

**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          | ) |                     |
|   | ) |                     |
| Fort Wayne Community School District        | ) | File No. SLD-160143 |
| Fort Wayne, Indiana                         | ) |                     |
|   | ) |                     |
| 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:** August 8, 2001

**Released:** August 9, 2001

By the Accounting Policy Division, Common Carrier Bureau:

1. The Common Carrier Bureau has under consideration a Request for Review by Fort Wayne Community School District (Fort Wayne), Fort Wayne, Indiana, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).<sup>1</sup> Fort Wayne seeks review of a Funding Year 3 funding commitment decision issued by SLD denying Fort Wayne's request for support.<sup>2</sup> For the reasons discussed below, we deny the Request for Review and affirm SLD's decision.

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

<sup>1</sup> See Letter of Appeal of Fort Wayne Community School District to Federal Communications Commission, filed July 1, 2000 (Request for Review).

<sup>2</sup> 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).

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

matrix, the most economically disadvantaged schools are eligible for the greatest levels of discount.<sup>4</sup>

3. 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, SLD is directed to give first priority for available funding to telecommunications services or Internet access.

4. Any funding remaining after allocation to Priority One services 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 third funding year (July 1, 2000 – June 30, 2001) 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 81 percent discount level.

5. By letter dated June 23, 2000, SLD denied Fort Wayne's request for discounts, Funding Request Number 372186, stating that the telecommunications services identified in its application had been reclassified as internal connections.<sup>7</sup> Specifically, SLD found that Fort Wayne's application requested funding for switches and hardware, which are properly classified as internal connections under program rules.<sup>8</sup> As a result, SLD reclassified the entire funding request to Priority Two services. SLD then determined that, because Fort Wayne was only eligible for discounts below the 81 percent level, Fort Wayne's request for discounts for internal connections could not be granted as internal connections were only funded at the 81 percent level or above in Funding Year 3.<sup>9</sup>

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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, Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charge*, CC Docket No. 96-45, Fifth Order on Reconsideration and Fourth Report and Order in CC Docket No. 96-45, Report and Order in CC Docket Nos. 96-45, 96-262, 94-1, 91-213, 95-72, 13 FCC Rcd 5318 (1997).

<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 national school lunch program. 47 C.F.R. § 54.505.

<sup>7</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to Paul Karas, Fort Wayne Community School District, dated June 23, 2000.

<sup>8</sup> See, e.g., Request for Review at Attachment B.

<sup>9</sup> *Id.*

6. Fort Wayne filed the instant Request for Review on July 1, 2000 asking that the Commission reconsider SLD's decision to classify the services requested in FRN 372186 as internal connections rather than telecommunications services. Fort Wayne argues that FRN 372186 was limited to a request for the provision of telecommunications services for metropolitan area network (MAN) connectivity through leased lines, and that it did not request funding for switches and hardware that could be construed as internal connections.<sup>10</sup> Fort Wayne also asserts that the selection of certain non-telecommunications equipment by its service provider for the provision of Fort Wayne's leased MAN did not convert Fort Wayne's funding request from telecommunications services to one for internal connections.<sup>11</sup>

7. We disagree. A review of the record reveals that Fort Wayne's contract with its service provider contained a one-time fee in the amount of \$5,496,290.<sup>12</sup> In *Bonner Springs*, the Commission affirmed SLD's reclassification of a funding request because the service provider's proposed one time fee for connectivity through leased lines helped cover the costs of items that constituted internal connections such as switches and other hardware.<sup>13</sup> Similar to our findings in *Bonner Springs*, we conclude that Fort Wayne's service provider's proposed one time fee helps cover the costs of switches and hardware that constitute internal connections.<sup>14</sup> Because Fort Wayne commingled its requests for discounts for telecommunications services and internal connections within a single funding request, SLD correctly placed the application into the internal connections category for Funding Year 3 funding in order to avoid treating Priority Two services as Priority One services.

8. 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 by Fort Wayne Community School District on July 1, 2000, IS

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<sup>10</sup> Request of Review at 1-2.

<sup>11</sup> Request for Review at 3.

<sup>12</sup> See FCC Form 471, Fort Wayne Community School District, filed Jan. 18, 2000.

<sup>13</sup> See *Request for Review by Bonner Springs Unified School District #204 Bonner Springs, Kansas, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-32985, CC Dockets No. 96-45 and 97-21, Order, 15 FCC Rcd 16624, para. 4.

<sup>14</sup> See, e.g., Facsimile from Paul Karas, to John Seaman, Schools and Libraries Division, transmitted February 18, 2000, at 6-7.

DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Mark G. Seifert  
Deputy Chief, Accounting Policy Division  
Common Carrier Bureau