

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

In the Matter of)	
)	
Request for Review of the)	
Decision of the)	
Universal Service Administrator by)	
)	
Crenshaw County Public Schools)	File No. SLD-187227
Luverne, Alabama)	
)	
Federal-State Joint Board on)	WC Docket No. 96-45
Universal Service)	
)	
Changes to the Board of Directors of the)	WC Docket No. 97-21
National Exchange Carrier Association, Inc.)	

ORDER

Adopted: April 10, 2002

Released: April 11, 2002

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. Before the Telecommunications Access Policy Division (Division) is a Request for Review filed by Crenshaw County Public Schools (Crenshaw), Luverne, Alabama, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).¹ Crenshaw seeks review of SLD's denial of part of its Funding Year 3 application for discounts under the schools and libraries universal service mechanism.² For the reasons discussed below, we deny the Request for Review and affirm SLD's decision.

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

¹ Letter from Reba Mason, Crenshaw County Public Schools, to Federal Communications Commission, filed April 16, 2001 (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.

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 In Block 4 of the FCC Form 471, an applicant lists the individual schools or libraries that will be receiving service, along with information demonstrating the discount each is entitled to receive.⁷ In Block 5, the applicant lists its service requests, indicating for each, which entity or entities from Block 4 will receive the service.⁸ SLD reviews the FCC Forms 471 that it receives and issues funding commitment decisions in accordance with the Commission's rules.

3. Crenshaw applied as a school district for discounts in Funding Year 3, listing three schools in Block 4 of the application, Brantley School, Highland Home Elementary and High School, and Luverne Elementary High School, as the entities that would be receiving services.⁹ Documentation attached to the FCC Form 471 indicated that the discounted services would also be provided to a fourth entity, however, named Area Vocational Center.¹⁰ On July 7, 2000, SLD issued a Funding Commitment Decision Letter, denying Funding Request Numbers (FRNs) 393119 and 393807, each of which sought discounted telecommunications services, on the grounds that "[a] significant portion of the FRN is a request for [the] ineligible entity Area Vocational Center"¹¹ It also denied part of FRNs 393307 and 393505, which sought discounted telecommunications service and Internet access respectively, stating that "[t]he dollars were reduced to remove the ineligible entity[, Area] Vocational Center."¹²

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

⁷ FCC Form 471, Block 4.

⁸ FCC Form 471, Block 5.

⁹ FCC Form 471, Crenshaw County School District, filed January 18, 2000 (Crenshaw Form 471).

¹⁰ Crenshaw Form 471, attachment.

¹¹ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Reba Mason, Crenshaw County School District, dated July 7, 2000 (Funding Commitment Decision Letter), at 5-6.

¹² *Id.* The record shows that SLD deemed Area Vocational Center an ineligible entity because it was not listed on the FCC Form 471. We note that SLD's determination did not speak to whether Area Vocational Center was otherwise eligible for services pursuant to section 54.501(b)(1) of the Commission's rules, defining eligible schools as "schools meeting the statutory definitions of 'elementary school,' as defined in 20 U.S.C. 8801(14), or 'secondary

4. Crenshaw then filed four appeals with SLD, one for each affected FRN. In connection with FRNs 393119 and 393807, Crenshaw stated that “[t]he requested funds are identified as the local telecommunications charges for three schools in the Crenshaw County School District,” and asserted that “[s]tudents attending the Area Vocational Center should be afforded the same service as they are while attending their regular school.”¹³ In connection with FRN 393307, a request for discounted telecommunications service, Crenshaw stated that it was seeking discounts for two T-1 lines, one for Highland Home School, the other to be shared by “all four schools” in the district.¹⁴ It asserted that “[i]f this service is not fully funded, our schools will have to reduce or completely remove their Internet access.”¹⁵ Finally, in connection with FRN 393505, the request for discounted Internet access, Crenshaw again asserted that students attending the Area Vocational Center should have the same opportunity for discounted services as students at other schools.¹⁶

5. On March 16, 2001, SLD issued a single decision denying all four appeals.¹⁷ It stated that the “original Form 471 submission does not include this entity [the Vocational Center] in Block 4. Your appeal requests additional funds for an entity that was not included in the Form 471” SLD concluded that because the Area Vocational Center’s request for funding was not made in the FCC Form 471, it could not be considered on appeal.¹⁸ Crenshaw then filed the pending Request for Review.

