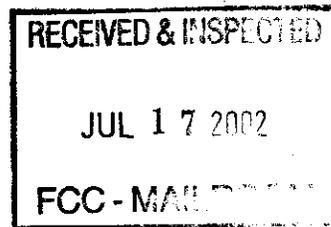


Before the  
Federal Communications Commission  
Washington, DC 20554



In the Matter of )  
)  
Request for Review of the )  
Decision of the )  
Universal Service Administrator by )  
)  
St. Mary's School )  
East Dubuque, Illinois )  
)  
Federal-State Joint Board on )  
Universal Service )  
)  
Changes to the Board of Directors of the )  
National Exchange Carrier Association, Inc. )

File No. SLD-261967

CC Docket No. 96-45 ✓

CC Docket No. 97-21

ORDER

Adopted: July 9, 2002

Released: July 10, 2002

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. Before the Telecommunications Access Policy Division is a Request for Review filed by St. Mary's School, East Dubuque, Illinois.<sup>1</sup> St. Mary's School seeks review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).<sup>2</sup> In its decision, SLD rejected St. Mary's School's Funding Year 2001 application for failure to satisfy minimum processing standards because St. Mary's School submitted the application using the Funding Year 2000 form instead of the Funding Year 2001 form.<sup>3</sup> In its Request for Review, St. Mary's School asserts that relief should

<sup>1</sup> Letter from Mary Nauman, St. Mary's School, to Federal Communications Commission, filed July 16, 2001 (Request for Review).

<sup>2</sup> 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).

<sup>3</sup> See Letter from Schools and Libraries Division, Universal Service Administrative Company, to Mary Nauman, St. Mary's School, dated June 26, 2001 (Administrator's Decision on Appeal). In prior years, this funding period was referred to as Funding Year 4. Funding periods are now described by the year in which the funding period starts. Thus, the funding period which begins on July 1, 2001 and ends on June 30, 2002, previously known as Funding Year 4, is now called Funding Year 2001. The funding period which begins on July 1, 2000 and ends on June 30, 2001, is now called Funding Year 2000.

be granted because it used the form that it was given by the diocese and because it subsequently submitted a version using the correct form.<sup>4</sup>

2. It is well established that applicants are responsible for ensuring that their applications are made on the correct forms.<sup>5</sup> Further, as SLD noted, the corrected version was submitted after the application filing window had closed.<sup>6</sup> St. Mary's School also argues that it could not have submitted the corrected version by the filing window because it did not receive the rejection letter until after the filing window had closed.<sup>7</sup> However, because it is the responsibility of applicants to ensure that their applications use the correct form, the fact that St. Mary's School did not receive notice of the rejection of its application until after the filing window had closed does not provide a basis for accepting a late-filed application.<sup>8</sup>

3. Further, construing St. Mary's School's argument as a request for a waiver of the filing window for its corrected version, we find that a waiver is not appropriate. Although the Commission may waive any provision of its rules, a showing of good cause must support a waiver request.<sup>9</sup> A waiver from the Commission 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.<sup>10</sup> We have repeatedly found that the inability to meet the filing window resulting from the need to file a corrected version after a minimum processing standards rejection is not a special circumstance warranting waiver of the window.<sup>11</sup> We therefore deny the Request for Review and affirm SLD for substantially the reasons stated in the Administrator's Decision on Appeal.

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<sup>4</sup> Request for Review.

<sup>5</sup> See *Request for Review by Southern Adirondack Library System, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-267054, CC Dockets No. 96-45 and 97-21, Order, DA 02-745, para. 10 (Com. Car. Bur. rel. April 4, 2002).

<sup>6</sup> See Administrator's Decision on Appeal.

<sup>7</sup> Request for Review at 1.

<sup>8</sup> See *Request for Review by Southern Adirondack Library System, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-267054, CC Dockets No. 96-45 and 97-21, Order, DA 02-745, para. 11 (Wireline Comp. Bur. April 4, 2002) ("Applicants that fail to properly complete the required application or otherwise fail to follow program rules, run the risk that their applications may not be considered within the filing window.").

<sup>9</sup> 47 C.F.R. § 1.3; see also *WAIT Radio v. FCC*, 418 F.2d 1153, 1158 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972) (*WAIT Radio*).

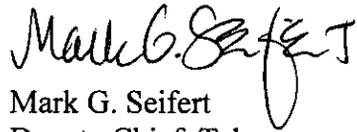
<sup>10</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*); see also *WAIT Radio*, 897 F.2d at 1159 (stating that the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis).

<sup>11</sup> See, e.g., *Southern Adirondack* at paras. 9-13.

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4. 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 St. Mary's School, East Dubuque, Illinois, on July 16, 2001 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



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