

**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)	
)	
Chelmsford Public Schools)	File Nos. SLD-121663, SLD-122372
North Chelmsford, MA)	
)	
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: March 29, 2001

Released: March 30, 2001

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division has under consideration two Requests for Review filed by the Chelmsford Public School District (Chelmsford), North Chelmsford, Massachusetts.¹ Chelmsford seeks review of two funding commitment decisions issued by the Schools and Libraries Division (SLD) of the Universal Service Company (Administrator) pursuant to two funding requests for discounts under the schools and libraries universal service support mechanism.² For the reasons set forth below, we grant and remand to SLD Chelmsford's Requests for Review for further consideration.

¹ Letter from Bernard DiNatale, Chelmsford Public School District, to the Federal Communications Commission, File No. SLD-121663, filed May 22, 2000 (Cellular Service Request for Review); Letter from Bernard DiNatale, Chelmsford Public School District, to the Federal Communications Commission, File No. SLD-122372, filed June 5, 2000 (Telecenter Request for Review).

² See Letter from Schools and Libraries Division, Universal Service Administrative Company to Bernard DiNatale, Chelmsford Public School District, issued July 8, 1999 (Cellular Service Funding Commitment Decision Letter); Letter from Schools and Libraries Division, Universal Service Administrative Company, to Bernard DiNatale, Chelmsford Public School District, issued April 24, 2000 (Cellular Service Administrator's Decision on Appeal); Letter from Schools and Libraries Division, Universal Service Administrative Company to Bernard DiNatale, Chelmsford Public School District, issued November 16, 1999 (Telecenter Funding Commitment Decision Letter); Letter from Schools and Libraries Division, Universal Service Administrative Company, to Bernard DiNatale, Chelmsford Public School District, issued May 4, 2000 (Telecenter Administrator's Decision on Appeal).

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 In order to receive discounts on eligible services, the Commission's rules require that the applicant submit to the Administrator a completed FCC Form 470, in which the applicant sets forth the school's technological needs and the services for which it seeks discounts.⁴ Once the school has complied with the Commission's competitive bidding requirements and signed contracts for eligible services, it must file an FCC Form 471 application to notify the Administrator of the services that have been ordered, the carriers with whom the school has signed contracts, and an estimate of funds needed to cover the discounts to be given for eligible services.⁵ This information is generally provided in Block 5 of FCC Form 471. Approval of an application is contingent upon the filing of FCC Form 471, and funding commitment decisions are based on information provided by the school or library in this form.

3. The first request for review arises from SLD's denial of Chelmsford's application number 121663, on the grounds that services requested are not being used in accordance with program rules.⁶ Chelmsford's subsequent appeal to SLD of this funding decision was denied on grounds that the funding request is for cellular service to be used for emergency purposes, which is an ineligible use of this eligible service under program rules.⁷

4. Under the Commission's rules, cellular telephone service is a service eligible for discount funding under program rules if 1) provided for use at a place of instruction and 2) used for an educational purpose.⁸ Furthermore, cellular service used by teachers is an eligible use.⁹ Chelmsford sought funding for monthly cellular telephone services to be used by teachers involved in science and school-sponsored community work, which constitute use at a place of instruction.¹⁰ Chelmsford contends that the cellular telephones are used for field work learning experiences, as well as for emergencies.¹¹

5. We find that Chelmsford's funding request is for an eligible service. We conclude that the

³ 47 C.F.R. §§ 54.502, 45.503.

⁴ 47 C.F.R. § 54.504 (b)(1), (b)(3).

⁵ 47 C.F.R. § 54.504(c).

⁶ See Cellular Service Funding Commitment Decision Letter at 5.

⁷ See Cellular Service Administrator's Decision on Appeal at 1.

⁸ See SLD web site, Eligible Services List (February 6, 2001) <<http://www.sl.universalservice.org/reference/eligible.asp>>. The Eligible Services List provides guidance from SLD on the eligibility of products and services for which applicants may be seeking funding.

⁹ See *id.*

¹⁰ Cellular Service Letter of Appeal.

