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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the matter of:)
)
Request for Review by)
Hewlett-Woodmere UFSD)
of Decision of Universal Service Administrator)

Docket Nos. 97-21 and 96-45

The following appeal of a decision of the Universal Service Administrator is made by the Hewlett-Woodmere Union Free School District located in Woodmere, New York

In its FCC Form 471 (Application No. 109446) for the first program year, Hewlett-Woodmere UFSD applied for discounts on Internet access services for its five schools. A copy of Item (16) of the Form 471 application is included as Exhibit 1. The application included eight funding requests, six for simple dial-up accounts and two larger requests for Dedicated Services (split into two contract periods). Funding was approved for the dial-up accounts, but denied for the higher-speed Dedicated Service. Hewlett-Woodmere appealed the denied funding to the Schools and Libraries Division ("SLD"), but that appeal was subsequently rejected.

The issue in question in this appeal is straight-forward. The funding requested by Hewlett-Woodmere was for Dedicated Service for Internet access. The monthly rate charged by the Internet service provider, NYSERNET (now known as Applied Theory), was comprised of the following four components as shown below. A copy of a sample monthly invoice is provided as Exhibit 2.

256 Kbps Internet Connection Service	\$ 950.00
Local Loop Charges	477.38
Cisco 2502 Maintenance	36.00
Kentrox CSU/DSU Maintenance	<u>30.00</u>
Total monthly charge	\$ 1,493.38

In initially denying funding, the SLD noted that two components of the monthly charge involved maintenance of devices defined as Internal Connections. It then reclassified the entire service as Internal Connections. Since Hewlett-Woodmere qualified for only a 40% discount, the SLD fully declined to fund the two line items on the basis that their priority allocation rules did not permit funding of Internal Connections under the 70% level.

Hewlett-Woodmere believes that the reclassification of the entire service from Dedicated Services to Internal Connections was unjustified. The Internal Connection portion represents less than 5% of the total. The service is predominately Internet access, and the original Form 471 was filed during a period when there was no indication that funding distinctions would be made between various types of eligible services.

In its appeal to the SLD, Hewlett-Woodmere recognized the validity of not funding the small portion of the monthly charge related to the maintenance of Internal Connections. It also excluded from its claim a one-time Internet setup fee of \$2,000 which, arguably, could have been related to the server installation. The appeal, therefore, requested funding only for the Internet access connection and local loop fees (aggregating \$1,427.38 per month) for the extended eighteen-month funding period. The total amount requested upon appeal was for a funding commitment of \$10,277 (40% of the eighteen-month total). A copy of the appeal letter is provided as Exhibit 3.

On June 2, 1999, the SLD rejected Hewlett-Woodmere's appeal, reiterating its argument that the Funding requested for Dedicated Services "...included some internal connection services," and had to be re-categorized to "avoid the possibility" of treating priority two services as priority one. A copy of the SLD appeal decision is provided as Exhibit 4.

The SLD's unwillingness to allocate charges between Dedicated Services and Internal Connections appears inconsistent with the analogous determinations the SLD

routinely makes to separate charges for eligible and ineligible services. Indeed, one might expect that the SLD would be more concerned with the possibility of treating ineligible services as eligible than it would be to make a priority mistake on types of eligible services.

In documentation supporting both its original Form 471 application and its appeal, Hewlett-Woodmere provided consistent price information from its Internet service provider fully supporting the allocation set forth in the appeal. Interestingly, invoice data provided to Program Integrity Assurance during the appeal process in March was in response to an inquiry concerning the extension of the NYSERNET contract through June 1999, not to the allocation issue.

In this appeal, Hewlett-Woodmere respectfully requests that E-rate funding be provided for what is clearly the Internet access portion of its dedicated service. For the eighteen-month funding period of program year one, the pre-discount Internet access portion of this service totals \$25,692.84, justifying a funding award of \$10,277.13 at Hewlett-Woodmere's 40% discount level.

