

Before the  
Federal Communications Commission  
Washington, DC 20554

In the Matter of	)	
	)	
Request for Review of the	)	
Decision of the	)	
Universal Service Administrator by	)	
	)	
Ringwood Board of Education	)	File No. SLD-199565
Ringwood, New Jersey	)	
	)	
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: January 11, 2002**

**Released: January 14, 2002**

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division has before it a Request for Review filed by Ringwood Board of Education (Ringwood), Ringwood, New Jersey, seeking review of a decision of the Schools and Libraries Division (SLD) of the Universal Service Administrative Company.<sup>1</sup> SLD returned without consideration Ringwood’s Funding Year 3 application for discounted services under the schools and libraries universal service support mechanism because it omitted certain information required under SLD’s minimum processing standards.<sup>2</sup> Specifically, Ringwood omitted information in Item 22 of Block 5, the Entity or Entities Receiving Service, for all of its funding requests.<sup>3</sup> SLD informed Ringwood that its subsequently-filed corrected application was not filed within the application window.<sup>4</sup>

<sup>1</sup> Letter from Diane DeBlock, Ringwood Board of Education, to Federal Communications Commission, filed June 29, 2000 (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).

<sup>2</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to Diane DeBlock, Ringwood School District, dated March 23, 2000 (Rejection Letter).

<sup>3</sup> *Id.*; FCC Form 471, Ringwood School District, filed January 15, 2000 (Ringwood Form 471), at Block 5.

<sup>4</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to Diane DeBlock, Ringwood School District, postmarked April 21, 2000 (Receipt Notification); *see also* Letter from Diane DeBlock, Ringwood Schools, to Schools and Libraries Division, Universal Service Administrative Company, filed May 1, 2000 (Appeal to SLD), Attachment.

Ringwood seeks review of this determination. For the reasons discussed below, we deny the 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.<sup>5</sup> The Commission's rules require that the applicant make a bona fide request for services by filing with the Administrator an FCC Form 470,<sup>6</sup> which is posted to the Administrator's web site for all potential competing service providers to review.<sup>7</sup> 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.<sup>8</sup> SLD reviews the FCC Forms 471 that it receives and issues funding commitment decisions in accordance with the Commission's rules.

3. The Commission's rules allow the Administrator to implement an internal filing period ("filing window") for the FCC Form 471 applications that treats all schools and libraries filing within that period as if their applications were simultaneously received.<sup>9</sup> Applications that are received outside this filing window are subject to separate funding priorities under the Commission's rules.<sup>10</sup> It is to all applicants' advantage, therefore, to ensure that the Administrator receives their applications prior to the close of the filing window. In Funding Year 3, the application filing window closed on January 19, 2000.<sup>11</sup>

4. To further facilitate the efficient review of the thousands of applications requesting funding, every funding year, SLD establishes and notifies applicants of a "minimum processing standard."<sup>12</sup> In Funding Year 3, SLD added to the minimum processing standards the

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<sup>5</sup> 47 C.F.R. §§ 54.502, 54.503.

<sup>6</sup> Schools and Libraries Universal Service, Description of Services Requested and Certification Form, OMB 3060-0806 (September 1999) (FCC Form 470).

<sup>7</sup> 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).

<sup>8</sup> 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).

<sup>9</sup> 47 C.F.R. § 54.507(c).

<sup>10</sup> 47 C.F.R. § 54.507(g).

<sup>11</sup> SLD web site, What's New (December 6, 1999), <<http://www.sl.universalservice.org/whatsnew/121999.asp>>.

<sup>12</sup> See, e.g., SLD web site, Form 471 Minimum Processing Standards and Filing Requirements for FY3, <<http://www.sl.universalservice.org/reference/471mps.asp>> (*Minimum Processing Standards*).

requirement that applicants identify, in Item 22 of each Block 5 funding request, the specific entity receiving a service or, if that service is shared by more than one entity, the applicant list the Block 4 worksheet number that identifies the entities sharing the service.<sup>13</sup>

5. When an applicant submits an FCC Form 471 that fails the minimum processing standards, SLD automatically returns the application to the applicant without considering the application for discounts under the program.<sup>14</sup> While an applicant may submit a corrected application to SLD where it has omitted information required by the minimum processing standards, the postmark date of that corrected form will be the filing date of the application for the purpose of the filing window deadline.<sup>15</sup> Thus, where a minimum processing standard correction is submitted after the close of the filing window, the FCC Form 471 is not entitled to in-window priority and will generally be ineligible for funding for that reason.

6. In the instant case, on March 23, 2000, SLD rejected Ringwood's Funding Year 3 FCC Form 471 because the funding requests did not specify the entity or entities receiving service in Block 5, Item 22.<sup>16</sup> Shortly thereafter, Ringwood submitted a corrected application.<sup>17</sup> SLD responded with a notice, stating that the corrected application was filed outside the filing window.<sup>18</sup> Ringwood appealed this determination to SLD.<sup>19</sup> SLD construed the appeal as a request for a waiver of the filing window, which it denied on June 16, 2000, stating that it had no authority to grant such waivers.<sup>20</sup> Ringwood then filed the pending Request for Review, seeking a waiver from the Commission on the grounds that its original application was timely filed.<sup>21</sup>

7. Although Ringwood seeks a waiver so that its corrected application may be considered timely filed, it rests its argument on the timeliness of its original application.<sup>22</sup> We therefore consider first whether the original application was properly rejected.

8. In *Naperville*, the Commission determined that, under the totality of the circumstances, SLD should not have returned an application without consideration for failure to

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<sup>13</sup> *Id.*

<sup>14</sup> *Minimum Processing Standards.*

<sup>15</sup> *Minimum Processing Standards.*

<sup>16</sup> *See* Rejection Letter.

