

Before the  
Federal Communications Commission  
Washington, DC 20554

In the Matter of	)	
	)	
Request for Waiver by	)	
	)	
Stephen/Argyle Central School District	)	File No. SLD-228975
Stephen, Minnesota	)	
	)	
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: August 27, 2001**

**Released: August 28, 2001**

By the Common Carrier Bureau, Accounting Policy Division:

1. The Common Carrier Bureau has under consideration a Waiver Request filed by Stephen/Argyle Central School District (Stephen/Argyle), Stephen, Minnesota. Stephen/Argyle seeks 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 Stephen/Argyle’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 470 on its website, and the applicant is required to wait 28 days before making a commitment with a

<sup>1</sup> Letter from Melanie K. Stark, Stephen/Argyle Central School District, to Federal Communications Commission, filed February 26, 2001 (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).

selected service provider.<sup>4</sup> 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 into 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 allow the Administrator to implement an internal 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>6</sup> Applications that are received outside 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.

3. Stephen/Argyle requests a waiver of the Funding Year 4 application window, which closed on January 18, 2001 at 11:59 Eastern Standard Time.<sup>8</sup> Stephen/Argyle asserts that because of a blizzard that closed the school on December 20 and December 21, 2000, it was unable to submit its FCC Form 470 to SLD 28 days before the close of the filing window on January 18, 2001, and therefore its FCC Form 471 could not be submitted within the filing window.<sup>9</sup>

4. We conclude that Stephen/Argyle has not demonstrated a sufficient 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>10</sup> In requesting funds from the schools and libraries universal service support mechanism, the applicant has certain responsibilities. The applicant bears the burden of getting its forms and other information to SLD for processing within the established deadline if the applicant wishes to be considered with other in-window applicants.

5. The particular facts of this case do not rise to the level of special circumstances required for a deviation from the general rule. Although circumstances such as inclement weather may be unexpected, they are generally reasonably foreseeable, and applicants therefore "should build into their schedules a reasonable margin of error in anticipation of circumstances which may cause delay."<sup>11</sup> 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 complying with all relevant

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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. § 54.507(c).

<sup>7</sup> 47 C.F.R. § 54.507(g).

<sup>8</sup> Waiver Request; SLD web site, What's New (December 6, 1999) <<<http://www.sl.universalservice.org/whatsnew/121999.asp>>>.

<sup>9</sup> Waiver Request.

<sup>10</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

<sup>11</sup> *FCC Overrules Caldwell Television*, 58 RR 2d 1706, 1707 (1985) (denying waiver request where unexpected fog closed airport, resulting in application filed late).

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rules and procedures.<sup>12</sup> In order for the program to work efficiently, the applicant must assume responsibility for timely submission of its application materials if it wishes to be considered within the window. Here, Stephen/Argyle fails to present good cause as to why it could not timely file its application. We therefore find no basis for waiving the filing window deadline.

6. 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 the Stephen/Argyle Central School District, Stephen, Minnesota, on February 26, 2001 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

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

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<sup>12</sup> See *Request for Review by Anderson School Staatsburg, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association*, File No. SLD-13364, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 25610 (Com. Car. Bur. 2000), at para. 8 (“In light of the thousands of applications that SLD reviews and processes each funding year, it is administratively necessary to place on the applicant the responsibility of understanding all relevant program rules and procedures.”).