

Before the  
Federal Communications Commission  
Washington, DC 20554

In the Matter of	)	
	)	
Request for Review of the	)	
Decision of the	)	
Universal Service Administrator by	)	
	)	
Atchison Public Schools	)	File No. SLD-262801
Atchison, Kansas	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
	)	
Changes to the Board of Directors of the	)	CC Docket No. 97-21
National Exchange Carrier Association, Inc.	)	

**ORDER**

**Adopted: July 9, 2002**

**Released: July 10, 2002**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. Before the Telecommunications Access Policy Division is a Request for Review filed by Atchison Public Schools (Atchison), Atchison, Kansas.<sup>1</sup> Atchison seeks review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).<sup>2</sup> In its decision, SLD rejected Atchison’s Funding Year 2001 application for failure to satisfy minimum processing standards because Atchison used the Funding Year 2000 form instead of the Funding Year 2001 form.<sup>3</sup> In its Request for Review, Atchison asserts that relief should be granted because the error was unintentional, the

<sup>1</sup> Letter from Dr. Corbin Witt, Atchison Public Schools, to Federal Communications Commission, filed July 23, 2001 (Request for Review).

<sup>2</sup> See Request for Review. Section 54.719(c) of the Commission’s rules provides that 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).

<sup>3</sup> See Letter from Schools and Libraries Division, Universal Service Administrative Company, to Joy Kromer, Atchison Public Schools, dated July 13, 2001 (Administrator’s Decision on Appeal). In prior years, this funding period was referred to as Funding Year 4. Funding periods are now described by the year in which the funding period starts. Thus, the funding period which begins on July 1, 2001 and ends on June 30, 2002, previously known as Funding Year 4, is now called Funding Year 2001. The funding period which begins on July 1, 2000 and ends on June 30, 2001, is now called Funding Year 2000.

amounts requested were the same that Atchison requested in the previous year, and the Funding Year 2000 and Funding Year 2001 forms are very similar in appearance.<sup>4</sup>

2. It is well established that applicants are responsible for ensuring that their applications are made on the correct forms.<sup>5</sup> Atchison also argues that it will lose services if it is unable to obtain funding.<sup>6</sup> Construing this argument as a waiver request, we find that it does not provide a basis for a waiver. Although the Commission may waive any provision of its rules, a showing of good cause must support a waiver request.<sup>7</sup> 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.<sup>8</sup> As we have held in the past, the assertion that denial of the applications may have a detrimental impact on schools and libraries does not create the special circumstances or particular facts that warrant a waiver of the Commission's rules.<sup>9</sup> We therefore deny the Request for Review and affirm SLD for substantially the reasons stated in the Administrator's Decision on Appeal.

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<sup>4</sup> Request for Review.

<sup>5</sup> See *Request for Review by Southern Adirondack Library System, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-267054, CC Dockets No. 96-45 and 97-21, Order, DA 02-745, para. 10 (Com. Car. Bur. rel. April 4, 2002).

<sup>6</sup> Request for Review at 1.

<sup>7</sup> 47 C.F.R. § 1.3; see also *WAIT Radio v. FCC*, 418 F.2d 1153, 1158 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972) (*WAIT Radio*).

<sup>8</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*); see also *WAIT Radio*, 897 F.2d at 1159 (stating that the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis).

<sup>9</sup> See *Request for Review by Northern Waters Library Service, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-183124, CC Docket Nos. 96-45 and 97-21, Order, DA 02-227 (Com. Car. Bur. rel. Jan. 30, 2002) (denying a request for waiver of the Commission's rules based on the assertion that denial would cause the applicant hardship); *Request for Review by Lansingburgh 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-109845, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 6999 (Com. Car. Bur. 1999) ("To simply advert...to its limited resources and the needs of its students, does not distinguish its situation from other applications the SLD must process each funding year in accordance with its filing deadlines.").

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 by Atchison Public Schools, Atchison, Kansas, on July 23, 2001 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

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