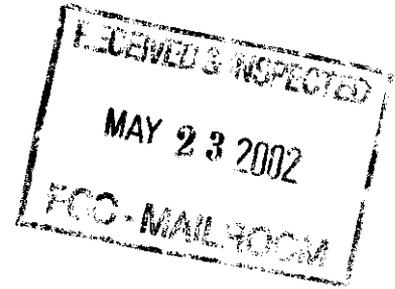


Before the  
Federal Communications Commission  
Washington, D.C. 20554



In the Matter of	)	
	)	
Request for Waiver by	)	
	)	
Macon County R-I School District	)	File No. SLD-270572
Macon, Missouri	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45 ✓
Universal Service	)	
	)	
Changes to the Board of Directors of the	)	CC Docket No. 97-21
National Exchange Carrier Associations, Inc.	)	

**ORDER**

**Adopted: May 20, 2002**

**Released: May 21, 2002**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Waiver Request filed by Macon County R-I School District (Macon), Macon, Missouri, seeking a waiver of the Commission's rules governing discounts for services under the schools and libraries universal service support mechanism.<sup>1</sup> Specifically, Macon requests a waiver of the filing deadline for Funding Year 4 because of delays related to the omissions of an employee.<sup>2</sup> For the reasons set forth below, we deny Macon's Waiver Request.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.<sup>3</sup> In order to receive discounts on eligible services, the Commission's rules require that the applicant submit to the Schools and Libraries Division (SLD) of the Administrator a completed FCC Form 470.<sup>4</sup> Once the applicant has complied with the Commission's competitive bidding requirements and entered into an agreement for eligible services, it must submit a completed FCC Form 471

<sup>1</sup> Letter from Harold Brown, Macon County R-I School District, to Federal Communications Commission, filed January 2, 2002 (Waiver Request).

<sup>2</sup> See Waiver Request. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Universal Service Administrative Company (Administrator) may seek review from the Commission. 47 C.F.R. § 54.719(c).

<sup>3</sup> 47 C.F.R. §§ 54.501-54.503.

<sup>4</sup> 47 C.F.R. § 54.504(b).

application to the Administrator.<sup>5</sup> The Commission's rules require that the applicant file the FCC Form 471 by the filing window deadline to be considered pursuant to the funding priorities for in-window applicants.<sup>6</sup> The last day of the filing window for Funding Year 4 was January 18, 2001 and all paper components of the FCC Form 471 had to be postmarked by that date.<sup>7</sup>

3. Macon electronically filed the main portion of its FCC Form 471 and mailed its Block 6 certification page on February 20, 2001, approximately a month after the filing window closed.<sup>8</sup> Macon requests a waiver of the filing window from the Commission, as SLD can not give a waiver of the Commission's rules.<sup>9</sup> In support of its request, Macon notes that the person responsible for the filing of the application had many other responsibilities. Macon adds that during the filing period a close family member of that person was severely ill and subsequently died.<sup>10</sup>

4. Macon's Waiver Request can be granted only if waiving the deadline is supported by a showing of good cause.<sup>11</sup> A deviation from a general rule is not permitted unless special circumstances warrant it and the deviation would better serve the public interest than strict adherence to the general rule.<sup>12</sup> SLD reviews and processes thousands of applications each year, and therefore it is administratively necessary to place on the applicant responsibility for complying with our rules and procedures.<sup>13</sup> Timely submissions are needed because, under the funding mechanism, all requests for funding received within the initial filing deadline must be analyzed together in order to be considered pursuant to the funding priorities for in-window applicants.<sup>14</sup>

5. We have traditionally held applicants to a high standard for waivers, noting that ultimately it is the applicant who has responsibility for the timely submission of its application if the applicant wishes to be considered with other in-window applicants.<sup>15</sup> How the applicant

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<sup>5</sup> 47 C.F.R. § 54.504(c).

<sup>6</sup> 47 C.F.R. §§ 54.504(c), 54.507(c).

<sup>7</sup> SLD website, FCC Form 471 Window Opens for Year 4 Applicants; New Filing Requirements Firmly Established (November 2, 2000) <<http://www.sl.universalservice.org/whatsnew/112000.asp#110200>>.

<sup>8</sup> FCC Form 471, Macon County R-I School District, filed February 20, 2001 (electronic filing date and postmark on envelope containing certification page).

<sup>9</sup> Waiver Request; *see also* Letter from Schools and Libraries Division, Universal Service Administrative Company, to Harold Brown, Macon County R-I School District, dated November 2, 2001 (Administrator's Decision on Waiver Request).

<sup>10</sup> Waiver Request.

<sup>11</sup> *See* 47 C.F.R. § 1.3.

<sup>12</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (appeals court vacating a Commission decision to grant a waiver in a licensing issue, because it was arbitrary and capricious).

<sup>13</sup> *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, para. 8 (Com. Car. Bur. 2000).

<sup>14</sup> 47 C.F.R. §§ 54.504(c), 54.507(c).

<sup>15</sup> *See Request for Review by Dermott Special School District, Hoven School District No. 53-2, Mastics-Moriches-Shirley Community Library, Mounds Public Schools, Reading-Muhlenberg Area Vocational-Technical School,*

(continued....)

delegates responsibility for the applications does not change our analysis. We have held that neither employee illness nor misunderstanding relieves applicants of their responsibility to understand and comply with the program.<sup>16</sup> We have held this to be true even in cases where an employee responsible for the program is unavailable due to the illness and subsequent death of a close relative.<sup>17</sup> Although the circumstances described by Macon are unfortunate, the fact that only one Macon employee was trained to complete FCC Form 470 does not constitute a special circumstance for purposes of our waiver standard.<sup>18</sup> In addition, we have held that the assertion that denial of an application may have a detrimental impact on students and staff does not create the special circumstances that warrant a waiver of the Commission's rules.<sup>19</sup> Therefore, we conclude that Macon has not demonstrated the existence of special circumstances warranting a deviation from our rules, and therefore, we must deny its Waiver Request

6. 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 Waiver Request filed by Macon County R-I School District, Macon, Missouri, on January 2, 2002, IS DENIED.

## FEDERAL COMMUNICATIONS COMMISSION



Mark G. Seifert  
Deputy Chief, Telecommunications Access Policy Division  
Wireline Competition Bureau

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*Versailles Exempted Village Schools, Westbrook School Department, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File Nos. SLD-252777, SLD-261808, SLD-277850, SLD-265880, SLD-257325, SLD-270374, SLD-220712, CC Docket Nos. 96-45 and 97-21, Order, DA 02-643 (Com. Car. Bur. rel. March 19, 2001).

<sup>16</sup> *Id.* para. 4.

<sup>17</sup> *Id.* para. 10.

<sup>18</sup> *Id.*

<sup>19</sup> See *Request for Review by Northern Waters Library Service, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-183124, CC Docket Nos. 96-45 and 97-21, Order, DA 02-227 (Com. Car. Bur. rel. Jan. 30, 2002) (denying a request for waiver of the Commission's rules based on the assertion that denial would cause the applicant hardship); *Request for Review by Lansingburgh Central School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-109845, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 6999 (Com. Car. Bur. 1999) ("To simply advert...to its limited resources and the needs of its students, does not distinguish its situation from other applications the SLD must process each funding year in accordance with its filing deadlines.").

