

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

In the Matter of)
Request for Review of the)
Decision of the)
Universal Service Administrator by)
LEAP Academy Charter School) File No. SLD-117869
Camden, 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 31, 2001

Released: August 1, 2001

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division has under consideration a Letter of Appeal filed by the LEAP Academy Charter School (LEAP), Camden, New Jersey. LEAP seeks review of a decision by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) relating to a funding request by LEAP for internal connections in Funding Year 2 of the schools and libraries universal service support mechanism. For the reasons discussed below, LEAP's Request for Review is granted and we remand LEAP's funding application to 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

1 Letter from Clinton J. Boyd, LEAP Academy Charter School, to Federal Communications Commission, filed August 7, 2000 (Request for Review).

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.

Commission's rules require that the applicant make a bona fide request for services by filing with the Administrator an FCC Form 470, which is posted to the Administrator's website for all potential competing service providers to review.⁴ After the FCC Form 470 is posted, the applicant must wait at least 28 days before entering an agreement for services and submitting a FCC Form 471, which requests support for eligible services.⁵

3. In Funding Year 2, applicants were instructed to provide certain basic information regarding the services they sought, the providers they had chosen, and the service start date on Block 5 of the FCC Form 471.⁶ Pursuant to the FCC Form 471 Instructions for Funding Year 2, each entry could pertain to only one provider.⁷

4. Upon receipt and successful data entry of a FCC Form 471, SLD issues a Receipt Acknowledgement Letter (RAL), which summarizes the applicant's funding requests. Each of the funding requests listed in Block 5 of the applicants' FCC Form 471 that meet SLD's minimum processing standards and can be successfully entered into the database are issued a funding request number (FRN).⁸ The applicant may make certain types of corrections to its request during the two-week period after receipt of the RAL.⁹ Subsequently, SLD issues funding

⁴ Schools and Libraries Universal Service, Description of Services Requested and Certification Form, OMB 3060-0806 (December 1998) (FCC Form 470). See also 47 C.F.R. § 54.504(b); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9078, para. 575 (1997) (*Universal Service Order*), as corrected by *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Errata, FCC 97-157 (rel. June 4, 1997), *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*, 121 S.Ct. 423 (November 2, 2000).

⁵ 47 C.F.R. § 54.504(b), (c); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (December 1998) (FCC Form 471).

⁶ Instructions for Completing the Schools and Libraries Universal Service, Services Ordered and Certification Form (FCC Form 471), OMB 3060-0806 (December 1998) (Form 471 Instructions).

⁷ *Id.*

⁸ Every funding year, SLD establishes and notifies applicants of a "minimum processing standard" to facilitate the efficient review of the thousands of applications requesting funding. See, e.g., SLD website, Form 471 Minimum Processing Standards and Filing Requirements for FY 2, <http://www.sl.universalservice.org/Reference/471_App_Guid_Docs/471mps.asp>. When an applicant submits an FCC Form 471 that omits an item subject to the minimum processing standard, SLD automatically rejects the application and returns it to the applicant.

⁹ USAC's administrative practice, which is set forth on its website, is to permit the applicant to correct data entry errors; change contact information; reduce the amount of requests included in an application; change the service provider identity number, if the original service provider has merged with or been acquired by the new service provider; or "unbundle" a funding request that incorrectly included services provided by multiple service providers, or included services from more than one eligible service category, if materials supporting the original FCC Form 471 confirm the distinctions. See <<http://www.sl.universalservice.org/>>. USAC does not permit applicants to make changes that increase the amount of support requested, or that request services not initially requested.

commitment decisions in accordance with the Commission's rules.

5. One of the things an applicant may correct during the RAL correction period is the service provider for a particular FRN. The process of changing service providers is referred to as a Service Provider Identification Number (SPIN) change request. The Commission outlined the categories of permissible SPIN changes in the *Copan Order*, and provided guidance on when SPIN changes may be allowable.¹⁰ Specifically, the Commission stated that SPIN changes shall be permitted whenever an applicant certifies that (1) the SPIN change is allowed under its state and local procurement rules and under the terms of the contract between the applicant and its original service provider, and (2) the applicant has notified its original service provider of its intent to change service providers.¹¹

6. LEAP filed its FCC Form 471 for Funding Year 2 on April 2, 1999.¹² In Funding Request Number (FRN) 179922 of that application, LEAP requested funding for certain internal connections with a pre-discount cost of \$123,866.85 to be provided by Edumedia, Inc.¹³ One of the line items for FRN 179922 described a request for "Cat 5/6 wiring, long run" with a pre-discount cost of \$62,500.00 from the service provider Edumedia, Inc.¹⁴

7. On April 23, 1999, SLD issued a RAL to LEAP, stating that its FCC Form 471 had been officially received and successfully entered into the data system.¹⁵ The letter listed several funding requests, including FRN 179922 for services to be provided by Edumedia, Inc. with the pre-discount cost of \$123,866.85.¹⁶ LEAP states that it did not receive the RAL until August.¹⁷

8. By letter dated August 11, 1999, LEAP contacted SLD to request a SPIN change with respect to one of the line items included in FRN 179922.¹⁸ Specifically, LEAP noted the

¹⁰ See *Request for Review of Decision of the Universal Service Administrator by Copan Public Schools, Copan, Oklahoma*, Order, File No. SLD-26231, CC Dockets No. 96-45, 97-21, FCC 00-100, 15 FCC Rcd 5498 (rel. March 16, 2000) (*Copan Order*).

