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

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In the Matter of	)	
	)	
Request for Review and Waiver by	)	
	)	
Sangerville Public Library Sangerville, Maine	)))	File No. SLD-239547
	)	
Federal-State Joint Board on Universal Service	)))	CC Docket No. 96-45
	)	
Changes to the Board of Directors of the National Exchange Carrier Associations, Inc.	))	CC Docket No. 97-21

ORDER

Adopted: June 27, 2002 **Released: June 28, 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 Sangerville Public Library (Sangerville), Sangerville, Maine.[1] Sangerville seeks review of a decision made by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator), and a waiver of the Commission's rules governing the schools and libraries universal service support mechanism.[2] Specifically, Sangerville requests a waiver of the Funding Year 4 filing window. For the reasons set forth below, we deny Sangerville's Request for Review. To the extent that Sangerville requests a waiver of the Commission's rules, we deny that request as well.

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.[3] In order to receive discounts on eligible services, the Commission's rules require that the applicant submit to the Administrator a completed FCC Form 470, in which the applicant sets forth its technological needs and the services for which it seeks discounts.[4] Once the applicant has

[1] Letter from Linda J. Hall, Sangerville Public Library, to the Federal Communications Commission, filed September 12, 2001 (Request for Review).

[2] *See* Request for Review. *See also* Letter from Schools and Libraries Division, Universal Service Administrative Company, to Linda J. Hall, Sangerville Public Library, dated August 21, 2001 (Administrator's Decision on 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 Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

[3] 47 C.F.R. §§ 54.501–54.503.

[4] 47 C.F.R. § 54.504(b)(1), (b)(3).

complied with the Commission's competitive bidding requirements and entered into agreements for eligible services, the applicant must submit a completed FCC Form 471 application to the Administrator.[5] In the FCC Form 471 instructions, SLD has clearly set forth its standards for processing a FCC Form 471 application.[6] Specifically, the FCC Form 471 instructions state that if a school or library does not provide the information requested, "the processing of your application may be delayed or your application may be returned to you without action."[7]

3. Section 54.507(c) of the Commission's rules states that fund discounts will be available on a first-come, first-served basis.[8] The Commission's rules allow the Administrator to implement an initial filing period ("filing window") for the FCC Form 471 applications that treats all schools and libraries filing within that period as if their applications were simultaneously received.[9] Applications that are received outside of this filing window are subject to separate funding priorities under the Commission's rules.[10] It is to all applicants' advantage, therefore, to ensure that the Administrator receives their applications prior to the close of the filing window. In Funding Year 4, the window closed on January 18, 2001.[11]

4. Applicants may file their FCC Form 471 electronically.[12] In order to have successfully completed the submission of the FCC Form 471 application in Funding Year 4, applicants who filed electronically must have also completed and mailed to SLD the Item 21 description of services, and a paper copy of the Block 6 certification, the latter of which applicants must also have signed.[13] A commitment of support is contingent upon the timely filing of the applicants' completed FCC Form 471.[14] Prior to Funding Year 4, the deadline by which these items had to be received by SLD to be considered within the window was later than the deadline for the filing of the FCC Form 471, so that applicants could file electronically on the last day of the filing window, and mail their certifications and attachments thereafter. However, because in previous years the delivery of a number of applications was significantly delayed by the postal service, SLD, starting in Funding Year 4, directed that all FCC Forms 471 would be deemed filed when postmarked, rather than when received by SLD.[15] This procedural change

[5] 47 C.F.R. § 54.504(c).

[6] Instructions for Completing the Schools and Libraries Universal Service, Services Ordered and Certification Form (FCC Form 471), OMB 3060-0806 (October 2000) (Form 471 Instructions). *See also* 47 C.F.R. § 54.504(c).

[7] Form 471 Instructions at 2.

[8] 47 C.F.R. § 54.507(c).

[9] *Id.*

[10] 47 C.F.R. § 54.507(g).

[11] In Funding Year 4, SLD processed applications as "in-window" if they were postmarked by January 18, 2001. *See* SLD website, Form 471 Minimum Processing Standards and Filing Requirements for Funding Year 4, <http://www.sl.universalservice.org/reference/471mps.asp>.

[12] Form 471 Instructions at 4-5.

[13] Block 6 is the section of the FCC Form 471 where applicants must sign the form and make certifications required under program rules. *See* Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (October 2000).

[14] Form 471 Instructions at 3-6.

[15] *See* SLD website, What's New (November 2, 2000) <http://www.sl/universalservice.org/whatsnew/110200.asp#110200>.

protects applicants from excessive mail delays. Consequently, SLD notified all potential applicants that all Block 6 certifications and Item 21 attachments must also be postmarked no later than the close of the filing deadline.[16]

5. In its Request for Review, Sangerville states that it filed the FCC Form 471 application and mailed all the necessary paperwork before the Funding Year 4 filing deadline closed.[17] In support of its assertion, Sangerville attaches a copy of a screen print-out of its online FCC Form 471, dated January 12, 2001.[18] SLD's records confirm Sangerville submitted its online application on January 12, 2001.[19] Furthermore, SLD's records show that Sangerville mailed the signed Block 6 certification page on the same date.[20] However, there is nothing in the record to indicate that the Item 21 attachments were also sent to SLD. On appeal to the Commission, Sangerville did not attach a copy of the Item 21 attachments, or a copy of any proof of mailing for that document.[21] We note that more than a month after Sangerville filed its appeal to the Commission, SLD sent Sangerville a letter concerning the Item 21 attachments missing from the file and allowed Sangerville to submit the Item 21 attachments again if it certified that the attachments were sent before the deadline closed.[22] Sangerville had until January 18, 2002 to do so.[23] Because Sangerville did not submit its Item 21 attachments by this date, its application was never completed.[24] Therefore, the Request for Review is denied.

6. In the alternative, Sangerville appears to request a waiver of the Funding Year 4 filing deadline.[25] Sangerville's request can be granted only if waiving the deadline is supported by a showing of good cause.[26] 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.[27] 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.[28] We have held that neither employee error nor misunderstanding relieves applicants

[16] *Id.*

[17] *See* Request for Review.

[18] Request for Review (attached copy of Sangerville's FCC Form 471).

[19] FCC Form 471, Sangerville Public Library, filed January 12, 2001 (electronic copy).

[20] *Id.* (envelope postmarked January 12, 2001).

[21] *See* Request for Review.

[22] Letter from George McDonald, Schools and Libraries Division, Universal Service Administrative Company, to Linda J. Hall, Sangerville Public Library, dated October 25, 2001. A copy of the letter was faxed to the library on October 26, 2001.

[23] *Id.*

[24] The record does not show that Sangerville ever responded to the letter.

[25] Request for Review.

[26] *See* 47 C.F.R. § 1.3.

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

[28] *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, Versailles Exempted Village Schools, Westbrook School Department, Federal-State Joint Board on Universal*

(continued....)

of their responsibility to understand and comply with the program's rules and procedures.[29] Sangerville does not offer any reasons why a waiver of the Commission's rules should be granted.[30] Therefore, we conclude that Sangerville has failed to demonstrate a sufficient basis for a waiver of the deadline, and we deny its waiver request.

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 Sangerville Public Library, Sangerville, Maine, on September 12, 2001, and its request for waiver of the Funding Year 4 filing deadline ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

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

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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).

[29] *Id.*

[30] *See* Request for Review.