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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	)	
	)	
Strathmore Union High School Strathmore, California	)	File No. SLD-247026, 248168, 248323, 248651, 248803, and 248912
	)	
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 28, 2002 **Released: January 31, 2002**

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division has under consideration a Request for Review filed by Strathmore Union High School (Strathmore), Strathmore, California.[1] Strathmore seeks review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) to reject Strathmore's appeal on the grounds that it was untimely filed.[2] For the reasons set forth below, we deny Strathmore's Request for Review in part and dismiss its Request for Review in part without prejudice.

2. SLD issued four Funding Commitment Decision Letters on July 23, 2001 and two Funding Commitment Decision Letters on August 7, 2001, denying Strathmore's request for discounted services under the schools and libraries universal service support mechanism.[3]

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[1] Letter from Vernon Snodderly, Strathmore Union High School, to Federal Communications Commission, filed September 20, 2001 (Request for Review).

[2] *Id.* In addition to the Administrator's Decision on Appeal, we understand that Strathmore wishes to appeal SLD's decisions with respect to SLD application numbers 248651 and 248803. These appeals, however, are still pending SLD's review.

[3] Letter from Schools and Libraries Division, Universal Service Administrative Company, to Vickie Weeks, Strathmore Union High School, dated July 23, 2001 (SLD application number 247026); Letter from Schools and Libraries Division, Universal Service Administrative Company, to Vickie Weeks, Strathmore Union High School, dated July 23, 2001 (SLD application number 248168); Letter from Schools and Libraries Division, Universal Service Administrative Company, to Vickie Weeks, Strathmore Union High School, dated July 23, 2001 (SLD

Specifically, SLD denied Strathmore's request for discounts for Internet access, internal connections, and telecommunications services.[4] On August 23, 2001, Strathmore filed an appeal of SLD decisions to deny discounted services.[5] On August 27, 2001, SLD issued Administrator's Decisions on Appeal indicating that it would not consider Strathmore's appeal with respect to the July 23, 2001 Funding Commitment Decision Letters because it was received more than 30 days after these Funding Commitment Decision Letters were issued.[6] Strathmore 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 Strathmore failed to file an appeal of the July 23, 2001 Funding Commitment Decision Letters within the requisite 30-day appeal period, we affirm SLD's decision to dismiss Strathmore's appeal to SLD as untimely and deny the instant Request for Review.

application number 248323); Letter from Schools and Libraries Division, Universal Service Administrative Company, to Vickie Weeks, Strathmore Union High School, dated July 23, 2001 (SLD application number 248912); Letter from Schools and Libraries Division, Universal Service Administrative Company, to Vickie Weeks, Strathmore Union High School, dated August 7, 2001 (SLD application number 248651); and Letter from Schools and Libraries Division, Universal Service Administrative Company, to Vickie Weeks, Strathmore Union High School, dated August 7, 2001 (SLD application number 248803) (Funding Commitment Decision Letters).

[4] *Id.*

[5] Letter from Vernon Snodderly, Strathmore Union High School, to Schools and Libraries Division, Universal Service Administrative Company, filed August 23, 2001 (Request for Administrator Review).

[6] Letter from Schools and Libraries Division, Universal Service Administrative Company, to Vernon Snodderly, Strathmore Union High School, dated August 27, 2001 (SLD application number 247026); Letter from Schools and Libraries Division, Universal Service Administrative Company, to Vernon Snodderly, Strathmore Union High School, dated August 27, 2001 (SLD application number 248168); Letter from Schools and Libraries Division, Universal Service Administrative Company, to Vernon Snodderly, Strathmore Union High School, dated August 27, 2001 (SLD application number 248323); Letter from Schools and Libraries Division, Universal Service Administrative Company, to Vernon Snodderly, Strathmore Union High School, dated August 27, 2001 (SLD application number 248912) (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 Funding Commitment Decision Letter was issued before August 13, 2001, the extended appeal period does not apply to Strathmore.

4. To the extent that Strathmore 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] Strathmore has not shown good cause for the untimely filing of its initial appeal. Strathmore explains that it did not start receiving the July 23, 2001 Funding Commitment Decision Letters until after July 30, 2001.[12] Strathmore asserts that it called the SLD Help Line and reached "some agreement" over the telephone that SLD had received its Forms 470, ostensibly for SLD application numbers 247026, 248168, 248323, and 248912, within the time deadline.[13] Even if the record supported this assertion, it would not be considered given Strathmore's failure to secure its right of review by filing a timely appeal. Further, Strathmore states that it did not start receiving the August 7, 2001 Funding Commitment Decision Letters until August 14, 2001.[14] Strathmore expected both groups of letters to confirm that all of its Forms 470 were received within the time deadline but instead learned that its certifications had been denied.[15]

5. Strathmore states that it understood from the August 7, 2001 Funding Commitment Decision Letters that it had 30 days to appeal the decision and it did appeal.[16] Strathmore asserts that SLD received its appeal to the July 23, 2001 Funding Commitment Decision Letters within 30 days from the actual delivery date of these letters and that SLD received its appeal to the August 7, 2001 Funding Commitment Decision Letters within 30 days from its receipt of these letters.[17] However, the record shows that Strathmore did not file its appeal to these Funding Commitment Decision Letters until August 23, 2001, more than 30 days from the date of issuance of the July 23, 2001 Funding Commitment Decision Letters.

6. We conclude that Strathmore has not demonstrated a sufficient basis for waiving the Commission's rules for SLD applications 247026, 248168, 248323, and 248912. 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.[18] 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.

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[10] *See* 47 C.F.R. § 54.720(b).

[11] *See* 47 C.F.R. § 1.3.

[12] Request for Review.

[13] *Id.*

[14] *Id.*

[15] *Id.*

[16] *Id.*

[17] *Id.*

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

7. 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.[19] 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, Strathmore 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.

8. Strathmore wishes to appeal SLD's decisions with respect to SLD application numbers 248651 and 244803. These appeals, however, are still pending SLD's review. The Commission's rules regarding appeals of SLD decisions do not contemplate simultaneous requests to the Commission and the Administrator.[20] Accordingly, we dismiss Strathmore's Request for Review to the Commission without prejudice insofar as these SLD applications are concerned. Once the Administrator has issued its decision on Strathmore's initial request with respect to SLD application numbers 248651 and 248803, Strathmore may then appeal to the Commission if it believes such appeal is warranted at that time.[21] For these reasons, with respect to SLD application numbers 248651 and 248803, we dismiss Strathmore's Request for Review to the Commission without prejudice.

[19] *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.").

[20] 47 C.F.R. § 54.720 (allowing appeals to either the Commission or the Administrator, but tolling the filing period with the Commission, when an applicant has an appeal pending with the Administrator, until the Administrator issues a decision on the appeal).

[21] *See* 47 C.F.R. §§ 54.719 – 54.725 (setting forth rights of review, filing deadlines, standards of review, and other rules pertaining to Commission review of the Administrator's decisions).

9. 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 Strathmore Union High School, Strathmore, California on September 20, 2001, IS DENIED IN PART and IS DISMISSED WITHOUT PREJUDICE IN PART.

FEDERAL COMMUNICATIONS COMMISSION

Mark G. Seifert

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