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COMMONWEALTH of VIRGINIA

DEPARTMENT OF EDUCATION
P.O. Box 2120
Richmond, Virginia 23218-2120

PAUL D. STAPLETON
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OCT 22 1999
FCC MAIL ROOM

October 19, 1999

Before the
Federal Communications Commission
Washington D.C. 20554

In the Matter of	)	
	)	
Request for Review of the Decision	)	DA-99-2142
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.

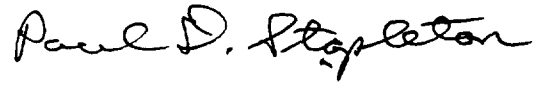
Finally, the CCB said that "...Charlotte had an alternative means for filing its application. The instructions for completing FCC Form 471 provide that the form may be mailed or filed electronically and state specifically that applicants 'are encouraged to complete and submit its form electronically'." 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

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of: Charlotte County Public Schools	)	
	)	CC Docket No. 96-45
Petition for waiver of Filing Deadline	)	Reference: Section 54.507 (c)
for Universal Service Discounts	)	
to Schools and Libraries	)	

Charlotte County requests waiver of Title 47 Section 54.507 (c) of Commission's rules and consideration of our Form 471 to be filed within the Schools and Libraries Division "filing window" ending April 6, 1999. We are concerned having received notification of the lateness in receipt of Charlotte County Public Schools' Form 471 for 1999-2000. From the documentation enclosed, you can clearly see we acted in a very prompt and punctual manner by mailing the 471 on Saturday, April 3, 1999, via the United States Postal Service, with a guaranteed delivery date of Monday, April 5, 1999.

We are enclosing another copy of the Form 471 and a letter of explanation from the Postmaster of the Phenix, Virginia Post Office. We do hope you will consider this as a "no fault" matter and include our Form 471 application in the prescribed window ending at 11:59 p.m. ET on April 6, 1999.

We are requesting a written or verbal response to this appeal. Please feel free to contact us by telephone at 804-542-5123, by fax at 804-542-4936, or by mail at the following address:

Charlotte County Public Schools
Attention: R. Larry Dunn, Division Superintendent
P.O. Box 790
Charlotte C.H., VA 23923

Your consideration in this matter is appreciated.

Sincerely,

R. Larry Dunn
Division Superintendent

Steven R. Baker
General Supervisor

Word My Doc. Tech: FCC Appeal 471

UNITED STATES POST OFFICE

Phenix, Virginia 23959

P.A. Harding, Postmaster

OUR REF: 99-01

DATE: 04-13-99

SUBJECT: Express Mail Delivery Delay

P.O.CL:

TO: Whom It May Concern:

I am the postmaster of the Phenix Virginia post office. I am writing on the behalf of the Charlotte County School Board, Charlotte Court House Virginia 23923.

On Saturday, April 3, 1999, the secretary to the Charlotte County School Board mailed a SLC Form 471 from this post office to you by Express overnight mail with a guarenteed delivery date of Monday, April 5, 1999. This piece of Express mail was incorrectly prepared by the US Postal Service resulting in a delayed delivery, with no fault of the secretary or the Charlotte County School Board.

The US Postal Service and I accept full responsibility for this error and wish you would reconsider the school boards' appeal in this matter.

Thank you for any assistence in this matter. I can be reached at 804-542-5024, if necessary.

Sincerely,

P.A. Harding, Postmaster

P.A. Harding, Postmaster

CASH RECEIPT

Received From

Amount *(Written Out)*	Amount *(In Numbers)*
fourteen dollars 40/100 Dollars	$ 14.40

Purpose

Certified, Express, Postage

By *(Signature and Title)*

C. Roach

Date

PHENIX, VA 23959 APR 3 1999 USPO

PS Form 1096, November 1987 *U.S. GPO: 1990-262-474/05467

PS Form 3800, March 1993

Z 180 551 093

Receipt for Certified Mail

No Insurance Coverage Provided
Do not use for International Mail
(See Reverse)

UNITED STATES POSTAL SERVICE

Sent to	SLC-FORM 471
Street and No.	3833 GREENWAY DR.
P.O., State and ZIP Code	LAWRENCE, KS 66046
Postage	$ 1.15
Certified Fee	1.40
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	1.25
Return Receipt Showing to Whom, Date, and Addressee's Address	
TOTAL Postage & Fees	$ 14.40
Postmark or Date	PHENIX APR 3 1999 USPO

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write *"Return Receipt Requested"* on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

SLC-FORM 471
c/o MS. SMITH
3833 GREENWAY DR.
LAWRENCE, KS 66046

4a. Article Number

Z 180 551 093

4b. Service Type

☐ Registered ☒ Certified
☐ Express Mail ☐ Insured
☒ Return Receipt for Merchandise ☐ COD

7. Date of Delivery

APR 07 1999

5. Received By: *(Print Name)*

6. Signature: *(Addressee or Agent)*

X Randall Howard

8. Addressee's Address *(Only if requested and fee is paid)*

SAME

Thank you for using Return Receipt Service.

PS Form 3811, December 1994 102595-98-B-0229 Domestic Return Receipt

USAC
UNIVERSAL SERVICE
ADMINISTRATIVE CO.
Schools and Libraries
Division
P.O. Box 7026
Lawrence, KS 66044-7026

LAWRENCE
APR 12 '99
KS

U.S. POSTAGE
00.20
METER 5

471

STEVEN R. BAKER
CHARLOTTE COUNTY PUBLIC
SCHOOLS
HIGHWAY 47 SOUTH
CHARLOTTE COURT HOUSE, VA 23923

ATTENTION
1999-2000 E-RATE

YOUR FORM 471 HAS BEEN RECEIVED - BUT AFTER THE APRIL 6 WINDOW CLOSED

We're sending this card to thank you for your recent Form 471 application but to let you know that your application was received by the Schools and Libraries Division/USAC after the 1999-2000 filing window closed at 11:59 p.m. ET on April 6, 1999.

Your application will be considered on a "first-come, first-served" basis along with other applications received outside the window. If there are funds available after funding commitments are made for applications received within the window, each first-come, first-served application will be considered for further review in the order received at our processing location.

For more information about the processing of 1999-2000 applications, or about plans for the 2000-2001 application process, please visit our Web site at www.slcfund.org.