

Before the
Federal Communications Commission
Washington, DC 20554

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In the Matter of)
)
Request for Review of the)
Decision of the)
Universal Service Administrator by)
)
Harris County Board of Education)
Hamilton, Georgia)
)
Federal-State Joint Board on)
Universal Service)
)
Changes to the Board of Directors of the)
National Exchange Carrier Association, Inc.)

File No. SLD-319188

CC Docket No. 96-45✓

CC Docket No. 97-21

ORDER

Adopted: January 8, 2003

Released: January 9, 2003

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Review filed by the Harris County Board of Education, Hamilton, Georgia.(Harris County).¹ Petitioner requests review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).¹ For the reasons set forth below, we deny the Request for Review.

2. In its decision, SLD denied Harris County's application for universal service discounts in Funding Year 2002 because Harris County failed to postmark its FCC Form 470 signature certification before the close of the filing window pursuant to program rules.³ Petitioner concedes that due to employee error, it failed to meet the FCC Form 470 signature

¹ Letter from Susan Andrews, Harris County Board of Education, Hamilton Georgia, to Federal Communications Commission, filed July 30, 2002 (Request for Review).

Id

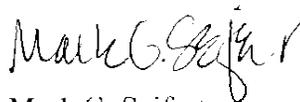
Letter from Schools and Libraries Division, Universal Service Administrative company, to John Graddick, Harris County Board of Education, dated July 1, 2002 (Administrator's Decision on Appeal); see also SLD website, FCC Form 470 Minimum Processing Standards for Funding Year 2002, <http://www.sl.universalservice.org/reference/470mps.asp>.

certification filing deadline.⁴ However, Harris County argues that the omission caused by an inexperienced employee should be overlooked in the interest of granting fund to a financially strapped school district.⁵ Consistent with our precedent in the *Weathersfield Order*, we conclude that SLD's decision is supported by precedent and the underlying record.⁶

3 Further, construing Harris County's argument as a request for a waiver of the program rule that the FCC Form 470 certification be received by the deadline, we find that a waiver is not appropriate. 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.⁷ Petitioner's excuse of employee inexperience is not a special circumstance warranting a waiver of program rules.⁸ Therefore, we affirm SLD and deny the Request for Review.

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 Harris County School District, Hamilton Georgia on July 30, 2002 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



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

⁴ Request for Review at 2.

⁵ *Id.*

⁶ See Request for Review by *Weathersfield Local School, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File Nos. SLD-226039, 226107 (Wireline Comp. Bur. rel. September 25, 2002) (*Weathersfield Order*)

⁷ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); see also *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969) (stating that the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis), *cert. denied*, 409 U.S. 1027 (1972).

⁸ 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 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).