

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

In the Matter of	)	
	)	
Requests for Review of the Decisions of the Universal Service Administrator by	)	
	)	
Grace Lutheran Day School Queens Village, New York	)	File No. SLD- 176664
	)	
Messenger Public Library of North Aurora North Aurora, Illinois	)	File No. SLD-435494
	)	
Mosaica Education, Inc. Wilmington, Delaware	)	File No. SLD-397898
	)	
Pike County Board of Education Troy, Alabama	)	File No. SLD-355046
	)	
St. Rose School Lima, Ohio	)	File No. SLD-406979
	)	
Schools and Libraries Universal Service Support Mechanism	)	CC Docket No. 02-6

**ORDER**

**Adopted: November 10, 2004**

**Released: November 12, 2004**

By the Deputy Chief, Telecommunications Access Policy Division, Wireline Competition Bureau:

1. Grace Lutheran Day School (Grace Lutheran), Queens Village, New York; Messenger Public Library of North Aurora (Messenger), North Aurora, Illinois; Mosaica Education, Inc. (Mosaica), Wilmington, Delaware; Pike County Board of Education (Pike County), Troy, Alabama; and St. Rose School (St. Rose), Lima, Ohio (collectively, Petitioners) seek review of decisions by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).<sup>1</sup> For a review of decisions by SLD, requests to the Commission must be filed within 60 days of the issuance of

<sup>1</sup> Letter from Carmen Lloyd, Grace Lutheran Day School, to Federal Communications Commission, filed July 6, 2004; Letter from Messenger Public Library of North Aurora, to Federal Communications Commission, filed August 30, 2004; Letter from Shannon Metcalf, Mosaica Education, Inc., to Federal Communications Commission, filed July 2, 2004; Letter from Glenn Williams, Pike County Board of Education, to Federal Communications Commission, filed June 17, 2004; Letter from Carl Berger, St. Rose School, to Federal Communications Commission, filed June 30, 2004 (Requests for Review). Letter from the Schools and Libraries Division, Universal Service Administrative Company, to Peter Dorn, Grace Lutheran Day School, dated April 1, 2004; Letter from the Schools and Libraries Division, Universal Service Administrative Company, to Lynn Elam, Messenger Public Library of North Aurora, dated June 14, 2004; Letter from the Schools and Libraries Division, Universal Service Administrative Company, to Shannon Metcalf, Mosaica Education, Inc., dated April 27, 2004; Letter from the Schools and Libraries Division, Universal Service Administrative Company, to Mark Bazzell, Pike County Board of Education, dated April 27, 2004; Letter from the Schools and Libraries Division, Universal Service Administrative Company, to Carl Berger, St. Rose School, dated February 27, 2004. 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).

the SLD decision date.<sup>2</sup> Here, the Petitioners filed their requests after the 60-day period, in contravention of our rules. We therefore dismiss their requests.

2. To the extent that the Petitioners additionally ask us to waive our rules in this instance, we also deny their requests.<sup>3</sup> 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.<sup>4</sup> Given the thousands of applications that SLD processes each year, it is administratively necessary to place the burden of meeting deadlines on the applicants.<sup>5</sup> 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.<sup>6</sup> Hence, neither staffing changes nor misunderstanding of the rules relieves applicants of their responsibility to comply with the Commission's rules and procedures.<sup>7</sup> Further, the assertion that denial of an application may have a detrimental impact on a request does not create special circumstances or particular facts that warrant a waiver of the Commission's rules.<sup>8</sup> In keeping with our prior decisions, we determine that the Petitioners here have not demonstrated the special circumstances necessary for a waiver of our rules.

3. 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 Requests for Review filed July 6, 2004, by Grace Lutheran Day School, Queens Village, New York; August 30, 2004, by Messenger Public Library of North Aurora, North Aurora, Illinois; July 2, 2004, by Mosaica Education, Inc., Wilmington, Delaware; June 17, 2004, by Pike County Board of Education,

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<sup>2</sup> Commission rules previously required that appeals must be filed with the Commission or SLD within 30 days of the issuance of the decision that the party seeks to have reviewed. This deadline was modified in 2001 by an interim order, extending the deadline to 60 days. *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. 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). In 2003, the Commission permanently extended the time limit for filing an initial appeal with SLD and the Commission to 60 days. *See Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202, 9221, paras. 55-56 (2003). 47 C.F.R. § 54.720(b).

<sup>3</sup> 47 C.F.R. § 54.720(b).

<sup>4</sup> 47 C.F.R. § 1.3; *see Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

<sup>5</sup> *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, 25612-25613 (Com. Car. Bur. 2000).

<sup>6</sup> *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, 12938 (Com. Car. Bur. 2001).

<sup>7</sup> *Request for Waiver by Duncan Public Library, 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-325536, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 22430, 22431 (Wireline Comp. Bur. 2003); *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).

<sup>8</sup> *Application for Review of a Decision by the Wireline Competition Bureau, Information Technology Department State of North Dakota, Bismarck, North Dakota, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-245592, CC Docket Nos. 96-45 and 97-21, Order, 18 FCC Rcd 21521, 21528 (2003).

Troy, Alabama; and June 30, 2004, by St. Rose School, Lima, Ohio ARE DISMISSED and requests to waive the 60-day time limit in which to file an appeal ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Vickie S. Robinson  
Deputy Chief, Telecommunications Access Policy Division  
Wireline Competition Bureau