

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

In the Matter of)	
)	
Request for Review of the)	
Decision of the)	
Universal Service Administrator by)	
)	
Newburgh Enlarged City School District)	File No. SLD- 151012
Newburgh, New York)	
)	
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: January 22, 2001

Released: January 23, 2001

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division has under consideration a Letter of Appeal filed by Newburgh Enlarged City School District (Newburgh), Newburgh, New York, on July 10, 2000, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).¹ Newburgh seeks review of SLD's refusal to consider Newburgh's appeal to SLD on the grounds that it was untimely filed. For the reasons set forth below, we deny Newburgh's appeal and request for waiver of the 30-day time limit for filing appeals.

2. On October 26, 1999, SLD issued a Funding Commitment Decision Letter denying Newburgh's requests for funding.² Newburgh filed an appeal of the funding decision with SLD on June 15, 2000.³ SLD dismissed the appeal as untimely.⁴ Newburgh subsequently filed the instant Letter of Appeal. Because Newburgh failed to appeal SLD's funding decision within

¹ Letter of Appeal from Laval S. Wilson, Ph.D, Newburgh Enlarged City School District, to Federal Communications Commission, filed July 10, 2000 (Letter of Appeal).

² Letter from Schools and Libraries Division, Universal Service Administrative Company, to Michael Pacella, Newburgh Enlarged City School District, dated October 26, 1999 (Funding Commitment Decision Letter).

³ Letter from Roger W. George, Newburgh Enlarged City School District, to Schools and Libraries Division, Universal Service Administrative Co., filed June 15, 2000.

⁴ Letter from Schools and Libraries Division, Universal Service Administrative Co., to Roger W. George, Newburgh Enlarged City School District, dated June 19, 2000. (Administrator's Decision on Appeal).

thirty days of the Funding Commitment Decision Letter, it filed a supplemental request for waiver of the 30-day appeal period on September 19, 2000.⁵

3. Under section 54.720(b) of the Commission's rules, an appeal must be filed within 30 days of the issuance of the decision as to which review is sought.⁶ Documents are considered to be filed with the Commission or SLD only upon receipt.⁷ The 30-day deadline applies to all requests for review filed by a party affected by a decision issued by the Administrator. Because Newburgh failed to appeal the Funding Commitment Decision Letter within the requisite 30-day appeal period, Newburgh's appeal to SLD was correctly denied as untimely.

4. To the extent that Newburgh is requesting that we waive the 30-day deadline established in section 54.720(b) of the Commission's rules,⁸ we deny that request. The Commission may waive any provision of its rules, but a request for waiver must be supported by a showing of good cause.⁹ In light of the thousands of applications that SLD must review and process each funding year, we believe it is administratively appropriate for SLD to require applicants to adhere strictly to its filing deadlines. Accordingly, we believe that, absent special circumstances warranting a deviation from the general rule, waivers of these deadlines should not be granted. In reviewing the record, we find that Newburgh has not shown good cause sufficient to justify a waiver. Newburgh argues that it was unable to timely file an appeal due to staffing difficulties and other priorities. These arguments do not rise to the level of good cause necessary to justify waiving our rules. Accordingly, we conclude that Newburgh has not presented the special circumstances necessary to warrant relief from the filing deadline. We therefore deny Newburgh's request to waive section 54.720(b).

⁵ Letter from Laval S. Wilson, Ph.D, Newburgh Enlarged City School District, to Federal Communications Commission, filed September 19, 2000.

⁶ 47 C.F.R. § 54.720(b).

⁷ 47 C.F.R. § 1.7.

⁸ See 47 C.F.R. § 54.720(b).

⁹ See e.g. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) ("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."); 47 C.F.R. § 1.3.

5. 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 Letter of Appeal filed on July 10, 2000, by Newburgh Enlarged City School District, Newburgh, New York, and the request to waive the 30-day time limit in which to file appeals ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

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