

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

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| In the Matter of |) | |
| |) | |
| Request for Waiver by |) | |
| |) | |
| Cold Spring School District 750 |) | File No. SLD-433479 |
| Cold Spring, Texas |) | |
| |) | |
| Schools and Libraries Universal Service |) | CC Docket No. 02-6 |
| Support Mechanism |) | |

ORDER

Adopted: April 13, 2005

Released: April 13, 2005

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Waiver filed by Cold Spring School District 750, Cold Spring, Texas (Cold Spring).¹ The Request for Waiver seeks waiver of the Funding Year 2004 FCC Form 471 filing window deadline for the schools and libraries universal service program. Consistent with precedent, we deny the Request for Waiver.

2. In the Request for Waiver, Cold Spring concedes it filed the FCC Form 471 application after the close of the filing window, and requests a waiver of the filing window deadline.² 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.³

3. We find that Cold Spring has not demonstrated special circumstances to warrant waiver. The Commission has strictly and consistently enforced filing deadlines, allowing waivers of deadlines only in very limited and compelling situations.⁴ In light of the large number of applications that the Schools and Libraries Division (SLD) of USAC reviews and processes each year, it is administratively

¹Letter from Kurt Langer, Cold Spring School District 750, to Federal Communications Commission, filed November 22, 2004 (Request for Waiver). 47 C.F.R. § 1.3.

²*Id.* The deadline for Funding Year 2004 applications was February 4, 2004. See SLD website, <www.sl.universalservice.org/whatsnew/2003/112003.asp>.

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

⁴See *Petitions for Waiver or Reconsideration of Sections 54.706, 54.709, and/or 54.711 of the Commission's Rules, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Memorandum Opinion and Order and Seventeenth Order on Reconsideration, 15 FCC Rcd 20769, 20783, para 28 (1999). See also *Requests for Waiver by Atlanta Public Schools, et al., Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, DA 05-430, para. 3 (Wireline Comp. Bur. rel. Feb. 16, 2005); *Requests for Waiver by El Dorado County Office of Education, et al., Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, DA 05-431, para. 3 (Wireline Comp. Bur. rel. Feb. 16, 2005); *Requests for Waiver by E-Rate Central, et al., Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, DA 05-432, para. 3 (Wireline Comp. Bur. rel. Feb. 16, 2005); See also *Request for Waiver by Stephen-Argyle 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-228975, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 15879, 15880-81, paras. 4-5 (Acc. Pol. Div. 2001).

necessary to place on the applicant the responsibility of complying with all relevant rules and procedures, including filing deadlines.⁵ Hence, employee illness, staff failure to perform a job properly, inclement weather, or misunderstanding of the rules does not relieve applicants of their responsibility to comply with the Commission's rules and procedures.⁶ Further, the assertion that denial of an application may have a detrimental impact on an applicant does not create special circumstances or suggest particular facts that warrant a waiver of the Commission's rules.⁷ In keeping with our prior decisions, we determine that Cold Spring has 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, 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 Cold Spring School District 750, Cold Spring, Texas, on November 22, 2004, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

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

⁵ See *Request for Review by Anderson School, 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, 25612-13, para. 8 (Com. Car. Bur. 2000) ("In light of the thousands of applications that SLD reviews and process each funding year, it is administratively necessary to place on the applicant the responsibility of understanding all relevant program rules and procedures.").

⁶ *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, para. 3 (Wireline Comp. Bur. 2003); *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, 5093, paras. 3-5 (Com. Car. Bur. 2002). See also *Request for Waiver by Art In Context, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-262426, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 5087, 5089, paras. 6-8 (Com. Car. Bur. 2002); *Request for Waiver 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, 16 FCC Rcd 17920, 17922-23, paras. 5-6 (Com. Car. Bur. 2001).

⁷ *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, 18 FCC Rcd 21521, 21528, para. 18 (2003).