

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

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| In the Matter of |) | |
| |) | |
| Schools and Libraries Universal Service |) | CC Docket No. 02-6 |
| Support Mechanism |) | |

ORDER

Adopted: April 12, 2011

Released: April 14, 2011

By the Commission:

1. In this order, we extend the deadline for applicants under the E-rate program (formally known as the schools and libraries universal support program) to submit corrections of clerical or ministerial errors on their FCC Form 470 and FCC Form 471 applications.

2. *Background.* Under the E-rate program, eligible schools, libraries, and consortia that include eligible schools and libraries may apply for discounts for eligible services.¹ The applicant must file an FCC Form 470 to request discounted services.² After the FCC Form 470 is posted on the Universal Service Administrative Company's (USAC's) website for all potential competing service providers to review, the applicant must wait at least 28 days before entering an agreement for services.³ After entering into a contract for eligible services, the applicant must submit a complete FCC Form 471 application to USAC to request discounts on the designated quantities of specific eligible services to be provided.⁴

3. Upon receipt of the FCC Form 471 application, USAC issues to both the applicant and the service provider an FCC Form 471 receipt acknowledgement letter (RAL) that reports, among other things, the specific quantities and services requested by the applicant. The applicant is expected to review the RAL for accuracy and, if necessary, follow the included instructions for correcting clerical or ministerial errors in the submitted FCC Form 471 application, pursuant to the *Bishop Perry Order*.⁵ An applicant has been permitted to correct such clerical and ministerial errors on its FCC Form 471 application without submitting a new FCC Form 471 application as long as they have done so within 20

¹ 47 C.F.R. §§ 54.501-54.503.

² 47 C.F.R. § 54.504(b).

³ 47 C.F.R. § 54.504(b)(4).

⁴ 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).

⁵ *See* USAC website, Schools and Libraries Division, Form 471 Receipt Acknowledgement Letter, <http://www.usac.org/sl/applicants/step07/receipt-acknowledgement-letter.aspx> (last viewed Apr. 12, 2011) (RAL Procedures); *see also, e.g.*, USAC website, Schools and Libraries, Form 471 Receipt Acknowledgement Letter (Funding Year 2009: 07/01/2009 – 06/30/2010), <http://www.usac.org/res/documents/sl/pdf/SampleLetters/form-471RAL-applicant.pdf> (last viewed Apr. 12, 2011). *See generally* Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, et al., Schools and Libraries Universal Service Support Mechanism, File Nos. SLD-487170, et al., CC Docket No. 02-6, Order, 21 FCC Red 5316, 5326–27, paras. 23-24 (2006) (*Bishop Perry Order*).

days of the date of the RAL.⁶ After USAC reviews the FCC Form 471 application, it sends the applicant a funding commitment decision letter (FCDL). Applicants, under certain circumstances, are also permitted to make more substantive changes to their applications for other than clerical and ministerial errors, even after receipt of their FCDLs, such as changing a service provider,⁷ and they are always permitted to withdraw funding requests when circumstances eliminate the need for such services.⁸ To make most other changes to their FCC Form 471 applications, such as to add new services, applicants must certify a new FCC Form 471 application, and file it before the close of the relevant filing window, if they hope to secure funding.

4. The FCC Form 471 application must be filed within each funding year's "filing window" because, under Commission rules, USAC treats all filings made within the filing window as if the applications were simultaneously received.⁹ Since 1999, the requests for funding filed within the filing window have always exceeded the annual cap on funding.¹⁰ Accordingly, if an FCC Form 471 application is filed outside of the window, the applicant will not receive funding.

5. *Discussion.* We now extend the deadline for the submission of clerical or ministerial corrections to USAC to permit such corrections to be made until USAC issues the FCDL for an applicant. In the *Bishop Perry Order*, the Commission gave applicants 15 calendar days to submit corrections of clerical or ministerial errors, or to refile their FCC Form 470 or FCC Form 471 application, or associated documentation.¹¹ As we have now had significant experience with the process since the *Bishop Perry*

⁶ See RAL Procedures. The 20-day period is based on the 15 days from the date applicants are notified by USAC of mistakes to their FCC Forms 470 and FCC 471 applications and the presumption that applicants will receive such notice approximately five days after the notice is postmarked by USAC. See *Bishop Perry Order*, 21 FCC Rcd at 5326, para. 23, n.63.

⁷ See *Request for Review by Copan 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-26231*, CC Docket Nos. 96-45, 97-21, Order, 15 FCC Rcd 5498 (2000) (*Copan Order*) (explaining that applicants may change their service provider when that change is allowed under its state and local procurement rules and under the terms of the contract between the applicant and its original service provider, and the applicant has notified its original service provider of its intent to change service providers).

