

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of
Request for Review of the
Decision of the
Universal Service Administrator by
Mater Dei High School
New Monmouth, New Jersey
Federal-State Joint Board on
Universal Service
Changes to the Board of Directors of the
National Exchange Carrier Association, Inc.
File No. E009509
CC Docket No. 96-45
CC Docket No. 97-21

ORDER

Adopted: August 16, 2001

Released: August 17, 2001

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division has under consideration a Request for Waiver filed by Mater Dei High School (Mater Dei), New Monmouth, New Jersey seeking a waiver of the Commission's rules governing discounts for services under the schools and libraries universal service support mechanism. For the reasons set forth below, we deny Mater Dei's 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. 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. The Administrator must post the FCC Form 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

1 Letter from Nancy Giotta, Mater Dei High School, New Monmouth, New Jersey, to Federal Communications Commission, filed March 8, 2000 (Waiver Request).

2 47 C.F.R. §§ 54.502, 54.503.

3 47 C.F.R. §§ 54.504(b)(1), (b)(3).

4 47 C.F.R. §§ 54.504(b)(3) and (4); § 54.511.

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.⁵

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.⁶ Section 54.507(c) of the Commission's rules states that fund discounts will be available on a first-come-first-served basis.⁷ Applications that are received outside of this filing window are subject to separate funding priorities under the Commission's rules.⁸ It is to all applicants' advantage, therefore, to ensure that the Administrator receives their applications prior to the close of the filing window.

4. In Funding Year 1, the application window closed on April 15, 1998.⁹ No out of window applicants received funding in Funding Year 1. Mater Dei filed its FCC Form 471 on June 9, 1998.¹⁰ On March 10, 1999, Mater Dei sent a letter to SLD stating that it had not received any information concerning its application and asked SLD to put a tracer on its application.¹¹ SLD treated Mater Dei's March 10, 1999 status inquiry letter as a Request for Waiver and responded by letter, dated June 8, 1999, stating that SLD had received Mater Dei's request and was awaiting guidance from the Commission on procedures for handling waiver requests.¹² Subsequently, on February 15, 2000, SLD informed Mater Dei that SLD was not permitted to consider the waiver request and directed Mater Dei to request a waiver from the Commission.¹³

5. In response, Mater Dei filed the instant Request for Waiver with the Commission.¹⁴ In its request, Mater Dei states that it never requested a waiver, but rather notification concerning

⁵ 47 C.F.R. § 54.504(c).

⁶ 47 C.F.R. § 54.507(c).

⁷ *Id.*

⁸ 47 C.F.R. § 54.507(g).

⁹ See SLD's website, <<http://www.sl.universalservice.org>>.

¹⁰ FCC Form 471, Mater Dei High School, filed June 9, 1998.

¹¹ Letter from Nancy Giotta, Mater Dei High School, to Schools and Libraries Division, Universal Service Administrative Company, filed March 10, 1999. SLD processed this letter as a request for waiver.

¹² Letter from Schools and Libraries Division, Universal Service Administrative Company, to Nancy Giotta, Mater Dei High School, dated June 8, 1999.

¹³ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Nancy Giotta, Mater Dei High School, dated February 15, 2000.

¹⁴ Waiver Request.

the status of its file. Mater Dei states that it contacted SLD numerous times to learn the status of its application and was told “wait and see.”¹⁵

6. We have reviewed Mater Dei’s application and related materials. Mater Dei’s FCC Form 471 was filed with SLD on June 9, 1998. Thus, it is undisputed in the record that Mater Dei’s application was received after the April 15, 1998 filing window deadline.¹⁶ It appears that SLD failed to notify Mater Dei that its Funding Year 1 application for discounts was denied because its FCC Form 471 was received outside the filing window. We find that Mater Dei was not prejudiced by this omission. The record amply demonstrates that Mater Dei’s FCC Form 471 was filed outside the filing window. The only relief that Mater Dei could have sought was a waiver of the Commission’s rules. Having reviewed the merits of Mater Dei’s Waiver Request, we find no basis for waiver of our filing window rules.¹⁷

7. 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 Mater Dei High School, New Monmouth, New Jersey on March 8, 2000 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

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

¹⁵ *Id.*

¹⁶ It is clear that Mater Dei requests that the Commission provide information about the status of its application. In response, Mater Dei’s application was not processed because it was filed after the filing window deadline had closed.

¹⁷ 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. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).