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

In the Matter of)	
)	
Request for Waiver by)	
)	
Coleman Community Schools)	File No. SLD-375285
Coleman, Michigan)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

ORDER

Adopted: February 19, 2004

Released: February 20, 2004

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Waiver filed by Coleman Community Schools, Coleman, Michigan (Coleman).¹ Coleman requests a waiver of the Commission's rules governing the schools and libraries universal service support mechanism, specifically, the 28-day competitive bidding requirement.² For the reasons set forth below, we deny the Waiver Request.

2. The record shows that Coleman's FCC Form 470 was posted on SLD's website on January 23, 2003.³ This created an allowable contract date of February 20, 2003.⁴ Despite the clear requirements of our rules that applicants may not sign the FCC Form 471 before the allowable contract date, Coleman dated the form on January 29, 2003, several weeks prior to the allowable contract date of February 20, 2003.⁵ Coleman does not deny that the FCC Form 471 was signed prior to the allowable contract date, but states that they were instructed by the SLD

¹ Letter from Allen Spalding, Coleman Community Schools, to Federal Communications Commission, filed January 23, 2003 (Waiver Request). The funding request numbers at issue in this case are: #1027471, #1027472, and #1027473.

² See Waiver Request.

³ FCC Form 470, Coleman Community Schools, filed January 23, 2003 (Coleman FCC Form 470).

⁴ See 47 C.F.R. § 54.504(b)(3), (4); § 54.511.

⁵ *Id.*; FCC Form 471, Coleman Community Schools, filed January 29, 2003.

help line to submit the FCC Form 471 before the filing window closed, and request a waiver of the Commission's rules.⁶

3. Upon review of the record, we conclude that a waiver is not appropriate. A waiver from the Commission is appropriate if special circumstances warrant a deviation from the general rule and such deviation would better serve the public interest than strict adherence to the general rule.⁷ A signature date on an FCC Form 471 or on a service provider agreement that predates the expiration of the 28-day posting period indicates that the applicant failed to wait 28 days before entering into an agreement with a service provider and therefore violated the Commission's competitive bidding rules.⁸ The Wireline Competition Bureau has consistently denied requests for review by applicants that have violated the Commission's competitive bidding rules by signing the FCC Form 471 before the allowable contract date.⁹

4. In light of the thousands of applications that SLD must review and process each year, we find that it is administratively necessary to require an applicant to be responsible for carefully following program rules. Further, the Commission has consistently held that it is the applicant who has responsibility ultimately for the timely submission of the application.¹⁰ Coleman's Request for Waiver is therefore denied.

⁶ See Letter from Allen Spalding, Coleman Community Schools, to Schools and Libraries Division, Universal Service Administrative Company (March 6, 2003).

⁷ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*); see also *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969) (stating that the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis), *cert. denied*, 409 U.S. 1027 (1972).

⁸ 47 C.F.R. §§ 54.504(b), 54.511; Instructions for Completing the Schools and Libraries Universal Service Services Ordered and Certification Form (FCC Form 471), OMB 3060-0806 (December 1998), at 24. See also *Request for Review by Minor High School, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-139210, CC Docket Nos. 96- 45 and 97-21, Order, 15 FCC Rcd 13790, 13792, para. 5 (Com. Car. Bur. 2000).

⁹ See, e.g., *Request for Review by Cathedral Grade School, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-87608, CC Docket Nos. 96-45 and 97-21, Order, DA 99-2953 (Com. Car. Bur. rel. December 21, 1999); *Request for Review by Currituck County Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-111040, CC Docket Nos. 96- 45 and 97-21, Order, 15 FCC Rcd 5564 (Com. Car. Bur. 2000); *Request for Review by Gustine Independent 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-108651, CC Docket Nos. 96-45 and 97-21, Order, DA 99-2534 (Com. Car. Bur. rel. November 16, 1999).

¹⁰ 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, Inc.*, File No. SLD-245592, CC Docket Nos. 96-45 and 97-21, Order, FCC 03-240 (rel. Oct. 21, 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 (Wireline Comp. Bur. 2003).

5. 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 Coleman Community Schools on January 23, 2003 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

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