

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

In the Matter of	)	
	)	
Request for Waiver by	)	
	)	
Western New York Regional Information Center	)	File No. SLD-263991
On behalf of	)	
Gowanda Central School District	)	
West Seneca, New York	)	
	)	
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:     October 3, 2003**

**Released:     October 6, 2003**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1.     The Telecommunications Access Policy Division has under consideration a Waiver Request filed by Western New York Regional Information Center on behalf of Gowanda Central School District, West Seneca, New York (Gowanda).<sup>1</sup> Gowanda requests waiver of the filing deadline of October 28, 2001 for filing FCC Forms 486 in Funding Year 2001 of the schools and libraries universal service support mechanism.<sup>2</sup> For the reasons set forth below, we deny the Waiver Request.

2.     On October 4, 2001, Gowanda submitted an incomplete FCC Form 486.<sup>3</sup> In a letter dated October 29, 2001, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company notified Gowanda that the form was incomplete, and Gowanda submitted a corrected FCC Form 486 on November 2, 2001.<sup>4</sup> In its decision, SLD stated that

<sup>1</sup> Letter from Susan C. Melancon, Western New York Regional Information Center, on behalf of Gowanda Central School District, to Federal Communications Commission, filed December 16, 2002 (Request for Waiver). Section 1.3 of the Commission’s rules provides that the Commission may waive any provision of its rules if good cause is shown. 47 C.F.R. § 1.3.

<sup>2</sup> *Id.*

<sup>3</sup> *See* Request for Waiver; Letter from Schools and Libraries Division, Universal Service Administrative Company, to Patrick Doyle, Gowanda Central School District, dated October 29, 2002 (Form 486 Return Letter).

<sup>4</sup> *See* Form 486 Return Letter; Request for Waiver.

because Gowanda's corrected FCC Form 486 was submitted after the October 28, 2001 deadline, Gowanda's service start date for Funding Year 2001 would be November 2, 2001, the date Gowanda postmarked a correct FCC Form 486.<sup>5</sup> Gowanda argues that its service start date should instead be July 1, 2001 because SLD unduly delayed notifying Gowanda that the form submitted October 4, 2001 was incomplete, and that Gowanda could have submitted a timely FCC Form 486 if it had received more prompt notice that the form was incomplete.

3. Consistent with our precedent in the *East Carroll Order*, we conclude that SLD's decision is supported by precedent and the underlying record.<sup>6</sup> In the *East Carroll Order*, the Wireline Competition Bureau denied an applicant's Request for Waiver for discounts on telecommunications services and Internet access, stating that the Commission may not waive a statutory deadline such as the October 28, 2001 deadline.<sup>7</sup> Similarly, Gowanda seeks discounts for telecommunications services and Internet access.<sup>8</sup> We conclude that our determination in the *East Carroll Order* applies to the instant Request for Waiver.

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<sup>5</sup> Under the Children's Internet Protection Act, Funding Year 2001 applicants were required to file their FCC Forms 486 by no later than October 28, 2001 unless their service began after that date or a funding commitment decision letter issued after that date. See 47 U.S.C. §§ 254(h)(5)(E), 254(h)(6)(E); *CIPA Order*, 16 FCC Rcd at 8188-89, 8191, paras. 10, 18. A Funding Year 2001 applicant with a funding commitment decision letter who failed to meet the October 28, 2001 deadline could obtain discounts only for services received on or after the date that its FCC Form 486 was postmarked. See Schools and Libraries Universal Service, Receipt of Service Confirmation Form, OMB 3060-0853 (July 2001) (FCC Form 486); Instructions for Completing the Schools and Libraries Universal Service, Receipt of Service Confirmation Form (FCC Form 486), OMB 3060-0853 (July 2001) at 9 (Form 486 Instructions).

<sup>6</sup> See *Request for Review by East Carroll Parish School Board, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-232946, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 24591 (Wireline Comp. Bur. 2002) (*East Carroll Order*) (denying waiver request where SLD delayed for more than two months notifying applicant of incomplete FCC Form 486, because Commission may not waive statutory deadline).

<sup>7</sup> *Id.* To the extent that an applicant sought only telecommunications services for Funding Year 2001, however, the Commission has authority to waive the deadline, because it is a Commission-imposed deadline with respect to telecommunications services only. See *Request for Review by Eastern Lebanon County 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-232946, CC Docket Nos. 96-45 and 97-21, Order, 18 FCC Rcd 5466 (Wireline Comp. Bur. 2003) (*Eastern Lebanon Order*) (granting waiver request for telecommunications services for Funding Year 2001 where SLD unduly delayed notifying applicant of incomplete FCC Form 486).

<sup>8</sup> See Request for Waiver (citing Funding Request Numbers 669850 and 670401).

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 Waiver filed by Western New York Regional Information Center on behalf of Gowanda Central School District, West Seneca, New York on December 16, 2002 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

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