

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)	
)	
Request for Review of the)	
Decision of the)	
Universal Service Administrator by)	
)	
Baxter County Library)	File No. SLD-267446
Mountain Home, Arkansas)	
)	
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 27, 2002

Released: June 28, 2002

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. Before the Telecommunications Access Policy Division is a Request for Review by Baxter County Library (Baxter), Mountain Home, Arkansas, seeking review of a decision of the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).¹ Baxter seeks review of the determination that its Funding Year 4 application for discounts under the schools and libraries universal service mechanism was filed after the close of the filing window.² For the reasons set forth below, we deny the Request for Review.

2. Under the universal service support mechanism for schools and libraries, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.³ 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.³ The Administrator must post

¹ Letter from Gwen Khayat, Baxter County Library, to Federal Communications Commission, filed August 20, 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 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. §§ 54.502, 54.503.

⁴ 47 C.F.R. §§ 54.504(b)(1), (b)(3).

the FCC Form 470 on its website, and the applicant is required to wait 28 days before making a commitment with a selected service provider. 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.⁶ 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.⁷ Applications that are received outside this filing window are subject to separate funding priorities under the Commission's rules.⁸ It is to all applicants' advantage, therefore, to ensure that the Administration receives their applications prior to the close of the filing window. In Funding Year 4, the window closed on January 18, 2001.⁹ To be timely, applications and all accompanying material had to be postmarked by the close of the window.¹⁰

3. Baxter asserts that its FCC Form 471 was actually received by SLD on January 18, 2001, and was therefore timely.¹¹ In support of this assertion, Baxter submits a certified mail receipt, addressed to "USAC SLD Form 470" (without any additional address information), and signed by "NCS Pearson Agent" as receiving party on January 18, 2001.¹² Baxter alleges that this mail receipt was wrongly addressed to the Form 470 address and was actually the receipt for Baxter's FCC Form 471.¹³

4. After reviewing all the record, however, we find that Baxter did not submit its FCC Form 471 in timely fashion. The only FCC Form 471 in the record (and Baxter does not assert that it submitted more than one) was signed on February 14, 2001.¹⁴ Attached to the FCC Form 471 in the record is a copy of the certified mail envelope, addressed to the correct address

⁵ 47 C.F.R. §§ 54.504(b)(3) and (4); § 54.511.

⁶ 47 C.F.R. § 54.504(c).

⁷ 47 C.F.R. § 54.507(c).

⁸ 47 C.F.R. § 54.507(g).

⁹ In Funding Year 4, SLD processed applications as "in-window," if they were postmarked by January 18, 2001. See SLD website, Form 471 Minimum Processing Standards and Filing Requirements for Funding Year 4, <<http://www.sl.universalservice.org/reference/471mps.asp>> (Funding Year 4 Minimum Processing Standards).

¹⁰ See SLD website, What's New (November 2, 2000) <<http://www.sl.universalservice.org/whatsnew/110200.asp#110200>>.

¹¹ Request for Review.

¹² Request for Review, Attachment.

¹³ Request for Review.

¹⁴ FCC Form 471, Baxter County Library, filed February 14, 2001 (Baxter Form 471).

for FCC Form 471 submission, and postmarked February 15, 2001.¹⁵ Based on this clear evidence that Baxter submitted its FCC Form 471 after January, we conclude that Baxter did not mail its FCC Form 471 by the close of the filing window.

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 Baxter County Library, Mountain Home, Arkansas, on August 20, 2001 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

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

¹⁵ *Id.*