

STAIR ROOM

Before the
Federal Communications Commission
Washington, DC 20554

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2001 JUN 29 P 5: 26

In the Matter of)
)
Request for Review of the)
Decision of the)
Universal Service Administrator by)
)
Chabad Hebrew School)
Wayne, New Jersey)
)
Federal-State Joint Board on)
Universal Service)
)
Changes to the Board of Directors of the)
National Exchange Carrier Association, Inc.)

FILED

File No. SLD- 185793

CC Docket No. 96-45 ✓

CC Docket No. 97-21

ORDER

Adopted: June 26, 2001

Released: June 27, 2001

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division has under consideration a Request for Waiver filed by Chabad Hebrew School (Chabad), Wayne, New Jersey, on April 9, 2001.¹ In the Request for Waiver, Chabad seeks review of a funding commitment decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) on October 20, 2000.² Because Chabad failed to appeal SLD's funding decision within 30 days of the Funding Commitment Decision Letter, it requests a waiver of the 30-day appeal period. For the reasons set forth below, we deny Chabad's Request for Waiver of the 30-day time limit for filing appeals.

2. Under section 54.720(b) of the Commission's rules, any 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, SLD issued a Funding Commitment Decision Letter on October 20, 2000. Chabad filed an appeal of the funding

¹ Letter of Appeal from Rabbi Michel Gurkov, Chabad Hebrew School, to Federal Communications Commission, filed April 9, 2001 (Request for Waiver).

² Letter from Schools and Libraries Division, Universal Service Administrative Company, to Rabbi Michael Gurkov, Chabad Hebrew School, dated October 20, 2000 (Funding Commitment Decision Letter).

³ 47 C.F.R. § 54.720(b).

⁴ 47 C.F.R. § 1.7.

decision with SLD on March 28, 2001.⁵ SLD dismissed that appeal as untimely.⁶ Upon review of the record, we find that, because Chabad failed to appeal the Funding Commitment Decision Letter within the requisite 30-day appeal period, Chabad's appeal to SLD was correctly denied as untimely.

3. To the extent that Chabad is requesting that we waive the 30-day deadline established in section 54.720(b) of the Commission's rules, we deny that request.⁷ The Commission may waive any provision of its rules, but a request for waiver must be supported by a showing of good cause.⁸ Chabad has not shown cause for the untimely filing of its initial appeal. Chabad explains that the Funding Commitment Decision Letter was sent to its old address because the new address change was never made by SLD. Chabad asserts that, as a result, it didn't receive the Funding Commitment Decision Letter until March 24, 2001.

4. We are unpersuaded by this argument. The record shows, that on November 8, 2000 the US Postal Service returned Chabad's Funding Commitment Decision Letter to SLD deeming it "un-deliverable." When SLD received the undelivered envelope it called a number on the envelope to obtain Chabad's new address. SLD then modified the date of the original Funding Commitment Decision Letter to accommodate the delivery delay and re-mailed it to Chabad with the modified date at the new address.

5. When SLD re-mails the Funding Commitment Decision Letter with the modified date and signature to the school or library, it also includes a Schools and Libraries Division FCDL Re-Mail Advisory Cover Sheet. The Schools and Libraries Division FCDL Re-Mail Advisory Cover Sheet gives notice to the school or library that their Funding Commitment Decision Letter was deemed un-deliverable and that the date has been modified, and if the school or library is considering filing an appeal the appeal must be filed within 30 days of the date of the Funding Commitment Decision Letter with the new date.⁹

6. Further, in light of the thousands of applications that SLD must review and process each funding year, we believe it administratively appropriate for SLD to require applicants to adhere strictly to its filing deadlines. Chabad has failed to demonstrate good cause for waiving the filing deadline. For these reasons, we find that the circumstances here do not warrant relief and, therefore, we deny Chabad's request to waive section 54.720(b).

⁵ Letter from Rabbi Michel Gurkov, Chabad Hebrew School, to Schools and Libraries Division, Universal Service Administrative Co., filed March 28, 2001.

⁶ Letter from Schools and Libraries Division, Universal Service Administrative Co., to Rabbi Michel Gurkov, Chabad Hebrew School, dated March 30, 2001 (Administrator's Decision on Appeal).

⁷ See 47 C.F.R. § 54.720(b).

⁸ See 47 C.F.R. § 1.3.

⁹ See FCDL Re-Mail Advisory Cover Sheet Letter from Schools and Libraries Division, Universal Service Administrative Co., to Rabbi Michel Gurkov, Chabad Center Hebrew School, dated November 8, 2000.

7. 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 Request for Waiver filed on April 9, 2001, by Chabad Hebrew School, Wayne, New Jersey IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Amata Chery for

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