

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

In the Matter of	)	
	)	
Request for Review of the	)	
Decision of the	)	
Universal Service Administrator by	)	
	)	
Holland-Alexandria Free Public Library	)	File No. NEC.471.01-27-00.05700008
Milford, New Jersey	)	
	)	
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: June 1, 2001**

**Released: June 4, 2001**

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division has under consideration a Waiver Request filed by Holland-Alexandria Free Public Library (HAFPL), Milford, New Jersey, 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 HAFPL’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> Once the applicant has complied with the

<sup>1</sup> Letter from Sylvia Gidwani, Holland-Alexandria Free Public Library, Milford New Jersey, to Federal Communications Commission, filed July 17, 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).

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>4</sup>

3. The Commission's rules allow the Administrator to implement an initial filing period ("filing window") for the FCC Form 471 applications that treats all schools and libraries filing within that period as if their applications were simultaneously received.<sup>5</sup> Section 54.507(c) of the Commission's rule states that funds will be available on a first-come-first-served basis.<sup>6</sup> Applications that are received outside of this filing window are subject to separate funding priorities under the Commission's rules.<sup>7</sup> It is to all applicants' advantage, therefore, to ensure that the Administrator receives their applications prior to the close of the filing window.

4. The application window for Funding Year 3 closed on January 19, 2000.<sup>8</sup> HAFPL filed its FCC Form 471 on January 27, 2000, after the filing window had closed.<sup>9</sup> HAFPL filed a request seeking a waiver of the Funding Year 3 filing window deadline with SLD on March 27, 2000. By letter dated June 20, 2000, SLD informed HAFPL that SLD was not permitted to consider the request for waiver and directed HAFPL to request a waiver from the Commission.<sup>10</sup> In response, HAFPL filed the instant Waiver Request with the Commission.<sup>11</sup> In its Waiver Request, HAFPL indicated that the library employed a new director who was not aware of the schools and libraries program.<sup>12</sup> HAFPL also stated that it could find no pertinent records in the library's files.<sup>13</sup> HAFPL stated that it attempted to contact SLD multiple times between November 1999 and January 2000 to get copies of its previous funding commitment letter and applications, and that these attempts were unsuccessful.<sup>14</sup> HAFPL asserts that the inadequate service provided by SLD was "the deciding factor" in the late filing of its FCC Form 471.<sup>15</sup>

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<sup>4</sup> 47 C.F.R. § 54.504(c).

<sup>5</sup> 47 C.F.R. §§ 54.504(c).

<sup>6</sup> 47 C.F.R. § 54.507(c).

<sup>7</sup> 47 C.F.R. §§ 54.507(g).

<sup>8</sup> See SLD's website, <<http://www.sl.universalservice.org>>.

<sup>9</sup> FCC Form 471, Holland-Alexandria Free Public Library, filed January 27, 2000.

<sup>10</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to Sylvia Gidwani, Holland-Alexandria Free Public Library, dated June 20, 2000 (Administrator's Decision on Appeal); see also Letter from Schools and Libraries Division, Universal Service Administrative Company, to Sylvia Gidwani, Holland-Alexandria Free Public Library, dated March 28, 2000 (Acknowledgement of Waiver Request).

<sup>11</sup> Waiver Request.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

5. We have reviewed the record before us and conclude that HAFPL 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>16</sup> HAFPL can not credibly assert that SLD's actions were the cause of its application being filed late. When requesting discounts under the schools and libraries universal service support mechanism, the applicant has certain responsibilities.<sup>17</sup> The applicant ultimately bears the 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. The applicant must also gather documentation that substantiates the information in its application, and it must retain all records relied upon in preparing its application for five years.<sup>18</sup> In asserting that no pertinent documents were stored in the library's files, HAFPL demonstrates that it failed to comply with a program mandate. By filing late, HAFPL ran the risk of not receiving any funding. Because we find no basis for waiving the filing window deadline, HAFPL is subject to the funding priorities set forth in section 54.507(c).

6. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Waiver Request filed by Holland-Alexandria Free Public Library, Milford, New Jersey, on August 16, 2000 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Mark G. Seifert  
Deputy Chief, Accounting Policy Division  
Common Carrier Bureau

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<sup>16</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

<sup>17</sup> *See Request for Review by Anderson School Stratsburg, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of National Exchange Carrier Association*, File No. SLD-13364, CC Dockets No. 95-45 and 97-21, Order, DA 00-2630 (Com. Car. Bur. Rel. Nov. 24, 2000), at para. 8 ("In light of the thousands of applications that SLD reviews and processes each year, it is administratively necessary to place on the applicant the responsibility of understanding all relevant program rules and procedures.")

<sup>18</sup> Instructions to Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (FCC Form 471 Instructions) (September 1999); *see also*: <<http://www.sl.universalservice.org>>.