

Federal Communications Commission

DA 02-184  
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Before the  
Federal Communications Commission  
Washington, DC 20554

In the Matter of )  
)  
Requests for Review of the )  
Decisions of the )  
Universal Service Administrator by )  
)  
Marysville Public Schools )  
Marysville, Michigan )  
)  
Federal-State Joint Board on )  
Universal Service )  
)  
Changes to the Board of Directors of the )  
National Exchange Carrier Association, Inc. )

File No. SLD-201537

CC Docket No. 96-45

CC Docket No. 97-21 ✓

ORDER

Adopted: January 28, 2002

Released: January 31, 2002

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division has under consideration two Requests for Review filed by Marysville Public Schools (Marysville), Marysville, Michigan, the first on December 6, 2000, and the second on June 29, 2001.<sup>1</sup> The Requests for Review seek review of the determination by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) that Marysville's appeal to SLD was untimely. For the reasons set forth below, we deny the Requests for Review.

2. SLD issued a Funding Commitment Decision Letter on October 13, 2000, denying Marysville's request for discounted services under the schools and libraries universal service support mechanism.<sup>2</sup> Specifically, SLD denied Marysville's request for discounts for internal connections and telecommunications services, Funding Request Numbers (FRNs) 447037 and 469576.<sup>3</sup> On November 22, 2000, Marysville filed an appeal of the decision with

<sup>1</sup> Letter from Patricia L. Speilburg, Marysville Public Schools, to Federal Communications Commission, filed June 29, 2001 (Request for Review of Revised Decision); Letter from Patricia L. Speilburg, Marysville Public Schools, to Federal Communications Commission, filed December 6, 2000 (Request for Review of Original Decision) (collectively, Requests for Review).

<sup>2</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to Patricia L. Speilburg, Marysville Public Schools, dated October 13, 2000 (Funding Commitment Decision Letter).

<sup>3</sup> *Id.*

SLD.<sup>4</sup> On November 28, 2000, SLD issued an Administrator's Decision on Appeal indicating that it would not consider Marysville's appeal because it was received more than 30 days after the issuance of the Funding Commitment Decision Letter, which, according to the Administrator's Decision on Appeal, occurred on October 23, 2000.<sup>5</sup> Marysville then filed a request for review with the Commission, asserting that the Funding Commitment Decision Letter had actually been issued on October 23, 2000, not October 13, 2000.<sup>6</sup> The Administrator subsequently issued a Revised Administrator's Decision on Appeal, which again dismissed Marysville's appeal to SLD as untimely and which was otherwise identical to the first Administrator's Decision on Appeal except that the date of issuance of the Funding Commitment Decision Letter was stated to be October 13, 2000 instead of October 23, 2000.<sup>7</sup> Marysville again filed a Request for Review with the Commission, asserting that October 23, 2000 is the date on which the Funding Commitment Decision Letter was actually issued.<sup>8</sup>

3. Under section 54.720 of the Commission's rules, an appeal must be filed with the Commission or SLD within 30 days of the issuance of the decision as to which review is sought.<sup>9</sup> Documents are considered to be filed with the Commission or SLD only upon receipt.<sup>10</sup> The 30-day deadline contained in section 54.720 of the Commission's rules applies to all requests for review filed by a party affected by a decision issued by the Administrator.<sup>11</sup>

4. Based on the issuance date noted in the Administrator's Decision on Appeal, Marysville asserts that the Funding Commitment Decision Letter was, in fact, issued on October 23, 2000 and that Marysville's Appeal to SLD was therefore timely.<sup>12</sup> However, we find that the October 23, 2000 date on the Administrator's Decision on Appeal was a typographical error and that the actual date of issuance of the Funding Commitment Decision Letter was October 13,

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<sup>4</sup> Letter from Patricia L. Speilburg, Marysville Public Schools, to Schools and Libraries Division, Universal Service Administrative Company, filed November 22, 2000 (Appeal to SLD).

<sup>5</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to Patricia L. Speilburg, Marysville Public Schools, dated November 28, 2000 (Administrator's Decision on Appeal).

<sup>6</sup> Request for Review of Original Decision.

<sup>7</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to Patricia L. Speilburg, Marysville Public Schools, dated June 22, 2001 (Revised Administrator's Decision on Appeal).

<sup>8</sup> Request for Review of Revised Decision.

<sup>9</sup> 47 C.F.R. § 54.720.

<sup>10</sup> 47 C.F.R. § 1.7.

<sup>11</sup> Due to recent disruptions in the reliability of the mail service, the appeal period has been extended to 60 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. December 26, 2001; erratum rel. December 28, 2001; second erratum rel. January 4, 2002). It does not apply to Marysville because the Funding Commitment Decision Letter was issued well before August 13, 2001.

<sup>12</sup> *See* Request for Review of Original Decision, at 1; Request for Review of Revised Decision, at 1.

2000.<sup>13</sup> Thus, Marysville's Appeal to SLD on November 22, 2000 was not timely filed within the 30-day period.

5. Further, because the Funding Commitment Decision Letter, on its face, specified the date of issuance as October 13, 2000, Marysville had notice of the correct date of issuance and knew or should have known that, under the Commission's regulations, its appeal had to be filed by November 13, 2000.<sup>14</sup> Indeed, it would be impossible for Marysville to have relied on SLD's typographical error in filing its Appeal to SLD on November 22, 2000 because the error did not occur until SLD acted on Marysville's appeal in its November 28<sup>th</sup> decision. Because Marysville failed to file an appeal of the October 13, 2000 Funding Commitment Decision Letter within the requisite 30-day appeal period, we affirm SLD's decision to dismiss Marysville's Appeal to SLD as untimely.

6. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Requests for Review filed by Marysville Public Schools, Marysville, Michigan on December 6, 2000 and June 29, 2001 ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION



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

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<sup>13</sup> See Funding Commitment Decision Letter; see also Letter from Schools and Libraries Division, Universal Service Administrative Company, to Federal Communications Commission, dated August 9, 2001 (indicating that Marysville Funding Commitment Decision Letter was issued with group of funding decisions which were approved on October 9, 2000 and issued the following Friday, October 13, 2000).

<sup>14</sup> See, e.g., Appeal to SLD, Attachment (attaching excerpt of Funding Commitment Decision Letter, at 5 (specifying the October 13, 2000 date)); see also Funding Commitment Decision Letter, at 1 ("your appeal must be . . . RECEIVED BY THE SLD . . . WITHIN 30 DAYS OF THE ABOVE DATE ON THIS LETTER.").

