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Federal Communications Commission

DA 99-2368

DISPATCHED BY

Before the  
Federal Communications Commission  
Washington, DC 20554

In the Matter of	)	
	)	
Request for Review of the	)	
Decision of the	)	
Universal Service Administrator by	)	
	)	
Sparta Area School District	)	File No. SLD-44467
Sparta, Wisconsin	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45 ✓
Universal Service	)	
	)	
Changes to the Board of Directors of the	)	CC Docket No. 97-21
National Exchange Carrier Association, Inc.	)	

**ORDER**

**Adopted: October 29, 1999**

**Released: October 29, 1999**

By the Common Carrier Bureau:

1. The Common Carrier Bureau (Bureau) has under consideration an appeal filed by the Sparta Area School District (Sparta) on June 3, 1999, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator). Sparta seeks review of the SLD's denial of its application for discounts under the schools and libraries universal service support mechanism.<sup>1</sup> For the reasons set forth below, we grant Sparta's 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.<sup>2</sup>

3. By letter dated January 26, 1999, the SLD denied Sparta's request for discounts. Sparta appealed the SLD's decision by letter dated February 5, 1999. On May 19, 1999, the SLD affirmed its initial funding decision. The Administrator's Decision on Appeal indicated that services listed by Sparta as dedicated access/Internet access included some internal connection services. It further indicated that, where a particular funding request included some

<sup>1</sup> 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).

<sup>2</sup> 47 C.F.R. §§ 54.502, 54.503.

internal connections, the entire funding 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)." Because internal connections are funded only when a poverty/discount level of 70% or above has been shown, these services could not be supported for this funding period.<sup>3</sup>

4. In Sparta's request for review of SLD's decision that is now before us, Sparta states that insufficient staff resources and intricate program rules contributed to Sparta's failure to properly classify services in its application for discounts for Internet access and internal connections. Sparta contends that its inclusion of certain equipment that was determined by the Administrator to constitute internal connections in its request for discounts for Internet access should not have resulted in SLD's denial of the total request for discounts for Internet access. Sparta requests that SLD approve its funding request for Internet access less the cost of this equipment.

5. In *Williamsburg-James City Schools*,<sup>4</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 Order on Reconsideration*,<sup>5</sup> applicants could not have been aware of the need to segregate carefully their service requests. 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. Therefore, we remand Sparta's application to SLD and we 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 Sparta Area School District, Sparta, Wisconsin on June 3, 1999 IS GRANTED to the extent indicated herein.

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<sup>3</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to Dr. Gerald Trochinski, Sparta Area Schools, dated May 19, 1999 (*Administrator's Decision on Appeal*).

<sup>4</sup> *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 Schools*).

<sup>5</sup> *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Fifth Order on Reconsideration and Fourth Report and Order, 13 FCC Rcd 14915, 14934 (1998) (*Fifth Order on Reconsideration*), para. 31.

7. 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