

FCC MAIL SECTION

Federal Communications Commission

DA 99-2389

Nov 5 3 48 PM '99

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	)	
	)	
Warsaw Public Library	)	File No. SLD-13066
Warsaw, New York	)	
	)	
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: November 1, 1999**

**Released: November 1, 1999**

By the Common Carrier Bureau:

1. The Common Carrier Bureau has under consideration an appeal from Warsaw Public Library (Warsaw), Warsaw, New York, that was received by the Commission on June 4, 1999.<sup>1</sup> In its Letter of Appeal, Warsaw asks the Commission "for assistance" with regard to an application for discounted services it alleges it timely mailed to the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator), and for which it apparently seeks to have discounts funded as if the application were received within the filing window.<sup>2</sup> At the same time Warsaw filed its appeal with the Commission,

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<sup>1</sup> Letter of Appeal from Clare Keating, Library Director, Warsaw Public Library to [Federal Communications Commission], dated June 2, 1999 (Letter of Appeal).

<sup>2</sup> Under the Commission's rules, funds available for discounted services are provided on a first-come-first-served basis, but applications filed within an initial filing period (the filing window) are treated as if they were received simultaneously. 47 C.F.R. § 54.507(c). That filing window closed April 15, 1998.

Warsaw also filed an appeal with the Administrator.<sup>3</sup> As explained below, we dismiss Warsaw's Letter of Appeal to the Commission without prejudice.

2. The Commission's rules regarding appeals of SLD's decisions do not contemplate simultaneous appeals to the Commission and the Administrator.<sup>4</sup> In this case, as noted above, Warsaw has an appeal pending before the Administrator. Therefore, we dismiss Warsaw's Letter of Appeal to the Commission without prejudice. Once the Administrator has issued its decision on Warsaw's initial appeal,<sup>5</sup> Warsaw may then appeal to the Commission if it believes such appeal is warranted at that time.<sup>6</sup>

3. 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 Letter of Appeal filed by Warsaw Public Library, Warsaw, New York, on June 4, 1999 IS DISMISSED WITHOUT PREJUDICE.

FEDERAL COMMUNICATIONS COMMISSION



Lisa M. Zaina  
Deputy Chief, Common Carrier Bureau

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<sup>3</sup> See Letter of Appeal from Clare Keating, Library Director, Warsaw Public Library to the Administrator, dated June 2, 1999.

<sup>4</sup> See 47 C.F.R. § 54.720 (allowing appeals to either the Commission or the Administrator, but tolling the filing period with the Commission, when an applicant has an appeal pending with the Administrator, until the Administrator issues a decision on the appeal).

<sup>5</sup> We note that SLD's records indicate that it sent Warsaw an "Acknowledgement of Waiver Request" on July 2, 1999. This does not constitute a decision on appeal by the Administrator.

<sup>6</sup> See 47 C.F.R. §§ 54.719 - 54.725 (setting forth rights of review, filing deadlines, standards of review, and other rules pertaining to Commission review of the Administrator's decisions).