

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
Request for Review of a Decision of the)
Universal Service Administrative Company)
By)
Columbia Heights Public Schools) File No. SLD-202359
Columbia Heights, Minnesota)
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 Carriers Association, Inc.)

ORDER

Adopted: February 5, 2002

Released: February 6, 2002

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division has under consideration a Request for Review filed by Columbia Heights Public Schools (Columbia).1 Columbia requests review of a decision by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC or Administrator) relating to Columbia's application for discounts under the schools and libraries universal service support mechanism.2 For the reasons set forth below, we deny Columbia's Request for Review.

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 its

1 Letter from Denise Mergens, Columbia Heights Public Schools, Columbia Heights, Minnesota, to Federal Communications Commission, filed April 26, 2001 (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 Letter from Schools and Libraries Division, Universal Service Administrative Company, to John Bulger, Columbia Heights School District, Columbia Heights, Minnesota, dated March 27, 2001 (Administrator's Decision on Appeal).

3 47 C.F.R. §§ 54.502, 54.503.

technological needs and the services for which it seeks discounts.⁴

3. Once the applicant has complied with the Commission's competitive bidding requirements and entered into agreements 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 applicant has entered into an agreement, and an estimate of funds needed to cover the discounts to be given for eligible services.⁵ In Funding Year 3, this information was provided in Block 5 of the FCC Form 471.⁶ Using information provided by the applicant in its FCC Form 471, the Administrator determines the amount of discounts for which the applicant is eligible. Approval of the 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.

4. Under the Commission's regulations, SLD is authorized to establish and implement filing periods and program standards for FCC Form 471 applications by schools and libraries seeking to receive discounts for eligible services.⁷ Pursuant to this authority, every funding year, SLD establishes and notifies applicants of a "minimum processing standard" to facilitate the efficient review of the thousands of applications requesting funding.⁸ In Funding Year 3, SLD instructions noted that items 11 and 12 of Block 5 were part of the minimum processing standards.⁹ Item 11 of Block 5 requires the applicant to state the category of service by choosing among the following categories: telecommunications services, Internet access, and internal connections.¹⁰ With the information in Item 11, SLD is able to apply our funding priority rules properly in situations where demand exceeds the annual funding cap, as was the case in Funding Year 3.¹¹ Item 12 of Block 5 requires the applicant to indicate the corresponding

⁴ 47 C.F.R. § 54.504(b)(1), (b)(3).

⁵ 47 C.F.R. § 54.504(c).

⁶ Schools and Libraries Universal Service, Service Ordered and Certification Form, OMB 3060-0806 (Sept. 1999) (FCC Form 471).

⁷ See 47 C.F.R. § 54.507(c); *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).

⁸ See, e.g., SLD web site, Form 471 Minimum Processing Standards and Filing Requirements for FY3, <<http://www.sl.universalservice.org/reference/471mps.asp>> (Funding Year 3 Minimum Processing Standards).

⁹ *Id.*

¹⁰ *Id.*

¹¹ In *Federal-State Joint Board on Universal Service, Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charge*, CC Docket No. 96-45, Fifth Order on Reconsideration and Fourth Report and Order in CC Docket No. 96-45, Report and Order in CC Docket Nos. 96-45, 96-262, 94-1, 91-213, 95-72, 13 FCC Rcd 5318 (1997), the Commission established new rules to govern how discounts will be allocated when available funding is less than total demand and a filing window is in effect. *Id.* at 14938, para. 36. These rules provide that requests for telecommunications and Internet access services for all discount categories shall receive first priority for available funds (Priority One Services). Any funding remaining is allocated to the requests for support for internal connections (Priority Two Services) beginning with the most economically disadvantaged schools and libraries, as determined by their discount rate. In Funding Year 3, SLD granted all approved requests for discounts for telecommunications services and Internet access and granted all approved requests for internal connections down to the 81 percent discount level.

FCC Form 470.¹² Item 12 enables SLD to ensure that the applicant complies with the Commission's competitive bidding rules.¹³ When an applicant submits a Block 5 Worksheet that omits an item subject to the minimum processing standard, SLD automatically rejects the funding request and returns it to the applicant.

