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DISPATCHED BY
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)	
)	
Lansingburgh Central School District)	File No. SLD-109845
Troy, New York)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
Changes to the Board of Directors of the)	CC Docket No. 97-21 ✓
National Exchange Carrier Association, Inc.)	

ORDER

Adopted: October 12, 1999

Released: October 12, 1999

By the Common Carrier Bureau:

1. This Order denies a Letter of Appeal filed May 16, 1999 by Lansingburgh Central School District (Lansingburgh). Lansingburgh seeks a waiver of the deadline for filing FCC Form 471 requests with the Schools and Libraries Division (SLD) of the Universal Service Administrative Company for the 1999-2000 funding year. For the second funding year, the filing window opened on December 1, 1998 and closed on April 6, 1999.

2. In its appeal, Lansingburgh concedes that its FCC Form 471 application, which eligible schools and libraries must file in order to request discounts for eligible services, was not received by the SLD by the April 6, 1999, 11:59 p.m. EST deadline, but rather was received shortly after 8:00 a.m. on April 7, 1999. Lansingburgh requests that, given the limited resources of its school district and the need to avail its students of technology, the Commission grant it a waiver of the deadline established by the SLD for submission of Lansingburgh's FCC Form 471 application.

3. We deny Lansingburgh's waiver request. The SLD is authorized to establish and implement filing periods for FCC Form 471 applications by schools and libraries seeking

to receive discounts for eligible services.¹ Although the Commission may waive any provision of its rules, a request for waiver must be supported by a showing of good cause.² We conclude that Lansingburgh has failed to make a showing to justify grant of a waiver.

4. In its Letter of Appeal, Lansingburgh has not described the circumstances of its filing, nor provided any explanation for its lateness. To simply advert, as Lansingburgh does, to its limited resources and the needs of its students, does not distinguish its situation from other applications the SLD must process each funding year in accordance with its filing deadlines.³ In light of the thousands of applications that the SLD must review and process each funding year, we believe that it is administratively appropriate for the SLD to require applicants to adhere strictly to its filing deadlines. In this regard, the Commission has previously stated that it would not generally grant requests for waiver for late filings, noting that filers should allow enough time in meeting deadlines to account for unanticipated delays.⁴ Accordingly, we believe that waivers of these deadlines should be granted only in very limited circumstances.

5. Moreover, Lansingburgh 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 this form electronically."⁵ Under these circumstances, we conclude that Lansingburgh has failed to make a showing warranting relief and we therefore deny its Letter of Appeal.⁶

¹ See 47 C.F.R. § 54.507(c).

² See 47 C.F.R. § 1.3.

³ "An applicant for waiver faces a high hurdle even at the starting gate. 'When an applicant seeks a waiver of a rule, it must plead with particularity the facts and circumstances which warrant such action.' *Rio Grande Radio Fellowship Inc. v. FCC*, 132 U.S.App.D.C. 128, 406 F.2d 664 (1968)." *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972).

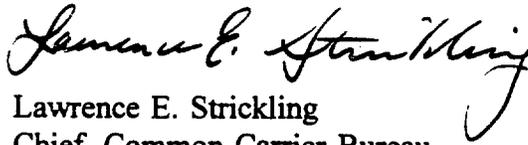
⁴ See *FCC Overrules Caldwell Television Associate, Ltd.*, FCC 85-534, 58 RR 2d 1706, 1707 (1985).

⁵ FCC Form 471 Instructions, Sections II.B and III.

⁶ See *Virgin Islands Telephone Corp. v. FCC*, 989 F.2d 1231, 1237 (D.C. Cir. 1993) (one day late filing rejected where error attributable to conduct of applicant's agent, its counsel).

6. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the appeal for a waiver filed May 16, 1999 by Lansingburgh Central School District IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION


Lawrence E. Strickling
Chief, Common Carrier Bureau