

2001 SEP -4 A 11: 21

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)
 Request for Waiver by)
 New Paltz Central School District)
 New Paltz, New York)
 Federal-State Joint Board on)
 Universal Service)
 Changes to the Board of Directors of the)
 National Exchange Carrier Association, Inc.)

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 SLD Control No. D008212
 CC Docket No. 96-45 ✓
 CC Docket No. 97-21

ORDER

Adopted: August 27, 2001

Released: August 28, 2001

By the Common Carrier Bureau, Accounting Policy Division:

1. The Common Carrier Bureau has under consideration a Waiver Request filed by New Paltz Central School District (New Paltz), New Paltz, New York. New Paltz seeks 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 New Paltz'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

¹ Letter from Deborah Brush, New Paltz Central School District, to Federal Communications Commission, filed February 29, 2000 (Waiver Request).

² 47 C.F.R. §§ 54.502, 54.503.

³ 47 C.F.R. §§ 54.504(b)(1), (b)(3).

selected service provider.⁴ 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 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. New Paltz requests a waiver of the Funding Year 1 application window, which closed on April 15, 1998.⁸ New Paltz's FCC Form 471 was filed the following day, on April 16, 1998.⁹ In its Request for Waiver, New Paltz explains that it asked the courier Federal Express to pick up for delivery New Paltz's FCC Form 471 on April 14, 1998, but Federal Express did not pick it up until the following day, April 15, 1998, and delivered it on April 16, 1998.¹⁰

4. We conclude that New Paltz 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,

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. § 54.507(c).

⁷ 47 C.F.R. § 54.507(g).

⁸ See *Request for Review by Be'er Hagolah Institutes, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-108710, CC Dockets No. 96-45 and 97-21, Order, 15 FCC Rcd 21809, para. 2 (Com. Car. Bur. 1999).

⁹ See Waiver Request.

¹⁰ See *id.*; Letter from Deborah Brush, New Paltz Central School District, to Schools and Libraries Division, filed March 18, 1999.

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

the applicant must assume responsibility for timely submission of its application materials if it wishes to be considered within the window. Here, New Paltz 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 New Paltz Central School District, New Paltz, New York, on February 29, 2000 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



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

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 funding year, it is administratively necessary to place on the applicant the responsibility of understanding all relevant program rules and procedures.”).