

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of	)	
	)	
Request for Review of the	)	
Decision of the	)	
Universal Service Administrator by	)	
	)	
Homer Community Consolidated S.D. 33C	)	File No. NEC.70C.03-10-00.09700014
Lockport, Illinois	)	
	)	
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: May 1, 2001**

**Released: May 2, 2001**

By the Common Carrier Bureau, Accounting Policy Division:

1. The Common Carrier Bureau has under consideration a Waiver Request filed by Homer Community Consolidated School District 33C (Homer), Lockport, Illinois, seeking a waiver of the Commission's rules governing discounts for services under the schools and libraries universal service support mechanism.<sup>1</sup> For the reasons set forth below, we deny Homer's Waiver Request.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.<sup>2</sup> In order to receive discounts on eligible services, the Commission's rules require that the applicant submit to the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) a completed FCC Form 470, in which the applicant sets forth its technological needs and the services for which it seeks discounts.<sup>3</sup> The Administrator must post the FCC Form

<sup>1</sup> Letter from John Lavelle, Homer Community Consolidated School District 33C, Lockport, Illinois, to the Federal Communications Commission, filed July 6, 2000 (Waiver Request).

<sup>2</sup> 47 C.F.R. §§ 54.502, 54.503.

<sup>3</sup> 47 C.F.R. §§ 54.504(b)(1), (b)(3).

470 on its website and the applicant is required to wait 28 days before making a commitment with a selected service provider. Once the applicant has complied with the Commission's competitive bidding requirements and entered into an agreement for eligible services, it must file an FCC Form 471 application to notify the Administrator of the services that have been ordered, the carrier with whom the applicant has entered an agreement, and an estimate of funds needed to cover the discounts to be given for eligible services.<sup>5</sup> The Commission's rules require that the applicant file a completed FCC Form 471 by the filing window deadline to be considered pursuant to the funding priorities for "in-window" applicants.<sup>6</sup>

3. The application window for Funding Year 3 closed on January 19, 2000. On March 6, 2000, Homer filed a waiver request of the filing deadline with SLD stating that, e-school, the company Homer hired to prepare previous applications, had failed to file for Funding Year 3.<sup>7</sup> Homer subsequently filed its FCC Form 471 on March 10, 2000.<sup>8</sup> SLD responded with a letter informing Homer that SLD was not permitted to act on the waiver request and directed Homer to appeal to the Commission.<sup>9</sup> Homer filed the instant waiver request with the Commission on July 6, 2000.<sup>10</sup> In its Waiver Request, Homer reiterates that e-school did not file its forms in Funding Year 3. Homer also states that it learned in late February that the forms had not been prepared and thereafter attempted to file the forms.

4. We have reviewed the record before us and conclude that Homer has not demonstrated a reasonable 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.<sup>11</sup> Section 54.507(c) of the Commission's rule states that funds will be available on a first-come-first-served basis.<sup>12</sup> By filing late, Homer ran the risk of not receiving any funding. In requesting funds from the schools and libraries universal service support mechanism, the applicant has certain responsibilities. While the school may employ consultants to assist it, the school ultimately bears the

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<sup>4</sup> 47 C.F.R. §§ 54.504(b)(3) and (4); § 54.511.

<sup>5</sup> 47 C.F.R. § 54.504(c).

<sup>6</sup> 47 C.F.R. §§ 54.504(c); 54.5079(c).

<sup>7</sup> Letter from John Lavelle, Homer Community Consolidated School District 33C, to Schools and Libraries Division, Universal Service Administrative Company, filed March 6, 2000.

<sup>8</sup> FCC Form 471, Homer Community Consolidated School District 33C, filed March 10, 2000.

<sup>9</sup> Letter from Schools and Libraries Division, to John Lavelle, Homer Community Consolidated School District 33C, Universal Service Administrative Company, dated June 20, 2000 (Administrator's Decision on Waiver Request); *see also* Letter from Schools and Libraries Division, to John Lavelle, Homer Community Consolidated School District 33C, Universal Service Administrative Company, dated March 8, 2000, in which SLD acknowledged receipt of Homer's Waiver Request (Acknowledgement of Waiver Request).

<sup>10</sup> Waiver Request.

<sup>11</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

<sup>12</sup> 47 C.F.R. § 54.507(c).

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responsibility of completing the relevant forms and submitting them to SLD within the established deadline if the applicant wishes to be considered with other in-window applicants. In this case, Homer failed to follow up with the application process, and, thus, Homer is subject to the funding priorities set forth in Section 54.507(c). We conclude that the particular facts of this case do rise to the level of special circumstances required for a deviation from the general rule. We, therefore, find no basis for waiving the filing window deadline.

5. 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 Homer Community Consolidated School District 33C, Lockport, Illinois, on July 6, 2000 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Mark G. Seifert  
Deputy Chief, Accounting Policy Division