

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)	
)	
Request for Review of the)	
Decision of the)	
Universal Service Administrator by)	
)	
Lakeshore Public Academy)	File No. NEC.471.12-13-99.
Hart, Michigan)	02400030
)	
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: November 13, 2001

Released: November 14, 2001

By the Common Carrier Bureau, Accounting Policy Division:

1. The Accounting Policy Division has under consideration a Request for Review filed by Lakeshore Public Academy (Lakeshore), Hart, Michigan, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).¹ Lakeshore seeks review of SLD’s decision to reject Lakeshore’s appeal to SLD on the grounds that it was untimely filed. For the reasons set forth below, we deny Lakeshore’s appeal.

2. SLD issued a Funding Rejection Letter on August 2, 2001, notifying Lakeshore that its FCC Form 471 Services Ordered and Certification Form did not meet the Minimum Processing Standards and that SLD was returning the FCC Form 471 because SLD could not process any portion of it.² In its letter, SLD explained that the Form 471 submitted by Lakeshore was not the correct OMB-approved FCC Form 471 dated September 1999, as indicated in the lower right-hand corner of the form. On September 6, 2001, Lakeshore filed an appeal with SLD in which Lakeshore acknowledged its failure to file its application on the correct form and by

¹ Letter from Michele Baskin, Lakeshore Public Academy, to Federal Communications Commission, filed October 9, 2001 (Request for Review).

² Letter from Schools and Libraries Division, Universal Service Administrative Company, to Michele Baskin, Lakeshore Public Academy, dated August 2, 2001 (Funding Rejection Letter).

which Lakeshore resubmitted a correct FCC Form 471.³ On September 24, 2001, SLD issued an Administrator's Decision on Appeal indicating that it would not consider Lakeshore's appeal because it was received more than 30 days after the Funding Rejection Letter was issued.⁴ Lakeshore subsequently filed the instant Request for Review with the Commission.

3. Under section 54.720 of the Commission's rules, an appeal must be filed with the Commission or SLD within 30 days of the issuance of the decision that the party seeks to have reviewed.⁵ Documents are considered to be filed with the Commission or SLD only upon receipt.⁶ The 30-day deadline contained in section 54.720 of the Commission's rules applies to all requests for review filed by a party affected by a decision issued by the Administrator. Because Lakeshore failed to file an appeal of the August 2, 2001 Funding Rejection Letter within the requisite 30-day appeal period, we affirm SLD's decision to dismiss Lakeshore's appeal to SLD as untimely and deny the instant Request for Review.

4. To the extent that Lakeshore is requesting that we waive the 30-day deadline established in section 54.720(b) of the Commission's rules,⁷ we deny that request. The Commission may waive any provision of its rules, but a request for waiver must be supported by a showing of good cause.⁸ Lakeshore has not shown cause for the untimely filing of its initial appeal beyond stating that the administrative facilitator was in a serious automobile accident that resulted in a lengthy hospital stay over the course of the 30-day appeal period. In light of the thousands of applications that SLD must review and process each funding year, we believe it administratively appropriate for SLD to require applicants to adhere strictly to its filing deadlines. Accordingly, we believe that waivers of these deadlines should not be routinely granted. In this regard, the Commission has previously stated that it would not grant requests for waivers based on claims that illness was responsible for an untimely filing, particularly when the applicant had an adequate opportunity to take reasonable steps to minimize or avoid the late filing.⁹ In this case, Lakeshore has failed to demonstrate that it took reasonable steps to cover for the administrative facilitator's absence to minimize or avoid the late filing. For these reasons, we find that the circumstances here do not warrant relief and, therefore, we deny Lakeshore's request to waive section 54.720(b).

³ Letter from Michele Baskin, Lakeshore Public Academy, to Schools and Libraries Division, Universal Service Administrative Company, filed September 6, 2001.

⁴ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Michele Baskin, Lakeshore Public Academy, dated September 24, 2001.

⁵ 47 C.F.R. § 54.720.

⁶ 47 C.F.R. § 1.7.

⁷ See 47 C.F.R. § 54.720(b).

⁸ See 47 C.F.R. § 1.3.

⁹ FCC Overrules Caldwell Television, 58 RR 2d 1706, 1707 (denying waiver request where unexpected fog closed airports, resulting in late filing of broadcast applications).

5. 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 Request for Review filed by Lakeshore Public Academy, Hart, Michigan on October 9, 2001, and the request to waive the 30-day time limit in which to file an appeal ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

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