

**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)	
)	
Pinellas County Schools)	File No. SLD-152562
Largo, Florida)	
)	
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 22, 2001

Released: August 23, 2001

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division has under consideration a Request for Review filed by the Pinellas County Schools, of Largo, Florida (Pinellas), seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).¹ Pinellas seeks review of a funding commitment decision issued by SLD, pursuant to a funding request that included a particular type of router.² For the reasons set forth below, we remand Pinellas' 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

¹ Letter from Bob Liles, Pinellas County Schools, Largo, Florida, to Federal Communications Commission, filed June 1, 2000 (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 See Letter from Schools and Libraries Division, Universal Service Administrative Company to Candy Mancuso, Pinellas County Schools, dated October 12, 1999 (Funding Commitment Decision Letter); Letter from Schools and Libraries Division, Universal Service Administrative Company, to Bob Liles, Pinellas County Schools, dated May 16, 2000 (Administrator's Decision on Appeal).

for eligible telecommunications services, Internet access, and internal connections.³ The Commission's rules require that the applicant make a bona fide request for services by filing with the Administrator an FCC Form 470,⁴ which is posted to the Administrator's website for all potential competing service providers to review.⁵ After the FCC Form 470 is posted, the applicant must wait at least 28 days before entering an agreement for services and submitting an FCC Form 471, which requests support for eligible services.⁶ SLD reviews the FCC Forms 471 that it receives and issues funding commitment decisions in accordance with the Commission's rules.

3. By a letter dated October 12, 1999, SLD denied funding request number (FRN) 294914 of Pinellas' application for discount funding.⁷ FRN 294914 included a request for Cisco 2514 routers.⁸ SLD explained that the request was denied because more than 30 percent of the components of the request included support for ineligible remote access routers.⁹ Pinellas filed an appeal with SLD claiming that the schools and libraries eligibility list identifies routers as eligible services.¹⁰ SLD denied Pinellas' appeal, stating that Cisco 2500 series routers are remote

³ 47 C.F.R. §§ 54.502, 54.503.

⁴ Schools and Libraries Universal Service, Description of Services Requested and Certification Form, OMB 3060-0806 (December 1998) (FCC Form 470).

⁵ 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).

⁶ 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).

⁷ See Funding Commitment Decision Letter at 5.

⁸ FCC Form 471, Pinellas County Schools, filed April 6, 1999.

⁹ 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 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 less than 30 percent 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 30 percent or more 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.

¹⁰ See Letter from Bob Liles, Pinellas County Schools, to Schools and Libraries Division, Universal Service Administrative Company, filed November 10, 1999.

access routers, which are ineligible.¹¹ On appeal to the Commission, Pinellas asserts that based on the *White Sulphur Springs* decision, the routers in question should be considered eligible.¹²

4. Consistent with our decision in *White Sulphur Springs*, we remand Pinellas' application to SLD for further review to determine whether the remote access routers will be used to support remote access connections.¹³ In *White Sulphur Springs*, the Common Carrier Bureau (Bureau) found that, although White Sulphur Springs' remote access router was capable of supporting wide area network (WAN) connections, White Sulphur Springs was not using the router to connect to any facilities other than to its Internet service provider in order to receive Internet access.¹⁴ Accordingly, the Bureau granted White Sulphur Springs' appeal and remanded White Sulphur Springs' funding application to SLD for further determination. Subsequent to the Bureau's decision in *White Sulphur Springs*, the eligible services list was revised to reflect that remote access routers may be considered for discounts if they are not being used to provide remote access.¹⁵ In the appeal before us, Pinellas asserts that the Cisco 2514 routers are to be used to provide a district-based router for communication between all schools and centers.¹⁶ In light of our decision in *White Sulphur Springs* and the revised eligible services list, we conclude

¹¹ See Administrator's Decision on Appeal. Remote access routers allow access to the Internet from any location by any individual knowing the dial-in telephone number. Access routers, with no remote capabilities, cannot provide dial-in access to the Internet from remote locations.

¹² Request for Review. See *Request for Review of the Decision by the Universal Service Fund Administrator by White Sulphur Springs School District, White Sulphur Springs, Montana*, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 3396 (1999) (*White Sulphur Springs*).

¹³ See *White Sulphur Springs*, 15 FCC Rcd at 3398, para. 7. Under section 54.500 of the Commission's rules, a wide area network is defined as "a voice or data network that provides connections from one or more computers within an eligible school . . . to one or more computers or networks that are external to such eligible school." 47 C.F.R. § 54.500(l). Section 54.518 of the Commission's rules states that "[t]o the extent that states [or] schools . . . build or purchase a wide area network to provide telecommunications services, the cost of such wide area networks shall not be eligible for universal service discounts." 47 C.F.R. § 54.518. See also *Request for Review by the Department of Education of the State of Tennessee of the Decision of the Universal Service Administrator, Request for Review by Integrated Systems and Internet Solutions, Inc., of the Decision of the Universal Service Administrator, Request for Review by Education Networks of America of the Decision of the Universal Service Administrator, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket Nos. 96-45 and 97-21, Order, 14 FCC Rcd 13734, para. 28 (1999) (discussing the Commission's rules regarding the eligibility of internal connections for discount funding, and the ineligibility of wide area network facilities for discount funding).

¹⁴ See *White Sulphur Springs*, 15 FCC Rcd at 3398, para. 7.

¹⁵ See SLD website, <http://www.sl.universalservice.org/whatsnew/052000.asp#052500_2>, clarifying SLD's policy regarding the eligibility of remote access routers. Applicants must certify that the requested remote access routers will not be used to provide remote access in the funding year or, if the product is to be used remotely, applicants must ensure that only entities eligible for support under the Schools and Libraries program have the capability to access it. If a router is to be used for remote access, such access must only be from sites for which services would be eligible for discount under the program.

¹⁶ See Request for Review.

that it is appropriate to remand Pinellas' application to SLD for further review.¹⁷ We direct SLD to review Pinellas' use of its remote access routers to determine whether such use is eligible for discounts.

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 by Pinellas County Schools on June 1, 2000, IS GRANTED to the extent provided herein. We direct the Administrator to review Pinellas' funding application and, if warranted, issue a revised Funding Commitment Decision Letter in accordance with the above-stated decision.

FEDERAL COMMUNICATIONS COMMISSION

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

¹⁷ Pinellas submitted its FCC Form 471 before SLD changed its remote access router eligibility policy. Thus, Pinellas' application did not include information or certifications regarding the use of the Cisco 2500 series routers on which SLD could have relied to determine whether the applicant's request for discount on the purchase and installation of Cisco 2500 series routers was consistent with its new policy.