

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)	
)	
Request for Waiver by)	
)	
Helena Township Public Library)	NEC.471.04-26-00.32200001
Alden, Michigan)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45 ✓
Universal Service)	
)	
Changes to the Board of Directors of the)	CC Docket No. 97-21
National Exchange Carrier Association, Inc.)	

ORDER

Adopted: December 3, 2001

Released: December 4, 2001

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division has under consideration a Waiver Request filed by Helena Township Library (Helena), Alden, Michigan.¹ Helena seeks a waiver of the Commission's rules governing discounts for services under the schools and libraries universal service support mechanism.² For the reasons set forth below, we grant Helena'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.³ 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 (Form 470), in which the applicant sets forth its

¹ Letter from Gay Anderson, Helena Township Public Library, to Federal Communications Commission, filed July 31, 2000 (Waiver Request). We note that Helena specified in its Waiver Request that it was seeking a waiver of the filing window for SLD application No. 137061. *Id.* However, Helena filed that application on March 31, 1999, which was within the filing window. See FCC Form 471, Helena Township Public Library, filed March 31, 1999. It is apparent from the text of the Waiver Request that Helena intended to seek a waiver regarding application NEC.471.04-26-00.32200001, which was filed outside the filing window on April 26, 2000. We therefore consider Helena's Waiver Request only with respect to application NEC.471.04-26-00.32200001.

² *Id.*

³ 47 C.F.R. §§ 54.502, 54.503.

technological needs and the services for which it seeks discounts.³ The Administrator must post the Form 470 on its website, and the applicant is required to wait 28 days before making a commitment with a selected service provider.⁵ 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 (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.⁶ The Commission's rules allow the Administrator to implement an internal filing period ("filing window") for the Form 471 applications that treats all schools and libraries filing within that period as if their applications were received simultaneously.⁷ Applications that are postmarked outside this filing window are subject to separate funding priorities under the Commission's rules.⁸ It is to all applicants' advantage, therefore, to ensure that prior to the close of the filing window, they either file their Forms 471 electronically, or mail them to the Administrator.

3. Helena requests a waiver of the Funding Year 2 application window, which closed on March 31, 2000.⁹ Helena provides postmark documentation in its Waiver Request that it mailed the FCC Form 471 to SLD certified mail on March 14, 2000, with the proper address.¹⁰ Inexplicably, based on the "Received" stamp on the return receipt Helena includes in its Waiver Request, it appears that the postal service delivered the application to the Internal Revenue Service in Kansas City, Missouri, on March 20.¹¹ The Internal Revenue Service seems to have subsequently forwarded the application to SLD, which received it on April 26, 2000.¹²

4. Waiver of our rules 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.¹³ Because Helena provides documentation indicating that SLD would have received the application before the end of the filing window for Funding Year 2 if the postal service had delivered it to the correct address, we find that good cause exists to grant Helena's Waiver Request.

⁴ 47 C.F.R. § 54.504(b)(1), (b)(3).

⁵ 47 C.F.R. § 54.504(b)(3), (4); § 54.511.

⁶ 47 C.F.R. § 54.504(c).

⁷ 47 C.F.R. § 54.507(c).

⁸ 47 C.F.R. § 54.507(g).

⁹ The funding window for Funding Year 2 initially closed on April 6, 1999. When it was determined that funds were available in excess of what had been requested by applicants who filed within the original window, the Commission directed SLD to re-open the filing window to permit additional applications. The re-opened window closed on March 31, 2000. See SLD web site, What's New (March, 2000)

<<http://www.sl.universalservice.org/whatsnew/032000.asp#consideryr2>>; see Waiver Request, at 1.

¹⁰ Waiver Request, Attachments.

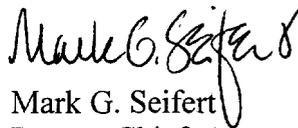
¹¹ *Id.*

¹² FCC Form 471, Helena Township Public Library, filed April 26, 2000.

¹³ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

5. 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 Helena Township Public Library, Alden, Michigan on July 31, 2000 IS GRANTED to the extent provide herein, and Helena's application is REMANDED to SLD for further consideration in light of this decision.

FEDERAL COMMUNICATIONS COMMISSION



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