

Before the
Federal Communications Commission
Washington, D.C. 20554

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FCC MAIL SECTION

In the Matter of)	
)	
Request for Review)	
of the Decision of)	
the Universal Service Administrator by)	
)	
Mifflin County Library)	File No. SLD 10711
Lewistown, Pennsylvania)	
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45 ✓
)	
Changes to the Board of Directors)	CC Docket No. 97-21
of the National Exchange Carrier)	
Association, Inc.)	

ORDER

Adopted: November 16, 1999

Released: November 16, 1999

By the Common Carrier Bureau:

1. The Bureau has under consideration a Letter of Appeal filed by the Mifflin County Library (Mifflin) on June 7, 1999, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator). Mifflin seeks review of the SLD's denial of its application for discounts under the schools and libraries universal service support mechanism.¹ For the reasons set forth below, we grant the Letter of Appeal to the extent provided herein.

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.²

3. By letter dated February 24, 1999, the SLD denied Mifflin's request for discounts. Mifflin appealed the SLD's decision by letter dated March 17, 1999. On May 14, 1999, the SLD affirmed its initial funding decision. The Administrator's Decision on Appeal indicated that each of the funding request numbers (FRNs) that were not funded included both one-time priority two costs and monthly priority one costs and, as a result, the entire funding

¹ 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).

² 47 C.F.R. §§ 54.502, 54.503.

request was recategorized by SLD as internal connection services so as to "avoid the possibility of treating priority two services (internal connections) as priority one services (telecommunications, dedicated and Internet access services)." It further indicated that approved procedures do not permit SLD "to split funding requests."

4. In its request for review of the SLD's decision that is now before us, Mifflin challenges the SLD's practice. It argues that there was never a rule indicating that, if categories of service were mixed, all items within an FRN would be reclassified to priority two status.

5. In *Williamsburg-James City*,³ 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*,⁴ applicants could not have been aware of the need to segregate carefully their service requests. Consequently, the Commission held that, in appeals involving 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 Mifflin'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.

6. 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 the Mifflin County Library on June 7, 1999 IS GRANTED to the extent provided herein.

7. 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

³ *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*).

⁴ *Federal-State Joint Board on Universal Service*, Fifth Order on Reconsideration and Fourth Report and Order, 13 FCC Rcd 14915, 14938-39 (1998) (*Fifth Reconsideration Order*), paras. 36-37.