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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 |) | |
| |) | |
| Four County Library System Vestal, New York |) | File No. SLD-303375 |
| |) | |
| Gloucester City Library Gloucester City, New Jersey |) | File No. SLD-340776 |
| |) | |
| North Penn School District Lansdale, Pennsylvania |) | File No. SLD-323279 |
| |) | |
| Schools and Libraries Universal Service Support Mechanism |) | CC Docket No. 02-6 |

ORDER

Adopted: April 28, 2004

Released: April 29, 2004

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration Requests for Review filed by Four County Library System (Four County), Vestal, New York, Gloucester City Library, Gloucester City, New Jersey (Gloucester City), and North Penn School District (North Penn), Lansdale, Pennsylvania seeking review of decisions by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).¹ For a review of decisions by SLD, appeals to SLD must be filed within 60 days of the issuance of the SLD decision date.² Here, Gloucester City and North Penn filed its appeal to SLD after the 60-day period, in contravention of our rules. For a review of decisions by SLD, appeals to the Commission must be filed within 60 days of the issuance of the SLD decision date.³ Here, Four County filed its appeal after the 60-day period, in contravention of our rules. We therefore

¹ Letter from David Karre, Four County Library System, to Federal Communications Commission, filed March 26, 2003, Letter from Elizabeth Egan, Gloucester City Library, filed March 22, 2004, and Letter from Deborah Cline, North Penn School District, to Federal Communications Commission, filed May 13, 2003 (Requests for Review). 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).

² 47 C.F.R. § 54.720(b). See *In the Matter of Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202, 9221 (2003).

³ 47 C.F.R. § 54.720(a).

dismiss the Request for Review by Four County and deny the Requests for Review by Gloucester City and North Penn.

2. To the extent that Four County and North Penn additionally seek waivers of our rules in this instance, we also deny those requests.⁴ Waiver is appropriate only if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the rule.⁵ Given the thousands of applications SLD processes each year, it is administratively necessary to place the burden of meeting deadlines on the applicants.⁶ As we have consistently held in the past, applicants are responsible for submitting their appeals in a timely manner and complying with program rules and procedures.⁷ In addition, merely stating that a letter was not received at the address provided to SLD and to which prior correspondence had been successfully mailed is insufficient grounds for granting relief.⁸ Further, Commission precedent establishes that where a party has received erroneous information, the government is not estopped from enforcing its rules in a manner that is inconsistent with the advice provided by the employee, particularly where relief is contrary to a rule.⁹ In keeping with our prior decisions, we determine that Four County and North Penn have not demonstrated the special circumstances necessary for a waiver of our rules.

⁴ 47 C.F.R. § 54.720(a)-(b).

⁵ 47 C.F.R. § 1.3; see *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

⁶ 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, 25612-25613 (Com. Car. Bur. 2000).

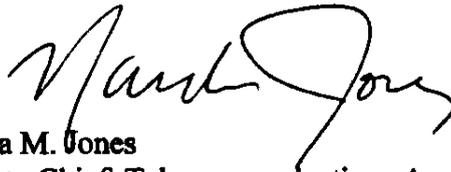
⁷ *Request for Review by St. Mary's Public Library, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. NEC.471.12-07-99.02000002, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 12936, 12938 (Com. Car. Bur. 2001) (denying a waiver request to the extent it is requested due to misunderstanding of the program's rules).

⁸ See *Request for Review by Whitehall City School District*, Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 15157 (2000); *Juan Galiano*, Memorandum Opinion and Order, 5 FCC Rcd 6442, 6443 (1990) ("[I]f the Commission were to entertain and accept unsupported arguments that letters mailed in Commission proceedings were not delivered... procedural havoc and abuse would result.").

⁹ *In re Mary Ann Salvatiello*, Memorandum Opinion and Order, 6 FCC Rcd 4705, 4707-8, para. 22 (1991) (citing *Office of Personnel Management v. Richmond*, 497 U.S. 1046 (1990)).

3. 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 26, 2003, by Four County Library System, Vestal, New York, IS DISMISSED, and the Requests for Review filed on March 22, 2004, by Gloucester City Library, Gloucester City, New Jersey and on May 13, 2003, by North Penn School District, Lansdale, Pennsylvania, ARE DENIED, and the requests to waive the 60-day time limit in which to file an appeal ARE DENIED in both instances.

FEDERAL COMMUNICATIONS COMMISSION



Narda M. Jones
Deputy Chief, Telecommunications Access Policy Division
Wireline Competition Bureau