

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)	
)	
Request for Waiver by)	
)	
Sperry Public Schools)	File Nos. SLD-127047, 154732,
Sperry, Oklahoma)	154902
)	
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: October 2, 2001

Released: October 3, 2001

By the Common Carrier Bureau, Accounting Policy Division:

1. The Common Carrier Bureau has under consideration a Request for Waiver filed by Sperry Public Schools (Sperry), Sperry, Oklahoma, seeking a waiver of the Commission’s rules governing discounts for services under the schools and libraries universal service support mechanism.¹ For the reasons set forth below, we dismiss Sperry’s Request for Waiver because the issues are moot.

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.² 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.³ 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

¹ Letter from David Jobe, Sperry Public Schools, to Federal Communications Commission, filed October 7, 1999 (Request for Waiver).

² 47 C.F.R. §§ 54.502, 54.503.

³ 47 C.F.R. §§ 54.504(b)(1), (b)(3).

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 into an agreement, and an estimate of funds needed to cover the discounts to be given for eligible services.⁵ 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.⁶ Applications that are received outside this filing window are subject to separate funding priorities under the Commission's rules.⁷ It is to all applicants' advantage, therefore, to ensure that the Administrator receives their applications prior to the close of the filing window.

3. Sperry requests a waiver of the Funding Year 2 application filing window, which initially closed on April 6, 1999.⁸ Sperry did not submit its FCC Forms 471 until April 7, 1999.⁹ In its Request for Waiver, Sperry explains that it attempted to complete three FCC Forms 471 using the Internet option, but found out, after several attempts and phone calls to SLD, that its browser was incompatible for completing the forms. Sperry asserts that, due to its inability to complete the forms on-line, it instead completed paper applications and submitted them to SLD via US mail.¹⁰ The record shows that SLD received Sperry application numbers 154732 and 154902 on April 7, 1999.¹¹ SLD did not receive Sperry's FCC Form 471 application number 127047 via US mail.

4. The filing window for Funding Year 2 initially closed on April 6, 1999. Later, after it had been determined that funds were available in excess of what had been requested by applicants, the Commission directed SLD to re-open the filing window to permit additional applications. The re-opened Funding Year 2 filing window closed on March 31, 2000. As a result, Sperry's FCC Form 471 application numbers 154732 and 154902 were accepted as timely. In addition, the record shows that Sperry received the funding it requested in these two applications.¹² Therefore, we dismiss Sperry's Request for Waiver as moot regarding application numbers 154732 and 154902. In addition, we dismiss Sperry's Request for Waiver of the Funding Year 2 filing window with regard to application number 127047 because the record shows that Sperry failed to complete this

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

⁵ 47 C.F.R. § 54.504(c).

⁶ 47 C.F.R. § 54.507(c).

⁷ 47 C.F.R. § 54.507(g).

⁸ See SLD web site, What's New (March, 2000) <<http://www.sl.universalservice.org/whatsnew/032000.asp#consideryr2>>; see Waiver Request at 1.

⁹ FCC Form 471, Sperry Public Schools, Sperry, Oklahoma, filed April 7, 1999.

¹⁰ Request for Waiver at 1.

¹¹ FCC Form 471, Sperry Public Schools, Sperry, Oklahoma, filed April 7, 1999.

¹² Letters from Schools and Libraries Division, Universal Service Administrative Company, to David Jobe, Sperry Public Schools, dated April 27, 2001.

application.¹³ Because there is no completed FCC Form 471 for application number 127045, and because Sperry has failed to demonstrate special circumstances that would so necessitate, a waiver of the filing window is not warranted.¹⁴

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 Request for Waiver filed by Sperry Public Schools, Sperry, Oklahoma, on October 7, 1999 IS DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION

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

¹³ See Schools and Libraries Service Program, Fund Commitment Display Report, 471 Application Status (showing no data submitted); see also FCC Form 471 Application Display, Sperry Public Schools, last updated April 15, 1999 (showing on-line FCC Form 471 application number 127047 with incomplete information in Blocks 4 and 5 of the form).

¹⁴ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990). Stating that a waiver from the Commission 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.