

Before the  
Federal Communications Commission  
Washington, DC 20554

In the Matter of	)	
	)	
Request for Waiver by	)	
	)	
Forest Municipal School District	)	File No. SLD-197116
Forest, Mississippi	)	
	)	
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 Forest Municipal School District (Forest District), Forest, Mississippi. Forest District 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 Forest District’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 Dr. Ed Leonard, Forest Municipal School District, to Federal Communications Commission, filed August 30, 2000 (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. Forest District requests a waiver of the Funding Year 3 application window, which closed on January 19, 2000 at 11:59 p.m. Eastern Standard Time.<sup>8</sup> Forest District asserts that it completed its FCC Form 471 online on January 19, 2000, but that due to technical difficulties experienced by SLD, the application did not get posted.<sup>9</sup> Forest Municipal filed its application electronically on January 24, 2000.<sup>10</sup>

4. We conclude that Forest District 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>11</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. Forest District contends that it experienced unspecified "technical difficulties," which it attributes to SLD, while attempting to file its FCC Form 471 electronically on January 19, 2000.<sup>12</sup> The Commission is not aware of any failures of the SLD server on January 19, 2000, other than one that took place late in the evening on that date. The Commission recognized in its *Year 3 Server Failure Order* that SLD experienced a network server

---

<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> FCC Form 471, Forest Municipal School District, Forest, Mississippi, filed January 24, 2000.

<sup>11</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

<sup>12</sup> Waiver Request.

failure at approximately 11:25 p.m. Eastern Standard Time on January 19, 2000, an estimated 35 minutes before the filing window closed for Funding Year 3.<sup>13</sup> In that Order, the Commission directed SLD to waive its filing deadline for applicants that had initiated their applications online and that would have completed their applications before the filing window closed, but for SLD's server failure.<sup>14</sup> The Commission directed SLD to provide waivers for two groups of applicants: (1) those that SLD had identified as having begun their applications online on January 19, 2000, and that would have completed them on January 19 had the server not failed, but that completed them on January 20; and (2) those that began their applications on January 19, 2000 and would have completed their applications on January 19 had the server not failed, that did not complete their applications on January 20, but that informed SLD by the end of January 20 of their inability to complete their application online due to the server failure.<sup>15</sup> This latter group of applicants was allowed until July 8, 2000 to file their applications.<sup>16</sup>

6. It does not appear, however, that Forest District falls within either of the two groups of applicants for which the Commission directed SLD to waive its filing deadline. SLD records indicate that Forest District did not begin filing its FCC Form 471 online until January 24, 2000, after the filing window closed on January 19, 2000, whereas in the *Year 3 Server Failure Order*, the Commission directed SLD to waive the deadline only for applicants that had begun their applications online by the time of the server failure.<sup>17</sup> SLD records reflect that Forest District began its online application at 1:49 p.m. on January 24, 2000, and completed it at 4:50 p.m. that day.<sup>18</sup> There is no evidence that Forest District began its online application prior to the end of the filing window on January 19, 2000.

7. 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.<sup>19</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, Forest District 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.

---

<sup>13</sup> *Federal-State Joint Board on Universal Service, Universal Service Support for Eligible Schools and Libraries, Year 3 Filing Window*, CC Docket No. 96-45, Order, 15 FCC Rcd 13932 (2000) (*Year 3 Server Failure Order*).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> Universal Service Administrative Company, Schools and Libraries Division, Data Set, FY 3 Server Crash Entities, Report Run for Forest Elementary School. File No. SLD-197116.

<sup>18</sup> *Id.*

<sup>19</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.").

8. 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 Forest Municipal School District, Forest, Mississippi, on August 30, 2000 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

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