

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)	
)	
Request for Waiver by)	
)	
Bellevue Public Library)	NEC.470.01-02-01.9300001
Bellevue, Iowa)	
)	
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 30, 2001

Released: October 31, 2001

By the Common Carrier Bureau, Accounting Policy Division:

1. The Accounting Policy Division has under consideration a Waiver Request filed by Bellevue Public Library (Bellevue), Bellevue, Iowa. Bellevue seeks 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 deny Bellevue’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.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 selected service provider.⁴ Once the applicant has complied with the Commission’s competitive

¹ Letter from Marian L. Meyer, Bellevue Public Library, to Federal Communications Commission, filed February 26, 2001 (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.

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 file their applications prior to the close of the filing window.

3. Bellevue requests a waiver of the Funding Year 4 application window, which closed on January 18, 2001 at 11:59 p.m. Eastern Standard Time.⁸ Because the window closed on that date, in order to be in compliance with the program's competitive bidding requirements and also file an application within the filing window, it was incumbent upon applicants in Funding Year 4 to have their FCC Forms 470 posted no later than December 21, 2000, 28 days before the close of the filing window.⁹ In Funding Year 1, SLD received applications at its location in Iowa City, Iowa.¹⁰ Beginning in Funding Year 2, and continuing through Funding Year 4, SLD has received applications at its location in Lawrence, Kansas.¹¹

4. Bellevue contends that on December 20, 2000, it mailed its FCC Form 470 for Funding Year 4 to SLD using a pre-addressed envelope provided by SLD, which was addressed to SLD's no-longer valid Funding Year 1 address.¹² The postal service returned Bellevue's FCC Form 470 on December 27, 2000.¹³ Bellevue asserts that it then mailed its FCC Form 470 to the correct SLD address on December 27, 2000.¹⁴ SLD received the form on January 2, 2001, and posted it on January 4, 2001.¹⁵

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 Waiver Request; SLD web site, What's New (November, 2000) <<<http://www.sl.universalservice.org/whatsnew/112000.asp>>>.

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

¹⁰ Instructions for Completing the Schools and Libraries Universal Service Description of Services Requested and Certification Form, OMB 3060-0806 (undated) (Year 1 Form 470 Instructions).

¹¹ Instructions for Completing the Schools and Libraries Universal Service Description of Services Requested and Certification Form, OMB 3060-0806 (September 1999) (Year 4 Form 470 Instructions).

¹² Waiver Request.

¹³ *Id.*

¹⁴ Waiver Request.

¹⁵ FCC Form 470, Bellevue Public Library, filed January 2, 2001. Bellevue did not file an FCC Form 471 for Funding Year 4.

5. We conclude that Bellevue 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.¹⁶ 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.

6. The particular facts of this case do not rise to the level of special circumstances required for a deviation from the general rule. Bellevue argues that it is entitled to relief because it mistakenly used a pre-addressed form provided by SLD with an outmoded address.¹⁷ Bellevue's Waiver Request contains a photocopy of the envelope that it states was pre-addressed.¹⁸ It is not apparent from the photocopy that the envelope was pre-addressed by SLD.¹⁹ Thus, as an initial matter, the record does not conclusively establish that Bellevue used an SLD-supplied, pre-addressed envelope.

7. Moreover, it is incumbent upon applicants to determine whether their applications are in compliance with program requirements prior to filing. The instructions for Funding Year 4 explicitly state in two separate places, and in bold print, that FCC Forms 470 that are mailed, rather than filed electronically, must be sent to the following address: SLD-Form 470, PO Box 7026, Lawrence, Kansas 66046-7026 (for regular mail); or SLD-Form 470, c/o Ms. Smith, 3833 Greenway Drive, Lawrence, Kansas 66046 (for express delivery or Return Receipt Requested service).²⁰ The SLD web site also provides the correct address.²¹ Thousands of applicants in Funding Year 4 mailed their forms to the correct address. Bellevue provides evidence of no special circumstances that would merit a waiver of our rules.²²

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 complying with all relevant rules and procedures.²³ In order for the program to work efficiently, the applicant must assume

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

¹⁷ Waiver Request.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Year 4 Form 470 Instructions.

²¹ SLD web site, Tips for Completing Your Form 470, <<http://www.sl.universalservice.org/reference/470Tips_Yr4.asp>>.

²² We further note that Bellevue mailed its FCC Form 470 on December 20, 2000, just a day before the deadline for posting FCC Forms 470. Waiver Request. Therefore, even if Bellevue had mailed the form to the correct address on that day, the 28-day competitive bidding period requirement would likely have prevented Bellevue from filing its FCC Form 471 within the filing window that ended January 18, 2001.

²³ 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

responsibility for timely submission of its application materials if it wishes to be considered within the window. Here, Bellevue 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.

9. 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 Bellevue Public Library, Bellevue, Iowa, on February 22, 2001 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

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

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.”).