

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)
Request for Review of the)
Decision of the)
Universal Service Administrator by)
Mifflin County Library) File No. SLD-242056
Lewistown, Pennsylvania)
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: August 1, 2003

Released: August 4, 2003

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. Mifflin County Library (Mifflin County), Lewistown, Pennsylvania, seeks review of a July 23, 2001 decision by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator). On October 4, 2001, Mifflin County appealed the decision to SLD, but SLD denied the appeal because Mifflin County filed the appeal more than 30 days after the decision was rendered. We affirm SLD's decision. For a review of decisions by SLD issued before August 13, 2001, appeals to SLD must be filed within 30 days of the issuance of the SLD decision date. Here, Mifflin County filed its appeal to SLD after the 30-day period, in contravention of our rules. We therefore deny the Request for Review.

2. To the extent that Mifflin County additionally asks us to waive our rules in this instance, we also must deny its request. Mifflin County explains that it was denied funding

1 Letter from Carol J. Veitch, Mifflin County Library, to Federal Communications Commission, filed February 20, 2002 (Request for Review). See also Letter from Schools and Libraries Division, Universal Service Administrative Company, to Carol J. Veitch, Mifflin County Library, dated July 23, 2001. 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).

2 See Letter from Carol J. Veitch, Mifflin County Library, to Schools and Libraries Division, Universal Service Administrative Company, filed October 4, 2001; Letter from Schools and Libraries Division, Universal Service Administrative Company, to Carol J. Veitch, Mifflin County Library, dated October 31, 2001.

3 47 C.F.R. § 54.720(b).

4 Id.

because its original certification page to the application was misfiled by SLD staff. Instead of appealing the Funding Commitment Decision Letter, Mifflin County explains further, it contacted SLD and learned from an SLD representative that the missing certification page was filed with another one of Mifflin County's applications. It asserts that it was then advised by an SLD representative to wait for SLD to reprocess the application with the missing certification page and for a new Funding Commitment Decision Letter to be issued.⁵

3. 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.⁶ We decline to grant relief on the basis of incorrect advice from SLD. Even if, as Mifflin County claims, SLD staff incorrectly advised Mifflin County not to file an appeal, Commission precedent establishes that where a party has received erroneous advice, the government is not estopped from enforcing its rules in a manner that is inconsistent with the advice provided by the employee, particularly where relief is contrary to a rule.⁷

4. 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 February 20, 2002, by Mifflin County Library, Lewistown, Pennsylvania, 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, Telecommunications Access Policy Division
Wireline Competition Bureau

⁵ Request for Review.

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

⁷ *In re Mary Ann Salvatiello*, Memorandum Opinion and Order, 6 FCC Rcd 4705, 4707-8, para. 22 (1991) (citing *Office of Personnel Management v. Richmond*, 497 US 1046 (1990)).