October 15, 1999

Before the
Federal Communications Commission
Washington D.C. 20554

In the Matter of	)	
	)	
Request for Review of the Decision	)	
Of the Universal Service Administrator by	)	
Charlotte County Public Schools	)	File No. SLD-109845
Charlotte Court House, Virginia	)	
	)	
Federal-State Joint Board on	)	
Universal Service	)	CC Docket No. 96-45
	)	
	)	
Changes to the Board of Directors of the	)	
National Exchange Carrier Association	)	CC Docket No. 97-21

Petition for Reconsideration

The Virginia Department of Education, on behalf of Charlotte County Public Schools, a Virginia public school division, petitions the Federal Communications Commission to reconsider the denial by the Common Carrier Bureau (CCB) of the above Petition for Waiver submitted by Charlotte County Public Schools.

Background

Charlotte County Public Schools, a rural school division located in southside Virginia, mailed its Universal Service E-Rate application for funding year two on Saturday April 3, 1999, from the Phenix, Virginia, post office to the Schools and Libraries Division. According to a letter dated April 13, 1999, the Phenix Postmaster indicated that the application package was "…incorrectly prepared by the U.S. Postal Service resulting in a

delayed delivery…" of the application. The SLD received Charlotte's application on April 7, 1999, one day after the filing window closed on April 6, 1999.

Charlotte County petitioned the Commission on May 14, 1999, to waive Title 47 Section 54.507, in this instance because of the postal service error. On October 8, 1999, the CCB denied Charlotte's petition, effectively denying Universal Service, E-Rate discounts to Charlotte County Schools for the 1999-2000 funding year.

Discussion

The CCB stated that it may waive provisions of its rules for good cause, but concluded that late delivery by the U. S. Postal Service was insufficient basis for waiver. The Virginia Department of Education takes exception to this conclusion and contends that Charlotte County acted in a reasonable manner and should have had all expectation that its application would arrive at the SLD prior to the filing deadline of 11:59, April 6, 1999. By sending its application Express mail from the Phenix Post Office on Saturday April 3, 1999, Charlotte's application should have arrived at SLD on April 5, 1999, more than 24 hours before the filing deadline.

The CCB also stated that it had previously denied waivers because of untimely filing due to delivery services and that "…applicants should allow enough time in meeting deadlines to account for such unanticipated delays." We believe that by mailing its application on Saturday April 3, 1999, Charlotte did allow enough time for unanticipated delays. Even considering the mistake made by the U.S. Postal Service, Charlotte should have had a reasonable expectation that its application would arrive at the SLD before the filing deadline using the regular mail service. However, because of its rural location, standard mail to Charlotte County takes longer than standard mail to most urban centers, inherently disadvantaging Charlotte and all rural applicants, in meeting filing deadlines.

Finally, the CCB said that "…Charlotte had an alternative means for filing its application. The instructions for completing FCC Form 471 provide that the form may be mailed or filed electronically and state specifically that applicants 'are encouraged to complete and submit its form electronically'." Electronic filing for the form 471 was piloted during year two and had many technological restrictions. Charlotte may or may not have been able to file electronically, but electronic filing does not alter the SLD requirement for signed Block 6 Certifications to be received by SLD before the end of the filing window. However, the CCB has cited electronic filing as an alternative to paper filing in numerous appeal denials. According to published Internet SLD guidelines, Form 471 Filing Tips, number 2: "…if you file online, you still need to submit paper copies of your item 14 worksheet (if required), your Item 17 attachment, and your signed Block 6 Certification - and these must be received by SLD by 11:59 ET on April 6." This

requirement makes the CCB's contention that Charlotte had an alternative means for filing moot, as Charlotte would face the same physical delivery deadline regardless of the manner in which its application is filed.

Conclusion

In light of the above new and novel circumstances, we ask the Commission to reconsider its denial and grant Charlotte County a waiver of the year two filing deadline. We ask that Charlotte's application be submitted to the SLD for processing and funding during the year two funding cycle.

Respectfully Submitted,

Paul D. Stapleton
Superintendent for Public Instruction

Virginia Department of Education
P. O. Box 2120
Richmond, Virginia 23218
(804) 692-0335