

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of
Request for Review of the
Decision of the
Universal Service Administrator by
Archbishop Quigley Preparatory Seminary
Chicago, Illinois
Federal-State Joint Board on
Universal Service
Changes to the Board of Directors of the
National Exchange Carrier Association, Inc.
File No. SLD-81113
CC Docket No. 96-45
CC Docket No. 97-21

ORDER

Adopted: May 16, 2000

Released: May 17, 2000

By the Common Carrier Bureau:

1. The Common Carrier Bureau has under consideration a Letter of Appeal filed on April 1, 1999 by Archbishop Quigley Preparatory Seminary (Archbishop Quigley), Chicago, Illinois, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC or Administrator). Archbishop Quigley seeks review of the SLD's denial of a request for discounts for services under the schools and libraries universal service support mechanism. For the reasons set forth below, we grant Archbishop Quigley's appeal, and remand Archbishop Quigley's funding application to the SLD for further determination in accordance with this order.

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. The universal service program has been administered to direct support toward the most economically disadvantaged schools and libraries. Under the program's discount matrix, the most

1 Letter from John Quirk, Archbishop Quigley Preparatory Seminary, to Federal Communications Commission, filed on April 1, 1999 (Letter of Appeal).

2 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 47 C.F.R. §§ 54.502, 54.503.

economically disadvantaged schools are eligible for the greatest levels of discount.<sup>4</sup> In the *Fifth Reconsideration Order*, the Commission established new rules to govern how discounts will be allocated when available funding is less than total demand and a filing window is in effect.<sup>5</sup> These rules provide that requests for telecommunications and Internet access services for all discount categories shall receive first priority for available funds (Priority One services), and requests for internal connections shall receive second priority (Priority Two services). Thus, when total demand exceeds the total support available, the SLD is directed to give first priority for available funding to telecommunications services and Internet access. Any funding remaining is allocated to the requests for support for internal connections beginning with the most economically disadvantaged schools and libraries, as determined by the schools and libraries discount matrix.<sup>6</sup> Schools and libraries eligible for a 90 percent discount would receive first priority for the remaining funds, which would be applied to their requests for internal connections. To the extent funds remain, the Administrator would continue to allocate funds for discounts to applicants at each descending single discount percentage, *e.g.*, eighty-nine percent, eighty-eight percent, and so on. During the first funding year (January 1, 1998 - June 30, 1999) of the support mechanism, SLD granted all approved requests for discounts for telecommunications services and Internet access and granted all approved requests for internal connections down to the 70 percent discount level.

3. By letter dated January 26, 1999, SLD granted in part and denied in part Archbishop Quigley's application for discounts.<sup>7</sup> Specifically, SLD denied Archbishop Quigley's request for internal connections, Funding Request Number (FRN) 00080346. In the Funding Commitment Decision Letter, SLD indicated that, because Archbishop Quigley was only eligible for a 60 percent discount, Archbishop Quigley's request for discounts for internal connections could not be granted because internal connections were only funded at the 70 percent level or above. On February 3, 1999, Archbishop Quigley appealed to the Administrator, stating that it had mistakenly described FRN 00080346 as a request for internal connections when, in fact, part of the funding request related to dedicated services.<sup>8</sup> Archbishop Quigley requested reconsideration on the dedicated services portion of FRN 00080346. On March 19, 1999, the Administrator affirmed the decision to deny FRN 00080346, stating that because the funding request included internal connection services, it was categorized as internal connections in order to avoid the possibility of treating a Priority Two service (internal connections) as a Priority One service

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<sup>4</sup> 47 C.F.R. § 54.507(g).

<sup>5</sup> See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Fifth Order on Reconsideration and Fourth Report and Order in CC Docket No. 96-45, 13 FCC Rcd 14915, 14934 at para. 31 (1998) (*Fifth Reconsideration Order*).

<sup>6</sup> *Id.* at 14938, para. 36. The schools and libraries discount matrix reflects both an applicant's urban or rural status and the percentage of its students eligible for the national school lunch program. 47 C.F.R. § 54.505.

<sup>7</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to John L. Pantle, Archbishop Quigley Preparatory Seminary School, dated January 26, 1999 (Funding Commitment Decision Letter).

<sup>8</sup> Letter from John Quirk, Archbishop Quigley Preparatory Seminary, to Schools and Libraries Corporation, dated February 3, 1999.

(dedicated services).<sup>9</sup> In response, Archbishop Quigley filed the instant Letter of Appeal, again requesting reconsideration of the dedicated services portion of FRN 0080436.

4. The record reflects that Archbishop Quigley filed its FCC Form 471 on April 4, 1998. However, the Commission did not release the *Fifth Reconsideration Order* setting out the applicable schools and libraries rules of priority until June 22, 1998. In *Williamsburg-James City*,<sup>10</sup> the Commission determined that, in cases where, as here, an FCC Form 471 was submitted before the establishment of the Commission's rules of priority, applicants could not have been aware of the need to segregate carefully their service requests. Consequently, the Commission held that, in appeals addressing such circumstances, applications should be remanded to SLD for reprocessing, with Priority One and Priority Two services being considered separately on their own merits. We, therefore, remand Archbishop Quigley's application to SLD, and direct SLD to reconsider Archbishop Quigley's FCC Form 471 and, if warranted, to issue a new funding commitment decision letter providing discounts for all appropriate Priority One services requested by Archbishop Quigley.<sup>11</sup>

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 Letter of Appeal filed by Archbishop Quigley Preparatory Seminary, Chicago, Illinois, on April 1, 1999, IS GRANTED.

6. IT IS FURTHER ORDERED that the Administrator IS DIRECTED to implement the decision herein.

FEDERAL COMMUNICATIONS COMMISSION

Carol E. Matthey  
Deputy Chief, Common Carrier Bureau

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<sup>9</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to John Quirk, Archbishop Quigley Preparatory Seminary, dated March 19, 1999.

<sup>10</sup> *Request for Review of the Decision of the Universal Service Administrator by Williamsburg-James City Public Schools*, CC Docket Nos. 96-45 and 97-21, Order, 14 FCC Rcd 20152 (1999) (*Williamsburg-James City*).

<sup>11</sup> Whether Archbishop Quigley will be entitled to funding for its Priority One services will depend upon the extent that ineligible products and services were included within its request. *See, e.g., Request for Review of the Decision of the Universal Service Administrator by Redwood City School District*, CC Docket Nos. 96-45 and 97-21, Order, DA 99-2616, at para. 5 (Common Carrier Bur. rel. Nov. 22, 1999).