

Nov 29 3 20 PM '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 )
Breitung Township Schools )
Kingsford, Michigan )
Federal-State Joint Board on )
Universal Service )
Changes to the Board of Directors of the )
National Exchange Carrier Association, Inc. )

File No. SLD-7351

CC Docket No. 96-45 ✓

CC Docket No. 97-21

ORDER

Adopted: November 22, 1999

Released: November 22, 1999

By the Common Carrier Bureau:

1. The Common Carrier Bureau (Bureau) has under consideration an appeal filed by Breitung Township Schools of Kingsford, Michigan (Breitung), on June 25, 1999, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator). Breitung 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 Breitung's appeal, and remand Breitung'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 funding year (January 1, 1998 - June 30, 1999) of the support mechanism, SLD

1 See Letter of Douglas M. Massignan, Breitung Township Schools, to Office of the Secretary, FCC, dated June 22, 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 January 26, 1999, the SLD denied Breitung's application for discount funding, on the grounds that requests for internal connections were not funded at Breitung's discount level.<sup>4</sup> Breitung appealed SLD's decision, stating that its application sought discounts for Internet access, rather than internal connections.<sup>5</sup> In its Decision on Appeal, SLD again denied Breitung's application for discounts.<sup>6</sup> SLD explained that Breitung's request was 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 Breitung did not qualify for the 70 percent discount, its funding request for services now classified as internal connections was denied.

4. In *Williamsburg-James City*,<sup>7</sup> 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*,<sup>8</sup> applicants could not have been aware of the need to segregate carefully their service requests.<sup>9</sup> 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 Breitung's application 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 Breitung Township Schools, Kingsford, Michigan, on June 25, 1999, IS GRANTED.

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<sup>4</sup> See Letter of the Schools and Libraries Division of the Universal Administrative Company, to Douglas M. Massignan, Breitung Township School District, dated January 26, 1999.

<sup>5</sup> See Letter of Douglas M. Massignan, Breitung Township Schools, to Schools and Libraries Division of the Universal Service Administrative Company, dated February 5, 1999.

<sup>6</sup> See Letter of the Schools and Libraries Division of the Universal Administrative Company, to Douglas M. Massignan, Breitung Township School District, dated May 27, 1999.

<sup>7</sup> *Request for Review of the Decision of the Universal Service Administrator by Williamsburg-James City Public Schools*, CC Docket Nos. 96-45 and 97-21, Order, FCC 99-298 (rel. October 15, 1999) (*Williamsburg-James City*).

<sup>8</sup> *Federal-State Joint Board on Universal Service, Fifth Order on Reconsideration and Fourth Report and Order*, 13 FCC Rcd 14915, 14938-39, paras. 36-37 (1998) (*Fifth Reconsideration Order*).

<sup>9</sup> Breitung filed its FCC Form 471 application for discounts on April 12, 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

A handwritten signature in black ink, appearing to read "Yog R. Varma", with a long horizontal flourish extending to the right.

Yog R. Varma  
Deputy Chief, Common Carrier Bureau