

Before the
Federal Communications Commission
Washington, DC 20554

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| In the Matter of |) | |
| |) | |
| Request for Review of the |) | |
| Decision of the |) | |
| Universal Service Administrator by |) | |
| |) | |
| East Alton-Wood River Community High School |) | File No. SLD-252776 |
| Wood River, Illinois |) | |
| |) | |
| 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: February 20, 2002

Released: February 21, 2002

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division has under consideration a Request for Review filed by East Alton-Wood River Community High School (East Alton), Wood River, Illinois, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).¹ East Alton seeks review of SLD's refusal to consider East Alton's appeal to SLD on the grounds that it was untimely filed.² For the reasons set forth below, we deny East Alton's appeal.

2. SLD issued a Funding Commitment Decision Letter on July 23, 2001, denying East Alton's request for discounted services under the schools and libraries universal service support mechanism.³ Specifically, SLD reduced the amount of East Alton's request for discounts for telecommunications service, Funding Request Number (FRN) 655053. SLD also denied East Alton's request for discounts for Internet access and internal connections, FRNs 654453, 654525, 654712, and 654793. On October 22, 2001, East Alton filed an appeal of SLD's

¹ Letter from Gerry Mattix-Wand, East Alton-Wood River Community High School, to Federal Communications Commission, filed January 2, 2002 (Request for Review).

² 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).

³ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Gerry Mattix-Wand, East Alton-Wood River Community High School, dated July 23, 2001 (Funding Commitment Decision Letter).

decision with respect to FRN 655053 only.⁴ On November 5, 2001, SLD issued an Administrator's Decision on Appeal indicating that it would not consider East Alton's appeal because it was received more than 30 days after the Funding Commitment Decision Letter was issued.⁵ East Alton subsequently filed the instant Request for Review with the Commission.

3. For requests seeking review of decisions issued before August 13, 2001, under section 54.720 of the Commission's rules, an appeal must be filed with the Commission or SLD within 30 days of the issuance of the decision as to which review is sought.⁶ Documents are considered to be filed with the Commission or SLD only upon receipt.⁷ The 30-day deadline contained in section 54.720 of the Commission's rules applies to all such requests for review filed by a party affected by a decision issued by the Administrator.⁸ Because East Alton failed to file an appeal of the July 23, 2001 Funding Commitment Decision Letter within the requisite 30-day appeal period, we affirm SLD's decision to dismiss East Alton's appeal to SLD as untimely and deny the instant Request for Review.

4. To the extent that East Alton is requesting that we waive the 30-day deadline established in section 54.720(b) of the Commission's rules, we deny that request as well.⁹ The Commission may waive any provision of its rules, but a request for waiver must be supported by a showing of good cause.¹⁰ East Alton has not shown good cause for the untimely filing of its initial appeal. East Alton explains that it did not receive the Funding Commitment Decision Letter at all and only learned about it when a vendor called to ask why East Alton's phone service was only funded for a partial year.¹¹

5. We conclude that East Alton has not demonstrated a sufficient basis for waiving the Commission's rules. Waiver 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

⁴ Letter from Gerry Mattix-Wand, East Alton-Wood River Community High School, to Schools and Libraries Division, Universal Service Administrative Company, filed October 22, 2001 (Request for Administrator Review).

⁵ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Gerry Mattix-Wand, East Alton-Wood River Community High School, dated November 5, 2001.

⁶ 47 C.F.R. § 54.720.

⁷ 47 C.F.R. § 1.7.

⁸ We note that, due to recent disruptions in the reliability of the mail service, the 30-day appeal period has been extended by an additional 30 days for requests seeking review of decisions issued on or after August 13, 2001. 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 (Com. Car. Bur. rel. Jan. 4, 2002). Because the July 23, 2001 Funding Commitment Decision Letter was issued before August 13, 2001, the extended appeal period does not apply to East Alton.

⁹ See 47 C.F.R. § 54.720(b).

¹⁰ See 47 C.F.R. § 1.3.

¹¹ Request for Review, at 1.

the general rule.¹² In requesting funds from the schools and libraries universal service support mechanism, the applicant has certain responsibilities. The applicant bears the burden of submitting its appeal to SLD within the established deadline if the applicant wishes its appeal to be considered on the merits and merely stating that a letter was not received at the address provided to SLD and to which prior correspondence had been successfully mailed is insufficient grounds for reconsideration.¹³

6. The particular facts of this case do not rise to the level of special circumstances required for a deviation from the general rule. In light of the thousands of applications that SLD reviews and processes each year, it is administratively necessary to place on the applicant the responsibility of adhering strictly to its filing deadlines.¹⁴ In order for the program to work efficiently, the applicant must assume responsibility for timely submission of its appeal to SLD if it wishes its appeal to be considered on the merits. Here, East Alton fails to present good cause as to why it could not timely file its appeal to SLD. We therefore find no basis for waiving the appeal filing deadline.

7. 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 East Alton-Wood River Community High School, Wood River, Illinois on January 2, 2002, and the request to waive the 30-day time limit in which to file an appeal ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Mark G. Seifert
Deputy Chief, Accounting Policy Division
Common Carrier Bureau

¹² *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

¹³ See *Request for Review by Whitehall City School District*, Docket Nos. 96-45 and 97-21, Order, DA 00-1892 (Com. Car. Bur. rel. August 18, 2000); *Juan Galiano*, Memorandum Opinion and Order, 5 FCC Rcd 6442, 6443 (1990) (“[I]f the Commission were to entertain and accept unsupported arguments that letters mailed in Commission proceedings were not delivered... procedural havoc and abuse would result.”).

¹⁴ 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*, File No. SLD-133664, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 25610 (Com. Car. Bur. rel. Nov. 24, 2000) para. 8 (“In light of the thousands of applications that SLD reviews and processes each funding year, it is administratively necessary to place on the applicant the responsibility of understanding all relevant program rules and procedures.”).