

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

In the Matter of)	
)	
Request for Review of the Decision of the)	
Universal Service Administrator by)	
)	
Albuquerque Public Schools)	File Nos. SLD-242088, 244611
Albuquerque, New Mexico)	
)	
Schools and Libraries Universal Service Support)	CC Docket No. 02-6
Mechanism)	

ORDER

Adopted: March 2, 2004

Released: March 3, 2004

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. Albuquerque Public Schools, Albuquerque, New Mexico (Albuquerque), seeks review of two decisions by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).¹ On February 4, 2002, Albuquerque filed an appeal with SLD regarding SLD Application Numbers 242088 and 244611.² SLD denied the appeal concerning SLD Application Number 242088 on June 13, 2003, because Albuquerque filed the appeal more than 60 days after the decision was rendered.³ On January 21, 2004, SLD issued a second decision denying the appeal concerning SLD Application Number 244611, because Albuquerque filed the appeal more than 60 days after the decision was rendered.⁴ We affirm SLD's decisions. For a review of decisions by SLD, appeals to SLD must be filed within 60 days of the issuance of the SLD decision date.⁵ Here, Albuquerque filed its appeal to SLD after the 60-day period, in contravention of our rules. We therefore deny the Request for Review.

¹ Letter from Maureen Davidson, Albuquerque Public Schools, to Federal Communications Commission, filed August 7, 2003 (Request for Review). *See also* Administrator's Decision on Implementation Extension Request Letter from Schools and Libraries Division, Universal Service Administrative Company, to Maureen Davidson, Albuquerque Public Schools, dated October 4, 2002 (Implementation Request Letter). 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).

² *See* Letter from Maureen Davidson, Albuquerque Public Schools, to Schools and Libraries Division, Universal Service Administrative Company, filed February 4, 2003.

³ *See* Letter from Schools and Libraries Division, Universal Service Administrative Company, to Maureen Davidson, Albuquerque Public Schools, dated June 13, 2003.

⁴ *See* Letter from Schools and Libraries Division, Universal Service Administrative Company, to George Castorena, Albuquerque Public Schools, dated January 21, 2004.

⁵ 47 C.F.R. § 54.720(b). *See In the Matter of 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 (rel. Apr. 30, 2003).

2. To the extent that Albuquerque additionally asks us to waive our rules in this instance, we also deny its request.⁶ Albuquerque states that SLD erred in its non-consideration of its appeal because SLD did not take into account the intervening Christmas holidays, during which both the school district and the SLD were closed for business.⁷ 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.⁸ Given the thousands of applications SLD processes each year, it is administratively necessary to place the burden of meeting deadlines on the applicants.⁹ 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.¹⁰ In this instance, Albuquerque failed to comply with the deadline. This failure based on Albuquerque misunderstanding of the program rules does not constitute special circumstance to justify 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 Request for Review filed on August 7, 2003, by Albuquerque Public Schools, Albuquerque, New Mexico, and the request to waive the 60-day time limit in which to file an appeal ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

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

⁶ 47 C.F.R. § 54.720(b).

⁷ Request for Review. *See also* 47 C.F.R. § 1.4.

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

⁹ *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).

¹⁰ *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) (denying a waiver request to the extent it is requested due to misunderstanding of the program's rules).