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Before the
Federal Communications Commission
Washington, DC 20554

2002 MAY 24 P 4: 45

In the Matter of)
)
Request for Waiver by)
)
Danbury Public Schools)
Danbury, Connecticut)
)
Federal-State Joint Board on)
Universal Service)
)
Changes to the Board of Directors of the)
National Exchange Carrier Association, Inc.)

FILED
File No. NEC.471.04-13-00.31900001
CC Docket No. 96-45 ✓
CC Docket No. 97-21

ORDER

Adopted: May 22, 2001

Released: May 23, 2001

By the Common Carrier Bureau, Accounting Policy Division:

1. The Common Carrier Bureau has under consideration a Waiver Request filed by Danbury Public Schools (Danbury), Danbury, Connecticut, 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 Danbury'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 with a selected service provider. Once the applicant has complied with the Commission's competitive

¹ Letter from Melanie C. Schroeder, Danbury Public Schools, to Federal Communications Commission, filed on July 25, 2000 (Waiver Request).

² 47 C.F.R. §§ 54.502, 54.503.

³ 47 C.F.R. §§ 54.504(b)(1), (b)(3).

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

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 allow the Administrator to implement an internal filing period ("filing window") for the FCC Form 471 applications that treats all schools and libraries filing within that period as if their applications were simultaneously received.⁶ Applications that are received outside this filing window are subject to separate funding priorities under the Commission's rules.⁷ It is to all applicants' advantage, therefore, to ensure that the Administrator receives their applications prior to the close of the filing window.

3. Danbury requests a waiver of the Funding Year 2 application window, which closed on March 31, 2000.⁸ Danbury did not submit its FCC Form 471 until April 13, 2000.⁹ In its Waiver Request, Danbury explains that it submitted its FCC Form 471 after learning that its Chief Financial Officer, whom it terminated in February, 2000, had not completed and submitted the paperwork.¹⁰

4. We conclude that Danbury 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.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 reviews and processes each year, it is administratively necessary to place on the applicant the responsibility of complying with all relevant rules and procedures.¹² In order for the program to work efficiently,

⁵ 47 C.F.R. § 54.504(c).

⁶ 47 C.F.R. § 54.507(c).

⁷ 47 C.F.R. § 54.507(g).

⁸ The funding window for Funding Year 2 initially closed on April 6, 1999. When it was determined that funds were available in excess of what had been requested by applicants who filed within the original window, the Commission directed SLD to re-open the filing window to permit additional applications. The re-opened window closed on March 31, 2000. See SLD web site, What's New (March, 2000) <<http://www.sl.universalservice.org/whatsnew/032000.asp#consideryr2>>; see Waiver Request at 1.

⁹ FCC Form 471, Danbury Public Schools, Danbury, Connecticut, filed April 13, 2000.

¹⁰ Waiver Request at 1.

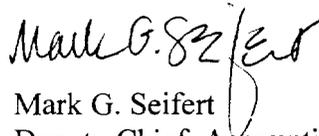
¹¹ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

¹² See *Request for Review by Anderson School Staatsburg, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association*, File No. SLD-13364, CC Docket Nos. 96-45 and 97-21. Order, DA 00-2630 (Comm. Car. Bur. Rel. November 24, 2000) at para. 8 ("In light of the thousands of applications that SLD reviews and processes each funding year, it is administratively necessary to place on the applicant the responsibility of understanding all relevant program rules and procedures.").

the applicant must assume responsibility for timely submission of its application materials if it wishes to be considered within the window. An applicant must take responsibility for the actions of those employees to whom it gives responsibility for submitting timely and proper requests for discounts on its behalf. Here, Danbury fails to present good cause as to why it could not timely file its application. 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 Danbury Public Schools, Danbury, Connecticut, on July 25, 2000 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



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