¹¹ *Copan Order*, 15 FCC Rcd at 5501, para. 6.

¹² FCC Form 471, LEAP Academy Charter School, filed April 2, 1999 (LEAP FCC Form 471).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Letter from Schools and Libraries Division, Universal Service Administrative Company, to James M. Punderson, IV, LEAP Academy Charter School, dated April 23, 1999 (Receipt Acknowledgement Letter).

¹⁶ Receipt Acknowledgement Letter, at 2.

¹⁷ Letter from Clinton J. Boyd, LEAP Academy Charter School, to Schools and Libraries Division, Universal Service Administrative Company, filed June 1, 2000.

¹⁸ Letter from Suzanne Bertolino, Networks & More! Inc., to Schools and Libraries Division, Universal Service Administrative Company, filed August 11, 1999 (August 1999 Letter).

“Cat 5/6 wiring, long run” was awarded to Extel, but that as a result of a data entry error, the service provider was incorrectly listed as Edumedia, Inc. on its FCC Form 471.¹⁹ LEAP requested that SLD modify FRN 179922 by removing the “Cat 5/6 wiring, long run portion” and accordingly add an FRN that would show that Extel would be providing those services.²⁰ LEAP correctly noted in its request for a SPIN Change that in order to receive funding for the “Cat 5/6 wiring, long run portion” an additional FRN would need to be issued for Extel, because one was not initially provided.²¹

9. On November 16, 1999, SLD issued a Funding Commitment Decision Letter (FCDL) approving certain requests made by LEAP.²² The FCDL approved FRN 179922 with a pre-discount cost of \$61,366.85.²³ This total reflected SLD’s removal of \$62,500.00 for the “Cat 5/6 wiring, long run” from the original pre-discount request of \$123,966.85.

10. By a decision dated July 7, 2000, SLD denied LEAP’s August 1999 request to modify FRN 179922.²⁴ SLD stated that RAL corrections were only acceptable if the corrections were received within two weeks of issuance of the Receipt Acknowledgement Letter.²⁵ Further, based on the August 1999 letter, SLD modified the SPIN for FRN 179922 to Extel, with respect to the remaining items listed under FRN 179922 totaling the pre-discount cost of \$61,366.85.²⁶

11. We find that SLD inappropriately denied LEAP’s request to modify FRN 179922. In its August 1999 letter, LEAP notified SLD that due to data entry error, its original funding request listed the wrong service provider name for the “Cat 5/6 wiring, long run portion.”²⁷ SLD denied LEAP’s request to modify FRN 179922 because RAL corrections must be received within two weeks of issuance of the RAL letter.²⁸ The record demonstrates that the RAL issued to LEAP did not include *any* information relating to a deadline for corrections.²⁹ As a result, we do not believe it is appropriate to apply a two-week deadline to LEAP’s request to modify FRN

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² Letter from Schools and Libraries Division, Universal Service Administrative Company, to James M. Punderson, IV, LEAP Academy Charter School, dated November 16, 1999.

²³ *Id.*

²⁴ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Clinton J. Boyd, LEAP Academy Charter School, dated July 7, 2000 (Administrator’s Decision on Appeal).

²⁵ *Id.*

²⁶ *Id.*

²⁷ *See* August 1999 Letter.

²⁸ *See* Administrator’s Decision on Appeal.

²⁹ *See* Receipt Acknowledgment Letter.

179922.³⁰ If received in a timely manner, SLD's administrative practice is to permit the applicant to correct data entry errors or modify a funding request that incorrectly included services from more than one service provider if materials supporting the original FCC Form 471 confirm the distinctions.³¹ Consequently, SLD should grant LEAP's request to modify FRN 179922 with respect to its funding request for "Cat 5/6 wiring, long run portion."

12. Further, we find that SLD inappropriately modified the SPIN for FRN 179922 to Extel. As noted, SLD removed the line item "Cat 5/6 wiring, long run portion" from FRN 179922 before issuing a funding commitment decision. Therefore, "Cat 5/6 wiring, long run portion" was not included in the funding commitment decision for FRN 179922. In the August 1999 letter, LEAP requested that SLD modify the SPIN for the line item "Cat 5/6 wiring, long run portion," not to modify the SPIN for the remaining items of FRN 179922.³² Therefore, it was inappropriate for SLD to modify the SPIN to Extel for a funding commitment decision that did not contain "Cat 5/6 wiring, long run portion." We find that the SPIN for FRN 179922 should remain Edumedia, Inc.

13. Accordingly, IT IS ORDERED, pursuant to authority delegated under section 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 by LEAP Academy Charter Schools on August 7, 2000 is GRANTED and is REMANDED to SLD for further consideration in light of this decision.

FEDERAL COMMUNICATIONS COMMISSION

Mark G. Seifert
Deputy Chief, Accounting Policy Division

³⁰ In the RAL, SLD acknowledged a pre-discount request for \$123,866.85 from the service provider Edumedia, Inc., which included a funding request for \$62,500.00 for "Cat 5/6 wiring, long run portion." It is important to emphasize that because the request was included on the original FCC Form 471, this was not a new or additional request for funding.

³¹ See SLD web site, <<http://www.sl.universalservice.org>>. Changes that increase the amount of support requested, or that request services not initially requested, are not permitted.

³² See August 1999 letter.