

Before the  
Federal Communications Commission  
Washington, DC 20554

2001 JUN 29 P 5: 26

In the Matter of )  
)  
Request for Review of the Decision of the )  
Universal Service Administrator by )  
)  
Marshall County Board of Education )  
Guntersville, Alabama )  
)  
Federal-State Joint Board on )  
Universal Service )  
)  
Changes to the Board of Directors of the )  
National Exchange Carrier Association, Inc. )

FILED

File No. SLD-167705

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 Waiver Request filed by Marshall County Board of Education (Marshall), Guntersville, Alabama, seeking a waiver of the Commission's rules governing discounts for services under the schools and libraries universal service support mechanism.<sup>1</sup> For the reasons set forth below, we deny Marshall'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.<sup>2</sup> 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.<sup>3</sup> The Administrator must post the FCC Form 470 on its website, and the applicant is required to wait 28 days before making a commitment

<sup>1</sup> Letter from Joan Noel, Marshall County Board of Education, Guntersville, Alabama, to Federal Communications Commission, filed July 3, 2000 (Waiver Request).

<sup>2</sup> 47 C.F.R. §§ 54.502, 54.503.

<sup>3</sup> 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.<sup>5</sup>

3. The Commission's rules allow the Administrator to implement an initial 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.<sup>6</sup> Section 54.507(c) of the Commission's rules states that fund discounts will be available on a first-come-first-served basis.<sup>7</sup> Applications that are received outside of this filing window are subject to separate funding priorities under the Commission's rules.<sup>8</sup> It is to all applicants' advantage, therefore, to ensure that the Administrator receives their applications prior to the close of the filing window.

4. Marshall requests a waiver of the Funding Year 3 application window which closed on January 19, 2000.<sup>9</sup> Marshall filed its FCC Form 471 on March 1, 2000.<sup>10</sup> On April 7, 2000, Marshall filed a waiver request of the Funding Year 3 filing deadline with SLD.<sup>11</sup> SLD responded with a letter dated June 16, 2000, informing Marshall that SLD was not permitted to consider the request for waiver and directed Marshall to request a waiver from the Commission.<sup>12</sup> Marshall filed the instant Waiver Request with the Commission on July 6, 2000.<sup>13</sup> In its Waiver Request, Marshall admits that while entering its FCC Form 471 via SLD's website, it failed to depress the "DONE" button. Marshall's Waiver Request further recognizes that because of its omission, an incomplete FCC Form 471 was filed with SLD on its behalf.<sup>14</sup>

---

<sup>4</sup> 47 C.F.R. §§ 54.504(b)(3) and (4); § 54.511.

<sup>5</sup> 47 C.F.R. § 54.504(c).

<sup>6</sup> 47 C.F.R. § 54.507(c).

<sup>7</sup> *Id.*

<sup>8</sup> 47 C.F.R. § 54.507(g).

<sup>9</sup> See SLD's website, <<http://www.sl.universalservice.org>>.

<sup>10</sup> FCC Form 471, Marshall County Board of Education, filed March 1, 2000.

<sup>11</sup> Letter from Joan Noel, Marshall Board of Education, to Schools and Libraries Division, Universal Service Administrative Company, filed April 7, 2000 (SLD Waiver Request).

<sup>12</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to Joan Noel, Marshall County Board of Education, dated June 16, 2000 (Administrator's Decision on Waiver Request); see also Letter from Schools and Libraries Division, Universal Service Administrative Company, to Joan Noel, Marshall County Board of Education, dated April 17, 2000 (Acknowledgement of Waiver Request).

<sup>13</sup> Waiver Request.

<sup>14</sup> *Id.*

Marshall states, however, that its FCC Form 471 Block 6 (certifications and signature) was received within the FCC Form 471 filing window deadline.<sup>15</sup>

5. We have reviewed the record before us and conclude that Marshall has not demonstrated a reasonable 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.<sup>16</sup> We find that Marshall's statement that its Block 6 was received within the filing window deadline lacks merit.<sup>17</sup> The record reflects that Marshall's Block 6 was filed with SLD on March 1, 2000, after the filing window for Funding Year 3 had closed.<sup>18</sup>

6. When requesting funds from the schools and libraries universal service support mechanism, the applicant has certain responsibilities.<sup>19</sup> The applicant bears the burden of providing complete and accurate information to SLD for processing within the established deadline if the applicant wishes to be considered with other in-window applicants. Thus, by filing late, Marshall ran the risk of not receiving any funding. Because we find no basis for waiver of the filing window deadline, Marshall is subject to the funding priorities set forth in Section 54.507(c).

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 Waiver Request filed by Marshall County Board of Education, Guntersville, Alabama, July 3, 2000, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



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

---

<sup>15</sup> *Id.*

<sup>16</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

<sup>17</sup> *See* Waiver Request.

<sup>18</sup> FCC Form 471, Block 6: Certifications and Signature, Marshall County Board of Education, filed March 1, 2000. Marshall's Block Certification Form was dated February 29, 2000, after the January 19, 2000 filing window deadline for Funding Year 3.

<sup>19</sup> *See Request for Review by Anderson School Staatsburg, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of National Exchange Carrier Association*, File No. SLD-133664, CC Dockets No. 95-45 and 97-21, Order, 15 FCC Rcd 25610 (Com. Car. Bur. 2000), at para. 8 ("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 understanding all relevant program rules and procedures.")