⁸ In such cases, applicants should file an FCC Form 500.

⁹ 47 C.F.R. § 54.507(c). For USAC to treat FCC Form 471 applications as complete, applicants must also have filed their associated certifications and "Item 21" attachments.

¹⁰ The annual cap on E-rate funds is \$2.25 billion per funding year adjusted for inflation. 47 C.F.R. § 54.507. Since 1999, E-rate funds have been exhausted before satisfying all of the priority 2 funding requests of those applicants who filed within the filing window. See USAC website, Automated Search of Commitments, <http://www.usac.org/sl/tools/commitments-search/Default.aspx> (last viewed Apr. 12, 2011).

¹¹ See *supra* para. 3. Applicants have 20 days from the date the notice was sent to them to submit corrections, counting the five days allowed for them to receive the notice. *Id.* at n. 6; USAC website, Important Notice Regarding Correctable Errors on FCC Forms 470 and 471, <http://usac.org/res/documents/sl/pdf/List-of-Correctable-Ministerial-and-Clerical-Errors.pdf> (last viewed Apr. 12, 2011). Note that, currently, USAC will decline to post an FCC Form 470 when it finds that the Form 470 fails to meet the minimum processing standards as due to: (1) mistakes about an applicant's name and contact information, leaving service providers with insufficient information on the form to easily identify and contact the applicant by phone, email, or text message; or (2) a failure to provide sufficiently detailed information about the services it seeks in their applications so as to enable service providers to identify potential customers as such and formulate bids. See 47 C.F.R. § 54.504(b); *Federal-State Joint Board on Universal Service*, CC Docket 96-45, Report and Order, 12 FCC Rcd 8776, 9078, para. 575 (1997) (*Universal Service First Report and Order*); *Request for Review of the Decision of the Universal Service Administrator by Ysleta Independent School District, El Paso, Texas, et al., Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, SLD Nos. 321479, *et al.*, CC Docket Nos. 96-45, 97-21, Order, 18 FCC Rcd 26407, 26418, para. 24 (2003).

Order was released, we conclude that a better approach would be to allow applicants a longer opportunity to correct truly ministerial and clerical errors. Thus, we direct USAC to allow an applicant to amend its forms to correct clerical and ministerial errors on their FCC Forms 470, FCC Form 471 applications, or associated documentation until an FCDL is issued. Such errors include only the kinds of errors that a typist might make when entering data from one list to another, such as mistyping a number, using the wrong name or phone number, failing to enter an item from the source list onto the application, or making an arithmetic error.¹² Given the complexity and detail that is often involved in completing these forms and associated documentation, we recognize that such errors may not be discovered until significantly after a request for funding was filed. Currently, if applicants discover the error after the 15-day deadline, they have to file an appeal with the Commission to correct a ministerial or clerical error. Those types of appeals unnecessarily waste applicant and administrative resources, and we find it is in the public interest to allow applicants a greater amount of time to correct ministerial and clerical errors. We note, however, that USAC may request documentation or explanation from an applicant seeking to amend its forms to ensure that the changes requested are clerical or ministerial.

6. We emphasize that the Commission's filing deadlines and procedural rules are necessary for the efficient administration of the E-rate program.¹³ Although applicants will now have a greater opportunity to correct clerical and ministerial errors during the application review process, applicants that make such errors will still face delays and uncertainty because USAC may need to confirm that such errors are truly clerical or ministerial. USAC shall use our precedents to guide its decisions on whether a modification is a ministerial or clerical error.¹⁴ Applicants that believe USAC has incorrectly rejected a clerical or ministerial correction may appeal that decision to the Commission.¹⁵

7. ACCORDINGLY, IT IS ORDERED, that pursuant to the authority contained in sections 1-4, 254, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154, 254, and 403, this order IS ADOPTED.

8. IT IS FURTHER ORDERED, pursuant to section 1.103(a) of the Commission's rules, 47 C.F.R. § 1.103(a), that this order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

¹² Many more examples are provided in *Request for Review of the Decision of the Universal Service Administrator by Ann Arbor Public Schools, et al., Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-542873, et al., CC Docket No. 02-6, Order, 25 FCC Rcd 17319, para. 2 (Wireline Comp. Bur. 2010).

¹³ See *Bishop Perry Order*, 21 FCC Rcd at 5327, para. 26.

¹⁴ See *supra* n.12.

¹⁵ 47 C.F.R. § 54.722(a).