State of Arkansas Department of Information Systems, to USAC, Schools and Libraries Division (attaching an Item 21 Attachment for FCC Form 471, Application No. 446008) (dated June 7, 2005).

approximately \$490,000.00 per month, the originally submitted funding request for approximately \$27,600.00 a month was approved by USAC in a funding commitment decision letter issued on February 8, 2006.⁴⁵ Arkansas DIS then filed the instant request for review and waiver with the Commission on July 21, 2006.⁴⁶ Arkansas DIS states that the error on its initial FCC Form 471 (Application No. 446008) was a ministerial and clerical error and that it should be allowed the opportunity to correct such error.⁴⁷ Additionally, Arkansas DIS requests a waiver of the filing deadline for the subsequent FCC Form 471 (Application No. 489075) to allow it to submit the corrected FCC Form 471 outside the filing window.⁴⁸

12. Consistent with precedent,⁴⁹ and based on the facts and circumstances of this case, we find that good cause exists to waive the deadline for filing the FCC Form 471 found in section 54.507 of the Commission's rules.⁵⁰ In this instance, Arkansas DIS committed an error in completing its initial FCC Form 471 submission by mistakenly including an incorrect funding request amount. Arkansas subsequently realized its error and took steps to correct its error by filing an accurate FCC Form 471 and an Item 21 Attachment as part of its initial FCC Form 471 submission demonstrating the actual amount it was seeking in funding for the requested services.⁵¹ Based on the record before us, we thus find that the mistake at issue here is sufficiently similar to those in the *Bishop Perry Order*, warranting a waiver of the Commission's rules. As the Commission noted in the *Bishop Perry Order*, many E-rate program beneficiaries, particularly small entities, contend that the application process is complicated, resulting in a significant number of applications for E-rate support being denied for ministerial, clerical or procedural errors.⁵² Therefore, as in the *Bishop Perry Order*, we find that the complete rejection of this application is not warranted, given that the violation at issue is procedural, not substantive.⁵³ Like the applicants in the *Bishop Perry Order*, Arkansas DIS has demonstrated that rigid adherence to filing procedures does not further the purposes of section 254(h) of the Communications Act of 1934, as amended (the Act), or serve the public interest.⁵⁴ Specifically, section 254 of the Act directs the Commission to "enhance . . . access to advanced telecommunications and information services for all public and non-profit elementary and secondary school classrooms, health care providers and libraries."⁵⁵ Because Arkansas DIS, who is eligible for funding, will now receive the opportunity for that funding where previously it was denied for minor errors, we believe that granting this waiver, in this instance, furthers the goals of section 254 of the Act. We also find that a denial of funding in this instance inflicts undue hardship on the applicant. In

⁴⁵ Letter from USAC, Schools and Libraries Division, to Becky Rains, State of Arkansas Department of Information Systems (dated Feb. 8, 2006).

⁴⁶ See FY 2005 Request for Review and Waiver.

⁴⁷ *Id.* at 3.

⁴⁸ *Id.* at 3-4.

⁴⁹ See *Bishop Perry Order*, 21 FCC Rcd 5316.

⁵⁰ See 47 C.F.R. § 54.507(c).

⁵¹ See *supra* para. 8.

⁵² See *Bishop Perry Order*, 21 FCC Rcd at 5316-17, para. 2.

⁵³ *Id.* at 5323, para. 14.

⁵⁴ See 47 U.S.C. § 254(h). The Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, amended the Communications Act of 1934.

⁵⁵ See 47 U.S.C. § 254(h).

addition, at this time, there is no evidence of waste, fraud or abuse, misuse of funds, or a failure to adhere to core program requirements. We therefore grant Arkansas DIS' request for review and waiver with respect to FRN 1342094 and remand the underlying application to USAC for further processing consistent with this order. In remanding this application to USAC, we make no finding as to the ultimate eligibility of the requested services. To ensure that the underlying application is resolved expeditiously, we direct USAC to complete its review of the underlying application listed in Appendix B and issue an award or a denial based on a complete review and analysis no later than 30 calendar days from the release date of this order.⁵⁶

13. 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 requests for review and waiver addressed here, this action does not affect the authority of the Commission or USAC to conduct audits or investigations to determine compliance with the E-rate program rules and requirements. Because audits or investigations may provide information showing that a beneficiary or service provider failed to comply with the statute or the Commission's rules, such proceedings can reveal instances in which universal service funds were disbursed improperly or in a manner inconsistent with the statute or the 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

14. 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 pursuant to authority delegated in 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 the Arkansas requests for review and waiver filed on behalf of itself and the applicants as listed in Appendices A and B ARE GRANTED and the underlying applications ARE REMANDED to USAC for further processing consistent with this order.