¹¹ See Cellular Service Letter of Appeal. Chelmsford describes the cellular services at issue as 12 two-way emergency wireless telephones and wireless PBX to be used when land lines are not available and practical. See FCC Form 470, Chelmsford Public School District, filed February 2, 1999.

cellular service to be used by teachers for instructional purposes at places of instruction are eligible uses.¹² Accordingly, we grant Chelmsford's request for appeal regarding cellular services and remand Application Number 121663 to SLD for action consistent with this Order.

6. The second Request for Review arises from SLD's denial of Chelmsford's Application Number 122372, on the grounds that 30% or more of the product(s)/service(s) requested are ineligible for funding under program rules.¹³ On May 4, 2000, Chelmsford's subsequent appeal of this funding decision was denied by SLD on the same grounds.¹⁴

7. In the instant appeal, Chelmsford claims that its Telecenter funding request is threefold in nature: 1) standard voice PBX/Centrex telephone distribution switching system (\$28,018); 2) infrastructure materials such as wiring, plates, and conduit (\$38,964); and, 3) labor for installation of infrastructure and PBX (\$38,962).¹⁵ Chelmsford further states that these costs are only a portion of the total cost of the project, \$180,000.¹⁶ The remaining cost is attributable to the integrated video system, which Chelmsford acknowledges is ineligible under program rules.¹⁷ In its appeal to SLD, Chelmsford broke the project down into two parts: 1) a standard voice PBX/Centrex telephone distribution switching system, which it claims is an eligible product under program rules; and 2) an interactive television system integrated into the PBX system to be used for instructional purposes in classrooms (\$38,964).¹⁸ In fax correspondence associated with Chelmsford's appeal to SLD of the original funding decision, however, Chelmsford provided a different breakdown of the costs of the funding request: 1) telephones, \$1600; 2) PBX, \$81,438 (Voice Phone PBX, \$28,018, and Video Phone PBX \$53,240); and, 3) labor, \$38,962. Chelmsford's Form 471 for the original funding request indicated that the total pre-discount cost of the

¹² See *id.*; See SLD web site, Eligible Services List (February 6, 2001) <<http://www.sl.universalservice.org/reference/eligible.asp>>.

¹³ See Telecenter Funding Commitment Decision Letter at 5. 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 30 percent or less of the request is for funding of ineligible services, SLD normally will issue a funding commitment for the eligible services. If more than 30 percent 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, for the most part, are requesting funding of ineligible services.

¹⁴ See Telecenter Administrator's Decision on Appeal at 1.

¹⁵ See Telecenter Letter of Appeal.

¹⁶ See *id.*

¹⁷ See *id.*

¹⁸ Letter from Bernard DiNatale, Chelmsford Public School District, to the Schools and Libraries Division, File No. SLD-122372, filed November 30, 1999 (Telecenter SLD Letter of Appeal).

funding request is \$122,000.95.¹⁹

8. Upon review of information submitted to SLD from the service providers, it appears that this funding request for an interactive television (media retrieval) system, the Telecenter 21 and the Telecenter IP, has eligible components for its vast majority. For example, a large component of this integrated system, a standard PBX system, is an eligible product under program rules.²⁰ Therefore, we disagree with SLD's assessment that well over 30 % of the funding request is ineligible under program rules. Accordingly, we grant Chelmsford's request for review and remand its application to SLD, and direct SLD to reconsider this FRN consistent with program rules.

V. ORDERING CLAUSES

9. 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 May 22, 2000, by Chelmsford Public School District, North Chelmsford, Massachusetts, IS GRANTED to the extent provided herein and remanded to the Schools and Libraries Division. We direct the Schools and Libraries Division to review Chelmsford's funding application and to issue a revised Funding Commitment Decision Letter in accordance with the above-stated decision.

10. IT IS FURTHER ORDERED that the Request for Review filed June 5, 2000, by Chelmsford Public School District, North Chelmsford, Massachusetts, IS GRANTED to the extent provided herein and remanded to the Schools and Libraries Division. We direct the Schools and Libraries Division to review Chelmsford's funding application and to 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

¹⁹ See FCC Form 471, Chelmsford Public School District, filed April 9, 1999.

²⁰ See SLD web site, Eligible Services List (February 6, 2001) <<http://www.sl.universalservice.org/reference/eligible.asp>>. The Eligible Services List provides guidance from SLD on the eligibility of products and services for which applicants may be seeking funding.