Respectfully submitted,

By: _____
Winston E. Himsworth
E-Rate Central, Nassau County BOCES
Educational Computer Center
1196 Prospect Avenue
Westbury, NY 11590
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E-mail: whimsworth@e-ratecentral.com

Dated: June 8, 1999

Attachment: Exhibits 1-4

Contact Person's Name: Dr. Karen Chapman

and Phone Number: (516) 374-8122

16. "Site Specific" Services: Internal connections not shared by multiple schools or libraries and dedicated ("private line") connections from only one school or library to an ISP or other end-user.

(1)	(2)	CONTRACT			(6)	(7)	Amount (See instructions about rounding)			(11)	(12)
		(3)	(4)	(5)			(8)	(9)	(10)		
SLC Number of Service Provider (Obtain from Service Provider)	Universal Service Control Number for Form 470 on which this is based	Contract Number (if applicable)	Award Date	Expiration Date	Services or Products	Service Start Date	Estimated One Time Pre-discount Cost	Estimated Monthly Pre-discount Cost	Estimated Total Annual Pre-discount Cost	Percentage Discount (from Item 14)	School or Library Code (Listed on website)
143004517	125340000025043	B 13565	03/14/98	12/31/98	Dedicated Services	03/14/98	\$2,800.00	\$1,497.38	\$12,727.73	40.00%	36-04227
NYSERNET	125340000025043	B 13585	09/11/97	n/a	Dedicated Services	01/01/98	30.00	\$1,497.38	\$5,240.83	40.00%	36-04227
143004517	125340000025043	B 14068	03/14/98	12/31/98	Dedicated Services	03/14/98	\$50.00	\$20.00	\$170.00	40.00%	36-04226
NYSERNET	125340000025043	B 14068	03/14/98	12/31/98	Dedicated Services	03/14/98	\$50.00	\$20.00	\$170.00	40.00%	36-04228
143004517	125340000025043	B 14068	03/14/98	12/31/98	Dedicated Services	03/14/98	\$50.00	\$20.00	\$170.00	40.00%	36-04229
NYSERNET	125340000025043	B 14068	03/14/98	12/31/98	Dedicated Services	03/14/98	\$50.00	\$20.00	\$170.00	40.00%	36-04230
143004517	125340000025043	B 14068	03/14/98	12/31/98	Dedicated Services	03/14/98	\$50.00	\$20.00	\$170.00	40.00%	36-04227
NYSERNET	125340000025043	B 14068	03/14/98	12/31/98	Dedicated Services	03/14/98	\$50.00	\$20.00	\$170.00	40.00%	36-31710
					Dedicated Services						
					Internal Connections						

Exhibit 2

MAR - 8 1999

Applied Theory

Not Potential. Realized.

INVOICE

01 37828 02/28/99 Page 1 of 1

Bill To: Hewlett-Woodmere School Distri
 Woodmere Education Center
 1 Johnson Place
 Woodmere NY 11598 USA

Service Period: 03/06/99 - 04/05/99

Item	Description	Units	Rate	Total	Balance
NN	000229 Hewlett-Woodmere School Distri		B18175	NET30	03/30/99
1	256-1S 256 Kbs Connection Svc (1 Yr)	No	1.00	950.0000	950.00 *
2	cisco2502M Cisco 2502 Maintenance	No	1.00	36.0000	36.00
3	kentrox128M 128 Kb-T1 CSU/DSU-Kentrox Main	No	1.00	30.0000	30.00
4	LL Local Loop	No	1.00	477.3800	477.38 *

* Access portion = 1427.38

	\$1,493.38
	\$0.00
	\$1,493.38
	\$0.00
	\$0.00
	\$1,493.38

Please make your check payable to: 'AppliedTheory Communications, Inc.'
 P.O. Box 30648
 Hartford, CT 06150-0648

125 Elwood Davis Road, Syracuse, NY 13212-4311

araccounting@appliedtheory.com

T: 315 453 2912

F: 315 453 3052

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March 22, 1999

Letter of Appeal

Schools and Libraries Division
Box 125 – Correspondence Unit
100 South Jefferson Road
Whippany, NJ 07981

FCD Letter:

Applicant Name: Hewlett-Woodmere UFSD
Form 471 Application Number: 00109446
Billed Entity Number: 123878

