

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

In the Matter of	)	
	)	
Request for Review of the	)	
Decision of the	)	
Universal Service Administrative Company by	)	
	)	
Free Library of Philadelphia	)	
Philadelphia, Pennsylvania	)	File No. SLD-112605
	)	
Federal-State Joint Board on	)	
Universal Service	)	CC Docket No. 96-45
	)	
Changes to the Board of Directors of the	)	
National Exchange Carrier Association, Inc.	)	CC Docket No. 97-21
	)	

**ORDER**

**Adopted: November 30, 2000**

**Released: December 1, 2000**

By the Common Carrier Bureau:

1. In this Order, we deny a Letter of Appeal filed by Free Library of Philadelphia (Philadelphia Library), Philadelphia, Pennsylvania on March 28, 2000,<sup>1</sup> seeking review of a funding commitment decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) pursuant to a funding request for telecommunications services.<sup>2</sup>

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.<sup>3</sup> The instant appeal arises from SLD's denial of Philadelphia Library's Year 2 application for discounted internal connections, Funding Request Number (FRN) 152459, on the grounds that a significant

<sup>1</sup> Letter from H.E. Broadbent, Free Library of Philadelphia, to the Federal Communications Commission, filed, March 28, 2000 (Letter of Appeal).

<sup>2</sup> See Letter from Schools and Libraries Division, Universal Service Administrative Company, to Jack A. Newcombe, Free Library of Philadelphia, issued November 2, 1999 (Funding Commitment Decision Letter); Letter from Schools and Libraries Division, Universal Service Administrative Company, to H.E. Broadbent, Free Library of Philadelphia, issued March 16, 2000 (Administrator's Decision on Appeal).

<sup>3</sup> 47 C.F.R. §§ 54.502, 54.503.

portion of Philadelphia Library's funding request included services paid for and used by the City of Philadelphia, an entity not eligible for universal service support.<sup>4</sup> Specifically, Philadelphia Library's funding request included a shared Frame Relay Switch, which will be utilized more than 50 percent by the City of Philadelphia. Philadelphia Library filed an appeal with SLD on December 3, 1999.<sup>5</sup> SLD denied Philadelphia Library's appeal on March 16, 2000, reiterating that a significant portion of Philadelphia Library's funding request included products that would be used by an ineligible entity.<sup>6</sup> Philadelphia Library filed the instant appeal with the Commission on March 28, 2000.<sup>7</sup> In this appeal, Philadelphia Library requests that it be awarded discounts for the portion of its funding request that would be attributable solely to Philadelphia Library.<sup>8</sup>

3. We have reviewed Philadelphia Library's appeal and conclude that SLD properly denied Philadelphia Library's application for discounts. Program rules state that only eligible entities may receive universal service funds.<sup>9</sup> Specifically, section 54.501 of the Commission's rules states that although schools and libraries may form consortia with public sector governmental entities, including municipalities, discounts shall apply only to the portion of the eligible services used by eligible schools and libraries.<sup>10</sup> The instructions to the FCC Form 471 state that applicants may not seek support for ineligible entities.<sup>11</sup> In order to ensure that only eligible entities receive discounts, the instructions state that applicants must allocate the cost of shared services and facilities among eligible and ineligible entities.<sup>12</sup> Philadelphia Library's FCC Form 471 did not allocate the costs of shared facilities between itself and the City of Philadelphia. Moreover, Philadelphia Library does not challenge SLD's conclusion that Philadelphia Library's

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<sup>4</sup> See Funding Commitment Decision Letter at 4.

<sup>5</sup> Letter from H.E. Broadbent, Free Library of Philadelphia, to Schools and Libraries Division, Universal Service Administrative Company, filed December 3, 1999 (SLD Letter of Appeal).

<sup>6</sup> See Administrator's Decision on Appeal at 1.

<sup>7</sup> See Letter of Appeal at 1.

<sup>8</sup> *Id.*

<sup>9</sup> 47 C.F.R. § 54.501.

<sup>10</sup> See 47 C.F.R. § 54.501; see also *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9072-73 (1997) (*Universal Service First Report and Order*), *affirmed in part, Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393 (5th Cir. 1999) (affirming *Universal Service First Report and Order* in part and reversing and remanding on unrelated grounds), *cert. denied, Celpage, Inc. v. FCC*, 120 S. Ct. 2212 (May 30, 2000), *cert. denied, AT&T Corp. v. Cincinnati Bell Tel. Co.*, 120 S. Ct. 2237 (June 5, 2000), *cert. dismissed, GTE Service Corp. v. FCC*, No. 99-1249, 2000 WL 1641148 (Nov. 2, 2000).

<sup>11</sup> See Instructions to Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (Form 471) (December 1998), at 16.

<sup>12</sup> See *id.* To the extent that an applicant seeks discounts for eligible services bundled with ineligible services, the instructions also require applicants to apportion the costs of eligible and ineligible services.

funding request included services that would be used and paid for in part by an ineligible entity.<sup>13</sup> As such, SLD properly denied Philadelphia Library's entire funding request.

4. We also reject Philadelphia Library's request that it be permitted to modify its original FCC Form 471 to only request discounts for services attributable solely to Philadelphia Library.<sup>14</sup> Philadelphia Library's request contravenes the Commission's policy that applicants shall not be permitted to amend completed FCC Forms 471 to remove ineligible service requests after the closure of the filing window deadline.<sup>15</sup> If applicants were permitted to make such corrections, SLD and the Commission would face significant additional administrative burdens.

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 Request for Review filed on March 28, 2000 by Free Library of Philadelphia, Philadelphia, Pennsylvania, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Carol E. Matthey  
Deputy Chief, Common Carrier Bureau

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<sup>13</sup> See Letter of Appeal at 1.

<sup>14</sup> *Id.*

<sup>15</sup> The Commission's rules require that applicants file a completed Form 471 by the filing window deadline to be considered pursuant to the funding priorities for "in-window" applicants. 47 C.F.R. §§ 54.504(c); 54.709(c).