

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Request for Review of the)	
Decision of the)	
Universal Service Administrator by)	
)	
Schuyler R-1 School District)	NEC.471.01-07-00.4000056
Queen City, Missouri)	
)	
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: January 11, 2002

Released: January 14, 2002

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division has under consideration a Request for Review from Schuyler R-1 School District (Schuyler), Queen City, Missouri.¹ Schuyler challenges the denial of its application for schools and libraries universal service support in Funding Year 3 by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).² For the reasons discussed below, we deny Schuyler's Request for Review.

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.³ 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.⁴ Once the applicant has complied with the Commission's competitive bidding requirements and entered into one or more

¹ Letter from Linda Berry, Schuyler R-1 School District, to Federal Communications Commission, filed July 7, 2000 (Request for Review); *see also* Letter from Linda Berry, Schuyler R-1 School District, to Schools and Libraries Division, Universal Service Administrative Company, filed February 22, 2000 (SLD Appeal Letter).

² *Id.*

³ 47 C.F.R. §§ 54.502, 54.503.

⁴ 47 C.F.R. § 54.504(b)(1), (b)(3).

agreements for eligible services, the applicant must submit a completed FCC Form 471 application to the Administrator.⁵ A commitment of support is contingent upon the timely filing of the applicant's FCC Form 471.⁶ In the FCC Form 471 instructions, SLD has clearly set forth its standards for processing a FCC Form 471 application.⁷ Specifically, the FCC Form 471 instructions state that if a school or library does not provide the information requested on its FCC Form 471, "the processing of your application may be delayed or your application may be returned to you without action."⁸

3. SLD received Schuyler's manually submitted FCC Form 471 on January 7, 2000, within the Funding Year 3 filing window.⁹ SLD, however, returned Schuyler's application on February 16, 2000, without processing it because Schuyler's FCC Form 471 application failed to meet SLD's minimum processing standards.¹⁰ Specifically, Schuyler failed the minimum processing standards because its FCC Form 471 was missing page 5, which contains Block 6, the section of FCC Form 471 where applicants must sign the form and make certifications required under program rules.¹¹ By letter dated February 18, 2000, Schuyler submitted page 5 of its FCC Form 471.¹² Because SLD had not received a completed FCC Form 471 before the filing window closed, SLD notified Schuyler that its application would not be considered within the filing window.¹³

4. Schuyler then appealed SLD's decision to the Administrator by letter filed February 22, 2000.¹⁴ Schuyler claimed that it submitted page 5 with its original FCC Form 471 application, but SLD misplaced the last page.¹⁵ Schuyler resubmitted a signature certification,

⁵ 47 C.F.R. § 54.504(c).

⁶ *Id.* Pursuant to 47 C.F.R. § 54.507(c), the Administrator is directed to establish a filing period (filing window) that treats all applicants as though their applications were received on the same day. Applications that are received outside of this filing window are subject to separate funding priorities under the Commission's rule, 47 C.F.R. § 54.507(g). It is to the applicants' advantage, therefore, to ensure that the Administrator receives their applications prior to the close of the filing window. In Funding Year 3, the window closed on January 19, 2000.

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); *see also* 47 C.F.R. § 54.504(c).

⁸ Form 471 Instructions, at 2.

⁹ FCC Form 471, Schuyler Unified School District, filed June 9, 2000

¹⁰ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Schuyler R-1 School District, dated February 16, 2000.

¹¹ *Id.*

¹² Letter from Linda Berry, Schuyler R-1 School District, to Schools and Libraries Division, Universal Service Administrative Company, dated February 18, 2000.

¹³ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Schuyler R-1 School District, dated February 16, 2000.

¹⁴ SLD Appeal Letter, at 1; *see also* Request for Review, at 1.

¹⁵ *Id.*

but on a Funding Year 2 FCC Form 471 Form.¹⁶ Schuyler requests that its application be considered as filed within the window because it filed its FCC Form 471 before the window closed.¹⁷ The Administrator treated Schuyler's February 22, 2000 letter as a Request for Waiver, declined to rule on the request, and directed Schuyler to seek relief from the Commission.¹⁸

5. On appeal to the Commission, Schuyler contends that its application was filed within the filing window under program rules.

