

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of )
Request for Review of the )
Decision of the )
Universal Service Administrator by )
Colusa Unified School District ) File No. SLD-236993
Colusa, California )
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: December 3, 2001

Released: December 4, 2001

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division has under consideration a Request for Review filed by Colusa Unified School District (Colusa), Colusa, California. Colusa seeks review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) to reject Colusa's appeal on the grounds that it was untimely filed. For the reasons set forth below, we deny Colusa's Request for Review.

2. SLD issued a Funding Commitment Decision Letter on July 23, 2001, denying Colusa's request for discounted services under the schools and libraries universal service support mechanism. Specifically, SLD denied Colusa's request for discounts for telecommunications services, Funding Request Number (FRN) 580276. On August 29, 2001, Colusa filed an appeal of SLD's decision to deny FRN 580276. On August 31, 2001, SLD issued an Administrator's

1 Letter from Sheryl Bailey, Colusa Unified School District, to Federal Communications Commission, filed September 24, 2001 (Request for Review).

2 Id.

3 Letter from Schools and Libraries Division, Universal Service Administrative Company, to Jeff Ochs, Colusa Unified School District, dated July 23, 2001 (Funding Commitment Decision Letter).

4 Id.

5 Letter from Sheryl Bailey, Colusa Unified School District, to Schools and Libraries Division, Universal Service Administrative Company, filed August 29, 2001 (Request for Administrator Review).

Decision on Appeal indicating that it would not consider Colusa's appeal because it was received more than 30 days after the Funding Commitment Decision Letter was issued.<sup>6</sup> Colusa subsequently filed the instant Request for Review with the Commission.

3. Under section 54.720(b) 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.<sup>7</sup> Documents are considered to be filed with the Commission or SLD only upon receipt.<sup>8</sup> The 30-day deadline contained in section 54.720(b) of the Commission's rules applies to all requests for review filed by a party affected by a decision issued by the Administrator. Because Colusa failed to file an appeal of the July 23, 2001 Funding Commitment Decision Letter within the requisite 30-day appeal period, we affirm SLD's decision to dismiss Colusa's appeal to SLD as untimely and deny the instant Request for Review.

4. To the extent that Colusa is requesting that we waive the 30-day deadline established in section 54.720(b) of the Commission's rules, we deny that request.<sup>9</sup> The Commission may waive any provision of its rules, but a request for waiver must be supported by a showing of good cause.<sup>10</sup> Colusa has not shown good cause for the untimely filing of its initial appeal. Colusa explains that the Funding Commitment Decision Letter was sent to the wrong addressees because of staffing changes and concomitant mail routing errors. Colusa asserts that, as a result, it did not receive the Funding Commitment Decision Letter until August 23, 2001, after the 30-day appeal period had passed.

5. We conclude that Colusa 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 submitting its appeal to SLD within the established deadline if the applicant wishes its appeal to be considered on the merits.

6. The particular facts of this case do not rise to the level of special circumstances required for a deviation from the general rule. 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 adhering strictly to its filing deadlines.<sup>12</sup> In order for the program to work

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<sup>6</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to Sheryl Bailey, Colusa Unified School District, dated August 31, 2001 (Administrator's Decision on Appeal).

<sup>7</sup> 47 C.F.R. § 54.720(b).

<sup>8</sup> 47 C.F.R. § 1.7.

<sup>9</sup> See 47 C.F.R. § 54.720(b).

<sup>10</sup> See 47 C.F.R. § 1.3.

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

<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, DA 00-2630 (Comm. Car. Bur. Rel. November 24, 2000) at para. 8 ("In light of the thousands

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efficiently, the applicant must assume responsibility for timely submission of its appeal to SLD if it wishes its appeal to be considered on the merits. An applicant must take responsibility for the action or inaction of those employees, consultants and other representatives to whom it gives responsibility for submitting timely appeals of SLD funding decisions on its behalf. Here, Colusa fails to present good cause as to why it could not timely file its appeal to SLD. We therefore find no basis for waiving the appeal filing deadline.

7. 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 Review filed by Colusa Unified School District, Colusa, California September 24, 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

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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.”).