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Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	)	
	)	
Request for Waiver by	)	
	)	
Netherlands Reformed Christian School Pompton Plains, New Jersey	)))	File No. SLD-270064
	)	
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

ORDER

Adopted: December 12, 2001 **Released: December 13, 2001**

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division has under consideration a Waiver Request filed by Netherlands Reformed Christian School (Netherlands Christian), Pompton Plains, New Jersey.[1] Netherlands Christian 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 deny Netherlands Christian'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, 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 John W. Van Der Brink, Netherlands Reformed Christian School, to Federal Communications Commission, filed September 4, 2001 (Waiver Request).

[2] *Id.*

[3] 47 C.F.R. §§ 54.502, 54.503.

[4] 47 C.F.R. § 54.504(b)(1), (b)(3).

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 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 FCC Form 471 applications that treats all schools and libraries filing within that period as if their applications were simultaneously received.[7] Applications that are received outside this filing window are subject to separate funding priorities under the Commission's rules.[8] It is to all applicants' advantage, therefore, to file their applications prior to the close of the filing window.

3. Netherlands Christian requests a waiver of the Funding Year 4 application window, which closed on January 18, 2001.[9] SLD posted Netherlands Christian's FCC Form 470 on January 11, 2001.[10] SLD subsequently received Netherlands Christian's FCC Form 471 on February 15, 2001, twenty-seven days after the filing window closed.[11] In its Waiver Request, Netherlands Christian asserts that it is relatively "new" to the application process and when the application materials were received, it noted the deadline date for filing was January 18, 2001.[12] Netherlands Christian states that it set the packet aside without realizing that Netherlands Christian was required to file the FCC Form 470 28 days before it could file the FCC Form 471 in order to qualify for the funding. Netherlands Christian further states that the wording on the original packet it received was confusing.

4. We conclude that Netherlands Christian 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.[13] 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.

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[5] 47 C.F.R. §§ 54.504(b)(3) and (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] Waiver Request.

[10] FCC Form 470, Netherlands Reformed Christian School, filed January 11, 2001.

[11] FCC Form 471, Netherlands Reformed Christian School, filed February 15, 2001. Under program rules in effect in Funding Year 4, FCC Forms 471 were deemed filed when received by SLD. Instructions for Completing the Schools and Libraries Universal Service, Services Ordered and Certification Form (FCC Form 471), OMB 3060-0806 (Funding Year 1) (Form 471 Instructions).

[12] Waiver Request.

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

5. The particular facts of this case do not rise to the level of special circumstances required for a deviation from the general rule. Netherlands Christian claims that it is relatively "new" to the application process and that the wording on the packet was confusing. 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, including filing deadlines. [14] Here, Netherlands Christian 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 Netherlands Reformed Christian School, Pompton Plains, New Jersey, on September 4, 2001 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Mark G. Seifert

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

[14] *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.").