

DOCKET FILE COPY ORIGINAL

Before the  
Federal Communications Commission  
Washington, DC 20554

In the Matter of	)	
	)	
Request for Waiver by	)	
	)	
Springfield School District	)	File No. SLD-309801
Springfield, Vermont	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
	)	
Changes to the Board of Directors of the	)	CC Docket No. <u>97-21</u>
National Exchange Carrier Association, Inc.	)	

**ORDER**

**Adopted: June 11, 2003**

**Released: June 12, 2003**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Waiver filed by Springfield School District, Springfield, Vermont (Springfield), seeking a waiver of the Commission's rules governing the schools and libraries universal service support mechanism.<sup>1</sup> Specifically, Springfield requests a waiver of the filing deadline for Funding Year 2002.<sup>2</sup> For the reasons set forth below, we deny the Waiver Request.

2. In its decision, SLD determined that Springfield's application had been filed after the close of the January 17, 2002 FCC Form 471 filing window.<sup>3</sup> Springfield requests a waiver of the Commission's rules because the staff member responsible for filing the application suffered from severe health and personal issues.<sup>4</sup> Springfield also argues that a waiver should be granted because as of November 2002, it had not received a notification from SLD indicating that the application had been filed after the filing deadline.<sup>5</sup>

<sup>1</sup> Letter from Joseph Silver, Springfield School District, to Federal Communications Commission, filed December 4, 2002 (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 Universal Service Administrative Company (Administrator) may seek review from the Commission. 47 C.F.R. § 54.719(c).

<sup>2</sup> See Waiver Request.

<sup>3</sup> Postcard from Schools and Libraries Division, Universal Service Administrative Company, to J.D. McCutchan, Springfield Super District 56, dated November 22, 2003.

<sup>4</sup> Waiver Request.

<sup>5</sup> *Id.*

3. 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.<sup>6</sup> Applicant's assertion that the employee responsible for filing the application suffered from severe health and personal issues is not a special circumstance warranting a waiver of the filing window.<sup>7</sup> Further, we have consistently held in the past that it is the applicant who has responsibility ultimately for the timely submission of its application.<sup>8</sup> Thus, regardless of when Springfield received notice of the late-filed application, it was the Springfield's responsibility to file a timely and complete application before the close of the filing window. As a result, we do not agree that this is sufficient justification for waiver. Therefore, we affirm SLD and deny the Waiver Request.

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 Waiver Request filed by Springfield School District on December 4, 2002 IS DENIED.

## FEDERAL COMMUNICATIONS COMMISSION



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

<sup>6</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*); 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).

<sup>7</sup> See *Request for Waiver by art in contexts, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD- 262426, CC Docket Nos. 96-45 and 97-21. Order, DA 02-642 (Com. Car. Bur. rel. March 19, 2002) (denying waiver request in case involving employee illness).

<sup>8</sup> See *FCC Overrules Caldwell Televisions Associates, Ltd.*, Public Notice, 58 RR 2d 1706, 1707 (1985).