

Before the
Federal Communications Commission
Washington, DC 20554

FEB 20 2003
FCC-MAIL ROOM

In the Matter of)
)
Requests for Review and Waiver of the)
Decisions of the)
Universal Service Administrator by)
)
Stanfield Elementary School District No. 24)
Stanfield, Arizona)
)
Federal-State Joint Board on)
Universal Service)
)
Changes to the Board of Directors of the)
National Exchange Carrier Association, Inc.)

File No. SLD-KEO11701SESD

CC Docket No. 96-45

CC Docket No. 97-21 ✓

ORDER

Adopted: February 10, 2003

Released: February 11, 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 Stanfield Elementary School District No. 24 (Stanfield Elementary), Stanfield, Arizona.¹ Stanfield Elementary seeks review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator), rejecting Stanfield Elementary's appeal on the grounds that it was untimely filed.² For the reasons set forth below, we affirm SLD's rejection and deny Stanfield Elementary's Request for Review.

2. SLD issued a Fund Year 4 Form 471 - Rejection Letter on March 22, 2001, denying Stanfield Elementary's request for discounted services under the schools and libraries universal service support mechanism.³ Specifically, SLD denied Stanfield Elementary's FCC Form 471 because it did not meet the Minimum Processing Standards. The Block 1, Item 1, Name of Billed Entity, was blank on the Form 471 that Stanfield submitted.⁴ On September 4, 2001,

¹ Letter from Patrick Jeske, Stanfield Elementary School District No. 24, to Federal Communications Commission, filed March 21, 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 Karla Estrada, Stanfield Elementary School District No. 24, dated March 22, 2001 (Fund Year 4 Form - Rejection Letter).

⁴ *Id.*

Stanfield Elementary filed an appeal of SLD's decision.⁵ On September 17, 2001, SLD issued an Administrator's Decision on Appeal indicating that it would not consider Stanfield Elementary's appeal because it was received more than 30 days after the March 22, 2001 Fund Year 4 Form 471 - Rejection Letter was issued.⁶ Stanfield Elementary 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, any such 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 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 the Stanfield Independent's Request for Administrator Review was not filed within the requisite 30-day period, we affirm the Administrator's Decision on Appeal and deny the instant Request for Review.

4. To the extent that Stanfield Elementary 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 Stanfield Elementary has not shown good cause for the untimely filing of its initial appeal. Stanfield Elementary explains that when the Fund Year 4 Form 471 - Rejection Letter was received, Stanfield Elementary did not have a full time Superintendent or Business Manager. Stanfield Elementary further explains that the new Superintendent has only been with the district since July 2001 and was not able to write an appeal in a timely manner.¹²

5. We conclude that Stanfield Elementary has not demonstrated a sufficient basis for waiving the Commission's rules. Waiver is appropriate if special circumstances warrant a

⁵ Letter from Patrick Jeske, Stanfield Elementary School District No. 24, to Schools and Libraries Division, Universal Service Administrative Company, filed September 4, 2001 (Request for Administrator Review).

⁶ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Patrick Jeske, Stanfield Elementary School District No. 24, dated September 17, 2001 (Administrator's Decision on Appeal).

⁷ 47 C.F.R. § 54.720(b).

⁸ 47 C.F.R. § 1.7.

⁹ We note that, due to 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, 17 FCC Rcd 339 (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 Jan. 4, 2002). Because the March 22, 2001 Funding Commitment Decision Letter was issued before August 13, 2001, the extended appeal period does not apply to Stanfield Elementary.

¹⁰ See 47 C.F.R. § 54.720(b).

¹¹ See 47 C.F.R. § 1.3.

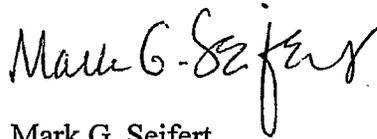
¹² Request for Review at Attachment B.

deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.¹³ 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.

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 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.¹⁴ 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, Stanfield Elementary 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.

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 on March 22, 2002, by Stanfield Elementary School District No. 24, Stanfield, Arizona, 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

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

¹⁴ 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, Inc.*, 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.").