

FCC MAIL ROOM

Before the  
Federal Communications Commission  
Washington, DC 20554

2001 SEP -4 A 11: 22

In the Matter of )  
Request for Waiver by )  
The Winchendon School )  
Winchendon, MA )  
Federal-State Joint Board on )  
Universal Service )  
Changes to the Board of Directors of the )  
National Exchange Carrier Association, Inc. )

RECEIVED  
File No. SLD-192816  
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 the Winchendon School (Winchendon), Winchendon, Massachusetts. Winchendon seeks 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 Winchendon'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 with a

<sup>1</sup> Letter from C. Jackson Blair, the Winchendon School, to Federal Communications Commission, filed June 30, 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).

selected service provider.<sup>4</sup> 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> In Block 6 of the FCC Form 471, applicants are required to make certain certifications, including certification of compliance with state and local procurement laws, and the status of the entity's technology plan.<sup>6</sup> Applicants that filed their FCC Form 471s electronically are required to separately submit a signed Block 6 certification.<sup>7</sup>

3. 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.<sup>8</sup> Applications that are received outside this filing window are subject to separate funding priorities under the Commission's rules.<sup>9</sup> It is to all applicants' advantage, therefore, to ensure that the Administrator receives their applications and signed certifications prior to the deadlines. In Funding Year 3, the filing window for the FCC Forms 471 closed January 19, 2000, at 11:59 p.m. Eastern Standard Time.<sup>10</sup> The filing deadline for signed Block 6 certifications for applicants that filed their FCC Forms 471 electronically was January 31, 2000, at 11:59 p.m. Eastern Standard Time.<sup>11</sup>

4. Winchendon requests a waiver of the Funding Year 3 application window, which closed on January 19, 2000. Winchendon submitted its FCC Form 471 application electronically in a timely manner on January 19, 2000.<sup>12</sup> However, Winchendon failed to submit its signed Block 6 certification until February 15, 2000, more than two weeks past the deadline.<sup>13</sup> Winchendon explains that it had arranged for an outside agency to prepare its application, and that the individual

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<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> See Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (September 1999) (FCC Form 471).

<sup>7</sup> See Instructions for Completing the Schools and Libraries Universal Service, Services Ordered and Certification Form (FCC Form 471), OMB 3060-0806 (September 1999) (FCC Form 471 Instructions), at 24.

<sup>8</sup> 47 C.F.R. § 54.507(c).

<sup>9</sup> 47 C.F.R. § 54.507(g).

<sup>10</sup> In Funding Year 3, applicants that filed their FCC Form 471s electronically were required to submit the signed Block 6 certifications separately, no later than January 31, 2000.<sup>10</sup>

<sup>11</sup> See SLD website, What's New (January 2000), <<http://www.sl.universalservice.org/whatsnew/012000.asp>>. The filing window deadline for certifications for Funding Year 3 was originally January 26, 2000, but on January 25, 2000, SLD extended the deadline for submission of certifications to January 31, 2000. See *id.*

<sup>12</sup> See FCC Form 471, the Winchendon School, Winchendon, Massachusetts, filed January 19, 2000 (Winchendon FCC Form 471).

<sup>13</sup> See Winchendon FCC Form 471.

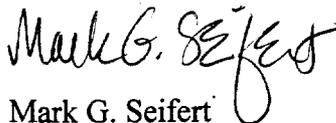
at Winchendon responsible for the application process was on vacation at the time that the certification with his signature was due.<sup>14</sup>

5. We conclude that Winchendon 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.<sup>15</sup> 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.

6. 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.<sup>16</sup> In order for the program to work efficiently, 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, Winchendon 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.

7. 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 the Winchendon School, Winchendon, Massachusetts, on June 30, 2000 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



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

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<sup>14</sup> Waiver Request at 1.

<sup>15</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

<sup>16</sup> 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.").