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Before the
Federal Communications Commission
Washington, DC 20554

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In the Matter of	)	
	)	
Request for Review of the Decision of the Universal Service Administrator by	)	
	)	
Telfair County School District McRae, Georgia	)	File No. SLD-238489
	)	
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 15, 2002 **Released: February 19, 2002**

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division has under consideration a Request for Review filed by Telfair County School District (Telfair), McRae, Georgia, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).[1] Telfair seeks review of SLD's refusal to consider Telfair's appeal to SLD on the grounds that it was untimely filed. For the reasons set forth below, we deny Telfair's appeal.

2. SLD issued a Funding Commitment Decision Letter on July 23, 2001, denying Telfair's request for discounted services under the schools and libraries universal service support mechanism.[2] Specifically, SLD denied Telfair's request for discounts for internal connections, Funding Request Numbers (FRNs) 564753, 564774, 566385, 566445, 566486, and 567850. On September 28, 2001, Telfair filed an appeal of SLD's decision to deny FRNs 564753, 564774, 566385, 566445, 566486, and 567850.[3] On October 22, 2001, SLD issued an Administrator's Decision on Appeal indicating that it would not consider Telfair's appeal because it was received

[1] Letter from Marie Hunt, Telfair County School District, to Federal Communications Commission, filed October 22, 2001 (Request for Review).

[2] Letter from Schools and Libraries Division, Universal Service Administrative Company, to Marie Hunt, Telfair County School District, dated July 23, 2001 (Funding Commitment Decision Letter).

[3] Letter from Marie Hunt, Telfair County School District, to Schools and Libraries Division, Universal Service Administrative Company, filed September 28, 2001 (Request for Administrator Review).

more than 30 days after the Funding Commitment Decision Letter was issued.[4] Telfair subsequently filed the instant Request for Review with the Commission.

3. Telfair asserts that it did not receive the July 23, 2001 Funding Commitment Decision Letter.[5] The record, however, demonstrates that SLD issued a Funding Commitment Decision Letter on July 23, 2001.[6] Furthermore, when SLD mails a duplicate FCDL to an applicant, it enters this information in a log. In this case, the log also shows that Telfair's original Funding Commitment Decision Letter was mailed on July 23, 2001.[7]

4. On August 21, 2001, a representative of Telfair contacted SLD, stating that the school district had not received the Funding Commitment Decision Letter. SLD explained that the letter had been sent out on July 23, 2001, and that SLD would send a duplicate Funding Commitment Decision Letter.[8] On September 13, 2001, SLD sent the duplicate Funding Commitment Decision Letter along with a Letter Re-Order Advisory Cover Sheet.[9] The Letter Re-Order Advisory Cover Sheet notes that all terms, conditions, dates and/or actions imposed by the Schools and Libraries Program on applicants or service providers that are dependent on the specific dates in effect with the original letter remain unchanged, including deadlines for filing appeals.[10]

5. For requests seeking review of decisions issued before August 13, 2001, 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.[11] Documents are considered to be filed with the Commission or SLD only upon receipt.[12] 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.[13] Because Telfair failed to file an

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[4] Letter from Schools and Libraries Division, Universal Service Administrative Company, to Marie Hunt, Telfair County School District, dated October 22, 2001.

[5] Request for Review, at 1.

[6] Funding Commitment Decision Letter.

[7] Schools and Libraries Division, Universal Service Administrative Company, Client Operations - Daily Letter Re-Print Request Log, dated August 21, 2001 (Daily Request Log).

[8] *See* Daily Request Log; Letter from Marie Hunt, Telfair County School District, to Schools and Libraries Division, Universal Service Administrative Company, dated September 20, 2001.

[9] *See* Schools and Libraries Division, Universal Service Administrative Company, Letter Re-Order Advisory Cover Sheet, to Marie Hunt, Telfair County School District, dated September 13, 2001 (Letter Re-Order Advisory Cover Sheet).

[10] *Id.*

[11] 47 C.F.R. § 54.720.

[12] 47 C.F.R. § 1.7.

[13] 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*

appeal of the July 23, 2001 Funding Commitment Decision Letter within the requisite 30-day appeal period, we affirm SLD's decision to dismiss Telfair's appeal to SLD as untimely and deny the instant Request for Review.

6. Telfair argues that it never received the original Funding Commitment Decision Letter and therefore could not have timely filed an appeal. SLD records indicate, however, that the letter was mailed on July 23, 2001. The Bureau has addressed similar situations in which the applicant argues that a letter was not received at the address provided to SLD and to which prior correspondence had been successfully mailed.[14] Similarly, the Commission has ruled that "if the Commission were to entertain and accept unsupported arguments that letters mailed in Commission proceedings were not delivered... procedural havoc and abuse would result."[15] Thus, under this precedent, we must deny Telfair's Request for Review.

7. To the extent that Telfair is requesting that we waive the 30-day deadline established in section 54.720(b) of the Commission's rules, we deny that request.[16] The Commission may waive any provision of its rules, but a request for waiver must be supported by a showing of good cause.[17] Telfair has not shown good cause for the untimely filing of its initial appeal. Telfair explains that the Funding Commitment Decision Letter was never received. Telfair asserts that, as a result, it called the Help Desk and was told that they would send a duplicate letter, which came after the 30-day appeal period had passed.

8. We conclude that Telfair 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.[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.

9. 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

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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 Telfair.

[14] *See Request for Review by Whitehall City School District*, Docket Nos. 96-45 and 97-21, Order, DA 00-1892 (rel. August 18, 2000).

[15] *Juan Galiano*, Memorandum Opinion and Order, 5 FCC Rcd 6442, 6443 (1990) (*Juan Galiano*).

[16] *See* 47 C.F.R. § 54.720(b).

[17] *See* 47 C.F.R. § 1.3.

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

responsibility of adhering strictly to its filing deadlines.[19] Furthermore, in order for the program to work efficiently, the Commission has found that it cannot accept unsupported arguments that mailed letters were never received.[20] Here, Telfair 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.

10. 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 Telfair County School District, McRae, Georgia on December 3, 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
Deputy Chief, Accounting Policy Division
Common Carrier Bureau

[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 (Com. Car. Bur. rel. Nov. 24, 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.").

[20] *Juan Galiano*, 5 FCC Rcd 6443.