

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

In the Matter of	)	
	)	
Request for Waiver	)	
	)	
Maine School Administrative District No. 20	)	File No. SLD-163448
Fort Fairfield, Maine	)	
	)	
Schools and Libraries Universal Service	)	CC Docket No. 02-6
Support Mechanism	)	

**ORDER**

**Adopted: February 5, 2004**

**Released: February 6, 2004**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Waiver filed by Maine School Administrative District No. 20, Fort Fairfield, Maine (Maine).<sup>1</sup> Maine requests review of a decision by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).<sup>2</sup> For the reasons set forth below, we deny the Waiver Request.

2. In its decision, SLD determined that Maine's application had been filed after the close of the January 18, 2001 FCC Form 471 filing window.<sup>3</sup> The record shows that Maine's FCC Form 471 application was postmarked on February 15, 2002.<sup>4</sup> Maine requests a waiver of the Commission's rules because of its misunderstanding of who was to submit the application on its behalf.<sup>5</sup> Maine also states that the Maine School Administrative District No. 20 is a poor

<sup>1</sup> Letter from Jeannette Condon, Maine School Administrative District No. 20, to Federal Communications Commission, filed September 19, 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> *Id.*

<sup>3</sup> Postcard from Schools and Libraries Division, Universal Service Administrative Company, to Chris Murchison, dated March 27, 2002.

<sup>4</sup> FCC Form 471 Maine School Administrative District No. 20, filed February 15, 2002.

<sup>5</sup> *See* Waiver Request. We note that on August 6, 2002, SLD dismissed a request filed by Maine for an invoice deadline extension because the invoice referenced on the request (*i.e.*, Invoice #224040) had been paid. *See* Letter from Schools and Libraries Division, Universal Service Administrative Company, to Jeannette M. Condon, dated August 6, 2002. In the instant Waiver Request, Maine agrees that Invoice #224040 had been reimbursed through the E-rate program and states that it is not appealing that decision. Rather, Maine states that it is requesting a waiver of the Form 471 filing deadline regarding access fees for ATM service. *Id.*

district which depends on E-Rate support to provide its distance learning program for its students.<sup>6</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>7</sup> Applicant's assertion that a misunderstanding contributed to the filing of the application out of window is not a special circumstance warranting a waiver of the filing window.<sup>8</sup> We have consistently held that it is the applicant who has responsibility ultimately for the timely submission of the application.<sup>9</sup>

4. Moreover, we recognize that this application is important to Maine School Administrative District No. 20. It is incumbent on us, however, to take into consideration the impact that waiver of the filing deadline would have on the overall operation of the schools and libraries program. Most, if not all, applicants to the schools and libraries program frequently depend heavily on discounts from the schools and libraries mechanism. If that alone were grounds for granting a waiver, it is hard to imagine a circumstance where waiver would not be warranted, which would eviscerate the benefits of having a filing window at all. In light of this, we do not believe that the denial of Maine's request creates the special circumstances or particular facts that warrant a waiver of the Commission's rules.<sup>10</sup> Therefore, we deny the Waiver Request.

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

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<sup>6</sup> *Id.*

<sup>7</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>8</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>9</sup> *See, e.g., 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>10</sup> *See, e.g., Application for Review by Information Technology Department State of North Dakota, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-245592, CC Docket Nos. 96-45 and 97-21, Order, 18 FCC Rcd 21521 (Wireline Comp. Bur. 2003) (finding that detrimental impact alone does not create special circumstances that warrant a waiver.); *Request for Review of the Decision of the Universal Service Administrator by Mastermind Internet Services, Inc., Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, 16 FCC Rcd 4028, 4035 ("While enforcement of these requirements has a harsh consequence for these particular applicants, the underlying policy... is critical to the integrity of the program.")

and 54.722(a), that the Waiver Request filed by Maine School Administrative District No. 20 on September 19, 2002 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Narda M. Jones  
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