

DEC 21 10 21 AM '99
Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)	
)	
Request for Review of the)	
Decision of the)	
Universal Service Administrator by)	
)	
Horton Free Public Library)	File No. SLD-131529
Horton, Kansas)	
)	
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: December 6, 1999****Released: December 6, 1999**

By the Common Carrier Bureau:

1. The Common Carrier Bureau has under consideration a Letter of Appeal filed by Horton Free Public Library (Horton) on September 7, 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 Horton's request for discounted services under the schools and libraries universal service support mechanism on July 8, 1999. On August 12, 1999, the SLD received an appeal of that decision from Horton, which requested the correction of a reporting error instrumental to the funding commitment received. On August 30, 1999, the SLD issued the Administrator's Decision on Appeal indicating that it would not consider Horton's appeal because it was received more than 30 days after the date its Funding Commitment Decision Letter was issued. Horton appeals that decision.

2. In the appeal before us, Horton argues that its appeal before the SLD was erroneously denied for untimeliness because Horton mailed its appeal on August 5, 1999, two days prior to the 30-day deadline. Horton also notes the hardship resulting from the denial of its appeal.

3. Under section 54.720 of the Commission's rules, any such appeal must be filed within 30 days of the issuance of the decision as to which review is sought. Documents are considered to be filed with the Commission or the SLD only upon receipt. As noted in the Funding Commitment Decision Letter issued by the Administrator to Horton, "[i]f you wish to appeal to the SLD, your appeal must be made in writing and *received by us within 30 days of*

issuance of this letter”¹ The filing of Horton’s appeal to the SLD occurred on August 12, 1999. Because the instant Letter of Appeal was not filed within the specified 30-day period, Horton’s appeal was not timely. We, therefore, affirm the SLD’s finding that Horton’s appeal was untimely.

4. To the extent that Horton is requesting that we waive the 30-day filing deadline for appeals established in section 54.720(b) of the Commission’s rules,² we deny that request. The Commission may waive any provision of its rules, but a request for waiver must be supported by a showing of good cause.³ Horton has not shown good cause beyond a simple assertion that denial would cause it hardship in the form of nonsupport of Internet access for its patrons. 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 its 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 Horton’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 Horton Free Public Library, Horton, Kansas, on September 7, 1999, IS DENIED. .

FEDERAL COMMUNICATIONS COMMISSION



Yog R. Varma
Deputy Chief, Common Carrier Bureau

¹ Letter from Universal Service Administrative Co. to Horton Free Public Library, dated July 8, 1999 (Funding Commitment Decision Letter) (emphasis added).

² See 47 C.F.R. § 54.720(b).

³ See 47 C.F.R. § 1.3.