Funding Request Numbers: 00126206 and 00126208

E-Rate Administrators:

In its referenced Form 471, Hewlett-Woodmere applied for discounts for Dedicated Services for their Internet Access from NYSERNET (a.k.a. Applied Theory). The two referenced FRNs totaled \$17,968.56 that included \$17,128.56 for 256 Kbps connections Internet service and the associated local loop charges. An additional \$840 was included for annual maintenance on internal connection equipment. The referenced decisions, however, re-categorized all charges as Internal Connections — a miniscule portion of the overall requests — and denied funding at Hewlett-Woodmere's discount level.

With this Letter of Appeal, we are hereby requesting that funding be provided for the Internet access and local loop portions as requested, and that funding be extended for an additional six months. We agree that at Hewlett-Woodmere's discount rate, the small Internal Connection portion should not be funded. Note that Hewlett-Woodmere applied for a year's worth of service, split into 3.5 and 8.5 month periods. We believe that the six month extension should be added to the 8.5 month FRN. This appeal specifically requests the following funding decisions:

Letter of Appeal

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March 22, 1999

	Pre-discount Monthly <u>Amount*</u>	No. <u>Months</u>	Six Months <u>Pre-discount</u>	Discount <u>Percentage</u>	Funding <u>Commitment</u>
FRN: 00126206	\$1,427.38	14.5	\$20,697.01	40 %	\$8,278.80
FRN: 00126208	1,427.38	<u>3.5</u>	<u>4,995.83</u>	40	<u>1,998.33</u>
		18.0	\$25,692.84		\$10,277.13

* Excludes Internal Connection portion of requests

Please call us if you have any questions. Thank you for your consideration.

Sincerely,

Winston E. Himsworth
On behalf of Hewlett-Woodmere UFSD

Contact Information:
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Westbury, NY 11030
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E-mail: whimsworth@e-ratecentral.com

/abm

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Exhibit 4

SCHOOLS AND LIBRARIES DIVISION

Box 125 - Correspondence Unit
100 South Jefferson Road
Whippany, New Jersey 07981

Administrator's Decision on Appeal

June 2, 1999

Karen Chapman
Hewlett-Woodmere UFSD Administration Building
1 Johnson Place
Woodmere, NY 11598

Re: Billed Entity Number: 123878
Application Number: 109446
Funding Request Number(s): 126206, 126208
Your Correspondence Dated: March 22, 1999

After thorough review and investigation of your appeal, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company has resolved your appeal which seeks approval of additional discounts for the first program year. This letter addresses our decision concerning each Funding Request Number that was included in your letter of appeal for the above referenced Application Number. If your letter of appeal addressed more than one Application Number, a separate letter will be issued to inform you of our decision on the appeal of each Application Number included in your appeal.

Funding Request Number(s): 126206, 126208
Decision on Appeal: Denied in full

The following explanation is provided to inform you of the reason for our decision on appeal of these Funding Request Numbers, for those appeals that are denied in full.

Denial Reason(s):

- Services the applicant listed as Dedicated Services included some internal connections services (maintenance and internal connections equipment). These funding requests were categorized as internal connections services so as to avoid the possibility of treating priority two services (internal connections) as priority one services (telecommunications, dedicated and Internet access services). Since internal connections are funded only at the 70% level or above, these services could not be supported for this funding period.

If you feel further examination of your application is in order, you may file an appeal with the Federal Communications Commission, Office of the Secretary, 445 12th Street, SW, Room TW-A325, Washington, DC 20554. Before preparing and submitting your appeal, please be sure to review the FCC rules concerning the filing of an appeal of an Administrator's Decision, which are posted to the SLD Web Site at www.sl.universalservice.org. You must file your appeal with the FCC no later than 30 days from the date of the issuance of this letter, in order for your appeal to be timely filed.

Once this appeal decision letter is issued to you, we can and will process invoices that may be submitted for Funding Request Numbers approved for discounts in the Funding Commitment Decisions Letter that was originally issued to you.

We thank you for your continued support, patience, and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company