

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)
Request for Waiver by)
Parsippany-Troy Hills Township District) File No. SLD-326429
Parsippany, New Jersey)
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. The Telecommunications Access Policy Division has under consideration a Waiver Request filed by Parsippany-Troy Hills Township District (Parsippany-Troy), Parsippany, New Jersey. Parsippany-Troy seeks a waiver of the Commission's rules governing discounts for services under the schools and libraries universal service support mechanism. For the reasons set forth below, we deny Parsippany-Troy's Waiver Request.

2. The Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) denied Parsippany-Troy's funding request because Parsippany-Troy's application did not comply with the Commission's competitive bidding requirement that an applicant's FCC Form 470 be posted to SLD's website for 28 days before entering into an agreement or submitting the FCC Form 471. In its Waiver Request, Parsippany-Troy states that the application materials were prepared on January 4, 2002 and were to be mailed on January 7, 2002, in compliance with program rules. Staff, however, mailed the

1 Letter from Charles V. Mole, Parsippany-Troy Hills Township District, to Federal Communications Commission, filed November 5, 2002 (Waiver Request).

2 Id.

3 Parsippany-Troy's FCC Form 471 was filed on January 4, 2002, in advance of its allowable contract date of January 7, 2002. See FCC Form 470, Parsippany-Troy Hills Township District, filed December 10, 2001 and FCC Form 471, Parsippany-Troy Hills Township District, filed January 4, 2002. See also Letter from Schools and Libraries Division, Universal Service Administrative Company, to Charles V. Mole, Parsippany-Troy Hills Township District, dated October 17, 2002 (Administrator's Decision on Appeal); Letter from Schools and Libraries Division, Universal Service Administrative Company, to Charles V. Mole, Parsippany-Troy Hills Township District, dated May 7, 2002 (Funding Commitment Decision Letter).

application on January 4, 2002.⁴ Parsippany-Troy's representative also states that his wife was battling a life threatening disease, which placed a heavy burden on him and those who worked with him.⁵

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.⁶ Parsippany-Troy's reasons are not special circumstances warranting a waiver of the Commission's competitive bidding requirements. We find that SLD's decision is consistent with our precedent and affirm substantially for the reasons stated by SLD.⁷ Therefore, we deny Parsippany-Troy's 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 Request for Review filed by Parsippany-Troy Hills Township District, Parsippany, New Jersey on November 5, 2002 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

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

⁴ Waiver Request.

⁵ *Id.*

⁶ *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).

⁷ *Request for Waiver by East Brunswick 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-276585, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 19274 (Com. Car. Bur. 2001) (applicant is responsible for its employees submitting applications on its behalf); *Request for Waiver by Duncanville Independent 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-272355, CC Docket Nos. 96-45 and 97-21, Order, FCC Rcd 11863 (Wir. Com. Bur. 2002) (misunderstanding does not relieve applicants of their responsibility to understand and comply with SLD's rules and procedures); *Request for Review by Bancroft Rosalie Community Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-130114, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 19274 (Com. Car. Bur. 2000) (by completing and signing the Form 471 before the waiting period expired, the applicant effectively indicated that it had ceased consideration of competitive bids, thereby undermining the Commission's competitive bidding requirement).