

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Request for Waiver by	)	
	)	
Southwest Kansas Educational Consortium	)	File No. SLD-145772
Meade, 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: October 3, 2003**

**Released: October 6, 2003**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Waiver filed by Southwest Kansas Educational Consortium, Meade, Kansas (Kansas), seeking a waiver of the Commission's rules governing the schools and libraries universal service support mechanism.<sup>1</sup> Specifically, Kansas requests a waiver of the filing deadline for Funding Year 2001.<sup>2</sup> For the reasons set forth below, we deny the Waiver Request.

2. In its decision, SLD determined that Kansas's application had been filed after the close of the January 18, 2001 FCC Form 471 filing window.<sup>3</sup> Kansas requests a waiver of the Commission's rules because of changes in personnel that occurred prior to the filing of the

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<sup>1</sup> Letter from Carol J. Swinney, Southwest Kansas Educational Consortium, to Federal Communications Commission, filed July 11, 2002 (Waiver Request). Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Universal Service Administrative Company (Administrator) may seek review from the Commission. 47 C.F.R. §54.719(c).

<sup>2</sup> See Waiver Request.

<sup>3</sup> Postcard from Schools and Libraries Division, Universal Service Administrative Company, to Carol Swinney, Interlocal 625, dated November 28, 2001. The record shows that Kansas's Block 6 Certification Page was postmarked on February 1, 2001.

application.<sup>4</sup> Kansas also argues that a waiver should be granted because of the detrimental impact the denial may have on schools in southwest Kansas.<sup>5</sup>

3. We find that a waiver is not appropriate. 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>6</sup> Applicant's assertion that changes in staff contributed to the filing of the application out of a window is not a special circumstance warranting a waiver of the filing window.<sup>7</sup> Further, we have consistently held that it is the applicant who has responsibility ultimately for the timely submission of the application.<sup>8</sup> Finally, Kansas's assertion that denial of its application may have a detrimental impact on schools within its borders does not create the special circumstances or particular facts that warrant a waiver of the Commission's rules.<sup>9</sup> Therefore, we deny the Waiver Request.

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 Waiver Request filed by the Southwest Kansas Educational Consortium on July 11, 2002 is DENIED.

FEDERAL COMMUNICATIONS COMMISSION

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

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<sup>4</sup> Waiver Request.

<sup>5</sup> *Id.*

<sup>6</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*); see also *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969) (stating that the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis), *cert. denied*, 409 U.S. 1027 (1972).

<sup>7</sup> See, e.g., *Request for Waiver by Hancock County Public Library, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-318275, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 19521 (Wireline Comp. Bur. 2002).

<sup>8</sup> See *Request for Waiver by Center City Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-325719, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 22424 (Wireline Comp. Bur. 2003).

<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, 17 FCC Rcd 1756 (Com. Car. Bur. 2002) (denying a request for waiver of the Commission's rules based on the assertion that denial would cause 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.")).