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Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	)	
	)	
Request for Review of the Decision of the Universal Service Administrator by	)	
	)	
All Saints' Elementary School Brooklyn, New York	)	File No. SLD-233250
	)	
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: January 25, 2002 **Released: January 28, 2002**

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division has under consideration a Request for Review filed by All Saints' Elementary School (All Saints'), Brooklyn, New York.[1] All Saints' seeks review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) to reject All Saints' appeal on the grounds that it was untimely filed.[2] For the reasons set forth below, we deny All Saints' Request for Review.

2. SLD issued a Funding Commitment Decision Letter on July 23, 2001, denying All Saints' request for discounted services under the schools and libraries universal service support mechanism.[3] Specifically, SLD denied All Saints' request for discounts for internal connections, Funding Request Number (FRN) 681406.[4] On October 18, 2001, All Saints' filed an appeal of SLD's decision to deny FRN 681406.[5] On November 5, 2001, SLD issued an

[1] Letter from Martha Targos McNulty, All Saints' Elementary School, to Federal Communications Commission, filed December 28, 2001 (Request for Review).

[2] *Id.*

[3] Letter from Schools and Libraries Division, Universal Service Administrative Company, to Maria Ramos, All Saints' Elementary School, dated July 23, 2001 (Funding Commitment Decision Letter).

[4] *Id.*

[5] Letter from Martha Targos McNulty, All Saints' Elementary School, to Schools and Libraries Division, Universal Service Administrative Company, filed October 18, 2001 (Request for Administrator Review).

Administrator's Decision on Appeal indicating that it would not consider All Saints' appeal because it was received more than 30 days after the Funding Commitment Decision Letter was issued.[6] All Saints' subsequently filed the instant Request for Review with the Commission.

3. Under section 54.720(b) of the Commission's rules, an appeal must be filed with the Commission or SLD within 30 days of the issuance of the decision that the party seeks to have reviewed.[7] Documents are considered to be filed with the Commission or SLD only upon receipt.[8] The 30-day deadline contained in section 54.720(b) of the Commission's rules applies to all requests for review filed by a party affected by a decision issued by the Administrator.[9] Because All Saints' failed to file an appeal of the July 23, 2001 Funding Commitment Decision Letter within the requisite 30-day appeal period, we affirm SLD's decision to dismiss All Saints' appeal to SLD as untimely and deny the instant Request for Review.

4. To the extent that All Saints' is requesting that we waive the 30-day deadline established in section 54.720(b) of the Commission's rules, we deny that request.[10] The Commission may waive any provision of its rules, but a request for waiver must be supported by a showing of good cause.[11] All Saints' has not shown good cause for the untimely filing of its initial appeal. All Saints' explains that the school building is closed in the summer and that the mail is forwarded to the rectory.[12] Further, All Saints' states that the mail was not sorted or checked due to the rectory being understaffed or closed for summer recess.[13] All Saints' asserts that, as a result, it did not receive the Funding Commitment Decision Letter until the 30-day appeal period had passed.

5. We conclude that All Saints' 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

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[6] Letter from Schools and Libraries Division, Universal Service Administrative Company, to Martha Targos McNulty, All Saints' Elementary School, dated November 5, 2001 (Administrator's Decision on Appeal).

[7] 47 C.F.R. § 54.720(b).

[8] 47 C.F.R. § 1.7.

[9] We note that, due to recent disruptions in the reliability of the mail service, the 30-day appeal period has been extended by an additional 30 days for requests seeking review of decisions issued on or after August 13, 2001. *See Implementation of Interim Filing Procedures for Filings of Requests for Review, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, FCC 01-376 (rel. Dec. 26, 2001), as corrected by *Implementation of Interim Filing Procedures for Filings of Requests for Review, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Errata, (Com. Car. Bur. rel. Dec. 28, 2001) and (Com. Car. Bur. rel. Jan. 4, 2002). Because the July 23, 2001 Funding Commitment Decision Letter was issued before August 13, 2001, the extended appeal period does not apply to All Saints'.

[10] *See* 47 C.F.R. § 54.720(b).

[11] *See* 47 C.F.R. § 1.3.

[12] Request for Review.

[13] *Id.*

the general rule.[14] In requesting funds from the schools and libraries universal service support mechanism, the applicant has certain responsibilities. The applicant bears the burden of submitting its appeal to SLD within the established deadline if the applicant wishes its appeal to be considered on the merits.

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 adhering strictly to its filing deadlines.[15] In order for the program to work efficiently, the applicant must assume responsibility for timely submission of its appeal to SLD if it wishes its appeal to be considered on the merits. An applicant must take responsibility for the action or inaction of those employees, consultants and other representatives to whom it gives responsibility for submitting timely appeals of SLD funding decisions on its behalf. Here, All Saints' fails to present good cause as to why it could not timely file its appeal to SLD. We therefore find no basis for waiving the appeal filing 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 Request for Review filed by All Saints' Elementary School, Brooklyn, New York on December 28, 2001, and the request to waive the 30-day time limit in which to file an appeal ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Mark G. Seifert

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

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

[15] *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-133664, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 25610 (Comm. Car. Bur. rel. Nov. 24, 2000), 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.").