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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)	
)	
William Floyd Union Free School District)	
Mastic Beach, New York)	File No. SLD-50126
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45 ✓
)	
Changes to the Board of Directors)	
of the National Exchange Carrier)	CC Docket No. 97-21
Association, Inc.)	
)	

ORDER

Adopted: October 15, 1999

Released: October 15, 1999

By the Common Carrier Bureau:

1. The Common Carrier Bureau has under consideration a Letter of Appeal filed by William Floyd Union Free School District (William Floyd) on July 19, 1999, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC or Administrator). The SLD issued a Funding Commitment Decision Letter denying William Floyd's request for discounted services under the schools and libraries universal service support mechanism on January 25, 1999. On March 3, 1999, the SLD received an appeal of that decision from William Floyd. On June 22, 1999, the SLD issued the Administrator's Decision on appeal indicating that it would not consider William Floyd's appeal because it was received more than 30 days after the date its Funding Commitment Decision Letter was issued. William Floyd appeals that decision. For the reasons set forth below, we deny the Letter of Appeal and affirm the SLD's denial of William Floyd's appeal.

2. In the appeal before us, William Floyd concedes that its appeal to the SLD was

filed late, but asserts that it was not aware of the requirement that all appeals be filed within 30 days of the issuance of the SLD's decision insofar as the SLD's January 25, 1999 letter omitted mention of this requirement. Accordingly, William Floyd requests that we excuse its lateness and reopen its appeal to consider the substantive merits.

3. To the extent that William Floyd is requesting that we waive the 30-day filing deadline for appeals established in section 54.720(b) of the Commission's rules,¹ we deny that request. Although the Commission may waive any provision of its rules, a request for waiver must be supported by a showing of good cause.² That is, "[t]he FCC may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest" and where "special circumstances" might warrant a waiver.³

4. In the *Eighth Reconsideration Order*, the Commission adopted rules requiring applicants to file appeals of funding commitment decisions with USAC within 30 days of the issuance of the appealed funding commitment decision.⁴ That order also specified that these rules would go into effect on January 1, 1999.⁵ Although William Floyd has argued that the SLD's failure to notify it of the 30-day requirement caused its delay, the requirement at issue was adopted in a Commission order and codified in the Commission's rules at section 54.720(b). Because William Floyd received the SLD's January 25, 1999 Funding Commitment Decision Letter after the January 1, 1999 effective date of the *Eighth Reconsideration Order* and section 54.720(b), we find that William Floyd was subject to the 30-day filing requirement set forth in that order and rule.

5. Moreover, we believe that the SLD was under no duty to notify applicants of the 30-day requirement contained in section 54.720(b). In light of the thousands of applications that the SLD must review and process each funding year, we believe it administratively appropriate for the SLD to require applicants to adhere strictly to Commission-established filing deadlines. Accordingly, we believe that waivers of these deadlines should not be routinely granted. For these reasons, we find that the circumstances here do not warrant relief, and therefore, we deny William Floyd's request to waive the rule and to reopen its case.

5. 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 filed by William Floyd Union Free School District, Mastic Beach, New

¹ See 47 C.F.R. § 54.720(b).

² See 47 C.F.R. § 1.3.

³ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969) ("An applicant for waiver faces a high hurdle even at the starting gate.").

⁴ *Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket 97-21, *Federal-State Joint Board on Universal Service*, CC Docket 96-45, Third Report and Order and Fourth Order on Reconsideration in CC Docket No. 97-21 and Eighth Order on Reconsideration in CC Docket No. 96-45, 13 FCC Rcd 25058, 25091-96, paras. 64-74 (1998) (*Eighth Reconsideration Order*). See also 47 C.F.R. § 54.720.

⁵ *Eighth Reconsideration Order*, 13 FCC Rcd at 25096-97, para. 76.

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 filed by William Floyd Union Free School District, Mastic Beach, New York on July 19, 1999 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Lisa M. Zaina
Deputy Chief, Common Carrier Bureau