

Before the
Federal Communications Commission
Washington, DC 20554

FOR ALL SERVICES

SEP 11 1 26 AM '00

In the Matter of)
)
Request for Review of the)
Decision of the)
Universal Service Administrator by)
)
Ann Arbor Public Schools)
Ann Arbor, Michigan)
)
Federal-State Joint Board on)
Universal Service)
)
Changes to the Board of Directors of the)
National Exchange Carrier Association, Inc.)

File No. SLD- 124923

CC Docket No. 96-45 ✓

CC Docket No. 97-21

ORDER

Adopted: September 7, 2000

Released: September 8, 2000

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division has under consideration a Letter of Appeal filed by Ann Arbor Public Schools (Ann Arbor), Ann Arbor, Michigan, on April 4, 2000.¹ In the Letter of Appeal, Ann Arbor seeks review of a funding commitment decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC or Administrator) on September 21, 1999.² Because Ann Arbor failed to appeal SLD's funding decision within 30 days of the Funding Commitment Decision Letter, it also requests a waiver of the 30-day appeal period. For the reasons set forth below, we deny Ann Arbor's appeal and its request for waiver of the 30-day time limit for filing appeals.

2. Under section 54.720(b) of the Commission's rules, an appeal must be filed within 30 days of the issuance of the decision as to which review is sought.³ Documents are considered to be filed with the Commission or the SLD only upon receipt.⁴ As noted, the Funding Commitment Decision Letter was issued on September 21, 1999. Ann Arbor filed an appeal of

¹ Letter of Appeal from Randall J. Trent, Ann Arbor Public Schools, to Federal Communications Commission, filed April 4, 2000 (Letter of Appeal).

² Letter from Schools and Libraries Division, Universal Service Administrative Company, to Randall J. Trent, Ann Arbor Public Schools, dated September 21, 1999 (Funding Commitment Decision Letter).

³ 47 C.F.R. § 54.720(b).

⁴ 47 C.F.R. § 1.7.

the funding decision with SLD on November 1, 1999.⁵ SLD dismissed the appeal as untimely.⁶ Upon review of the record, we find that, because Ann Arbor failed to appeal the Funding Commitment Decision Letter within the requisite 30-day appeal period, Ann Arbor's appeal to SLD was correctly denied as untimely.

3. To the extent that Ann Arbor is requesting that we waive the 30-day deadline established in section 54.720(b) of the Commission's rules,⁷ 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.⁸ In light of the thousands of applications that the SLD must review and process each funding year, we believe it is administratively appropriate for the SLD to require applicants to adhere strictly to its filing deadlines. Accordingly, we believe that, absent special circumstances warranting a deviation from the general rule, waivers of these deadlines should not be granted. Ann Arbor asserts that it missed the 30-day deadline because one of its service provider's representatives was not available and because two bomb threats were made to the school district. We conclude, however, that these factors should not have precluded Ann Arbor from filing a timely appeal and, accordingly, that Ann Arbor has not presented the special circumstances necessary to warrant relief from the filing deadline. We therefore deny Ann Arbor's request to waive section 54.720(b).

4. 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 on April 4, 2000, by Ann Arbor Public Schools, Ann Arbor, Michigan, and the request to waive the 30-day time limit in which to file appeals ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Sharon L. Webber
Deputy Chief, Accounting Policy Division
Common Carrier Bureau

⁵ Letter from Randall J. Trent, Ann Arbor Public Schools, to Schools and Libraries Division, Universal Service Administrative Co., filed November 1, 1999.

⁶ Letter from Schools and Libraries Division, Universal Service Administrative Co., to Randall J. Trent, Ann Arbor Public Schools, dated November 8, 1999; Letter from Schools and Libraries Division, Universal Service Administrative Co., to Randall J. Trent, Ann Arbor Public Schools, dated March 21, 2000. (Administrator's Decisions on Appeal).

⁷ See 47 C.F.R. § 54.720(b).

⁸ See e.g. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) ("Waiver is [] appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule."); 47 C.F.R. § 1.3.