

Before the
Federal Communications Commission
Washington, DC 20554

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|---|---|---------------------|
| In the Matter of |) | |
| |) | |
| Request for Review of the |) | |
| Decision of the |) | |
| Universal Service Administrator by |) | |
| |) | |
| Novell, Inc. |) | |
| Provo, Utah |) | |
| |) | |
| 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 16, 2001

Released: August 17, 2001

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division has under consideration a Request for Review filed by Novell, Inc. (Novell), Provo, Utah, on July 31, 2001.¹ In its Request for Review, Novell seeks review of a decision issued by the Schools and Libraries Division of the Universal Service Administrative Company (Administrator) on July 5, 2001.² At the same time that Novell filed its request with the Commission, it filed a Request for Review with the Administrator.³ For the reasons set forth below, we dismiss Novell’s Request for Review to the Commission without prejudice.

2. The Commission's rules regarding appeals of SLD decisions do not contemplate simultaneous requests to the Commission and the Administrator.⁴ In this case, because Novell

¹ Request for Review from Teri Olsen, Novell, Inc., to Federal Communications Commission, filed July 31, 2001.

² Letter from Schools and Libraries Division, Universal Service Administrative Company, to Teri Olsen, Novell, Inc., dated July 5, 2001.

³ Request for Review from Teri Olsen, Novell, Inc., to Schools and Libraries Division, Universal Service Administrative Company, filed July 31, 2001.

⁴ 47 C.F.R. § 54.720 (allowing appeals to either the Commission or the Administrator, but tolling the filing period with the Commission, when an applicant has an appeal pending with the Administrator, until the Administrator issues a decision on the appeal).

has a request pending before the Administrator, we dismiss Novell's Request for Review to the Commission without prejudice. Once the Administrator has issued its decision on Novell's initial request, Novell may then appeal to the Commission if it believes such appeal is warranted at that time.⁵

3. 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 Novell, Inc., Provo, Utah, IS DISMISSED WITHOUT PREJUDICE.

FEDERAL COMMUNICATIONS COMMISSION

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

⁵ See 47 C.F.R. §§ 54.719 – 54.725 (setting forth rights of review, filing deadlines, standards of review, and other rules pertaining to Commission review of the Administrator's decisions).