

Federal Communications Commission  
Washington, DC 20554

In the Matter of )  
)  
Request for Review of the Decision of the )  
Universal Service Administrator by )  
)  
Bedford Area School District ) File No. SLD-339394  
Bedford, Pennsylvania )  
)  
Glenwood Community School District ) File No. SLD-375419  
Glenwood, Iowa )  
)  
Hunterdon Central Regional High School ) File No. SLD-368582  
Flemington, New Jersey )  
)  
Immaculate Conception School ) File No. SLD-383011  
Everett, Washington )  
)  
Libraries Online Inc. ) File No. SLD-385468  
Middletown, Connecticut )  
)  
Lyon County School District ) File Nos. SLD-376156, 376655  
Yerington, Nevada )  
)  
Our Lady of the Hamptons School ) File No. SLD-383046  
Southhampton, New York )  
)  
Pleasant Valley Elementary School District ) File No. SLD-383015  
Penn Valley, California )  
)  
Rolette School District 29 ) File No. SLD-381166  
Rolette, North Dakota )  
)  
Saint Philip the Apostle School ) File No. SLD-376993  
Pasadena, California )  
)  
St. Francis Cathedral School ) File Nos. SLD-384029, 384282  
Metuchen, New Jersey )  
)  
Sts. Peter and Paul School ) File No. SLD-372104  
Warren, Ohio )  
)  
Schools and Libraries Universal Service ) CC Docket No. 02-6  
Support Mechanism )

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**ORDER****Adopted: May 3, 2004****Released: May 4, 2004**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration Requests for Review filed by the above captioned parties, requesting review of decisions by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company Administrator.<sup>1</sup> In keeping with our prior decisions cited below, we deny the Requests for Review.

2. It is well-established that program deadlines are enforced strictly.<sup>2</sup> Wherever they are located, applicants are required to have their applications electronically filed or postmarked by the filing deadline.<sup>3</sup> Neither staffing problems, financial need nor inclement weather relieve applicants of their obligations to comply with our rules and procedures.<sup>4</sup> The instructions for

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<sup>1</sup> Letters to the Federal Communications Commission from Glenn Burket, Bedford Area School District, filed May 12, 2003; Ginger True, Glenwood Community School District, filed May 22, 2003; Robert S. Mancabelli, Hunterdon Central Regional High School District, filed May 12, 2003; Linda O'Neil, Immaculate Conception School, filed May 6, 2003; Joan Gillespie, Libraries Online, Incorporated, filed June 18, 2003; Russell Colletta, Lyon County School District, filed March 21, 2003; Kathryn Schlueter, Our Lady of the Hamptons School, filed May 6, 2003; Pleasant Valley Elementary School District, filed February 19, 2003; Nancy Wisness, Rolette School District 29, filed June 18, 2003; Jennifer Ramirez, Saint Philip the Apostle School, filed May 6, 2003; Donna Tyburski, St. Francis Cathedral School, filed May 5, 2003; Margaret Mary, Sts. Peter and Paul School, filed June 16, 2003 (Requests for Review).

<sup>2</sup> *Request for Review by Kings Local 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- Nos. 223454, 228637, CC Dockets No. 96-45 and 97-21, 17 FCC Rcd 7105, 7107 (Com. Car. Bur. 2002) ("In light of the thousands of applications that SLD reviews and processes each year, it is administratively necessary to place on the applicant the responsibility of adhering strictly to its filing deadlines.").

<sup>3</sup> *Request for Waiver by Blessed Sacrament Elementary School, et al, Schools and Libraries Universal Support Mechanism*, File No. SLD-318627, CC Docket No. 02-6, Order, DA 04-254, para. 5 (Wireline Comp. Bur. rel. February 3, 2004).

<sup>4</sup> *Requests for Waiver by Nederland Independent School District, et al, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-274014, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 19544, 19545 (Wireline Comp. Bur. 2002) ("[W]e have consistently held that personnel disruptions, employee medical conditions or employee confusion or misunderstanding about SLD rules and deadlines do not rise to the level of special circumstances required for a waiver."); *Request for Review by Lansingburgh Central 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-109845, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 6999, 7000 (Com. Car. Bur. 1999) ("To simply advert... to its limited resources and the needs of its students, does not distinguish its situation from other applications the SLD must process each funding year in accordance with its filing deadlines."); *Request for Review by Midland 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-269321, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 17920, 179212 (Com. Car. Bur. 2001) ("Although circumstances such as inclement weather may be unexpected, they are generally reasonably foreseeable, and applicants therefore 'should build into their schedules a reasonable margin of effort in anticipation of circumstances which may cause delay.'")

timely filing of the certification page are stated explicitly on SLD's website, and upon request, are available in print.<sup>5</sup> In the face of these printed instructions, applicants cannot successfully plead misunderstanding, or that they were misled by SLD staff to the contrary, because they are required to know the relevant rules of the program.<sup>6</sup> We note that many other applicants have been able to successfully navigate the application process.<sup>7</sup> Finally, filing an application without the certification page does not constitute substantial compliance, because signature certification is fundamental to the administration of the SLD program.<sup>8</sup>

3. To the extent that these applicants additionally ask us to waive our rules in this instance, we also deny their requests.<sup>9</sup> The Commission may waive application of its rules, but only where special circumstances warrant a deviation from the general rule, and where strict compliance with the rule would be inconsistent with the public interest.<sup>10</sup> In keeping with our prior decisions, we determine that the applicants here have not demonstrated the special circumstances necessary for a waiver of our rules.

4. 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, 1.3, and 54.722(a), that the referenced Requests for Review filed by Bedford Area School District, Bedford, Pennsylvania, on May 12, 2003; Glenwood Community School District, Glenwood, Iowa, on May 22, 2003; Hunterdon Central Regional High School, Flemington, New Jersey, on May 12, 2003; Immaculate Conception School, Everett, Washington, on May 6, 2003; Libraries Online Inc., Middletown, Connecticut, on June 18, 2003; Lyon County School District, Yerington, Nevada, filed March 21, 2003; Pleasant Valley Elementary School District, Penn Valley, California, filed February 19, 2003; Rolette School District 29, Rolette, North Dakota, filed June 18, 2003; Our Lady of the Hamptons School, Southhampton, New York, on May 6, 2003; Saint Philip the Apostle School, Pasadena, California, on May 6, 2003; St. Francis Cathedral School, Metuchen, New Jersey, on May 5, 2003; and Sts. Peter and Paul School,

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<sup>5</sup> See Instructions for Completing the Schools and Libraries Universal Service, Services Ordered and Certification Form (FCC Form 471), OMB 3060-0806 (October 2000) at 5 and 23 (Form 471 Instructions), and SLD website, at Form 471 Minimum Processing Standards and Filing Requirements <<http://www.sl.universalservice.org/reference/471mps.asp>>.

<sup>6</sup> *Request for Waiver by Dermott Special School District, et al, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-252777, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 5091, para. 4 (Com. Car. Bur. 2002).

<sup>7</sup> See "Funding Commitments" at SLD website: <http://www.sl.universalservice.org/Funding/default.asp>.

<sup>8</sup> *Request for Review by New Hartford Central School District, Federal Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-007628, CC Dockets Nos. 96-45 and 97-21, Order, 16 FCC Rcd 19329, para. 6 (Com. Car. Bur. 2001).

<sup>9</sup> 47 C.F.R. § 54.720(b).

<sup>10</sup> 47 C.F.R. § 1.3. See *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

Warren, Ohio, filed June 16, 2003 are DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Narda M. Jones  
Deputy Chief, Telecommunications Access Policy Division  
Wireline Competition Bureau