15. 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 pursuant to authority delegated in 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 the requirements contained in sections 54.504(c) and 54.507(c) of the Commission's rules, section 47 C.F.R. §§ 54.504(c) and 54.507(c), ARE WAIVED as described herein.

16. IT IS FURTHER ORDERED that, 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 pursuant to authority delegated in sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, USAC SHALL COMPLETE its review of each remanded application listed in Appendix A and ISSUE an award or a denial based on a complete review and analysis no later than October 31, 2008.

⁵⁶ In performing a complete review and analysis of the underlying application, USAC shall either grant the underlying application before it, or, if denying the application, provide the applicant with any and all grounds for denial.

17. IT IS FURTHER ORDERED that, 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 pursuant to authority delegated in sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, USAC SHALL COMPLETE its review of the remanded application listed in Appendix B and ISSUE an award or a denial based on a complete review and analysis no later than 30 calendar days from the release date of this order.

18. IT IS FURTHER ORDERED, pursuant to section 1.102(b)(1) of the Commission's rules, 47 C.F.R. § 1.102(b)(1), that this order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Jennifer K. McKee
Acting Chief
Telecommunications Access Policy Division
Wireline Competition Bureau

APPENDIX A

FY 2004 Applications Denied for Untimely Filed or Missing FCC Forms 486 or 472

| Applicant Name | Application Number | FRNs | Service Provider Name |
|---|---------------------------|--|--|
| Bradley Public School District Bradley, AR | 408300 | 1120375 | Walnut Hill Telephone Company |
| City of Springdale Springdale, AR | 422734 | 1165933 | Southwestern Bell Telephone Company |
| Conway Public School District 1 Conway, AR | 390688 | 1070482 | ALLTEL Communications, Inc. |
| Corning Branch Library Corning, AR | 412631 | 1132224 | CenturyTel of Central Arkansas, LLC |
| Dover Public School District 17 Dover, AR | 405023 | 1131429, 1131519, 1131878, 1131940, 1131699, 1131897, 1140232, 1140276, 1140409, 1140453, 1140520, 1140549 | CenturyTel of Arkansas, Inc. Cingular Wireless, Inc. |
| Dumas Public School District Dumas, AR | 422209 | 1172346 | AT&T Corp. |
| Dumas Public School District Dumas, AR | 424462 | 1172843 | Cingular Wireless, Inc. |
| Eudora School District Eudora, AR | 427864 | 1188100, 1188163 | Southwestern Bell Communications Services, Inc. Southwestern Bell Telephone Company |
| Nettleton Public School District Jonesboro, AR | 422219 | 1178293 | Dell Marketing LP |
| Ouachita Public School District 1 Woodstock, GA | 388929 | 1066881 | MCI Communications Corporation |
| Ozark Public School District 14 Ozark, AR | 408684 | 1120225 | CenturyTel of Central Arkansas, LLC |
| Randolph County School District 1 Ravenden Springs, AR | 402769 | 1102121 | CenturyTel of Central Arkansas, LLC |
| Riverview School District | 401644 | 1100316 | AT&T Corp. |

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| Searcy, AR | | | |
| Shirley Public School District Shirley, AR | 397766 | 1101605, 1115802 | Arkansas Telephone Company Cingular Wireless, Inc. |
| State of Arkansas Department of Information Systems Little Rock, AR | 395179 | 1360822, 1360808, 1360810 | Windstream Communications, Inc. Central Arkansas Telephone Co-Operative, Inc. Northern Arkansas Telephone Company, Inc. |
| State of Arkansas Department of Information Systems Little Rock, AR | 414047 | 1206339, 1206353, 1206501, 1206511, 1206576, 1206679, 1206589, 1206670, 1206672, 1206676, 1206682, 1206685, 1206707, 1206230, 1206254, 1206265, 1206274, 1206328, 1206333 | Southwestern Bell Telephone Company ALLTEL Communications, Inc. Arkansas Telephone Company, Inc. CenturyTel of Central Arkansas, LLC Southwestern Bell Telephone, L.P. |
| State of Arkansas Department of Information Systems Little Rock, AR | 430652 | 1197839, 1198143, 1198804, 1199177, 1199822, 1199884, 1200102, 1200212 | Southwestern Bell Telephone Company CenturyTel of Mammoth Spring Jacksonville ALLTEL Communications, Inc. |
| Stephens Public Library District Stephens, AR | 417069 | 1147155 | Southwestern Bell Communications Services, Inc., |
| Williford Elementary School Williford, AR | 404039 | 1106463 | ALLTEL Communications, Inc. |

APPENDIX B

FY 2005 Application Denied for an Untimely Filed FCC Form 471

| Applicant Name | Application Number | FRN | Service Provider Name |
|--|---------------------------|------------|---------------------------------|
| State of Arkansas Department of Information Systems Little Rock, AR | 446008 | 1342094 | SBC Advanced Solutions, Inc. |