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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	)	
	)	
Haywood County Schools Clyde, North Carolina	)	File No. SLD-192160
	)	
Federal-State Joint Board on Universal Service	)	WC Docket No. 96-45
	)	
Changes to the Board of Directors of the National Exchange Carrier Association, Inc.	)	WC Docket No. 97-21

ORDER

Adopted: April 10, 2002 **Released: April 11, 2002**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Review filed by Haywood County Schools (Haywood), Clyde, North Carolina.[1] Haywood seeks review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) to reject Haywood's appeal on the grounds that it was untimely filed.[2] For the reasons set forth below, we deny Haywood's Request for Review.

2. SLD issued a Funding Commitment Decision Letter on April 14, 2000, denying Haywood's request for discounted services under the schools and libraries universal service support mechanism.[3] Specifically, SLD denied Haywood's request for discounts for telecommunications services, Funding Request Number (FRN) 410703.[4] On January 29, 2002, Haywood filed an appeal of SLD's decision. In its appeal, Haywood asserts that SLD

[1] Letter from Julie Noland, Haywood County Schools, to Federal Communications Commission, filed February 20, 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 Lamont Fuchs, Haywood County Schools, dated April 14, 2000 (Funding Commitment Decision Letter).

[4] *Id.*

improperly denied funding it based on an incorrect application of the 28-day competitive bidding requirement.[5] On February 1, 2002, SLD issued an Administrator's Decision on Appeal, indicating that it would not consider Haywood's appeal because it was received more than 30 days after the April 14, 2000 Funding Commitment Decision Letter was issued.[6] Haywood subsequently filed the instant Request 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 Haywood failed to file an appeal of the April 14, 2000 Funding Commitment Decision Letter within the requisite 30-day appeal period, we affirm SLD's decision to dismiss Haywood's appeal to SLD as untimely and deny the instant Request for Review.

4. To the extent that Haywood 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] Haywood has not shown good cause for the untimely filing of its initial appeal. Haywood explains that that the position responsible for handling applications for support under the schools and libraries universal service support mechanism has been vacant since the Funding Commitment Decision letter was issued. Haywood states that an appeal was filed as soon as the position was filled.[12] As a result, it allowed the 30-day appeal period to pass without filing a timely appeal.

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[5] Letter from Julie Noland, Haywood County Schools, to Schools and Libraries Division, Universal Service Administrative Company, filed January 29, 2002 (Request for Administrator Review).

[6] Letter from Schools and Libraries Division, Universal Service Administrative Company, to Julie Noland, Haywood County Schools, dated February 1, 2002 (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 Jan. 4, 2002); SLD web site, What's New (January 20, 2002), <http://www.sl.universalservice.org/whatsnew/012002.asp#extend3ed>. Because the April 14, 2000 Funding Commitment Decision Letter was issued before August 13, 2001, the extended appeal period does not apply to Haywood.

[10] *See* 47 C.F.R. § 54.720(b).

[11] *See* 47 C.F.R. § 1.3.

[12] Request for Review.

5. We conclude that Haywood 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.[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 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.[14] 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, Haywood 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 Haywood County Schools, Clyde, North Carolina on February 20, 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
Telecommunications Access Policy Division
Wireline Competition Bureau

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

[14] *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.").