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

In the Matter of	)	
	)	
Requests for Waiver by	)	
	)	
Blessed Sacrament Elementary School	)	File No. SLD-318627
New Rochelle, New York	)	
	)	
Crutch School District 74	)	File No. SLD-311147
Oklahoma City, Oklahoma	)	
	)	
Freedom Area School District	)	File No. SLD-323547
Freedom, Wisconsin	)	
	)	
Milwaukee School District	)	File No. SLD-301938
Milwaukee, Wisconsin	)	
	)	
Schools and Libraries Universal Service	)	CC Docket No. 02-6
Support Mechanism	)	

**ORDER**

**Adopted: February 2, 2004**

**Released: February 3, 2004**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. Before the Telecommunications Access Policy Division are requests to waive FCC Form 471 filing deadlines established by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) for discount applications under the schools and libraries universal service mechanism.<sup>1</sup> The requests were filed by Blessed Sacrament Elementary School (Blessed Sacrament), New Rochelle, New York; Crutch School District 74 (Crutch), Oklahoma City, Oklahoma; Freedom Area School District (Freedom Area), Freedom, Wisconsin; and Milwaukee School District (Milwaukee), Milwaukee, Wisconsin.<sup>2</sup> For the reasons set forth below, we deny the requests.

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<sup>1</sup> 47 C.F.R. §§ 54.502, 54.503.

<sup>2</sup> Letter from Joan Woods, Blessed Sacrament Elementary School, New Rochelle, New York, to the Federal Communications Commission, filed July 10, 2002 (Blessed Sacrament Request for Review); Letter from Kermit Jones, Crutch School District 74, Oklahoma City, Oklahoma, to the Federal Communications Commission, filed June 11, 2002 (Crutch Request for Review); Letter from Kathy Lorge, Freedom Area School District, Freedom, Wisconsin, to the Federal Communications Commission, filed July 5, 2002 (Freedom Area Request for Review); Letter from Scott Temperly, Milwaukee School District, Milwaukee, Wisconsin, to the Federal Communications Commission, filed July 8, 2002 (Milwaukee Request for Review). *See* 47 C.F.R. § 54.719(c).

2. In each case, the applicant concedes it missed the filing deadline for the Block 6 signature certification page that is necessary to complete filing of the FCC Form 471, and requests a waiver of this deadline. Crutchko states that it was not advised of the certification filing deadline by SLD staff, and, moreover, filing an application without the signature block constitutes “substantial compliance.”<sup>3</sup> Milwaukee states that a clerical error caused its employee to miss signing the application in question in a stack of similar applications.<sup>4</sup> Freedom Area pleads that its local area has no U.S. Post Office for the purposes of same-day postmarking.<sup>5</sup> Blessed Sacrament contends that the signature certification page was available only electronically, and that it was at a disadvantage because it was filing Form 471 manually.<sup>6</sup> In addition, Freedom Area and Milwaukee also cite financial need as a special circumstance of their appeals.<sup>7</sup>

3. The Commission may waive provisions of its rules, but only where special circumstances warrant a deviation from the general rule, and strict compliance with the rule would be inconsistent with the public interest.<sup>8</sup> The applicants here do not meet that threshold test. The instructions for timely filing of the certification page were stated explicitly on SLD’s website, and upon request, were available in print.<sup>9</sup> In the face of these printed instructions, applicants cannot successfully plead misunderstanding, or that they were misled by SLD staff to the contrary, because they are required to know the relevant rules of the program.<sup>10</sup> Applicants also are responsible for seeing that their own applications, including the certification page, are filed in a timely manner.<sup>11</sup> To that extent, staff errors do not absolve applicants.<sup>12</sup> Nor does the

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<sup>3</sup> Crutchko Request for Review.

<sup>4</sup> Milwaukee Request for Review.

<sup>5</sup> Freedom Area Request for Review.

<sup>6</sup> Blessed Sacrament Request for Review.

<sup>7</sup> Freedom Area Request for Review; Milwaukee Request for Review.

<sup>8</sup> 47 C.F.R. § 1.3. See *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

<sup>9</sup> See Instructions for Completing the Schools and Libraries Universal Service, Services Ordered and Certification Form (FCC Form 471), OMB 3060-0806 (October 2000) at 5 and 23 (Form 471 Instructions); SLD website, at Form 471 Minimum Processing Standards and Filing Requirements for FY 5 <<http://www.sl.universalservice.org/reference/471mps.asp>>.

<sup>10</sup> *Request for Review by Powhatan School, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-198581, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 11827, paras. 4 and 5 (Com. Car. Bur. 2001); *Request for Waiver by Dermott Special School District, et al, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-252777, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 5091, para. 4 (Com. Car. Bur. 2002).

<sup>11</sup> *Request for Waiver by Springdale Public Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-195867, CC Dockets No. 96-45 and 97-21, Order, 17 FCC Rcd 3543, paras. 6 and 7 (Com. Car. Bur. 2002).

<sup>12</sup> *Request for Waiver by White Plains City School District, Schools and Libraries Universal Support Mechanism*, File No. SLD-1237001, CC Docket Nos. 02-6, Order, 18 FCC Rcd 4504, para. 3 (Wireline Comp. Bur. rel. Nov. 5, 2003). (“[A]n applicant must take responsibility for the actions of those employees to whom it gives responsibility

absence of a nearby same-day mailing postal facility. Applicants, wherever they are located, are required to have their applications electronically filed or postmarked by the filing deadline, and applicants who wait until near the end of the filing process to file must accept the risk of “unexpected but reasonably foreseeable delays.”<sup>13</sup>

4. Further, lack of Internet access does not provide grounds for relief.<sup>14</sup> Any potential applicant can obtain the required forms, including the signature certification page and the opening and closing dates for the application window, by calling SLD’s Client Service Bureau at 888-203-0733.<sup>15</sup> Hence, manual and electronic filers are on an equal footing. Further, filing an application without the certification page does not constitute substantial compliance, because signature certification is fundamental to the administration of the SLD program.<sup>16</sup> Finally, financial need does not meet the requirement of special circumstances that warrant a waiver of the Commission's rules.<sup>17</sup>

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for submitting timely and proper requests for discounts on its behalf. Thus, staffing problems do not relieve applicants of their responsibility to comply with our rules and procedures.” (footnotes omitted)).

<sup>13</sup> *Request for Waiver by Scottsdale Horizons School, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-198744, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 654, para. 6 (Com. Car. Bur. 2002).

<sup>14</sup> *Request for Review by Hasbrouck Heights School District, Federal Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-261183, CC Dockets Nos. 96-45 and 97-21, Order, 18 FCC Rcd 4504, para. 3 (Wireline Comp. Bur. 2003).

<sup>15</sup> Form 471 Instructions at 5 (“Assistance in Completing This Form”).

<sup>16</sup> *Request for Review by New Hartford Central School District, Federal Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-007628, CC Dockets Nos. 96-45 and 97-21, Order, 16 FCC Rcd 19329, para. 6 (Com. Car. Bur. 2001).

<sup>17</sup> *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.”).

5. 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 Requests filed by Blessed Sacrament, Crutcho, Freedom Area and Milwaukee on July 10, June 11, July 5, and July 8, 2002, respectively, ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Narda Jones  
Deputy Chief, Telecommunications Access Policy Division  
Wireline Competition Bureau