

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

In the Matter of	)	
	)	
Request for Review of the	)	
Decision of the	)	
Universal Service Administrator by	)	
	)	
Lafayette Township School	)	File No. SLD-231717
Lafayette, New Jersey	)	
	)	
Schools and Libraries	)	CC Docket No. 02-6
Universal Service Support Mechanism	)	

**ORDER**

**Adopted: February 5, 2004**

**Released: February 6, 2004**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Review filed by Lafayette Township School (Lafayette), Lafayette, New Jersey.<sup>1</sup> Lafayette requests review of a decision by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).<sup>2</sup> For the reasons set forth below, we deny the Request for Review.

2. In its decision, SLD denied Lafayette's funding request, stating that Lafayette violated the Commission's competitive bidding requirements because the service provider associated with the FCC Form 470 participated in the competitive bidding process as a bidder.<sup>3</sup> In its Request for Review, Lafayette states that its service provider acknowledges responsibility for the improper signature on the FCC Form 470, but asks to resubmit its FCC Form 470 application for the telecommunications services portion of its funding request.<sup>4</sup> Upon review of

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<sup>1</sup> Letter from Carol J. Calella, Lafayette Township School, to Federal Communications Commission, filed November 21, 2002 (Request for Review).

<sup>2</sup> *Id.*

<sup>3</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to Jonathan P. Baker, Lafayette Township Elementary School, dated September 14, 2001 (Funding Commitment Decision Letter). *See also* Letter from Schools and Libraries Division, Universal Service Administrative Company, to Carol J. Calella, Lafayette Township School, October 21, 2002 (Administrator's Decision on Appeal).

<sup>4</sup> Request for Review. *See* FCC Form 470, Lafayette Township Elementary School, filed November 22, 2000 (Lafayette's application included several Funding Request Numbers (FRN), requesting local and long distance phone service, as well as Internet access. The service provider associated with the competitive bidding violation proposed to provide Internet access for Lafayette.)

the record, we find that SLD's decision is consistent with Commission precedent and affirm substantially for the reasons stated by SLD.<sup>5</sup>

3. Further, construing Lafayette's argument as a request for waiver of our rules, we find that a waiver is not appropriate. A waiver from the Commission 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>6</sup> Lafayette's misunderstanding of the Commission's rules is not a special circumstance warranting a waiver of the filing window. Therefore, we affirm SLD and deny Lafayette's Request for Review.

4. 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 Lafayette Township School, Lafayette, New Jersey on November 21, 2002 IS DENIED.

#### FEDERAL COMMUNICATIONS COMMISSION

Narda M. Jones  
Deputy Chief, Telecommunications Access Policy Division  
Wireline Competition Bureau

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<sup>5</sup> See *Request for Review by Mastermind Internet Services, Inc., Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, SPIN-143006149, CC Docket No. 96-45, 16 FCC Rcd 4028, 4032 (2000). The Commission found that "when an applicant delegates that power to an entity that also will participate in the bidding process as a prospective service provider, the applicant irreparably impairs its ability to hold a fair and open competitive bidding process." The Commission concluded that "a violation of the Commission's competitive bidding requirements has occurred where a service provider that is listed as the contact person on the FCC Form 470 also participates in the competitive bidding process as a bidder," and in such cases, SLD must deny any funding request based on that FCC Form 470. *Id.*

<sup>6</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*); see also *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969) (stating that the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis), *cert. denied*, 409 U.S. 1027 (1972).