

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

In the Matter of ) ) Request for Review of the ) Decision of the ) Universal Service Administrator by ) ) Alameda County Office of Education ) Hayward, California ) ) Federal-State Joint Board on ) Universal Service ) ) Changes to the Board of Directors of the ) National Exchange Carrier Association, Inc. )	File Nos. SLD-266319, 277568, 277790  CC Docket No. 96-45  CC Docket No. 97-21
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**ORDER**

**Adopted: August 5, 2002**

**Released: August 6, 2002**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Review filed by Alameda County Office of Education (Alameda), Hayward, California, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).<sup>1</sup> Alameda seeks review of SLD’s decision to reject Alameda’s appeal to SLD on the grounds that it was untimely filed.<sup>2</sup> For the reasons set forth below, we deny Alameda’s Request for Review.

2. SLD issued Alameda FCC Form 471 Rejection Letters on April 24, 2001 regarding SLD application numbers 266319, 277568, and 277790, denying Alameda’s requests for discounted services under the schools and libraries universal service support mechanism.<sup>3</sup>

<sup>1</sup> Letter from Alan Arjo, Alameda County Office of Education, to Federal Communications Commission, filed June 21, 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 Alan J. Arjo, Alameda County Office of Education, dated April 24, 2001 (SLD-266319 Rejection Letter); Letter from Schools and Libraries Division, Universal Service Administrative Company, to Alan J. Arjo, Alameda County Office of Education, dated April 24, 2001 (SLD-277568 Rejection Letter); Letter from Schools and Libraries Division, Universal Service Administrative Company, to Alan J. Arjo, Alameda County Office of Education, dated April 24, 2001 (SLD-277790 Rejection Letter).

Specifically, SLD rejected Alameda's applications on the grounds that Alameda left blank or incomplete Item 12 of the FCC Form 471 applications, in which applicants are required to list the relevant FCC Form 470 number.<sup>4</sup> On May 23, 2001, Alameda submitted its appeal of SLD's decision to Fedex for overnight delivery.<sup>5</sup> SLD did not receive Alameda's appeal until June 1, 2001.<sup>6</sup> In its June 6, 2001 Administrator's Decision on Appeal, SLD denied Alameda's appeal because SLD received it more than 30 days after the April 24, 2001 Funding Commitment Decision Letter was issued.<sup>7</sup> Alameda subsequently filed the instant Request for Review with the Commission.<sup>8</sup>

3. Under section 54.720 of the Commission's rules, appeals seeking review of decisions issued before August 13, 2001 must be filed with the Commission or SLD within 30 days of the issuance of the decision that the party seeks to have reviewed.<sup>9</sup> Requests for review are considered filed with the Commission or SLD only upon receipt.<sup>10</sup> The 30-day deadline contained in section 54.720 of the Commission's rules applies to all requests for review filed by a party affected by a decision issued by the Administrator. May 24, 2001 was the last day that Alameda could file its appeal under the 30-day rule.<sup>11</sup> Alameda's June 1, 2001 appeal was therefore untimely.

4. Alameda attributes the late filing to error on the part of the courier.<sup>12</sup> However, Commission precedent is clear that failures by couriers to deliver filings in a timely manner do not generally justify waiver of filing deadlines.<sup>13</sup> Applicants that wait until the last minute before submitting their appeals risk untimely filing.<sup>14</sup> Because Alameda failed to file a timely

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<sup>4</sup> See SLD-266319 Rejection Letter, SLD-277568 Rejection Letter, SLD-277790 Rejection Letter.

<sup>5</sup> Request for Review, Attachments (Fedex Receipt).

<sup>6</sup> See Letter from Schools and Libraries Division, Universal Service Administrative Company, to Alan J. Arjo, dated June 6, 2001 (Administrator's Decision on Appeal).

<sup>7</sup> See *id.*

<sup>8</sup> Request for Review.

<sup>9</sup> 47 C.F.R. § 54.720. For requests seeking review of decisions issued on or after August 13, 2001 under section 54.720(b) of the Commission's rules, any such appeal must be filed with the Commission or SLD within 60 days of the issuance of the decision that the party seeks to have reviewed. See *Implementation of Interim Filing Procedures for Filings of Requests for Review, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, FCC 01-376 (rel. Dec. 26, 2001), as corrected by *Implementation of Interim Filing Procedures for Filings of Requests for Review, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Errata (Com. Car. Bur. rel. Dec. 28, 2001 and Jan. 4, 2002).

<sup>10</sup> 47 C.F.R. § 1.7.

<sup>11</sup> Administrator's Decision on Appeal; 47 C.F.R. § 54.720.

<sup>12</sup> Request for Review.

<sup>13</sup> See *FCC Overrules Caldwell Television*, 58 RR 2d 1706, 1707 (1985).

<sup>14</sup> 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 (Acc. Pol. Div. 2001).

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appeal, we affirm SLD's decision to dismiss Alameda's appeal to SLD as untimely and deny the instant Request for Review.

5. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Request for Review filed by Alameda County Office of Education, Hayward, California on June 21, 2001, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Mark G. Seifert  
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Wireline Competition Bureau