

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

In the Matter of)	
)	
Requests for Waiver by)	
)	
El Dorado County Office of Education)	File No. SLD-260552
Placerville, California)	
)	
GEMS Academy)	File Nos. SLD-373885, 377358
Humble, Texas)	
)	
Lafayette School Corporation)	File No. SLD-298631
Lafayette, Indiana)	
)	
Sts. Leo-Seton Catholic School)	File No. SLD-335615
Lafayette, Louisiana)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

ORDER

Adopted: February 16, 2005

Released: February 16, 2005

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration Requests for Waiver filed by El Dorado County Office of Education, Placerville, California; GEMS Academy, Humble, Texas; Lafayette School Corporation, Lafayette, Indiana; and Sts. Leo-Seton Catholic School, Lafayette, Louisiana (collectively, Petitioners).¹ The Requests for Waiver seek waiver of the FCC Form 471 filing window deadline for the schools and libraries universal service program. Consistent with precedent, we deny the Requests for Waiver.

2. In the Requests for Waiver, each Petitioner concedes it filed the FCC Form 471 application after the close of the filing window, and each requests a waiver of the filing window

¹ Letter from James Maher, El Dorado County Office of Education, to Federal Communications Commission, filed March 12, 2003; Letter from Edward Watson, GEMS Academy, to Federal Communications Commission, filed July 21, 2003; Letter from David McGaw, Lafayette School Corporation, to Federal Communications Commission, filed January 20, 2002; and Letter from Jackie Savoie, Sts. Leo-Seton Catholic School, to Federal Communications Commission, filed August 23, 2003 (collectively, Requests for Waiver).

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 the above-captioned Petitioners have 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 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 the Petitioners here have 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

² The deadline for Funding Year 2002 applications was January 17, 2002. *See* Universal Service Administrative Company (USAC) website for Minimum Processing Standards and Filing Requirements for FY 5, <<http://www.sl.universalservice.org/reference/471mps.asp>>.

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

⁴ *See, e.g., 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); *FCC Overrules Caldwell Television Associates, Ltd.*, Public Notice, 58 RR 2d 1706 (1985) (permitting waivers only for particularly unusual and compelling circumstances).

⁵ *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, 25612-13, 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).

Requests for Waiver filed by El Dorado County Office of Education, Placerville, California, on March 12, 2003; GEMS Academy, Humble, Texas, on July 21, 2003; Lafayette School Corporation, Lafayette, Indiana, on January 20, 2002; and Sts. Leo-Seton Catholic School, Lafayette, Louisiana, on August 26, 2003, respectively, are DENIED.

FEDERAL COMMUNICATIONS COMMISSION

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