<sup>17</sup> Request for Review, at 1.

<sup>18</sup> Receipt Notification; *see also* Appeal to SLD, Attachment.

<sup>19</sup> *See* Appeal to SLD.

<sup>20</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to Diane DeBlock, Ringwood School District, dated June 16, 2000, at 1.

<sup>21</sup> Request for Review, at 1.

<sup>22</sup> *Id.*

meet SLD's minimum processing standards.<sup>23</sup> In Naperville's case, 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."<sup>24</sup>

9. Upon review of the record in the Request for Review, we conclude that, under the totality of the circumstances, Ringwood's application was appropriately returned for failure to satisfy minimum processing standards. Although Item 22 of Block 5, was a new information request in Funding Year 3, we find that the information to be provided in Item 22, the entity or entities receiving service, was not easily discernable from other information in the application.

10. Each funding request is presented on a separate Block 5 of the FCC Form 471.<sup>25</sup> For each Block 5, an applicant specifies in Item 22 which entity or group of entities listed in the applicant's Block 4 worksheets will receive the service.<sup>26</sup> In Block 4, an entity is listed together with its associated discount rate, and groups of entities that will be receiving shared services are listed with their average rate.<sup>27</sup> In *Naperville*, the Commission found that, although the Block 5 funding request at issue did not specify the entities that would receive service, the discount rate requested in the funding request was uniquely attributable to the average discount rate of all of the schools, as calculated on an accompanying Block 4 worksheet.<sup>28</sup> Thus, it was clear that the funding request sought shared services for the district schools. Here, in contrast, the discount rate sought for both of the requests, 40%, is both the district average discount rate and the rate of each of the individual schools.<sup>29</sup> Because the requested discount rate was not uniquely associated with a particular site or group of sites presented in the Block 4 worksheets accompanying the application, SLD could not determine, based on the discount rate, what entity or entities would be receiving the requested services. Further, the attachments to the application,

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<sup>23</sup> *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*).

<sup>24</sup> *Id.*, para. 16.

<sup>25</sup> FCC Form 471, Block 5.

<sup>26</sup> *Id.*

<sup>27</sup> The Block 4 worksheet generally requires the applicant to list all the entities receiving a service for which discounts are sought. *See* FCC Form 471, Block 4. In those situations where an applicant is seeking discounts for a service to be shared by a group of schools within the district, the worksheet calculates the weighted average discount of those schools which is then applied to the shared service. *Id.* Where a school district is seeking multiple shared services for different groups of schools within its district, the applicant must complete a different Block 4 worksheet for each group, labeling the worksheets "A-1", "A-2", and so forth. In this situation, separate Block 4 worksheets are required because the weighted average discount will vary from group to group. *Id.* The FCC Form 471 requests that the applicant identify the Block 4 worksheet for a particular group at Item 22 of the Block 5 worksheet used to request the discounted services to be received by that group. *Id.*

<sup>28</sup> *Naperville*, para. 13.

<sup>29</sup> Ringwood Form 471, Block 4.

although indicating that the service requests sought a number of telecommunications lines, do not indicate to which school or schools these lines would connect.<sup>30</sup> Therefore, we find that the information was not easily discernable from information provided in the application, and that the totality of the circumstances do not warrant relief. Accordingly, we affirm SLD's rejection of the application.

11. Ringwood argues that its corrected application should be considered timely filed. However, because the original application was properly rejected, the date of filing is the date on which the corrected version was received.<sup>31</sup> Ringwood does not dispute that the corrected version was received after the close of the filing window on January 19, 2000. Thus, to have its corrected version considered to be timely filed, Ringwood must obtain a waiver of the filing window. Waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.<sup>32</sup> Here, we find no special circumstances justifying a waiver of the filing window for the corrected version.

12. Ringwood asserts that, after it received the Rejection Letter, it was informed by someone presumably associated with the schools and libraries program that if it submitted a corrected version, this would not affect the date that the original was received.<sup>33</sup> However, erroneous instructions from SLD personnel do not provide a sufficient basis for granting a waiver from established rules and procedures.<sup>34</sup> Moreover, any miscommunication regarding this policy could not have caused Ringwood to miss the filing window because the filing window had already closed by the time the miscommunication occurred. Thus, had Ringwood been told the correct policy, it still would not have been able to file its corrected version within the application filing window.

13. Ringwood asserts that it is being treated arbitrarily because it is aware of other schools that have been allowed to submit corrections and still be considered for funding.<sup>35</sup> Ringwood, however, has presented no evidence that similarly situated applications, *i.e.*, other applicants that failed a minimum processing standard, were treated differently than Ringwood. Under program rules, not every application error is treated under the minimum processing standards procedures. Rather, only those problems specified by SLD in the Minimum

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<sup>30</sup> Ringwood Form 471, Attachments.

<sup>31</sup> *Minimum Processing Standards*.

<sup>32</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

<sup>33</sup> Request for Review, at 1.

<sup>34</sup> See *Request for Review by Uby Community Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-113262, CC Dockets No. 96-45 and 97-21, Order, 15 FCC Rcd 23267, para. 6 (Com. Car. Bur. 2000)

<sup>35</sup> Request for Review, at 1.

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Processing Standards will cause SLD to return the application without further review.<sup>36</sup> We conclude that this allegation provides no basis for relief.

14. 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 Ringwood Board of Education, Ringwood, New Jersey, on August 9, 2000 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Mark G. Seifert  
Deputy Chief, Accounting Policy Division  
Common Carrier Bureau

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<sup>36</sup> See *Minimum Processing Standards*.