

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

In the Matter of)	
)	
Request for Review)	
)	
Winnebago Public Schools)	File Nos. SLD-259869, 259989,
Winnebago, Nebraska)	260081, 260153, 260240, 260261
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

ORDER

Adopted: February 19, 2004

Released: February 20, 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 Meritide, Inc., on behalf of Winnebago Public Schools (Winnebago), Winnebago, Nebraska.¹ Winnebago seeks review of six decisions issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) denying Winnebago's funding requests on the grounds that the underlying FCC Form 470 was not properly certified.² For the reasons set forth 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.³ In order to receive discounts on eligible services, the Commission's rules require that the applicant submit to the SLD a completed FCC Form 470 (Form 470), in which the applicant sets forth its technological needs and the services for which it seeks discounts.⁴ Applicants are also required to submit a completed Form 470 Block 5 certification. In Funding Year 2001, the Form 470 Block 5 certifications had to be received or postmarked by 11:59 p.m. EST on January 18, 2001

¹ Letter from Richard B. Peterson, Meritide, Inc., to Federal Communications Commission, filed February 23, 2002 (Request for Review).

² *Id.* 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.

⁴ 47 C.F.R. § 54.504(b)(1), (b)(3). The Administrator must post the Form 470 on its website, and the applicant is required to wait 28 days before making a commitment with a selected service provider. 47 C.F.R. § 54.504(b)(4).

in order for the corresponding FCC Form 471 to be considered filed in a timely manner.⁵ The Form 470 instructions further provide that “[a]ny Form 471 Block 5 funding request based on a Form 470 whose certification has not been received or postmarked by 11:59 p.m. EST on the close of the Form 471 application filing window will be rejected.”⁶

3. On February 5, 2002, the SLD issued six Administrator’s Decision on Appeal Letters denying Winnebago’s requests for discounted services because Winnebago’s establishing Form 470 was not certified before January 18, 2001.⁷ Winnebago subsequently filed the instant Request for Review with the Commission.

4. In its Request for Review, Winnebago states that it mailed its Form 470 certification on December 11, 2000.⁸ As proof of mailing, Winnebago attaches an affidavit executed by the employee responsible for applying for E-rate funds stating that the required certification was mailed to the correct address on that date.⁹ Winnebago argues that the applications at issue should not be denied because Winnebago was unable to provide a return receipt showing that its Form 470 certification was mailed prior to January 18, 2001.¹⁰ Winnebago states that if obtaining a return receipt was a requirement, it should have been stated in the instructions to the Form 470.¹¹

5. Upon review of the record, and consistent with the Commission's rules and procedures, we conclude that SLD correctly denied Winnebago’s request for support.¹² As

⁵ SLD web site, What's New (November 2000)
<<[<http://www.sl.universalservice.org/whatsnew/112000.asp#110200>>](http://www.sl.universalservice.org/whatsnew/112000.asp#110200)>>

⁶ See FCC Form 470 Instructions.

⁷ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Richard Peterson, Meritide, Inc., dated February 5, 2002, regarding SLD Application Number 259869; Letter from Schools and Libraries Division, Universal Service Administrative Company, to Richard Peterson, Meritide, Inc., dated February 5, 2002, regarding SLD Application Number 259989; Letter from Schools and Libraries Division, Universal Service Administrative Company, to Richard Peterson, Meritide, Inc., dated February 5, 2002, regarding SLD Application Number 260081; Letter from Schools and Libraries Division, Universal Service Administrative Company, to Richard Peterson, Meritide, Inc., dated February 5, 2002, regarding SLD Application Number 260153; Letter from Schools and Libraries Division, Universal Service Administrative Company, to Richard Peterson, Meritide, Inc., dated February 5, 2002, regarding SLD Application Number 260240; and Letter from Schools and Libraries Division, Universal Service Administrative Company, to Richard Peterson, Meritide, Inc., dated February 5, 2002, regarding SLD Application Number 260261 (collectively, Administrator’s Decision Letters).

⁸ Request for Review.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* See also, SLD web site, What's New (November 2, 2000)
<<[<http://www.sl.universalservice.org/whatsnew/2000/122000.asp#122600>>](http://www.sl.universalservice.org/whatsnew/2000/122000.asp#122600)>>.

¹² See *Request for Review by Charles Gibson, Federal State-Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-267921, CC Dockets No. 96-45 and 97-21, Order, [17 FCC Rcd 8611 \(Wireline Comp. Bur. 2002\)](#). See also *Request for Review by Watervliet School District, Federal State-Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-275615, CC Dockets No. 96-45 and 97-21, Order, [17 FCC Rcd 15770 \(Wireline Comp. Bur. 2002\)](#) (it is incumbent upon applicants to determine whether their applications are in compliance with program requirements prior to filing).

discussed above, in Funding Year 2001, the Form 470 Block 5 certifications had to be received or postmarked by 11:59 p.m. EST on January 18, 2001 in order for the Form 471 to be considered filed in a timely manner. Although Winnebago attaches an affidavit stating that it mailed its Form 470 Block 5 certification via U.S. Mail on December 11, 2000, SLD has no record of having received such certification.

6. Moreover, we decline to grant relief on the grounds that the instructions to the Form 470 do not require that the signed certification be mailed "Return Receipt Requested." Indeed, the instructions do not require such action; however, it is prudent for applicants to obtain proof of mailing when timely application submission is critical. In light of the thousands of applications that SLD must review and process each year, it is administratively necessary to require an applicant to be responsible for providing complete and accurate information. Further, the Commission has consistently held that it is the applicant who has responsibility ultimately for the timely submission of the application.¹³ Applicants must comply with program rules, including the application deadline, in order to be eligible for discounts.

7. 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 Winnebago Public Schools, Winnebago, Nebraska, on February 23, 2002 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

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

¹³ See, e.g., *Application for Review by Information Technology Department State of North Dakota, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-245592, CC Docket Nos. 96-45 and 97-21, Order, FCC 03-240 (rel. Oct. 21, 2003). See also *Request for Waiver by Center City Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-325719, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 22424 (Wireline Comp. Bur. 2003).