6. We find no basis to grant relief to Schuyler. The Commission has upheld SLD's minimum processing standard of requiring the applicants to use the correct form.¹⁹ By failing to submit a signature certification with its original application, Schuyler omitted the legally binding act that signifies compliance with program rules. Simply put, Schuyler failed to meet the minimum processing standards for filing an application.²⁰

7. Schuyler presents no credible evidence to support its claim that SLD has misplaced its originally submitted signature certification. Based on the record before us, we find that Schuyler has failed to demonstrate that it submitted the signature certification page with the rest of its Funding Year 3 FCC Form 471 application.²¹

8. The applicants' self-certification is designed to ensure that eligible entities receive universal support and that those entities have adopted plans for securing cost effective access to, and use of, the discounted services received under program rules, thereby implementing statutory requirements. Further, the signature certification to the FCC Form 471 certifies that the application is complete and that all of the information is truthful. Certification is fundamental to the efficient administration of the schools and libraries program. SLD relies on the signature

¹⁶ *Id.*

¹⁷ Request for Review, at 1.

¹⁸ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Schuyler R-1 School District, dated June 20, 2000.

¹⁹ See *Request for Review by Fair Lawn Board of Education, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. NEC.471.12-10-99.02300008 and NEC.471.11-19-99.01100003, CC Dockets No. 96-45 and 97-21, Order, DA 01-1504 (Com. Car. Bur. rel. June 27, 2001) (upholding SLD's minimum processing standard that required applicants to use the correct FCC Forms for the funding years in which they were applying).

²⁰ Schuyler's failure to timely submit a signature is further compounded by the fact that Schuyler submitted a signature on a Funding Year 2 FCC Form 471, when it was required to do so on a Funding Year 3 FCC Form 471. Universal Service Administrative Company, Schools and Libraries Program, Reference Area: Form 471 Minimum Processing Standards and Filing Requirements, <<http://www.sl.universalservice.org/reference/471mps.asp>> (stating that a complete FCC Form 471 for Funding Year 3 must be a "correct OMB-approved FCC Form 471, with a date of September 1999 in the lower right-hand corner").

²¹ See *Request for Review by Old Town School Department, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-142237, CC Dockets No. 96-45 and 97-21, Order, DA 01-1090 (Com. Car. Bur. rel. April 30, 2001), para. 5 (stating that in the absence of evidence presented by the applicant to the contrary, the Commission accepts the FCC Form 471 in the record as the application which was received by SLD).

certification to establish the authority of the signer to represent the applicant. Signature certifications ultimately satisfy the policy objective of binding the applicants and service providers to the program requirements. The signature certification requirement protects the program from fraud and waste, serves as an additional means of holding applicants accountable for their representations, and assists in the efficient administration of the program.

9. The purpose of the filing window is to put all applicants who file within the window on equal footing. Allowing applicants to file incomplete applications, and have those applications considered timely filed, would be unfair to the applicants who diligently filed their complete applications in a timely fashion. Moreover, complete applications are essential to SLD's ability to efficiently run the program. In light of the thousands of applications that SLD must review and process each year, we find that it is administratively necessary to require an applicant to be responsible for providing complete and accurate information in its FCC Form 471 upon which its ultimate funding is dependent. The applicant must act to ensure that its request for discounts satisfies the Commission's policies as well as program rules.²²

10. If applicants were permitted to correct their applications after the window closed, it would eliminate any incentive to avoid making unauthorized service requests or to comply with the SLD's document demands in a timely fashion.²³ This would significantly increase the administrative burden SLD would face while carrying out its obligation to guard against the occurrence of errors and fraud.²⁴ Furthermore, if applicants were permitted to amend their requests after the filing window closed, it could jeopardize SLD's ability to accurately apply the rules of priority in years where requests for funding exceed the annual funding cap.²⁵ Because Schuyler is unable to demonstrate that it timely filed a Year 3 signature certification, its request to have its FCC Form 471 considered timely filed within the filing window must fail.

11. To the extent that Schuyler seeks a waiver of the filing window for its resubmitted Funding Year 2 FCC Form 471 certification page, we find no basis to grant the waiver.²⁶ A 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.²⁷ A rule, therefore, may be waived where the particular facts make strict compliance inconsistent with the

²² 47 C.F.R. § 54.504 *et seq.*; *Request for Review by Free Library of Philadelphia, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-112605, CC Dockets No. 96-45 and 97-21, Order, 15 FCC Rcd 23820 (Com. Car. Bur. 2000).

²³ See also *Request for Review by Cheney 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-142969, CC Dockets No. 96-45 and 97-21, Order, DA 01-351 (Com. Car. Bur. rel. Feb. 13, 2001), para. 6.

²⁴ *Id.*

²⁵ *Id.*

²⁶ FCC Form 471, Schuyler Unified School District, filed June 9, 2000.

²⁷ *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).

public interest.²⁸ In the instant case, we conclude that Schuyler fails to demonstrate special circumstances warranting a deviation from our rules, and therefore deny its Waiver Request.

12. 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 July 7, 2000 by Schuyler R-1 School District, Queen City, Missouri 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

²⁸ *Northeast Cellular*, 897 F.2d at 1166.