

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of

Request for Review of the)	
Decision of the)	
Universal Service Administrator by)	
)	
Chelsea School)	File No. SLD-167423
Chelsea, Maine)	
)	
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. The Telecommunications Access Policy Division has under consideration a Request for Review filed by Chelsea School, Chelsea, Maine.¹ Chelsea School seeks review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) to reject Chelsea School's appeal on the grounds that it was untimely filed.² For the reasons set forth below, we deny Chelsea School's Request for Review.

2. SLD issued a Funding Year 2001 FCC Form 471 Rejection Letter on July 27, 2001, informing Chelsea School that its FCC Form 471, Services Ordered and Certification Form did not meet SLD's minimum processing standards and could not be processed.³

¹ Letter from Susan A. Trott, Chelsea School, to Federal Communications Commission, filed March 11, 2002 (Request for Review).

² 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).

³ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Susan A. Tron, Chelsea School, dated July 27, 2001 (Funding Year 2001 FCC Form 471 Rejection Letter). In prior years, this funding period was referred to as Funding Year 4. Funding years 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 referred to as Funding Year 4, is now called Funding Year 2001. The funding period which begins on July 1, 2002 and ends on June 30, 2003, is now known as Funding Year 2002, and so on.

Specifically, SLD indicated that the FCC Form 471 did not meet SLD's minimum processing standards because the Chelsea School left blank or did not complete the entry for its FCC Form 170 application number in Block 5, Item 12 of its FCC Form 471.⁴ On September 10, 2001, Chelsea School filed an appeal of SLD's decision.⁵ On September 28, 2001, SLD issued an Administrator's Decision on Appeal, indicating that it would not consider Chelsea School's appeal because it was received more than 30 days after the July 27, 2001 Funding Year 2001 FCC Form 471 Rejection Letter was issued.⁶ Chelsea School subsequently filed the instant Request for Review with the Commission.

3. For requests seeking review of decisions issued before August 13, 2001 under section 54.720(b) of the Commission's rules, an appeal must be filed with the Commission or SLD within 30 days of the issuance of the decision that the party seeks to have reviewed.⁷ Documents are considered to be filed with the Commission or SLD only upon receipt.⁸ The 30-day deadline contained in section 54.720(b) of the Commission's rules applies to all such requests for review filed by a party affected by a decision issued by the Administrator.⁹ Because Chelsea School failed to file an appeal of the July 27, 2001 Funding Year 2001 FCC Form 171 Rejection Letter within the requisite 30-day appeal period, we affirm SLD's decision to dismiss Chelsea School's appeal to SLD as untimely and deny the instant Request for Review.

4. To the extent that Chelsea School is requesting that we waive the 30-day deadline established in section 54.720(b) of the Commission's rules, we deny that request as well.¹⁰ The Commission may waive any provision of its rules, but a request for waiver must be supported by a showing of good cause.¹¹ Chelsea School has not shown good cause for the untimely filing of its initial appeal. Chelsea School explains that it did not meet the 30-day window to file an appeal because the Library/Media Specialist who handles the preparation and filing of its E-Rate

⁴ *Id.*

⁵ Letter From Susan A. Trott, Chelsea School, to Schools and Libraries Division, Universal Service Administrative Company, filed September 10, 2001 (Request for Administrator Review).

⁶ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Susan A. Trott, Chelsea School, dated September 28, 2001 (Administrator's Decision on Appeal).

⁷ 47 C.F.R. § 54.720(b).

⁸ 47 C.F.R. § 1.7

⁹ Due to recent disruptions in the reliability of the mail service, the 30-day appeal period has been extended by an additional 30 days for requests seeking review of decisions issued on or after August 13, 2001. *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. December 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. December 28, 2001 and January 4, 2002); SLD website, What's New (January 20, 2002), <<http://www.sl.universalservice.org/whatsnew/012002.asp#extended>>. Because the July 27, 2001 Funding Year 2001 FCC Form 471 Rejection Letter was issued before August 13, 2001, the extended appeal period does not apply to Chelsea School.

¹⁰ *See* 47 C.F.R. § 54.720(b)

¹¹ *See* 47 C.F.R. § 1.3.

applications does not work during the summer and this employee therefore did not receive the Funding Year 2001 FCC Form 471 Rejection Letter until the end of the summer."

5. We conclude that Chelsea 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." 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. The July 27, 2001 FCC Form 471 Rejection Letter clearly states that "your appeal must be ... received by [the Schools and Libraries Division (SLD) ... within 30 days of issuance of [the Funding Year 2001 FCC Form 471 Rejection Letter]."

6. 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 burden 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, Chelsea 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.

¹² Request for Review.

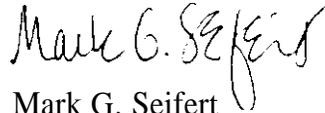
¹³ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990)

¹⁴ Funding Year 2001 FCC Form 471 Rejection Letter at 1

¹⁵ 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-I33664, CC Docket Nos. 96-45 and 97-71, Order, 15 FCC Rcd 25610 (Comm. Csr. 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.").

7. 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 Chelsea School, Chelsea, Maine on March 11, 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
Deputy Chief, Telecommunications Access Policy Division
Wireline Competition Bureau