

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

In the Matter of )
Request for Review of the )
Decision of the )
Universal Service Administrator )
Egg Harbor City Public Schools ) File No. SLD-187032
Egg Harbor City, New Jersey )
Federal-State Joint Board on ) CC Docket No. 96-45
Universal Service )
Changes to the Board of Directors of the ) CC Docket No. 97-21
National Exchange Carrier Association, Inc. )

Order

Adopted: July 30, 2001

Released: July 31, 2001

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division has under consideration a Request for Review filed by Egg Harbor City Public Schools, Egg Harbor City, New Jersey (Egg Harbor).<sup>1</sup> Egg Harbor seeks 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 internal connections.<sup>2</sup> For the reasons set forth below, we deny Egg Harbor's request.

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> In the Fifth Reconsideration Order, the Commission established rules to govern how discounts would be allocated when total demand exceeds the amount of funds available and a filing

1 Letter from Alfred Savio, Jr., Egg Harbor City Public Schools, Egg Harbor City, New Jersey, to Federal Communications Commission, filed February 20, 2001 (Request for Review). 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).

2 Letter from Schools and Libraries Division, Universal Service Administrative Company, to Alfred Savio, Jr., Egg Harbor City Public Schools, Egg Harbor City, New Jersey, issued January 29, 2001 (Administrator's Decision on Appeal).

3 47 C.F.R. §§ 54.502, 54.503.

window is in effect.<sup>4</sup> These rules provide that requests for telecommunications and Internet access service 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).<sup>5</sup> Thus, when total demand exceeds the total support available, SLD is directed to give first priority for available funding to telecommunications service and Internet access.<sup>6</sup> Any funding remaining is allocated to 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>7</sup> Schools and libraries eligible for a 90 percent discount would receive first priority for the remaining funds, which would be applied to their request for internal connections. To the extent that funds remain, the Administrator would continue to allocate funds for discounts to eligible applicants at each descending single discount percentage, e.g., 89 percent, 88 percent, and so on until there are no funds remaining.<sup>8</sup>

3. In its FCC Form 471, Egg Harbor sought support for two elementary schools in a single funding request, Funding Request Number (FRN) 390522. The applicant requested discounts for internal connections from the service provider Systems For You.<sup>9</sup> As indicated by Egg Harbor's FCC Form 471, each school was eligible for an 80 percent discount, with a shared discount of 80 percent. In addition, Egg Harbor attached a proposal from Systems For You outlining their service agreement with Egg Harbor. On April 14, 2000, SLD issued a Funding Commitment Decision Letter (FCDL) stating that FRN 390522 included requests for management, training, and security, which were ineligible services based on program rules.<sup>10</sup> The FCDL further explained that SLD had denied Egg Harbor's entire funding request because a significant portion, 30 percent or more, of FRN 390522 included products or services ineligible for discounts.<sup>11</sup>

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<sup>4</sup> See *Federal-State Joint Board on Universal Service*, 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>5</sup> See 47 C.F.R. § 54.507(g)(1)(i).

<sup>6</sup> The annual cap on federal universal service support for schools and libraries is \$2.25 billion per funding year. See 47 C.F.R. § 54.507(a).

<sup>7</sup> *Fifth Reconsideration Order*, 13 FCC Rcd at 14938, para. 36. The schools and libraries discount matrix reflects both an applicant's urban or rural status and the percentage of its student eligible for the national school lunch program. 47 C.F.R. § 54.505.

<sup>8</sup> 47 C.F.R. § 54.507(g)(1)(iii). In the *Eleventh Order on Reconsideration*, the Commission clarified that to the extent that there are single discount percentage levels associated with "shared services," the Administrator shall allocate funds for internal connections beginning at the 90 percent discount level, then for 89 percent, 88 percent, and so on. *Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service*, Fifth Order on Reconsideration in CC Docket No. 97-21, Eleventh Order on Reconsideration in CC Docket No. 96-45, and Further Notice of Proposed Rulemaking, 14 FCC Rcd 6033, 6035, at para. 6 (1999) (*Eleventh Order on Reconsideration*).

<sup>9</sup> FCC Form 471, Egg Harbor City Public Schools, Egg Harbor City, New Jersey, filed January 21, 2000.

<sup>10</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to Alfred Savio, Jr., Egg Harbor City Public Schools, Egg Harbor City, New Jersey, issued April 14, 2000 (Funding Commitment Decision Letter).

