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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	)	
	)	
Granger School District No. 204 Granger, Washington	)	File Nos. SLD-255038, 255150
	)	
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: February 13, 2002 **Released: February 15, 2002**

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division has under consideration Requests for Review filed by Granger School District No. 204 (Granger), Granger, Washington.[1] Granger seeks review of decisions issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) to reject Granger's appeals on the grounds that they were untimely filed.[2] For the reasons set forth below, we deny Granger's Requests for Review.

2. SLD issued Funding Commitment Decision Letters on July 23 and August 7, 2001, approving Granger's request for discounted services under the schools and libraries universal service support mechanism.[3] Specifically, SLD approved Granger's requests for discounts for telecommunications services but funded the requests at the 87% level only.[4] On October 3, 2001, Granger filed appeals of SLD's decision, stating that it should have been

[1] Letters from Timothy Dunn, Granger School District No. 204, to Federal Communications Commission, filed December 11, 2001 (Requests for Review).

[2] *See* Requests for Review. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

[3] Letters from Schools and Libraries Division, Universal Service Administrative Company, to Rick Foss, Granger School District No. 204, dated July 23 and August 7, 2001 (Funding Commitment Decision Letters).

[4] *Id.*

funded at the 90% level rather than the 87% level.[5] On October 31, 2001, SLD issued two Administrator's Decisions on Appeals indicating that it would not consider Granger's appeals because they were received more than 30 days after the July 23 and August 7, 2001 Funding Commitment Decision Letters were issued.[6] Granger subsequently filed the instant Requests for Review with the Commission.

3. For requests seeking review of decisions issued before August 13, 2001, 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 such requests for review filed by a party affected by a decision issued by the Administrator.[9] Because Granger failed to file an appeal of the July 23 and August 7, 2001 Funding Commitment Decision Letters within the requisite 30-day appeal period, we affirm SLD's decision to dismiss Granger's appeals to SLD as untimely and deny the instant Requests for Review.

4. To the extent that Granger is requesting that we waive the 30-day deadline established in section 54.720(b) of the Commission's rules, we deny that request as well.[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] Granger has not shown good cause for the untimely filing of its initial appeals. Granger explains that on account of a transition in district leadership, it did not file an appeal of the July 23 and August 7, 2001 Funding Commitment Decision Letters until the 30-day appeal period had passed.[12]

5. We conclude that Granger has not demonstrated a sufficient basis for waiving the Commission's rules. Waiver is appropriate if special circumstances warrant a deviation from the

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[5] Letters from Timothy Dunn, Granger School District No. 204, to Schools and Libraries Division, Universal Service Administrative Company, filed October 3, 2001 (Requests for Administrator Review).

[6] Letters from Schools and Libraries Division, Universal Service Administrative Company, to Timothy Dunn, Granger School District No. 204, dated October 31, 2001 (Administrator's Decision on Appeals).

[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 and August 7, 2001 Funding Commitment Decision Letters were issued before August 13, 2001, the extended appeal period does not apply to Granger.

[10] *See* 47 C.F.R. § 54.720(b).

[11] *See* 47 C.F.R. § 1.3.

[12] Request for Review.

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 submitting its appeals to SLD within the established deadlines if the applicant wishes its appeals to be considered on the merits. The July 23 and August 7, 2001 Funding Commitment Decision Letters clearly states that "your appeal must be ... RECEIVED BY THE SCHOOLS AND LIBRARIES DIVISION (SLD) ... WITHIN 30 DAYS OF THE ... DATE ON [THE FUNDING COMMITMENT DECISION LETTER]."[14]

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, Granger fails to present good cause as to why it could not timely file its appeals to SLD. We therefore find no basis for waiving the appeal filing deadlines.

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 Requests for Review filed by Granger School District No. 204, Granger, Washington on December 11, 2001, and the request to waive the 30-day time limit in which to file these appeals ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Mark G. Seifert

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

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

[14] Funding Commitment Decision Letters at 3.

[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 (Com. 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.").