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Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of the)	File No. SLD -
)	
Appeal of the Decision of the)	
)	
Universal Service Administrator by the)	
)	
St Paul School)	
)	
)	CC Docket No. 96 - 45
Federal-State Joint Board on)	
Universal Service)	
Changes to the Board of Directors of)	
The National Exchange Carrier)	
Association, Inc.)	CC Docket No. 97 - 21

July 12, 2006

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W. Suite TW-A325
Washington, D.C. 20554

1. Additional Authority

SEARCHED 044
SERIALIZED
INDEXED
FILED

2. Applicant previously filed a Motion to Waive the FCC's Rule Requiring that St Paul's 471 Application be filed within the Funding Year 6 "window"

3. In light of the *Bishop Perry Order*, *CC Docket No. 02-6*, *SLD File Nos. SLD-487170*, *et al.*, *Rel May 19, 2006*, the Applicant files this Additional Authority to the Appeal.

Enclosed are the original and four copies of the Appeal. An extra copy is also enclosed.

Please time stamp the extra copy and return it to me in the enclosed self addressed-stamped envelope.

(1) **Funding Commitment Decision Letter Appealed**

Form 471 Application Numbers:	538202,536167
Funding Year 2006:	Funding Year 2006
Billed Entity Number for district:	48663
Date of Funding Denial Notice:	May 11, 2006
Date of Additional Authority:	July 12, 2006

(2) **SLD Contact Information**

Carolyn Hammer
St Paul School

925 E State St
Salem Ohio 44460-2225
Tel. (330.337.3451)

(3) **St Paul School's Reason for Funding Denial**

The SLD stated:

"Funding Year 2006 Form 471 Certification Postmarked outside of window."

Exhibits A, B

(5) **Additional Authority in Support of St Paul School’s Request that the FCC waive its Rule requiring that St Paul’s FCC 471 Application be filed within the window.**

The Commission again stated that “[t]he Commission may waive any provision of its rules on its own motion and for good cause shown. A rule may be waived where the particular facts make strict compliance inconsistent with the public interest.²³ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. In sum, 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.” See, 47 C.F.R. § 1.3; *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990)

At page 5 in the *Bishop Perry Order* the FCC stated:

we find that the departure is warranted and in the public interest. Although we base our decision to grant these requests in part on the fact that many of the rules at issue here are procedural, such a decision is in the context of the purposes of section 254 and cannot be applied generally to other Commission rules that are procedural in nature. Specifically, section 254 directs the commission to “enhance . . . access to advanced telecommunications and information services for all public and non-profit elementary and secondary school classrooms, health care providers and libraries.”²⁵ Because applicants who are eligible for funding will now receive the opportunity for that funding where previously it was denied for minor errors,

And at page 7, the Commission stated:

Given that it is difficult to determine in these cases whether the error was the fault of the applicant, USAC or a third party, **we give the applicants the benefit of the doubt. We find that a slight delay in USAC’s receipt of the applications in each of these cases does not warrant the complete rejection of each of these applicants’ E-rate applications.** Therefore, we find that good cause exists to waive section 54.507 of the rules for these applications.³⁶

Here, St Paul's would have timely filed the FCC Form 471, but for the fact it did not timely receive the SLD's PIN. Therefore, the 471 was deemed filed outside the "window", which, given the demand for e-rate funds, is the same as a complete denial of the application.

Conclusion:

Good cause exists to waive section 54.507 of the rules for this application.

Respectfully submitted,



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