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Before the
Federal Communications Commission
Washington, DC 20554

2001 SEP -4 A 11: 23

In the Matter of	)	
	)	
Request for Waiver by	)	
	)	
Painesville City Local Schools Painesville, Ohio	)	File No. SLD-252720
	)	
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

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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 Painesville City Local Schools (Painesville), Painesville, Ohio. Painesville 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 Painesville'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 James R. Fodor, Painesville City Local Schools, to Federal Communications Commission, filed February 28, 2001 (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. Painesville requests a waiver of the Funding Year 4 application window, which closed on January 18, 2001.[8] SLD rules for Funding Year 4 require that FCC Forms 471 be postmarked no later than that date.[9] Painesville contends that its FCC Form 471 was postmarked one day late "[d]ue to a miscommunication with a part-time employee."[10]

4. We conclude that Painesville 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,

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[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] Waiver Request.

[9] *See* SLD website, What's New (November 2, 2000) <<http://www.sl.universalservice.org/whatsnew/112000.asp#110200>>.

[10] Waiver Request.

[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, 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.").

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 or agents to whom it gives responsibility for submitting timely and proper requests for discounts on its behalf. Here, Painesville 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 Painesville City Schools, Painesville, Ohio, on February 28, 2001 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Mark G. Seifert

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