

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Request for Review of the)	
Decision of the)	
Universal Service Administrator by)	
)	
Pope Blanche Elementary School)	File No. SLD-200168
Waimanalo, Hawaii)	
)	
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: November 13, 2001

Released: November 14, 2001

By the Accounting Policy Division, Common Carrier Bureau:

1. Before the Accounting Policy Division (Division) is a Request for Review filed by the State of Hawaii Department of Education (Hawaii DOE), on behalf of Pope Blanche Elementary School (Pope Blanche), Waimanalo, Hawaii, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).¹ Pope Blanche seeks review of SLD’s denial of one of its Funding Year 3 requests for discounts under the schools and libraries universal service mechanism.² For the reasons discussed below, we grant the Request for Review and remand the application to SLD for further consideration of the funding 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.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, which is posted to the Administrator’s website for all

¹ Letter from Les Goto, Hawaii Department of Education, to Federal Communications Commission (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.

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 SLD reviews the FCC Forms 471 that it receives and issues funding commitment decisions in accordance with the Commission's rules.

3. At issue here is Funding Request Number (FRN) 437000, in which Pope Blanche sought discounts to pay for what its application described as a "SunUltra 10S Server System."⁶ FRN 437000 was based on a master contract posted on the website of Hawaii Department of Education (DOE), although this fact was not indicated on Pope Blanche's FCC Form 471.⁷ During SLD's application review, SLD looked to the Hawaii DOE website for further information regarding the purpose of the server in order to determine whether the server was being purchased for an eligible use, and found that the relevant master contract on Hawaii DOE's website listed the server as a "Lotus Notes Application Server."⁸ SLD then issued a Funding Commitment Decision Letter that, *inter alia*, denied the request on the grounds that the SUN Microsystem Enterprise 10 Server for Lotus Notes was an ineligible use.⁹

4. Pope Blanche then appealed to SLD, stating that the server was also a Web Server.¹⁰ SLD denied the appeal, finding that "[t]he original documentation submitted with your application indicates that the server you are requesting funding for is to be used for Lotus Notes."¹¹ SLD stated that it would not "accept new information presented with an appeal unless

⁴ Schools and Libraries Universal Service, Description of Services Requested and Certification Form, OMB 3060-0806 (FCC Form 470); 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 (September 1999) (FCC Form 471).

⁶ FCC Form 471, Pope Blanche Elementary School, filed January 17, 2000 (Pope Blanche Form 471), attachment.

⁷ See, generally, <<http://e-rate.k12.hi.us/>>.

⁸ See <<http://e-rate.k12.hi.us/pricelist-sun.pdf>>.

⁹ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Pope Blanche Elementary School, dated May 19, 2000 (Funding Commitment Decision Letter), at 6.

¹⁰ Letter from Les Goto, Pope Blanche Elementary School, to Schools and Libraries Division, Universal Service Administrative Company, filed June 2, 2000.

¹¹ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Les Goto, Pope Blanche Elementary School, dated April 11, 2001, at 1 (Administrator's Decision on Appeal).

the information presented with the original application was insufficient for SLD to make a determination.”¹² Pope Blanche then filed the pending Request for Review.

5. We find that the Request for Review should be granted. In denying Pope Blanche’s appeal, SLD relied solely on the “original documentation.”¹³ However, under SLD’s appeal review procedures, SLD will consider new documentation provided with an applicant’s appeal to demonstrate that an ambiguous issue should be resolved in the applicant’s favor if the new information is consistent with the information originally provided.¹⁴ Here, Pope Blanche submitted new information to clarify the eligibility of the services requested. We find that the new information is consistent with the original documentation and should therefore have been considered. Accordingly, we remand the application to SLD to address the eligibility of FRN 437000 in light of the information submitted on appeal. In doing so, we make no determination as to whether FRN 437000 seeks support for an eligible product or service.

6. 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 Pope Blanche Elementary School, Waimanalo, Hawaii, filed on April 25, 2001, IS GRANTED, and the application is REMANDED to SLD for further consideration consistent with this opinion.

FEDERAL COMMUNICATIONS COMMISSION

Mark G. Seifert
Deputy Chief, Accounting Policy Division

¹² *Id.*

¹³ Administrator’s Decision on Appeal, at 1.

¹⁴ See SLD web site, <<http://www.sl.universalservice.org/reference/AppealsSLDGuidelines.asp>>.