

DOCKET FILE COPY ORIGINAL

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)
)
Request for Review of the)
Decision of the)
Universal Service Administrator by)
)
West Harrison Community School District)
Mondamin, Iowa)
)
Federal-State Joint Board on)
Universal Service)
)
Changes to the Board of Directors of the)
National Exchange Carrier Association, Inc.)

File No. SLD-217462

CC Docket No. 96-45 ✓

CC Docket No. 97-21



ORDER

Adopted: February 28, 2002

Released: March 6, 2002

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division has under consideration a Request for Review filed by West Harrison Community School District (West Harrison), Mondamin, Iowa.¹ West Harrison seeks review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) to reject West Harrison's appeal on the grounds that it was untimely filed.² For the reasons set forth below, we deny West Harrison's Request for Review.

2. SLD issued a Funding Commitment Decision Letter on July 23, 2001, denying West Harrison's request for discounted services under the schools and libraries universal service support mechanism.³ Specifically, SLD denied West Harrison's request for discounts for internal connections, Funding Request Number (FRN) 501792.⁴ On September 27, 2001, West Harrison filed an appeal of SLD's decision, explaining that West Harrison inadvertently checked

¹ Letter from Jane Roden, West Harrison Community School District, to Federal Communications Commission, filed January 8, 2002 (Request for Review).

² See Request 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 Letter from Schools and Libraries Division, Universal Service Administrative Company, to Jane Roden, West Harrison Community School District, dated July 23, 2001 (Funding Commitment Decision Letter).

⁴ *Id.*

July 2001 and as a result it allowed the 30-day appeal period to pass without filing a timely appeal.¹³

5. We conclude that West Harrison 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.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, West Harrison 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 West Harrison Community School District, Mondamin, Iowa on January 8, 2002, 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

¹³ Request for Review.

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, Inc.*, 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.").