

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

In the Matter of)	
)	
Request for Review by)	
)	
St. Mary's School–Rosebank Staten Island, New York)	File No. SLD-236788
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Changes to the Board of Directors of the National Exchange Carrier Associations, Inc.)	CC Docket No. 97-21
)	

ORDER

Adopted: June 27, 2002

Released: June 28, 2002

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Review by St. Mary's School–Rosebank (St. Mary's), Staten Island, New York.¹ St. Mary's seeks review of a determination by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) that the funding application of St. Mary's was filed outside the filing window for Funding Year 4.² For the reasons set forth below, we deny the Request for Review.³

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.⁴ In order to receive discounts on eligible services, the Commission's rules require that the applicant submit to the Administrator a completed FCC Form 470, in which the applicant sets forth its

¹ Letter from Virginia Savarese, St. Mary's School–Rosebank, to the Federal Communications Commission, filed September 17, 2001 (Request for Review).

² See Request for Review. See also Letter from Schools and Libraries Division, Universal Service Administrative Company, to Virginia Savarese, St. Mary's School–Rosebank, dated August 17, 2001 (Administrator's Decision on 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).

³ St. Mary's asserts that it filed its FCC Form 471 application before the filing window for Funding Year 4 closed and declines to request a waiver of the filing deadline. Request for Review. We therefore treat St. Mary's appeal as a Request for Review.

⁴ 47 C.F.R. §§ 54.501–54.503.

technological needs and the services for which it seeks discounts.⁵ Once the applicant has complied with the Commission's competitive bidding requirements and entered into agreements for eligible services, the applicant must submit a completed FCC Form 471 application to the Administrator.⁶ In the FCC Form 471 instructions, SLD has clearly set forth its standards for processing a FCC Form 471 application.⁷ Specifically, the FCC Form 471 instructions state that if a school or library does not provide the information requested, "the processing of your application may be delayed or your application may be returned to you without action."⁸

3. Section 54.507(c) of the Commission's rules states that fund discounts will be available on a first-come-first-served basis.⁹ The Commission's rules also allow the Administrator to implement an initial filing period ("filing window") for the FCC Form 471 applications that treats all schools and libraries filing within that period as if their applications were simultaneously received.¹⁰ Applications that are received outside of this filing window are subject to separate funding priorities under the Commission's rules.¹¹ It is to all applicants' advantage, therefore, to ensure that the Administrator receives their applications prior to the close of the filing window. In Funding Year 4, the window closed on January 18, 2001.¹²

4. Applicants may file their FCC Form 471 electronically.¹³ In order to have successfully completed the submission of the FCC Form 471 application in Funding Year 4, applicants who filed electronically must also have completed and mailed to SLD the Item 21 description of services, and a paper copy of the Block 6 certification, the latter of which applicants must also have signed.¹⁴ A commitment of support is contingent upon the timely filing of the applicants' completed FCC Form 471.¹⁵ Prior to Funding Year 4, the deadline by which these items had to be received by SLD to be considered within the window was later than the deadline for the filing of the FCC Form 471, so that applicants could file electronically on the last day of the filing window, and mail their certifications and attachments thereafter. However, because in previous years the delivery of a number of applications was significantly delayed by the postal service, SLD, starting in Funding Year 4, directed that all FCC Forms 471 would be

⁵ 47 C.F.R. § 54.504(b)(1), (b)(3).

⁶ 47 C.F.R. § 54.504(c).

⁷ Instructions for Completing the Schools and Libraries Universal Service, Services Ordered and Certification Form (FCC Form 471), OMB 3060-0806 (October 2000) (Form 471 Instructions). *See also* 47 C.F.R. § 54.504(c).

⁸ Form 471 Instructions at 2.

⁹ 47 C.F.R. § 54.507(c).

¹⁰ *Id.*

¹¹ 47 C.F.R. § 54.507(g).

¹² In Funding Year 4, SLD processed applications as "in-window," if they were postmarked by January 18, 2001. *See* SLD web site, Form 471 Minimum Processing Standards and Filing Requirements for Funding Year 4, <<http://www.sl.universalservice.org/reference/471mps.asp>> (Funding Year 4 Minimum Processing Standards).

