

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Request for Review by)	
)	
Karnes City Independent)	File No. SLD-256754
School District)	
Karnes City, Texas)	
)	
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 Associations, Inc.)	

ORDER

Adopted: May 22, 2002

Released: May 23, 2002

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Review from Karnes City Independent School District (Karnes), Karnes City, Texas.¹ Karnes requests review of a decision made by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).² Specifically, Karnes challenges SLD's finding that it missed the filing window deadline for discounts for services for Funding Year 4.³ For the reasons set forth below, we grant the Request for Review from Karnes.

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.⁴ In order to receive discounts on eligible services, the Commission's rules require that the applicant submit to the Administrator a completed FCC Form 470, in which the applicant sets forth its technological needs and the services for which it seeks discounts.⁵ The Administrator must post

¹ Letter from Earl Luce and Chelleye Block, Karnes City Independent School District, to Federal Communications Commission, filed August 29, 2001 (Request for Review).

² See Request for Review. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

³ Request for Review.

⁴ 47 C.F.R. §§ 54.501–54.503.

⁵ 47 C.F.R. § 54.504(b).

the FCC Form 470 on its web site and the applicant is required to wait 28 days before making a commitment with a selected service provider.⁶ 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.⁷ The Commission's rules require that the applicant file a completed FCC Form 471 by the filing window deadline to be considered pursuant to the funding priorities for in-window applicants.⁸ The last day of the filing window for Funding Year 4 was January 18, 2001 and all parts of the application had to be postmarked by that date.⁹

3. Karnes contends that SLD incorrectly made the determination that its application was untimely.¹⁰ Karnes electronically filed FCC Form 471 on January 18, 2001.¹¹ Karnes states that it sent the Item 21 attachments and Block 6 certification page the same day.¹² Karnes also notes that it received a notice from SLD that the FCC Form 471, Block 6 certification and Item 21 attachments were not postmarked by the deadline.¹³ In response, Karnes sent SLD a copy of the express courier receipt and the online Block 6 certification page generated by SLD's filing system after the online form was completed on January 18, 2001.¹⁴

4. The question before us, then, is whether Karnes's application, Block 6 certification page and Item 21 attachments were postmarked by January 18, 2001.¹⁵ Karnes offers a copy of the United Parcel Service (UPS) shipping record and worldwide delivery time results confirming that a package addressed to "SLD-Form 471 c/o Ms. Smith" was picked up on January 18, 2001.¹⁶ Although the copy of the envelope in the record is not clear and no

⁶ 47 C.F.R. § 54.504(b)(4).

⁷ 47 C.F.R. § 54.504(c).

⁸ 47 C.F.R. §§ 54.504(c), 54.507(g).

⁹ SLD website, FCC Form 471 Window Opens for Year 4 Applicants; New Filing Requirements Firmly Established (November 2, 2000) <<http://www.sl.universalservice.org/whatsnew/112000.asp#110200>>.

¹⁰ Request for Review.

¹¹ FCC Form 471, Karnes City Independent School District, filed January 18, 2001 (electronic portion submitted into SLD's filing system) (Karnes Form 471).

¹² Request for Review.

¹³ *Id.*

¹⁴ Letter from Chellee Block, Karnes City Independent School District, to Schools and Libraries Division, Universal Service Administrative Company, filed July 30, 2001 (SLD Appeal Letter); Letter from Earl Luce, Karnes City Independent School District, to Schools and Libraries Division, Universal Service Administrative Company, filed August 10, 2001.

¹⁵ SLD treated Karnes's response as a request for waiver of the filing deadline. Letter from Schools and Libraries Division, Universal Service Administrative Company, to Chellee Block, Karnes City Independent School District, dated August 7, 2001 (Administrator's Decision on Waiver Request). SLD directs entities that request such waivers to appeal directly to the Commission, because it lacks authority to waive the Commission's rules even in cases supported by a showing of good cause. *See* 47 C.F.R. § 1.3 (stating the Commission can waive its rules). However, because Karnes does not ask for a waiver of the rules but, instead, for review of SLD's determination, we address the merits of Karnes's appeal.

¹⁶ Request for Review. Similar material was sent to SLD as noted above. *See* SLD appeal letter.

postmark is visible, we have accepted receipts from couriers as evidence of when material was sent to SLD.¹⁷ Therefore, we find that Karnes filed its FCC Form 471 application, including the Block 6 certification page and the Item 21 attachments, by the close of the filing window in Funding Year 4.

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 Karnes City Independent School District, on August 29, 2001, IS GRANTED, and the matter is remanded to SLD for further processing in accordance with this Order.

FEDERAL COMMUNICATIONS COMMISSION

Mark G. Seifert
Deputy Chief, Telecommunications Access Policy Division
Wireline Competition Bureau

¹⁷ Karnes Form 471 (envelope containing certification and attachments); *see, e.g., Request for Waiver by Sacramento City Unified School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File Nos. SLD-242477, SLD-242426, SLD-241593, CC Docket Nos. 96-45 and 97-21, Order, DA 01-2807 (Com. Car. Bur. rel. December 4, 2001) (concluding that applicant filed within window based upon courier receipts provided by applicant).