

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)	
)	
Request for Review)	
)	
Our Lady of Victory Academy)	File No. SLD-325743
Dobbs Ferry, New York)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

ORDER

Adopted: February 10, 2004

Released: February 11, 2004

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Review filed by Our Lady of Victory Academy, Dobbs Ferry, New York (Our Lady).¹ Our Lady requests review of a decision by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).² For the reasons set forth below, we deny the Request for Review.

2. By letter dated December 20, 2002, SLD rejected a funding request made by Our Lady for Funding Year 2002 of the schools and libraries program because Our Lady's FCC Form 471 Block 6 certification was not postmarked prior to the close of the filing window.³ In response, Our Lady filed the instant appeal requesting a review of the SLD's decision.⁴ Our Lady argues that it submitted its Form 470 on December 18, 2001, but that SLD did not post the form until ten days later, resulting in an allowable contract date of January 25, 2002.⁵ Our Lady also states that there was confusion regarding the number of electronic signatures needed for its

¹ Letter from Joanne Kouzan, Our Lady of Victory Academy, to Federal Communications Commission, filed February 20, 2003 (Request for Review). 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).

² *Id.*

³ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Joanne Kouzan, Our Lady of Victory Academy, dated December 20, 2002. The filing window closed on January 17, 2002.

⁴ *See* Request for Review.

⁵ *Id.*

application.⁶ Our Lady argues that these factors caused it to submit its FCC Form 471 after the close of the filing window.⁷

3. We decline to grant relief on the grounds that SLD delayed in posting Our Lady's Form 470. In order to comply with the 28-day competitive bidding requirement, all FCC Form 470s had to be posted no later than December 20, 2001 in Funding Year 2002. It was unreasonable for Our Lady to submit its FCC Form 470 on December 18 and expect it to be posted by SLD by December 20. Applicants that wait until near the end of the application process risk the consequences of such unexpected but reasonably foreseeable delays. Applicants are therefore encouraged to file their forms as early as possible in order to deal with any problems that may arise. Although the Commission has waived the filing deadline for Forms 471 in cases where SLD either failed to post a properly submitted Form 470 that did not necessitate conflict resolution, or excessively delayed before notifying an applicant of problems with a Form 470, the instant circumstances do not merit such relief here.⁸

4. Therefore, consistent with the Commission's rules, we conclude that SLD correctly denied Our Lady's request for support.⁹ Program rules for Funding Year 2002 require that the Form 471 Block 6 certifications be postmarked no later than January 17, 2002 in order for the Form 471 to be considered filed in a timely manner. Our Lady's FCC Form 471 Block 6 certification for Funding Year 2002 was not postmarked prior to the close of the filing window.¹⁰ In light of the thousands of applications that SLD must review and process each year, it is administratively necessary to require an applicant to be responsible for providing complete and accurate information. Further, the Commission has consistently held that it is the applicant who has responsibility ultimately for the timely submission of the application.¹¹

⁶ *Id.*

⁷ *Id.*

⁸ See, e.g., *Request for Review by Council Bluffs Community Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. E007282, CC Docket Nos. 96-45 and 97-21, Order, [15 FCC Rcd 18,836 \(Com. Car. Bur. 1999\)](#) (SLD failed to post applicant's FCC Form 470); *Request for Review by Lettie W. Jensen Library, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File Nos. 220549, 220586, CC Docket Nos. 96-45 and 97-21, Order, [18 FCC Rcd 5466 \(Wireline Comp. Bur. 2003\)](#) (delay of nearly two months deemed excessive).

⁹ See *Request for Review by Charles Gibson, Federal State-Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-267921, CC Dockets No. 96-45 and 97-21, Order, [17 FCC Rcd 8611 \(2002\)](#). See also *Request for Review by Watervliet 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-275615, CC Dockets No. 96-45 and 97-21, Order, [17 FCC Rcd 15770 \(2002\)](#) (it is incumbent upon applicants to determine whether their applications are in compliance with program requirements prior to filing).

¹⁰ Our records indicate that Our Lady's FCC Form 471 Certification was postmarked on February 14, 2002. See FCC Form 471, Our Lady of Victory Academy, filed February 14, 2002.

¹¹ See, e.g., *Application for Review by Information Technology Department State of North Dakota, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association,*

5. 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, and 54.722(a), that the Request for Review filed by Our Lady of Victory Academy, Dobbs Ferry, New York on February 20, 2002 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

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

Inc., File No. SLD-245592, CC Docket Nos. 96-45 and 97-21, Order, 18 FCC Rcd 21521 (Wireline Comp. Bur. 2003); *Request for Waiver by Center City Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-325719, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 22424 (2003).