

**Before the
 Federal Communications Commission
 Washington, DC 20554**

In the Matter of)	
)	
Request for Review of the)	
Decision of the)	
Universal Service Administrator by)	
)	
S.C. Governor's School for Science and Mathematics)	File No. SLD- 253975
Hartsville. South Carolina)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45✓
Universal Service)	
)	
Changes to the Board of Directors of the)	CC Docket No. 97-21
National Exchange Carrier Association, Inc)	

ORDER

Adopted: January 14,2003

Released: January 15,2003

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. This Order dismisses the Request for Review filed by S.C. Governor's School for Science and Mathematics (S.C. Governor's School), Hartsville, South Carolina.' S.C. Governor's School seeks review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) on November 7,2001.² The Commission received S.C. Governor's School's Request for Review on January 8, 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

¹ Letter from Ernie L. Boyd, Jr., S.C. Governor's School for Science and Mathematics, to Federal Communications Commission, tiled January 8, 2002 (Request for Review).

² See Request for Review; Letter from the School and Libraries Division, Universal Service Administrative Company, to Ernie L. Boyd, Jr., S.C. Governor's School for Science and Mathematics, dated November 7,2001 (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 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 (Com. Car. Bur. rel. Jan. 4,2002).

Documents are considered to be filed with the Commission only upon receipt.⁵ 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 S.C. Governor's School is requesting that we waive the 60-day deadline established in section 54.720(b) of the Commission's rules for its underlying appeal of SLD's modification to one of its funding requests for telecommunications services, Funding Request Number (FRN) 640532, 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 S.C. Governor's School has not shown good cause for the untimely filing of its initial appeal. S.C. Governor's School explains that its appeal was filed untimely because it assigned this responsibility to new staff members who were unfamiliar with the E-Rate program.⁸

4. We conclude that S.C. Governor's School 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." 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. Here, S.C. Governor's School 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.

⁵ 47 C.F.R. § 1.7.

⁶ See 47 C.F.R. § 54.720(b). On August 20, 2001, SLD issued a Funding Commitment Decision Letter to S.C. Governor's School, modifying FNR 690532. Letter from the School and Libraries Division, Universal Service Administrative Company, to Ernie L. Boyd, Jr., S.C. Governor's School for Science and Mathematics, dated August 20, 2001 (Administrator's Decision on Waiver Request). On October 29, 2001, S.C. Governor's School filed its appeal of SLD's modification to this funding request. Letter from Ernie L. Boyd, Jr., S.C. Governor's School for Science and Mathematics, filed October 29, 2001.

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*, 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.").

6. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Request for Review filed by S.C. Governor's School for Science and Mathematics, Hartsville, South Carolina, on January 8, 2002, and the request to waive the 30-day time limit in which to file an appeal ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Mark G. Seifert
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