<sup>11</sup> *Id.* The "30 percent policy" is not a Commission rule, but rather is an SLD operating procedure established pursuant to FCC policy. See *Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service*, CC Docket Nos. 97-21 and 96-45, Third Report and Order in CC

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4. Egg Harbor filed an appeal with SLD on April 21, 2000.<sup>12</sup> In this appeal, Egg Harbor claimed that Systems For You was contracted to handle network management issues and maintained that such labor was an eligible service.<sup>13</sup> Egg Harbor further explained that Systems For You performed high-level, systems management tasks and was responsible for the installation and contractual maintenance of eligible telecommunications services, internal connections, and Internet access.<sup>14</sup>

5. On January 29, 2001, SLD issued the Administrator's Decision on Appeal denying Egg Harbor's appeal.<sup>15</sup> SLD responded that maintenance and support were only eligible when they were applied to eligible services. In addition, SLD stated that the service proposal included in Egg Harbor's Form 471 covered costs for the maintenance and support for ineligible products, including a student records management system, Microsoft Windows workstation, peripheral equipment knowledge, and staff development and training, all of which are ineligible services under program rules. Moreover, SLD explained, because over 30 percent of the FRN included support and maintenance for these ineligible services, the full funding request was denied.<sup>16</sup> SLD noted that Egg Harbor applied for internal connections at a discount eligibility level of 80 percent.<sup>17</sup> The Administrator's Decision on Appeal informed Egg Harbor that in Funding Year 3, there were insufficient funds to provide discounts for internal connections at that percentage.<sup>18</sup>

6. Egg Harbor filed the instant Request for Review with the Commission on February 20, 2001.<sup>19</sup> In this appeal, Egg Harbor repeats its assertion that the on-site technician performed only high-level infrastructure work. Egg Harbor also asserts for the first time that their FCC Form 471 incorrectly classified their request as one for internal connections (priority two services). Instead, they claim that the on-site technician was primarily responsible telecommunications services and Internet access and should be classified as a request for priority one services.

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Docket No. 97-21 and Fourth Order on Reconsideration in CC Docket No. 97-21 and Eighth Order on Reconsideration in CC Docket No. 96-45, 13 FCC Rcd 25058 (1998). This operating procedure, used during SLD's application review process, enables SLD to efficiently process requests for funding for services that are eligible for discounts but that also include some ineligible components. If 30 percent or less of the request is for funding of ineligible services, SLD normally will consider the application and issue a funding commitment for the eligible services. If more than 30 percent of the request is for funding of ineligible services, SLD will deny the funding request in its entirety. The 30 percent policy allows SLD to efficiently process requests for funding that contain only a small amount of ineligible services without expending significant fund resources working with applicants that are requesting funding of ineligible services.

<sup>12</sup> Letter from Alfred Savio, Jr., Egg Harbor City Public Schools, Egg Harbor City, New Jersey, to Schools and Libraries Division, Universal Service Administrative Company, filed April 21, 2000.

<sup>13</sup> *Id.*

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

<sup>15</sup> See Administrator's Decision on Appeal.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> See Request for Review.

7. Upon review of the record, we affirm SLD's decision to deny Egg Harbor's funding request. On Egg Harbor's FCC Forms 470 and 471, the applicant clearly indicated that FRN 390522 was a request for internal connections (priority two services). We find that SLD reasonably relied on Egg Harbor's application that their request was for internal connections. Moreover, allowing Egg Harbor's request to consider its original funding request as one for priority one services instead of priority two internal connections would contravene the Commission's policy that applicants should not be permitted to amend completed FCC Forms 471 to change service categories after closure of the filing window deadline.<sup>20</sup> If applicants were permitted to correct their applications after SLD has denied them, it would eliminate any incentive to avoid making unauthorized service requests or to comply with the SLD's document demands in a timely fashion.<sup>21</sup> This would significantly increase the administrative burden SLD would face while carrying out its obligation to guard against the occurrence of errors and fraud.<sup>22</sup> Furthermore, if applicants were permitted to amend their requests after the filing window closed, it could jeopardize SLD's ability to accurately apply the rules of priority in years where requests for funding exceed the annual funding cap.<sup>23</sup> Therefore, we conclude that SLD properly denied Egg Harbor's request for funding.

8. In addition, SLD did not fund requests for internal connections from schools below the 81 percent discount level in Funding Year 3.<sup>24</sup> Therefore, SLD properly denied Egg Harbor's funding request because the shared discount percentage for their application was below the funded discount percentage for Internal connections. Because Egg Harbor's appeal is appropriately denied on these grounds, we need not address the question of whether SLD's application of the 30% policy to Egg Harbor's application was consistent with program rules.

9. 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 February 20, 2001, by Egg Harbor City Public Schools, Egg Harbor City, New Jersey IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Mark G. Seifert  
Deputy Chief, Accounting Policy Division

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<sup>20</sup> See *Request for Review by Free Library of Philadelphia, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-112605, CC Dockets No. 96-45 and 97-21, Order, 15 FCC Rcd 23,820 (Com. Car. Bur. 2000).

<sup>21</sup> See *Request for Review by Cheney 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-142969, CC Dockets No. 96-45 and 97-21, Order, DA 01-351 (Com. Car. Bur. rel. Feb. 13, 2001), at para. 6.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> See Administrator's Decision on Appeal.