

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)	
)	
Request for Waiver by)	
)	
Gladwin County Library)	File No. SLD-211003
Gladwin, Michigan)	
)	
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: June 20, 2002

Released: June 21, 2002

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. Before the Telecommunications Access Policy Division is a request for waiver of the Funding Year 3 filing window by Gladwin County Library (Gladwin), Gladwin, Michigan, in connection with its Funding Year 3 application for discounts under the schools and libraries universal service mechanism.¹ Gladwin seeks review of a decision issued by the Schools and Libraries Division of the Universal Service Administrative Company (Administrator) relating to its request for waiver of the Funding Year 3 filing window.² For the reasons set forth below, we deny Gladwin’s Waiver Request.

2. Although the Commission may waive any provision of its rules, a showing of good cause must support a waiver request.³ A waiver from the Commission is appropriate if

¹ Letter from David Volk, Gladwin County Library, to Federal Communications Commission, filed September 10, 2001 (Waiver Request).

² See Waiver Request; Letter from Schools and Libraries Division, Universal Service Administrative Company, to David Volk, Gladwin County Library, dated August 10, 2001 (Administrator’s Decision on Waiver Request). Section 54.719(c) of the Commission’s rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

³ 47 C.F.R. § 1.3; see also *WAIT Radio v. FCC*, 418 F.2d 1153, 1158 (D.C. Cir. 1969), cert. denied, 409 U.S. 1027 (1972) (*WAIT Radio*).

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.⁴

3. Gladwin argues that, unlike in Funding Years 1 and 2, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) did not notify Gladwin by mail in Funding Year 3 as to when the application filing window was open for receipt of applications or that it could obtain this and other information from SLD's website.⁵ It is well established, however, that an applicant is responsible for knowing the applicable rules of the program and, in particular, that the applicant bears the burden of getting its forms and other information to SLD for processing within the established deadline in order to be considered with other in-window applicants.⁶ Further, the FCC Form 471 Instructions gave clear notice that details of the application window would be published on SLD's website.⁷ Thus, Gladwin's lack of awareness of the website and the opening and closing of the filing window is not grounds for a waiver.

4. In addition, Gladwin asserts that it had no access to the Internet for at least a month.⁸ However, as explained in the program's application materials, applicants without web access can obtain the opening and closing dates for the application window by calling SLD's Client Service Bureau at 888-203-0733.⁹ Lack of Internet access therefore also provides no grounds for relief.

5. Finally, Gladwin pleads that the library is poor and deserving of funding.¹⁰ However, the assertion of need does not create the special circumstances or particular facts that warrant a waiver of the Commission's rules.¹¹

⁴ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*); see also *WAIT Radio*, 897 F.2d at 1159 (stating that the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis).

⁵ Request for Waiver at 1.

⁶ *Request for Waiver by Springdale Public Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-195867, CC Dockets No. 96-45 and 97-21, Order, DA 02-433, paras. 6-7 (Com. Car. Bur. rel. February 26, 2002).

⁷ Instructions for Completing the Schools and Libraries Universal Service, Services Ordered and Certification Form (FCC Form 471), OMB 3060-0806 (September 1999) (Form 471 Instructions), at 4.

⁸ Request for Waiver at 1.

⁹ Form 471 Instructions at 5.

¹⁰ Request for Waiver at 1.

¹¹ See *Request for Review by Northern Waters Library Service, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-183124, CC Docket Nos. 96-45 and 97-21, Order, DA 02-227 (Com. Car. Bur. rel. Jan. 30, 2002) (denying a request for waiver of the Commission's rules based on the assertion that denial would cause the applicant hardship); *Request for Review by Lansingburgh Central School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-109845, CC Docket Nos. 96-

6. 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 Gladwin County Library (Gladwin), Gladwin, Michigan, on September 10, 2001 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

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

45 and 97-21, Order, 15 FCC Rcd 6999 (Com. Car. Bur. 1999) ("To simply advert...to its limited resources and the needs of its students, does not distinguish its situation from other applications the SLD must process each funding year in accordance with its filing deadlines.").