5. Columbia filed its FCC Form 471 with SLD on January 18, 2000.¹⁴ Columbia included seven Block 5 worksheets in its application, each describing a separate funding request. On one of the Block 5 worksheets, Columbia failed to complete item 11.¹⁵ On another Block 5 worksheet, Columbia failed to complete item 12.¹⁶ As a result, SLD did not assign funding request numbers (FRNs) to those two requests because they did not meet minimum processing standards.¹⁷ On June 22, 2000, Columbia appealed the decision to SLD and provided the missing information.¹⁸ SLD denied the appeal on March 27, 2001, citing its original reasoning that the applicant failed to meet the minimum processing standards.¹⁹ In response, Columbia filed the instant Request for Review stating that the missing information was the result of a data entry error and asked to amend their FCC Form 471.²⁰

6. As an initial matter, we conclude that Columbia may not amend its FCC Form 471. The application window for Funding Year 3 closed on January 19, 2000. Columbia filed revised copies of their Block 5 worksheets on June 29, 2000, and April 26, 2001, well after the end of the Funding Year 3 filing window.²¹ The Commission's rules have established a policy that applicants are not permitted to amend completed FCC Forms 471 after the closure of the filing window.²² If applicants were permitted to correct their applications after SLD has denied them, it would eliminate any incentive to avoid making unauthorized service requests or to comply with the SLD's document demands in a timely fashion.²³ This would significantly

¹² Funding Year 3 Minimum Processing Standards.

¹³ The Commission has repeatedly emphasized the importance of the competitive bidding requirement, stating that it helps to ensure that schools and libraries will receive the lowest possible pre-discount price. *Federal-State Joint Board on Universal Service*, CC Docket 96-45, Order on Reconsideration, 12 FCC Rcd 10095, 10098, para. 9 (1997).

¹⁴ FCC Form 471, Columbia Heights School District, filed January 18, 2000 (Columbia Form 471).

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Letter from Universal Service Administrative Corporation, Schools and Libraries Division to John Bulger, Columbia Heights School District, issued June 16, 2000.

¹⁸ Letter from John Bulger, Columbia Heights Schools District, to Universal Service Administrative Corporation, Schools and Libraries Division, filed June 29, 2000 (SLD Appeal Letter).

¹⁹ *See Administrator's Decision on Appeal.*

²⁰ *See Request for Review.*

²¹ Columbia attached revised worksheets to the SLD Appeal Letter and the Request for Review. The SLD Appeal Letter was filed on June 29, 2000, and the Request for Review was filed on April 26, 2001. *See SLD Appeal Letter; Request for Review.*

²² The Commission's rules require that applicants file a completed FCC Form 471 by the filing window deadline to be considered pursuant to the funding priorities for "in-window" applicants. 47 C.F.R. §§ 54.504(c), 54.507(c).

²³ *See Request for Review by Cheney Public Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-142969, CC Dockets No. 96-45 and 97-21, Order, 16 FCC Rcd 5192, 5195 (2001).

increase the administrative burden SLD would face while carrying out its obligation to guard against the occurrence of errors and fraud.²⁴ Furthermore, if applicants were permitted to amend their requests after the filing window closed, it could jeopardize SLD's ability to accurately apply the rules of priority in years where requests for funding exceed the annual funding cap.²⁵ This policy imposes upon applicants the responsibility of preparing its applications carefully. For that reason, we deny Columbia's request to amend its FCC Form 471 subsequent to the filing window for Funding Year 3.

7. In light of thousands of applications that SLD must review and process each funding year, we find it administratively appropriate to require applicants to strictly adhere to minimum processing standards.²⁶ In *Naperville*, however, the Commission determined that, under the totality of the circumstances presented in that case, SLD should not have returned an application without consideration for failure to enter information required by SLD's minimum processing standards.²⁷ The Commission specifically found that "(1) the request for information was a first-time information requirement on a revised form, thereby possibly leading to confusion on the part of the applicants; (2) the omitted information could be easily discerned by SLD through examination of other information included in the application; and (3) the application is otherwise substantially complete."²⁸

8. After review of the record, we conclude that, under the totality of the circumstances, SLD correctly denied Columbia's funding request that did not indicate the category of service in item 11. First, we note that the information requested in Item 11 was not a first time information request in Funding Year 3.²⁹ Second, the omitted category of service could not be easily discerned through examination of other information included in the application. In particular, we find that the information included in attachments to a Block 5 worksheet are not an adequate substitute for satisfactory completion of Item 11. The attachment to Columbia's FCC Form 471 indicates that the funding request was for the installation of a network system.³⁰ Some eligible services, including installation and maintenance, may be appropriately designated as either