¹³ Form 471 Instructions at 4-5.

¹⁴ Block 6 is the section of the FCC Form 471 where applicants must sign the form and make certifications required under program rules. *See* Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (October 2000).

¹⁵ Form 471 Instructions at 3-6.

deemed filed when postmarked, rather than when received by SLD.¹⁶ This procedural change protects applicants from excessive mail delays.

5. Consequently, SLD notified all potential applicants that all Block 6 certifications and Item 21 attachments must also be postmarked no later than the close of the filing deadline. Specifically, the FCC Form 471 instructions refer applicants to the SLD Client Service Bureau or its website for annual filing deadline dates.¹⁷ SLD also notified applicants about the postmark deadline: (1) through a November 6, 2000 letter mailed to 61,000 applicants, including previous applicants;¹⁸ (2) through a press release distributed on November 2, 2000, to approximately 100 news outlets;¹⁹ and (3) by posting several notifications in different areas on the SLD website.²⁰

6. St. Mary's electronically filed its FCC Form 471 on January 11, 2001, seven days before the filing deadline.²¹ However, the Block 6 certification page and Item 21 attachments were sent to SLD on January 19, 2001.²² On July 5, 2001, SLD sent a postcard to St. Mary's stating that its application was filed outside the filing window.²³ On appeal to the Commission, St. Mary's does not address the timeliness of its Block 6 certification page and Item 21 attachments, but instead focuses on its submission of the electronic portion of its FCC Form 471.²⁴

7. Based on our review of the record, we find that St. Mary's filed its Block 6 certification page and Item 21 attachments outside the filing window, causing its entire application to be filed outside the window. The standard for whether an applicant met the

¹⁶ See SLD website, What's New (November 2, 2000) <<http://www.sl.universalservice.org/whatsnew/110200.asp#110200>>.

¹⁷ Form 471 Instructions.

¹⁸ Letter from Schools and Libraries Division, Universal Service Administrative Company, to applicants, dated November 6, 2000. SLD records indicate that a copy of the letter was mailed to Virginia Savarese at St. Mary's School-Rosebank.

¹⁹ "Window Opens For Year Four E-rate Applications," Schools and Libraries Division, Universal Service Administrative Company, Press Release, November 2, 2000.

²⁰ See SLD website, What's New (November 2, 2000) <<http://www.sl.universalservice.org/whatsnew/112000.asp#110200>> ("Year 4 features NEW and FIRM filing requirements: The January 18 deadline is a POSTMARKING deadline. In order to make sure your application is in the window, all manually submitted materials must be postmarked no later than January 18. Unlike Year 3, all materials associated with the Form 471 have a January 18 deadline: the 471 Form itself (whether electronic or paper); the Block 6 certification for the Form 471 with an original signature by the authorized person; all attachments for Item 21; [and] the Block 5 certification of Form 470 filed for Year 4 (and which is cited in a Year 4 Form 471) with an original signature by the authorized person"); see also, SLD website, Program Description for the 2001-2002 Funding Year (November 2000) at 1, 4-5, 14-15 <<http://www.sl.universalservice.org/data/doc/ProgramDescriptionY4.doc>>; Funding Year 4 Minimum Processing Standards at 3.

²¹ FCC Form 471, St. Mary's School-Rosebank, filed January 11, 2001 (St. Mary's Form 471) (electronic copy).

²² St. Mary's Form 471, Block 6 certification and Item 21 attachments (U.S. Postal Service Express Mail dated January 19, 2001).

²³ See Postcard from Schools and Libraries Division, Universal Service Administrative Company, to Virginia Savarese, dated July 5, 2001.

²⁴ See Request for Review.

priority funding deadline for Funding Year 4 is whether the entire application, complete with certification and attachments, was posted by the last day of the window. St. Mary's Block 6 certification page and Item 21 attachments were postmarked on January 19, 2001, and was therefore ineligible to be considered within the filing window.

8. 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 St. Mary's School–Rosebank, Staten Island, New York, on September 17, 2001, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

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