

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

| | | |
|---|---|---------------------|
| In the Matter of |) | |
| |) | |
| Request for Waiver by |) | |
| |) | |
| Lacey Township School District |) | File No. SLD-258994 |
| Lanoka Harbor, New Jersey |) | |
| |) | |
| 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: February 6, 2003

Released: February 7, 2003

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Waiver Request filed by Lacey Township School District (Lacey), Lanoka Harbor, New Jersey, seeking a waiver of the Commission’s rules governing discounts for services under the schools and libraries universal service support mechanism.¹ Lacey requests a waiver of the filing deadline for Funding Year 2001.² For the reasons set forth below, we deny Lacey’s Waiver Request.

2. Lacey requests a waiver of the Form 471 filing window from the Commission.³ Lacey’s Form 471 was postmarked on February 26, 2001, well after the close of the filing

¹ Letter from William R. Lake, Lacey Township School District, to Federal Communications Commission, filed January 24, 2002 (Waiver Request).

² See 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 Universal Service Administrative Company (Administrator) may seek review from the Commission. 47 C.F.R. § 54.719(c). In prior years, Funding Year 2001 was referred to as Funding Year 4. Funding priorities are now described by the year in which the funding period starts. Thus the funding period that began on July 1, 1999 and ended on June 30, 2000, previously known as Funding Year 2, is now called Funding Year 1999. The funding period that began on July 1, 2000 and ended on June 30, 2001 is now known as Funding Year 2000, and so on.

³ Waiver Request; see also Letter from Schools and Libraries Division, Universal Service Administrative Company, to Rolando Bazan, dated December 5, 2001 (Administrator’s Decision on Waiver Request).

window on January 18, 2001.⁴ In support of its request, Lacey argues that when completing its Form 470, a representative at the client services center for USAC advised it to combine its request for telecommunications services with its request for internal connections on the Form 470.⁵ Lacey states that when it subsequently attempted to complete its Form 471, it was not aware that it could separate its requests into different Forms 471.⁶ It argues that the complexity of the internal connections resulted in a 56-page Form 471 which it was not able to complete before the deadline.⁷ Lacey also argues that the estimated average burden of four hours per response on the Form 471 was misleading, in light of the 30 days it asserts was necessary to complete the form. Lacey suggests it would have submitted its request for telecommunications services on a separate Form 471 from the more complex and lengthy request for internal connections if it had known that was possible. It therefore seeks a waiver of the filing window deadline so that it may now submit its request for telecommunications services.

3. Lacey's Waiver Request can be granted only if waiving the deadline is supported by a showing of good cause.⁸ A deviation from a general rule is not permitted unless special circumstances warrant it and the deviation would better serve the public interest than strict adherence to the general rule.⁹

4. We find that Lacey fails to demonstrate special circumstances justifying a waiver of our rules. First, Lacey suggests that it would have submitted its request for telecommunications services in a timely manner if it had been aware that it could submit separate Forms 471 for its telecommunications services request and internal connections request. Lacey did not submit the originating Form 470 until January 13, 2001, however, a mere five days before the close of the filing window for Form 471. Under our competitive bidding rules, Lacey was not eligible to submit its Form 471 until February 10, 2001, which was after the filing window closed.¹⁰ It therefore would not have been able to submit a timely Form 471 even for telecommunications services alone.

5. Second, Lacey explains that it assumed that it could not separate its requests into different Forms 471.¹¹ The Form 471 instructions, however, clearly explain that applicants may

⁴ See FCC Form 471, Lacey Township School District, filed February 26, 2001 (Lacey Form 471). Lacey also began a separate on-line application on January 18, 2001, which it updated on January 23, 2001, but did not complete. See FCC Form 471 (File No. SLD-258994), Lacey Township School District, incomplete.

⁵ See Waiver Request.

⁶ See *id.*

⁷ See *id.*

⁸ See 47 C.F.R. § 1.3.

⁹ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (appeals court vacating a Commission decision to grant a waiver in a licensing issue, because it was arbitrary and capricious).

¹⁰ See 47 C.F.R. 54.504(b), (c).

¹¹ See Waiver Request.

file more than one Form 471.¹² Therefore, even if Lacey had posted its Form 470 sufficiently early to allow for a timely Form 471 filing, it was on notice that it could file a separate Form 471 for telecommunications services.

6. Lastly, Lacey argues that the estimated average burden hours significantly underestimated the time necessary to compile its submission. Again, we note that even if Lacey had been able to quickly complete its Form 471, it was ineligible to file it because of the 28-day waiting period required by our competitive bidding rules. Furthermore, the estimated average burden hours stated on the form merely serves as a general guide for average completion, and some applications may take longer. In light of these considerations, we conclude that Lacey has not demonstrated the existence of special circumstances warranting a deviation from our rules, and therefore, we deny its Waiver Request.

7. 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 Lacey Township School District, Lanoka Harbor, New Jersey, on January 24, 2002, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

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

¹² Instructions for Completing the Schools and Libraries Universal Service, Services Ordered and Certification Form (FCC Form 471), OMB 3060-0806 (October 2000) (Form 471 Instructions) at 5 (“You may file more than one Form 471. For example, you may file one Form 471 for internal connections, one for Internet access, and one for telecommunications services . . .”).