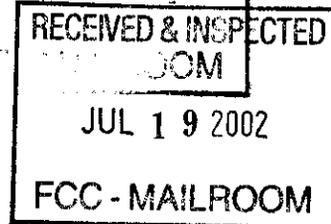


Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)
)
Request for Review of the)
Decision of the)
Universal Service Administrator by)
)
St. Patrick School)
White Lake, Michigan)
)
Federal-State Joint Board on)
Universal Service)
)
Changes to the Board of Directors of the)
National Exchange Carrier Association, Inc.)



File No. SLD-271152

CC Docket No. 96-45 ✓

CC Docket No. 97-21

ORDER

Adopted: July 12, 2002

Released: July 15, 2002

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. This Order dismisses the Request for Review filed by St. Patrick School (St. Patrick), White Lake, Michigan.¹ St. Patrick seeks review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) on March 12, 2002.² The Commission received St. Patrick's Request for Review on June 5, 2002.³

2. For requests seeking review of decisions issued on or after August 13, 2001 under section 54.720(b) of the Commission's rules, any such appeal must be filed with the Commission or SLD within 60 days of the issuance of the decision that the party seeks to have reviewed.⁴ Documents are considered to be filed with the Commission and SLD only upon receipt.⁵

¹ Letter from Daniel Marsh and Linda Meese, St. Patrick School, to Federal Communications Commission, filed June 5, 2002 (Request for Review).

² Letter from the School and Libraries Division, Universal Service Administrative Company, to Linda Meese, St. Patrick School, dated March 12, 2002 (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 See Request for Review.

⁴ 47 C.F.R. § 54.720(b). 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 website, What's New (January 20, 2002), <<http://www.sl.universalservice.org/whatsnew/012002.asp#extend3ed>>.

⁵ 47 C.F.R. § 1.7.

Because the instant Request for Review was not filed within the requisite 60-day period, it will be dismissed without further consideration.

3. To the extent that St. Patrick is requesting that we waive the 60-day deadline established in section 54.720(b) of the Commission's rules, we deny that request as well.⁶ The Commission may waive any provision of its rules, but a request for waiver must be supported by a showing of good cause.⁷ St. Patrick has not shown good cause for the untimely filing of its initial appeal. St. Patrick explains that the person responsible for completing the FCC Form 471 was experiencing prolonged medical problems that prevented him from completing the task in a timely manner.⁸

4. We conclude that St. Patrick 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.⁹ 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.

5. 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.¹⁰ 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, even when such persons are away from the office on medical leave or otherwise incapacitated.¹¹ Here, St. Patrick 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.

⁶ See 47 C.F.R. § 54.720(b).

⁷ See 47 C.F.R. § 1.3.

⁸ Request for Review.

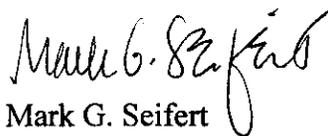
⁹ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

¹⁰ 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.").

¹¹ See, e.g., *Request for Review by New Orleans Public Schools, New Orleans, Louisiana, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File Nos. SLD-201456, 201463, 201409, 201449, and 201493, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 16653 (Com. Car. Bur. rel. Sept. 18, 2001), para 17 (unavailability of responsible staff person due to sick leave is not a basis for granting an appeal).

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 Request for Review filed on June 5, 2002, by St. Patrick School, White Lake, Michigan, IS DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION



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