

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Request for Waiver by	)	
	)	
Queen of Peace Elementary School	)	
North Arlington, New Jersey	)	File No. SLD-274255
	)	
Federal-State Joint Board on	)	
Universal Service	)	CC Docket No. 96-45
	)	
Changes to the Board of Directors of the	)	
National Exchange Carrier Associations, Inc.	)	CC Docket No. 97-21

**ORDER**

**Adopted: May 20, 2002**

**Released: May 21, 2002**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Waiver Request filed by Queen of Peace Elementary School (Queen of Peace), North Arlington, New Jersey, seeking a waiver of the Commission's rules governing discounts for services under the schools and libraries universal service support mechanism.<sup>1</sup> Queen of Peace requests a waiver of the filing deadline for Funding Year 4.<sup>2</sup> For the reasons set forth below, we deny Queen of Peace's Waiver Request.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.<sup>3</sup> In order to receive discounts on eligible services, the Commission's rules require that the applicant submit to the Schools and Libraries Division (SLD) of the Administrator a completed FCC Form 470, in which the applicant sets forth its technological needs and the services for which it seeks

<sup>1</sup> Letter from George Schlitt, Queen of Peace Church, on behalf of Queen of Peace Elementary School, to Federal Communications Commission, filed August 16, 2001 (Waiver Request).

<sup>2</sup> See Waiver Request. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Universal Service Administrative Company (Administrator) may seek review from the Commission. 47 C.F.R. § 54.719(c).

<sup>3</sup> 47 C.F.R. §§ 54.501–54.503.

discounts.<sup>4</sup> Once the applicant has complied with the Commission's competitive bidding requirements and entered into an agreement for eligible services, it must file an FCC Form 471 application to notify the Administrator of the services that have been ordered, the carrier with whom the applicant has entered into an agreement, and an estimate of funds needed to cover the discounts to be given for eligible services.<sup>5</sup> The Commission's rules require that the applicant file a completed FCC Form 471 by the filing window deadline to be considered pursuant to the funding priorities for in-window applicants.<sup>6</sup> The last day of the filing window for Funding Year 4 was January 18, 2001.<sup>7</sup>

3. Queen of Peace admits that it was late in filing its application, but it does not supply an explanation for the delay.<sup>8</sup> Although Queen of Peace's FCC Form 470 was posted as early as November 29, 2000 with extra time to spare for complying with the program's competitive bidding requirements, it did not submit its FCC Form 471 until after the window had closed.<sup>9</sup> The electronic portion of the FCC Form 471 was submitted March 14, 2001, and the paper components were sent the next day.<sup>10</sup> Queen of Peace attributes the delay to "matters beyond our control."<sup>11</sup> Queen of Peace requests a waiver of the filing window from the Commission, as SLD can not give a waiver of the Commission's rules.<sup>12</sup>

4. Queen of Peace's request can be granted only if waiving the deadline is supported by a showing of good cause.<sup>13</sup> A deviation from a general rule is not permitted unless there are special circumstances and the deviation would serve the public interest.<sup>14</sup> Rules requiring filing deadlines help guarantee that there are identifiable times when the door can be closed to new applicants, and the public interest mandate can be efficiently and effectively fulfilled.<sup>15</sup> Queen of Peace provides no evidence of special circumstances warranting deviation from our rule establishing the filing window deadline. We therefore conclude that Queen of Peace has failed to demonstrate special circumstances upon which its Waiver Request can be granted.

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<sup>4</sup> 47 C.F.R. § 54.504(b).

<sup>5</sup> 47 C.F.R. § 54.504(c).

<sup>6</sup> 47 C.F.R. §§ 54.504(c), 54.507(c).

<sup>7</sup> SLD web site, Form 471 Filing Window for Year 4 (Sept. 18, 2000) <<http://www.sl.universalservice.org/whatsnew/092000.asp#091800>>.

<sup>8</sup> Waiver Request.

<sup>9</sup> See FCC Form 470, Queen of Peace Elementary School, posted November 29, 2000; Waiver Request.

<sup>10</sup> FCC Form 471, Queen of Peace Elementary School, filed March 15, 2001 (envelope containing Block 6 certification page and Item 21 attachment with postmark of March 15, 2001).

<sup>11</sup> Waiver Request.

<sup>12</sup> *Id.*; see also Letter from Schools and Libraries Division, Universal Service Administrative Company, to George Schlitt, (Queen of Peace Elementary), dated August 13, 2001 (Administrator's Decision on Waiver Request).

<sup>13</sup> See 47 C.F.R. § 1.3.

<sup>14</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast*).

<sup>15</sup> See *Northeast*; see also *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, para. 8 (Com. Car. Bur. 2000) (noting SLD reviews and processes thousands of applications each year, and therefore it is administratively necessary to place on the applicant responsibility for complying with rules and procedures).

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 Waiver Request filed by Queen of Peace Elementary School, North Arlington, New Jersey, on August 16, 2001, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Mark G. Seifert  
Deputy Chief, Telecommunications Access Policy Division  
Wireline Competition Bureau