

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)	
)	
Request for Review of the)	
Decision of the)	
Universal Service Administrator by)	
)	
Stafford Municipal School District)	File No. SLD-312485
Stafford, Texas)	
)	
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 10, 2003

Released: February 11, 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 Stafford Municipal School District (Stafford Municipal), Stafford, Texas, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).¹ Stafford Municipal seeks review of SLD’s decision to reject Stafford Municipal’s appeal to SLD on the grounds that it was untimely filed.² For the reasons set forth below, we deny Stafford Municipal’s Request for Review.

2. SLD issued a Funding Commitment Decision Letter on July 1, 2002, approving in part and denying in part Stafford Municipal’s request for discounted services under the schools and libraries universal service support mechanism.³ Specifically, SLD approved Stafford Municipal’s request for discounts for Internet access, Funding Request Number (FRN) 823020,

¹ Letter from Charlotte Holden, Stafford Municipal School District, to Federal Communications Commission, filed October 4, 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 Skip Baskerville, Stafford Municipal School District, dated July 1, 2002 (Funding Commitment Decision Letter).

and denied its requests for discounts on telecommunications services, FRNs 822750, 823131, 823294, 823368, 823412, 823466, 823570, 823768, 824461, and 846236.⁴ Stafford Municipal states that on August 27, 2002, it submitted its appeal of SLD's decision to the United States Postal Service and was told by the United States Postal Service that the letter should arrive at its mailed destination by September 1, 2002.⁵ SLD did not receive Stafford Municipal's appeal until September 3, 2002. On September 9, 2002, SLD issued an Administrator's Decision on Appeal indicating that it would not consider Stafford Municipal's appeal because it was received more than 60 days after the July 1, 2002 Funding Commitment Decision Letter was issued.⁶ Stafford Municipal subsequently filed the instant Request for Review with the Commission.

3. 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.⁷ Documents are considered to be filed with the Commission only upon receipt.⁸ Because the instant Request for Review was not filed within the requisite 60-day period, Stafford Municipal's Request for Administrator Review, we affirm the Administrator's Decision on Appeal and deny the instant Request for Review. August 30, 2002 was the last day that Stafford Municipal could file its appeal under the 60-day rule.⁹ Stafford Municipal's September 3, 2002 appeal was therefore untimely.

4. Stafford Municipal attributes the late filing to error on the part of the United States Postal Service.¹⁰ However, Commission precedent is clear that failures by couriers to deliver filings in a timely manner do not generally justify waiver of filing deadlines.¹¹ Applicants that wait until the last minute before submitting their appeals risk untimely filing.¹²

⁴ *Id.*

⁵ Request for Review, Attachments (Certified Mail Receipt); Letter from Charlotte Holden, Stafford Municipal School District, to Schools and Libraries Division, Universal Service Administrative Company, filed September 3, 2002 (Request for Administrator Review).

⁶ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Charlotte Holden, Stafford Municipal School District, dated September 9, 2002 (Administrator's Decision on Appeal).

⁷ 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, FCC 01-376 (rel. December 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. December 28, 2001 and January 4, 2002).

⁸ 47 C.F.R. § 1.7.

⁹ Administrator's Decision on Appeal; 47 C.F.R. § 54.720.

¹⁰ Request for Review.

¹¹ *See FCC Overrules Caldwell Television*, 58 RR 2d 1706, 1707 (1985).

¹² *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 (Com. Car. Bur. 2001). We further note that,

Because Stafford Municipal failed to file a timely appeal, we affirm SLD's decision to dismiss Stafford Municipal'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 Stafford Municipal School District, Stafford, Texas on October 4, 2002, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

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

because the appeal period ended on August 30, 2002, Stafford Municipal's appeal would have been untimely even if it had arrived on the expected date of September 1, 2002.