

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

In the Matter of)	
)	
Request for Review of the)	
Decision of the)	
Universal Service Administrator by)	
)	
Saint Michael School)	File No. SLD-302716
Chicago, Illinois)	
)	
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: August 1, 2003

Released: August 4, 2003

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. Saint Michael School (Saint Michael School), Chicago, Illinois, seeks review of a July 24, 2002 decision by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).¹ On January 27, 2003, Saint Michael School appealed the decision to SLD, but SLD denied the appeal because Saint Michael School filed the appeal more than 60 days after the decision was rendered.² Saint Michael School states that it never received the original Form 486 Notification Letter dated July 24, 2002.³

2. We affirm SLD's decision. For a review of decisions by SLD issued on or after August 13, 2001, appeals to SLD must be filed within 60 days of the issuance of the SLD

¹ Letter from Sister Judine Hilbing, Saint Michael School, to Federal Communications Commission, filed March 25, 2003 (Request for Review). *See also* Letter from the School and Libraries Division, Universal Service Administrative Company, to Michael McCaughey, Click! Computer Services, Inc., dated July 24, 2002. 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).

² *See* Letter from Sister Judine Hilbing, Saint Michael School, to Schools and Libraries Division, Universal Service Administrative Company, filed January 27, 2003; Letter from Schools and Libraries Division, Universal Service Administrative Company, to Sister Judine Hilbing, Saint Michael School, dated March 4, 2003.

³ Request for Review.

decision date.⁴ Here, Saint Michael School filed its appeal to SLD after the 60-day period, in contravention of our rules. We therefore deny the Request for Review.

3. To the extent that Saint Michael School additionally asks us to waive our rules in this instance, we must deny its request.⁵ Waiver is appropriate only if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the rule.⁶ Given the thousands of applications SLD processes each year, it is administratively necessary to place the burden of meeting deadlines on the applicants.⁷ As we have consistently held in the past, applicants are responsible for submitting their appeals in a timely manner and complying with program rules and procedures.⁸ A review of the record indicates that SLD issued the Form 486 Notification Letter on July 24, 2002. Saint Michael School fails to provide evidence that it did not receive the July 24, 2002 notice. The mere assertion that a letter was not received at the address provided to SLD and to which prior correspondence had been successfully mailed is insufficient grounds for reconsideration.⁹

⁴ 47 C.F.R. § 54.720(b). *See Implementation of Interim Filing Procedures for Filings of Requests for Review, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, 17 FCC Rcd 339 (Com. Car. Bur. rel. Dec. 26, 2001), as corrected by *Implementation of Interim Filing Procedures for Filings of Requests for Review, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Errata (Com. Car. Bur. rel. Dec. 28, 2001 and Jan. 4, 2002).

⁵ 47 C.F.R. § 54.720(b).

⁶ 47 C.F.R. § 1.3; *see Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

⁷ *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, Inc.*, File No. SLD-133664, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 25610 (Com. Car. Bur. rel. Nov. 24, 2000), para. 8.

⁸ *See, e.g., Request for Review by Danbury Public Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. NEC.471.04-13-00.31900001, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 10910 (Com. Car. Bur. 2001) (denying waiver request in case when employee responsible for filing failed to do so); *Request for Review by St. Mary's Public Library, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. NEC.471.12-07-99.02000002, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 12936, para. 5 (Com. Car. Bur. 2001) (denying a waiver request to the extent it is requested due to misunderstanding of the program's rules).

⁹ *See Request for Review by Whitehall City School District*, Docket Nos. 96-45 and 97-21, Order, DA 00-1892 (rel. August 18, 2000); *Juan Galiano*, Memorandum Opinion and Order, 5 FCC Rcd 6442, 6443 (1990) ("[I]f the Commission were to entertain and accept unsupported arguments that letters mailed in Commission proceedings were not delivered... procedural havoc and abuse would result.").

4. 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 Saint Michael School, Chicago, Illinois on March 25, 2003, and the request to waive the 60-day time limit in which to file an appeal ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

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