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Before the
Federal Communications Commission
Washington, DC 20554

2001 MAY -9 P 5: 15

In the Matter of	)	
	)	
Request for Review of the Decision of the Universal Service Administrator by	)	
	)	
Immaculate Conception School Irvington-on-Hudson, New York	)	File No. NEC47012-01-9902900004
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Changes to the Board of Directors of the National Exchange Carrier Association, Inc.	)	CC Docket No. 97-21

ORDER

Adopted: May 1, 2001 **Released: May 2, 2001**

By the Common Carrier Bureau, Accounting Policy Division:

1. The Common Carrier Bureau has under consideration a Waiver Request filed by Immaculate Conception School (ICS), Irvington-on-Hudson, New York, seeking a waiver of the Commission's rules governing discounts for services under the schools and libraries universal service support mechanism.[1] For the reasons set forth below, we deny ICS's Waiver Request.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.[2] In order to receive discounts on eligible services, the Commission's rules require that the applicant submit to the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) a completed FCC Form 470, in which the applicant sets forth its technological needs and the services for which it seeks discounts.[3] The Administrator must post the FCC Form 470 on its website, and the applicant is required to wait 28 days before making a commitment

[1] Letter from Louise Frangella, Immaculate Conception School, Irvington-on-Hudson, to Federal Communications Commission, filed on July 24, 2000 (Waiver Request).

[2] 47 C.F.R. §§ 54.502, 54.503.

[3] 47 C.F.R. §§ 54.504(b)(1), (b)(3).

with a selected service provider. Once the applicant has complied with the Commission's competitive bidding requirements and entered into an agreement for eligible services, it must file an FCC Form 471 application to notify the Administrator of the services that have been ordered, the carrier with whom the applicant has entered into an agreement, and an estimate of funds needed to cover the discounts to be given for eligible services.[5] The Commission's rules require that the applicant file a completed FCC Form 471 within a filing window established by the Administrator to be considered pursuant to the funding priorities for "in-window" applicants.[6]

3. ICS requests a waiver of the Funding Year 3 application window which closed on January 19, 2000 because its FCC Form 471 was not submitted by the filing deadline. ICS filed a FCC Form 471 and a waiver request of the Funding Year 3 filing deadline with SLD on March 8, 2000.[7] SLD responded with a letter dated June 21, 2000, informing ICS that SLD was not permitted to consider the waiver request and directed ICS to request a waiver from the Commission.[8] ICS filed the instant waiver request with the Commission on July 24, 2000.[9] In its Waiver Request, ICS states that the only staff member handling the technology requirements of the school experienced recurrent medical problems in January 2000 when the FCC Form 471 should have been filed, and thus the school's application was submitted late.

4. We have reviewed the record before us and conclude that ICS has not demonstrated a sufficient basis for waiving the Commission's rules. 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.[10] ICS is subject to the funding priorities set forth in section 54.507(c) of the Commission's rules which states that funds will be available on a first-come-first-served basis.[11] In requesting funds from the schools and libraries universal service support mechanism, the applicant has certain responsibilities. The applicant bears the burden of getting its forms and other information to SLD for processing within the established deadline if the applicant wishes to be considered with other in-window applicants.

5. The particular facts of this case do not rise to the level of special circumstances required for a deviation from the general rule. In light of the thousands of applications that SLD

[4] 47 C.F.R. §§ 54.504(b)(3) and (4); § 54.511.

[5] 47 C.F.R. § 54.504(c).

[6] 47 C.F.R. §§ 54.504(c); 54.507(c).

[7] Letter from Louise Frangella, Immaculate Conception School, to Schools and Libraries Division, Universal Service Administrative Company, filed March 8, 2000.

[8] Letter from Schools and Libraries Division, Universal Service Administrative Company, to Louise Frangella, Immaculate Conception School, dated June 21, 2000 (Administrator's Decision on Waiver Request); *see also* Letter from Schools and Libraries Division, Universal Service Administrative Company, to Louise Frangella, Immaculate Conception School, dated March 8, 2000 (Acknowledgement of Waiver Request).

[9] Waiver Request.

[10] *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

[11] 47 C.F.R. § 54.507(c).

reviews and processes each year, it is administratively necessary to place on the applicant the responsibility of complying with all relevant rules and procedures. In order for the program to work efficiently, the applicant must assume responsibility for timely submission of its application materials if it wishes to be considered within the window. Here, ICS fails to present good cause as to why it could not timely file its application.[12] We, therefore, find no basis for waiving the filing window deadline.

6. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), that the Waiver Request filed by Immaculate Conception School, Irvington-on-Hudson, New York, on July 24, 2000 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Mark G. Seifert

Mark G. Seifert
Deputy Chief, Accounting Policy Division
Common Carrier Bureau

[12] *See* Waiver Request in which applicant states that the staff member with recurrent medical problems was sent to the emergency room on January 3rd for tests, then released (the filing deadline had not yet passed), and was not hospitalized until January 21st, after the deadline had passed (emphasis added).