

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

In the Matter of	)	
	)	
Request for Review of the Decision of the Universal Service Administrator by	)	
	)	
School District of Somerset Somerset, Wisconsin	)	File No. SLD- 324899
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Changes to the Board of Directors of the National Exchange Carrier Association, Inc.	)	CC Docket No. 97-21
	)	

**ORDER**

**Adopted: August 1, 2003**

**Released: August 4, 2003**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Review filed by School District of Somerset (Somerset), Somerset, Wisconsin.<sup>1</sup> Somerset's seeks review of two decisions issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator), rejecting Somerset's appeals on the grounds that they were untimely filed.<sup>2</sup> For the reasons set forth below, we deny Somerset's Request for Review.

2. SLD issued a Funding Commitment Decision Letter on June 3, 2002, denying Somerset's request for discounted services under the schools and libraries universal service support mechanism.<sup>3</sup> Specifically, SLD denied Somerset's request for discounts for Telecommunications Services, Funding Request Numbers (FRNs) 870901, 870910, 870921, 870930.<sup>4</sup> On August 5, 2002 and February 6, 2003, Somerset filed appeals of SLD's decision.<sup>5</sup>

<sup>1</sup> Letter from Jan Carlson, School District of Somerset, to Federal Communications Commission, filed April 7, 2003 (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> Letter from Schools and Libraries Division, Universal Service Administrative Company, to Ryan Sicard, School District of Somerset, dated June 3, 2002 (Funding Commitment Decision Letter).

<sup>4</sup> *Id.*

<sup>5</sup> Letter from Ryan Sicard, School District of Somerset, to Schools and Libraries Division, Universal Service Administrative Company, filed August 5, 2002 and Letter from Jan Carlson, School District of Somerset, to Schools and Libraries Division, Universal Service Administrative Company, filed February 6, 2003.

On August 6, 2002 and February 13, 2003, SLD issued Administrator's Decisions on Appeal indicating that it would not consider Somerset's appeals because they were received more than 60 days after the June 3, 2002 Funding Commitment Decision Letter was issued.<sup>6</sup> Somerset subsequently filed the instant Request for Review with the Commission.

3. With regard to the August 6, 2002 SLD decision, applicants seeking review of decisions by SLD issued on or after August 13, 2001, must file appeals with the Commission within 60 days of the issuance of the SLD decision date.<sup>7</sup> Here, Somerset filed its appeal of the August 6, 2002 SLD decision on April 7, 2003, after the 60-day period, in contravention of our rules. We therefore dismiss Somerset's appeal of the August 6, 2002 SLD decision.

4. With regard to the February 13, 2003 SLD decision, Somerset appealed the June 3, 2002 funding decision to SLD on February 6, 2003. SLD denied the appeal because Somerset filed the appeal more than 60 days after the June 3, 2002 decision was rendered.<sup>8</sup> We affirm SLD's decision. For a review of decisions by SLD issued on or after August 13, 2001, appeals to SLD must be filed within 60 days of the issuance of the SLD decision date.<sup>9</sup> We therefore deny Somerset's appeal of the February 13, 2003 SLD decision.

5. To the extent that Somerset seeks a waiver of our rules in this instance, we also deny its request.<sup>10</sup> 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.<sup>11</sup> Somerset explains that in response to the June 3, 2002 funding letter it filed an appeal via electronic letter on July 31, 2002 and that this date was within the 60 day appeal window.<sup>12</sup> Although Somerset argues that it filed its appeal of the June 3, 2002 SLD decision "via electronic letter" on July 31, 2002, the record reflects that it sent an appeal dated July 31, 2002 via facsimile to SLD on August 3, 2002, a Saturday. That appeal is not deemed filed until the next business day, Monday, August 5, 2002. As a result, Somerset filed its appeal to SLD after the 60-day period, in contravention of our rules. Given the thousands of applications SLD processes each year, it is administratively necessary to place the burden of meeting deadlines on

---

<sup>6</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to Ryan Sicard, School District of Somerset, dated August 6, 2002 and Letter from Schools and Libraries Division, Universal Service Administrative Company, to Jan Carlson, School District of Somerset, dated February 13, 2003 (Administrator's Decisions on Appeal).

<sup>7</sup> 47 C.F.R. § 54.720(b). *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, 17 FCC Rcd 339 (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>8</sup> *See* Letter from Jan Carlson, School District of Somerset, to Schools and Libraries Division, Universal Service Administrative Company, filed February 6, 2003; Letter from Schools and Libraries Division, Universal Service Administrative Company, to Jan Carlson, School District of Somerset, dated February 13, 2003.

<sup>9</sup> *See* Footnote 7 *supra*.

<sup>10</sup> 47 C.F.R. § 54.720(b).

<sup>11</sup> 47 C.F.R. § 1.3; *see Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

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

the applicants.<sup>13</sup> As we have consistently held in the past, applicants are responsible for submitting their appeals in a timely manner and complying with program rules and procedures.<sup>14</sup>

6. 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 on April 7, 2003, by School District of Somerset, Somerset, Wisconsin, IS DISMISSED as it relates to the August 6, 2002 decision, IS DENIED as it relates to the February 13, 2003 decision, and the request to waive the 60-day time limit in which to file an appeal IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

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

---

<sup>13</sup> 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 (Com. Car. Bur. rel. Nov. 24, 2000), para. 8.

<sup>14</sup> *Request for Review by St. Mary's Public Library, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. NEC.471.12-07-99.02000002, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 12936, para. 5 (Com. Car. Bur. 2001) (denying a waiver request to the extent it is requested due to misunderstanding of the program's rules).