²⁴ *Id.*

²⁵ *Id.*

²⁶ See *Request for Review by Anderson School Staatsburg, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of National Exchange Carrier Association*, File No. SLD-13364, CC Docket No. 96-45 and 97-21, Order, 15 FCC Rcd 181 (2000), at para. 8 ("In light of the thousands of applications that SLD review and processes each funding year, it is administratively necessary to place on the applicant the responsibility of understanding all relevant program rules and procedures."); see also SLD web site, Universal Service Administrative Company (USAC), Schools and Libraries Program, Reference Area: Form 471 Minimum Processing Standards and Filing Requirements, <<http://www.sl.universalservice.org/reference/471mps.asp>> (outlining the manual and online filing requirements for FCC Form 471).

²⁷ *Request for Review by Naperville Community Unit School District 203, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-203343, CC Dockets No. 96-45 and 97-21, Order, 16 FCC Rcd 5032, para. 12 (2001) (*Naperville*).

²⁸ *Id.* at para. 16.

²⁹ See Form 471. In Funding Year 2, applications were instructed to indicate whether the requested services were a telecommunications service, Internet access, or internal connections. See *Instructions for Completing Schools and Libraries Universal Service, Services Ordered and Certification Form (FCC Form 471)*, OMB 3060-0806 (Dec. 1998) at 19.

³⁰ Columbia Form 471.

telecommunications service (a priority one service) or internal connections (a priority two service) which would impact application of our rules of priority.³¹ As a result, under program rules, the appropriate category of some types of service may vary, and making a category determination can require a detailed factual investigation and review.³² It would significantly increase SLD's administrative costs if it had to examine each attachment in thousands of applications in order to determine the category of service. Therefore, we find that it is incumbent on each applicant to clearly indicate in Item 11 the category under which the request is to be considered. Accordingly, we find that by not completing item 11, Columbia did not meet minimum processing standards for this request.

9. Regarding the other funding request at issue in this Request for Review, Columbia argues the SLD could have determined the missing FCC Form 470 number.³³ Columbia suggests that a review of the other funding requests in the FCC Form 471 would have revealed that all of the requests had the same corresponding FCC Form 470.³⁴ The Bureau recently determined that SLD, which rejected applications for failing to provide an FCC Form 470 number, did not apply this minimum processing standard consistently in Funding Year 3.³⁵ As a result, we remanded several appeals for further consideration of the original applications.³⁶ In the instant Request for Review, however, the funding request at issue was for internal connections.³⁷ In Funding Year 3, funding of discounted internal connections was available only for schools with discount rates of 82% or higher.³⁸ Because Columbia was entitled to a discount of only 53%, it was not eligible for discounted internal connections in Funding Year 3.³⁹ Thus,

³¹ See SLD website, Eligible Services List (Dec. 2, 1999), <www.sl.universalservice.org/reference/eligible.asp> (“The Service Category used for Maintenance & Installation should reflect the Service Category of the product or service being installed or maintained. As an example, if the service being installed is a Telecommunications Service, then installation should also reflect that same category, Telecommunications Service.”). It is unclear from the attachment what type of network system was to be installed.

³² See, e.g., *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. 35 (1999) (“as a practical matter, we believe that there are instances where it is difficult to draw a line between end-to-end Internet access service and internal connections”).

³³ See Request for Review.

³⁴ *Id.*

³⁵ *Request for Review by Pediatric Library, Rainbow Babies & Children's Hospital, Mundelein Elementary Schools, St. John the Baptist School, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File Nos. NEC.471.12-27-99.03200022, NEC.471.12-20-9902900028, SLD-176702, CC Docket Nos. 97-21, Order, DA 01-2640 (Com. Car. Bur. rel. Nov. 14, 2001) (“We therefore reverse SLD's rejection of applications with USCN numbers that were missing or contained fewer than 14 digits and remand for further processing of the original applications consistent with the way that SLD processed applications with 14 or more digits.”).

³⁶ *Id.*

³⁷ Columbia Form 471.

³⁸ See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Further Notice of Proposed Rule Making and Order, 16 FCC Rcd 9880, 9882, n.13 (2001).

³⁹ See Columbia Form 471.

whether SLD treated Columbia's missing FCC Form 470 number properly is immaterial in the instant case because Columbia would not have qualified for internal connections. As a result, we deny Columbia's Request for Review.

10. 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 April 26, 2001 by Columbia Heights Public Schools, Columbia Heights, Minnesota, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Mark G. Seifert
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