

Before the  
Federal Communications Commission  
Washington, DC 20554

In the Matter of	)	
	)	
Request for Guidance	)	
with Respect to	)	
	)	
Sandhill Regional Library System	)	File Nos. SLD-156339, 156427
Rockingham, North Carolina	)	
	)	
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: June 20, 2002**

**Released: June 21, 2002**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. Before the Telecommunications Access Policy Division is a Request for Guidance from the Schools and Libraries Division of the Universal Service Administrative Company (Administrator).<sup>1</sup> In the Request for Guidance, the Administrator seeks guidance on whether the competitive bidding requirement may be waived with respect to certain Funding Year 2 applications submitted by Sandhill Regional Library System (Sandhill), Rockingham, North Carolina, for support under the schools and libraries universal service support mechanism.<sup>2</sup> For the reasons discussed below, we grant the Administrator’s Request for Guidance and direct the Administrator to take further action consistent 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 for eligible telecommunications services, Internet access, and internal connections.<sup>3</sup> 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 its technological needs and the services for which it seeks discounts.<sup>4</sup> Once the applicant has

<sup>1</sup> Letter from the Schools and Libraries Division, Universal Service Administrative Company, to the Federal Communications Commission, filed May 21, 2002 (Request for Guidance).

<sup>2</sup> See Request for Guidance. Under section 54.702(c) of the Commission’s rules, the Administrator may seek guidance from the Commission where its rules do not address a particular situation.

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

<sup>4</sup> 47 C.F.R. § 54.504(b)(1), (b)(3).

complied with the Commission's competitive bidding requirements and entered into agreements for eligible services, the applicant must submit a completed FCC Form 471 application to the Administrator.<sup>5</sup>

3. On March 31, 1999, Sandhill submitted two completed FCC Forms 470 for posting in Funding Year 2.<sup>6</sup> One FCC Form 470 was posted on April 9, 1999, but through no fault of Sandhill, the second FCC Form 470 was not posted until June 3, 1999.<sup>7</sup> Prior to the posting of the second FCC Form 470, Sandhill received a Receipt Notification Letter (RNL) for the posted FCC Form 470.<sup>8</sup> After waiting substantially past the 28-day period indicated on the RNL, but prior to the posting of the second FCC Form 470, Sandhill submitted two Funding Year 2 FCC Forms 471.<sup>9</sup> Both of the FCC Forms 471 relied in part on the second FCC Form 470.<sup>10</sup> As a result, the Administrator issued Funding Commitment Decision Letters, denying those funding requests that relied on the second FCC Form 470 for failure to satisfy the 28-day bidding requirement.<sup>11</sup>

4. The Applicant then appealed to the Administrator, requesting that the 28-day competitive bidding requirement be waived.<sup>12</sup> On May 21, 2002, the Administrator filed a letter seeking guidance from the Commission pursuant to section 54.702(c) of the Commission's rules.<sup>13</sup>

5. Consistent with past precedents, we conclude that a waiver of section 54.504(b)(4) of the Commission's rules is warranted in this case.<sup>14</sup> Generally, the Commission

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<sup>5</sup> 47 C.F.R. § 54.504(b)(4), (c).

<sup>6</sup> FCC Form 470, Sandhill Regional Library System, posted April 9, 1999; FCC Form 470, Sandhill Regional Library System, posted June 3, 1999. For both FCC Forms 470, the certifications were received on March 31, 1999. *See also* Request for Guidance at 1.

<sup>7</sup> *See supra* note 6; Request for Guidance.

<sup>8</sup> Request for Guidance at 1-2.

<sup>9</sup> *Id.*; FCC Form 471, Sandhill Regional Library System, File No. SLD-156339, filed May 21, 1999; Form 471, Sandhill Regional Library System, File No. SLD-156427, filed May 21, 1999.

<sup>10</sup> *See supra* note 6; Request for Guidance.

<sup>11</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to Jonathan Bradsher, Sandhill Regional Library System, dated April 27, 2001 (File No. SLD-156339); Letter from Schools and Libraries Division, Universal Service Administrative Company, to Jonathan Bradsher, Sandhill Regional Library System, dated April 27, 2001 (File No. SLD-156427).

<sup>12</sup> Letter from Carol Walters, Sandhill Regional Library System, to Schools and Libraries Division, Universal Service Administrative Company, filed May 24, 2001 (File No. SLD-156339); Letter from Carol Walters, Sandhill Regional Library System, to Schools and Libraries Division, Universal Service Administrative Company, filed May 24, 2001 (File No. SLD-156427).

<sup>13</sup> *See* Request for Guidance.

<sup>14</sup> 47 C.F.R. § 54.504(b)(4). *See Request for Review by Runnemede Public Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No.

may waive any provision of its rules, but a request for waiver must be supported by a showing of good cause.<sup>15</sup> In the case at hand, strict compliance with our rules is inconsistent with the public interest. We find that the substantial delay in posting the second FCC Form 470 was solely attributable to the Administrator. It would be unfair for Sandhill to be denied discounts because of so substantial a posting delay, particularly when this error may have resulted in Sandhill being denied substantial support it otherwise would have received.

6. The public interest is served by the effective operation of the schools and libraries universal support service mechanism, which generally requires competitive bidding for all services eligible for support. We conclude, however, that, in these particular circumstances, the public interest weighs in favor of correcting the error committed by the Administrator so that Sandhill's applications may be processed without further delay and considered on the merits. Therefore, we direct the Administrator to process both of the Funding Year 2 FCC Forms 471 at issue consistent with this Order.

7. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3, and 54.702(c) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.702(c) that the Request for Guidance filed by the Administrator with respect to Sandhill Regional Library System, Rockingham, North Carolina, on May 21, 2001, IS GRANTED.

8. IT IS FURTHER ORDERED that the Administrator IS DIRECTED to take further action consistent with this Order.

FEDERAL COMMUNICATIONS COMMISSION

Mark G. Seifert  
Deputy Chief, Telecommunications Access Policy Division  
Wireline Competition Bureau

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SLD-154153, CC Docket Nos. 96-45 and 97-21, Order, DA 99-2957 (Com. Car. Bur. rel. December 21, 1999) (*Runnemedede Public Schools*).

<sup>15</sup> 47 C.F.R. § 1.3; *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) ("Waiver is [] appropriate only if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest").