

Nov 15 11 18 AM '99 Before the Federal Communications Commission Washington, DC 20554

In the Matter of DISPATCHED BY)
Request for Review of the)
Decision of the)
Universal Service Administrator by)
North Middlesex Regional School District)
Townsend, Massachusetts)
Federal-State Joint Board on)
Universal Service)
Changes to the Board of Directors of the)
National Exchange Carrier Association, Inc.)

File No. SLD-35035

CC Docket No. 96-45

CC Docket No. 97-21

ORDER

Adopted: November 9, 1999

Released: November 9, 1999

By the Common Carrier Bureau:

1. The Common Carrier Bureau (Bureau) has under consideration an appeal filed by North Middlesex Regional School District of Townsend, Massachusetts (North Middlesex), on May 11, 1999, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator). North Middlesex seeks review of the SLD's denial of its application for discounts under the schools and libraries universal service support mechanism. For the reasons set forth below, we grant North Middlesex's appeal, and remand North Middlesex's funding application to the SLD for further determination in accordance with this order.

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. During the first extended funding year (January 1, 1998 - June 30, 1999) of the support

1 See Letter from Gerald P. Martin, North Middlesex Regional School District, to Office of the Secretary, Federal Communications Commission, dated May 4, 1999.

2 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.

granted all approved requests for discounts for telecommunications services and Internet Access and granted all approved requests for internal connections down to the 70 percent discount level.

3. By letter dated April 16, 1999, the SLD denied North Middlesex's appeal of SLD's denial of discounts for two funding requests on the grounds that they were improperly classified as telecommunications or dedicated services instead of internal connections.⁴ SLD explained that North Middlesex's requests were reclassified as internal connections services so as to avoid the possibility of treating priority two services (internal connections) as priority one services (telecommunications services and Internet access). Finally, SLD stated that because North Middlesex did not qualify for the 70 percent discount, its two funding requests for services now classified as internal connections were denied.⁵

4. In *Williamsburg-James City*,⁶ the Commission determined that, in cases where, as here, an FCC Form 471 was submitted before the establishment of the Commission's rules of priority in the *Fifth Reconsideration Order*,⁷ applicants could not have been aware of the need to segregate carefully their service requests.⁸ Consequently, the Commission held that in appeals addressing such circumstances, applications should be remanded to SLD for reprocessing, with priority one and priority two services being considered separately on their own merits. We, therefore, remand North Middlesex's application to SLD and direct SLD to issue a new funding commitment decision letter based on the originally submitted FCC Form 471 and any further consultations with the applicant that may be necessary.

5. 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 Letter of Appeal filed by North Middlesex Regional School District, Townsend, Massachusetts, on May 11, 1999, IS GRANTED.

⁴ See Administrator's Decision on Appeal, Schools and Libraries Division of the Universal Service Administrative Company, to Peter Balducci, North Middlesex Regional School District, dated April 16, 1999.

⁵ North Middlesex qualified for discounts at the 40 percent level.

⁶ *Request for Review of the Decision of the Universal Service Administrator by Williamsburg-James City Public Schools*, CC Docket Nos. 96-45, 97-21, Order, FCC 99-298 (rel. October 15, 1999) (*Williamsburg-James City*).

⁷ *Federal-State Joint Board on Universal Service, Fifth Order on Reconsideration and Fourth Report and Order*, 13 FCC Rcd 14915, 14938 (1998) (*Fifth Reconsideration Order*), paras. 36-37.

⁸ North Middlesex filed its FCC Form 471 application for discounts on April 15, 1998, well before the June 22, 1998 release of the *Fifth Reconsideration Order*.

6. IT IS FURTHER ORDERED that the Administrator IS DIRECTED to implement the decision herein.

FEDERAL COMMUNICATIONS COMMISSION



Yog R. Varma
Deputy Chief, Common Carrier Bureau