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From: Helen Millikin
To: CCB CCBSecretary
Date: Tue, Dec 10, 2002 5:55 PM
Subject: East Carroll's Appeal

Please review the attached appeals for East Carroll School Board. Please acknowledge. Other information will **be** overnighted upon request.

Before the
Federal Communications Commission
Washington D.C.

In the Matter of)
)
Appeal of Schools and Libraries)
Division decision and request for)
waiver of filing deadline for East Carroll) (Form 486 Application(s) ec4862002a,
Parish School Board)
)
Federal-State Joint Board on)
Universal Service) CC Docket No. 96-45
)
)
Changes to the Board of Directors of the)
National Exchange Carrier Association) CC Docket No. 97-21

East Carroll Parish School Board
Entity Number: 139317
Form 486 Number: 166879

The East Carroll Parish School Board requests Federal Communications Commission (FCC) review of a decision of the Schools and Libraries Division (SLD) of the Universal Service Administrative Company. We seek waiver of the October 28, 2001 deadline for filing FCC Form 486, required for compliance with the Children's Internet Protection Act. We believe there to be sufficient precedent to grant this waiver.

In accordance with FCC regulations adopted for E-Rate funding year four, the East Carroll Parish School Board filed a form 486 with the SLD on August 2, 2001. In correspondence dated **October 22, 2001**, SLD returned our Form 486 for failure to meet SLD's "Minimum Processing Standards." We immediately made corrections on the form and returned it to SLD. **On October 26, NCS Pearson Agent signed for the form. (documentation will be faxed and mailed)** In correspondence dated December 21, SLD informed us that our corrected Form 486 arrived after the October 28 deadline for CIPA compliance and we would lose E-Rate discounts from July 1, 2001 through the date our corrected Form 486 was postmarked. For the reasons cited below, we believe we are entitled a waiver and ask the FCC for a waiver of the October 28 Form 486 filing deadline.

We believe a waiver of the October 28 deadline is justified in this instance for a number of reasons. First, we mailed our Form 486 to SLD: 486-ec4862002a **August 2, 2001 (Overnight express)** feeling that would be sufficient time for SLD to data enter the form and contact us in the event there was a problem with our form. Unfortunately, SLD failed to timely process our Form 486, waiting until **October 22, 2001** to return it to us, **(a copy of the letter will be faxed and mailed)** with limited time for us to correct the form and mail it prior to the October 28 deadline; but we

made the deadline and have documentation (a returned receipt – October 26, 2001) We met the deadline but SLD did not have sufficient time for processing before October 28, 2001. So, should we be penalized?

The FCC has ruled favorably in the past on waiver requests when the SLD failed to timely process applications. In a decision released on August 22, 2000, Council Bluffs Community Schools, Council Bluffs, Iowa (DA 00-1909) was granted a waiver of the Form 470 posting requirement after Council Bluffs made a showing that the SLD failed to timely post their Form 470 which had been mailed to the SLD. Similarly, in a decision released on December 21, 1999, Runnemedede Public Schools, Runnemedede, New Jersey (DA 99-2957) was also granted a waiver of the 28 day posting requirement because of SLD's failure to timely post a mailed Form 470. In the Runnemedede decision the FCC concluded:

We have reviewed Runnemedede's appeal and the materials accompanying it. Runnemedede has provided documentation confirming February 26, 1998 as the initial filing date of its FCC Form 470 with SLD. Review of the record also reveals that SLD did not post Runnemedede's FCC Form 470 to its web site at that time, nor did it notify Runnemedede that it was not doing so. The lack of 28 days posting prior to the filing of Runnemedede's FCC Form 471 thus resulted from SLD's failure to timely post the FCC Form 470 in accordance with section 54.504(b)(3) of the Commission's rules. In light of the fact that SLD's failure to post Runnemedede's FCC Form 470 to its web site resulted in Runnemedede's non-compliance with the 28 day posting requirement set forth in 47 C.F.R. – 54.504(b)(4), we believe that a waiver of that requirement is warranted.

Given these rulings and the fact that the FCC provided timely notice to the applicant community of the October 28 tiling deadline and consequences for failure to comply with that deadline, we feel SLD should have reasonably presumed a significant number of Forms 486 would be filed during the months of August, September, and October and should have hired sufficient staff to rapidly process those forms. We also understand state E-Rate representatives raised concerns over timely processing of Forms 486 with SLD during the summer of 2001. As with Runnemedede and Council Bluffs, we feel a waiver is warranted in this case.

Delays in postal service

Because of the terrorist attacks on the postal service, and the fact that SLD utilizes the postal service for correspondence, we feel all correspondence entering the postal system on or after September 12, 2001, may have been subject to delays of days or weeks. Indeed, in light of the terrorist attacks, the FCC has made drastic changes in the manner and timing it accepts correspondence, giving applicants appealing SLD decisions an additional 30 days to file appeals with the Commission (FCC 01-376).

The application rejection(s) cited in this appeal was mailed by SLD after September 12, and may have been subjected to delivery delays due to the attacks. **Because the rejected 486 was received by SLD before October 28 deadline, potential postal service delays may have played a material role in the SLD not processing the 486 until after October 28.**

The purpose of the October 28 filing deadline was for compliance with provisions of CIPA. Under FCC CIPA regulations, applicants funded for telecommunications discounts need not comply with CIPA regulations, but were required to certify that fact by October 28. We ask the Commission to reconsider this regulation.

When issuing Funding Commitment Decision Letters, SLD identifies the types of services (telecommunications, Internet Access, or internal connections) for which applicants may receive discounts. Under CIPA regulations, applicants are required to certify positive CIPA compliance for Internet access and internal connections and exemption of CIPA compliance for telecommunications services. According to FCC CIPA regulations, the timetable for implementation of a technology measure that blocks access to obscene or child pornographic material does not begin until an applicant receives services for Internet access or internal connections. Recipients of telecommunications services simply certify that CIPA regulations "...does not apply because the recipient(s) of service represented in the Funding Request Numbers(s) on this Form 486 is (are) receiving discount services only for telecommunications services" – Form 486 Block 4, Item 11(c). We contend that requiring applicants to certify non-compliance with CIPA regulations by a date certain is overly burdensome and should not be reason for rejection of the application, as failure to check box 11 (c) would, by its absence indicate non-compliance with CIPA regulations.

Because of the precedent setting FCC decisions presented here, SLD's failure to timely process Forms 486, and the horrific events of this past September, we believe the FCC has sufficient cause to grant this waiver request and restore E-Rate funding. from July 1, 2001 through October 30, 2001.

Respectfully submitted this January 17, 2002

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