6. In its Request for Review, Crenshaw makes two assertions in support of its request for funding. First, it claims that Crenshaw’s “district office” and the Area Vocational Center are “one in the same and housed in the same building,” and that the “district office” is a “valid entity.”¹⁹ Second, it claims that the Area Vocational Center is a vocational technical school with eligible students attending.²⁰

school,” as defined in 20 U.S.C. 8801(25), and not excluded under paragraphs (b)(2) or (b)(3) of this section” 47 C.F.R. § 54.501(b)(1).

¹³ See, e.g., Letter from Reba Mason, Crenshaw County Public Schools, to Schools and Libraries Division, Universal Service Administrative Company, filed July 27, 2000, at 1 (Appeal of FRN 393119).

¹⁴ Letter from Reba Mason, Crenshaw County Public Schools, to Schools and Libraries Division, Universal Service Administrative Company, filed July 27, 2000, at 1 (Appeal of FRN 393307).

¹⁵ *Id.*

¹⁶ Letter from Reba Mason, Crenshaw County Public Schools, to Schools and Libraries Division, Universal Service Administrative Company, filed July 27, 2000, at 1 (Appeal of FRN 393505).

¹⁷ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Reba Mason, Crenshaw County Public Schools, dated March 16, 2001.

¹⁸ *Id.* at 1.

¹⁹ Request for Review, at 1.

²⁰ *Id.*

7. We have reviewed the record and conclude that SLD acted correctly in regard to each of the FRNs. The record demonstrates that Area Vocational Center was not listed in Block 4 of the Crenshaw Form 471, and was therefore not eligible for discounts. FCC Form 471 instructions and our precedents clearly establish that applications must be complete by the close of the filing window in order to receive the priority status accorded to in-window applications.²¹ Specifically, Crenshaw did not meet this requirement with regard to Area Vocation Center because Crenshaw failed to include Area Vocational Center in the Block 4 of its original application.²² As a result, SLD could not have known that Crenshaw sought discounted services for the Area Vocation Center site or what discount rate to accord that site. Thus, we conclude that it was appropriate for SLD to proportionately reduce FRNs 393307 and 393505 because they purported to seek discounted services delivered to the Area Vocational Center site. The record demonstrates that more than 30% of FRNs 393119 and 393807 sought discounts for services provided to Area Vocational Center. Under SLD procedures, if 30% or more of a request is ineligible, the request is denied in its entirety.²³ SLD therefore correctly denied these two FRNs in their entirety.

²¹ Instructions for Completing the Schools and Libraries Universal Service, Services Ordered and Certification Form (FCC Form 471), OMB 3060-0806 (September 1999) (Form 471 Instructions), at 4; *see, e.g., Request for Review by Atlanta Adventist Academy HS, Atlanta, Georgia, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-189986, CC Dockets No. 96-45 and 97-21, Order, DA 02-40, para. 6 (Com. Car. Bur. rel. January 10, 2002).

²² It is therefore unnecessary to determine whether Area Vocation Center would be eligible for discounts under the Commission's rules if it had been listed in Block 4 of Crenshaw's FCC Form 471.

²³ 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. This procedure is equally applicable in cases involving services requested by ineligible entities. *See Request for Review by 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 No. SLD-181667, CC Dockets No. 96-45 and 97-21, Order, 16 FCC Rcd 7118, para. 4 (Com. Car. Bur. 2001) (affirming denial of funding request where more than 30% of requested discounts went to ineligible entity).

8. 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 Crenshaw County Public Schools, Luverne, Alabama, on April 16, 2001 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Mark G. Seifert
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Wireline Competition Bureau