

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Request for Review of a Decision of the) Administrator Correspondence Dated
Universal Service Administration Corp. for) February 11, 2015
The Library of Virginia)
)
Schools and Libraries Universal Service) CC Docket No. 02-6
Support Mechanism)

Request for Review

In accordance with sections 54.719 through 54.721 of the Commission's rules, The Library of Virginia (Library or LVA) requests Federal Communications Commission (Commission) review of a decision of the Schools and Libraries Division of the Universal Service Administrative Company (Administrator). Based on the facts presented LVA asks that the Administrator decision be overturned.

Form 471 Application Number: 940841
FRN: 2704637, 2704644, 2704777, 2704827, 2713709
Billed Entity Number: 126509
FCC Registration Number: 0019408368

Background

The Library of Virginia, located in the city of Richmond, Virginia, serves the greater Richmond area and surrounding counties. The percentage of children eligible for the National School Lunch Program (NSLP), as reported and approved on the Richmond City School's 2014 FCC Form 471 is over 75 percent.

The Library originally applied for E-Rate funding at a discount rate based on Richmond NSLP participation reported on the Virginia Department of Education Web Site. During application review however, it was discovered that Richmond Schools utilized National School Lunch figures from a month other than the October reporting used to compile the Department of Education Report when preparing the FCC Form 471 Block 4.

The Virginia Department of Education NSLP report indicated Richmond City Schools had a total of 74.25 percent of students eligible for NSLP free or reduced price lunches. However, the Richmond City Schools 2014 Form 471 Block 4 indicated that 76.66 percent of Richmond City students were eligible for NSLP free or reduced price lunches.¹ When the discrepancy was discovered, LVA submitted a RAL correction to the Administrator. The RAL correction was

¹ Richmond City School District 2014 E-Rate application, Number 973675

never acknowledged by the Administrator and a Funding Commitment Decision Letter issued on May 19, 2014 with an 80 percent discount rate for the Library. Richmond appealed the FCDL to the Administrator on September 18, 2014. During review of the appeal, the Administrator requested documentation that a ministerial or clerical error had occurred when entering the discount data. The Library responded that the wrong data was used when completing Block 4 of the Form 471 and the correct data (Richmond City Schools application) was not available until after the application was submitted (Attached). The Administrator denied the discount portion of the appeal on February 11, 2015.

Discussion

E-Rate regulations for determining library discounts are clear: For libraries and library consortia, the level of poverty shall be based on the percentage of the student enrollment that is eligible for a free or reduced price lunch under the national school lunch program or a federally approved alternative mechanism in the public school district in which they are located.²

Library discounts are calculated using the aggregate school lunch eligibility for the local school district.³ Library discounts are derived solely from the public school district. Libraries have absolutely no mechanism to increase or alter the library discount rate. Generally, library discounts are calculated from school lunch numbers reported to state Departments of Education. However, schools may utilize alternative discount methods to calculate and increase E-Rate discounts. Alternative, federally approved, discount calculations are not reported to the state Department of Education and receive additional scrutiny during review. Schools rarely share alternative discount calculations with libraries and the Administrator does not have a mechanism to compare school discount calculations with associated library discounts. Libraries often receive lower E-Rate discounts than they should because of unreported and unrecognized alternative discount calculations. It would be unreasonable to expect a library to be aware the local school district used school lunch figures different from those reported to the state.

Current Administrator procedures do not allow libraries to increase discount rates based on a reviewed and approved Form 471 application from the associated school. When discovered, libraries must proactively request the discounts be increased and then prove the original submission was flawed due to Bishop Perry type errors.

The Library concedes that the RAL request did not fall within the limited scope of Bishop Perry. We contend that library discounts should reflect the underlying school discount without the need to provide proof of a data entry error. When such errors are brought to the attention of the Administrator or the Administrator discovers the discrepancy during review, libraries should absolutely be given the opportunity to increase discount rates, reflective of the school

² CFR §54.505 (b)(2)

³ Divide the number of students eligible for NSLP in the public school district in which the library outlet/branch is located by the total number of students in that public school district. Use this number and the urban or rural status of the library outlet/branch to look up the discount on the Discount Matrix. – Schools and Libraries Web Site “Calculating discounts”

application. To do otherwise further marginalizes libraries in the “Schools and Libraries” program.

The consequences of the Administrator’s failure to accurately calculate NSLP participation for libraries can result in underfunding for libraries by hundreds of thousands of dollars nationally. For LVA alone, the difference between the 90 percent discount to which the library is entitled and the 80 percent it was awarded is over \$20,000.

In this case the facts are clear and unambiguous. Richmond Schools requested and were approved for E-Rate discounts with an aggregate NSLP participation rate of 76.66 percent. The Library was approved for a discount rate of 80 percent based on an inaccurate report by the Virginia Department of Education.

Conclusion

The Library of Virginia should receive the E-Rate discount reflected in the poverty rate of Richmond City Schools. If the actual poverty rate is determined to be higher than a report posted on a Department of Education Web site, the Administrator should accept those higher numbers when those numbers can be verified during E-Rate application review. In this case, the library attempted to correct the discrepancy during the RAL process but was ignored. The library also gave the Administrator an opportunity to correct the discrepancy through the appeal process but was denied.

Libraries have absolutely no mechanism to self-determine library discount rates. Library rates are determined by the NSLP eligibility rates reported by schools. If the school utilizes an approved method to increase discount rates, those rates should naturally flow to the associated library. We ask the Commission to recognize the inherent inequity libraries face for calculating discounts and overturn this decision. We ask that the LVA discount be increased to 90 percent in accordance with Federal Communication Commission regulations and over \$20,000 additional E-Rate funding be granted to the library.

Sincerely,

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