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

In the Matter of)

Request for Review of the)
Decision of the)
Universal Service Administrator by)

Be'er Hagolah Institutes)
Brooklyn, New York)

Federal-State Joint Board on Universal Service)

Changes to the Board of Directors)
of the National Exchange Carrier)
Association, Inc.)

File No. SLD - 108710

CC Docket No. 96-45 ✓

CC Docket No. 97-21

ORDER

Adopted: October 25, 1999

Released: October 25, 1999

By the Common Carrier Bureau:

1. The Common Carrier Bureau has under consideration an appeal filed by Be'er Hagolah Institutes, Brooklyn, New York (Be'er Hagolah), on May 28, 1999, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator). For the reasons set forth below, we deny Be'er Hagolah's appeal.

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.¹ By letter, dated February 24, 1999, SLD denied Be'er Hagolah certain requests for discounts pursuant to section 254 of the Communications Act of 1934, as amended.² On appeal, the

¹ 47 C.F.R. §§ 54.402, 54.503.

² 47 U.S.C. § 254(h)(1)(B) and (h)(2). In the application process, SLD assigns numbers, called funding request numbers (FRN), to each specific request for discounted services. We will refer to the request for services as FRNs.

Administrator asked for a copy of a contract covering the FRNs in dispute, which Be'er Hagolah provided. After considering Be'er Hagolah's appeal, including the requested contract, the Administrator determined that the disputed FRNs raised by Be'er Hagolah in its appeal should be denied, and, in addition, determined that three other FRNs, originally approved by SLD, should be denied because they were covered by a contract signed outside the filing window period.³ On May 28, 1999, Be'er Hagolah filed the instant appeal.⁴ In Be'er Hagolah's Letter of Appeal, it states:

[o]n the [Administrator's] decision letter it states that our contract was signed April 7, 1999, which would indeed disqualify us from the 1998 [application filing] window. We actually signed the contract . . . on April 7, 1998 followed by submission of the 471. During the appeals process, we might have inadvertently submitted the wrong signature sheet (from an additional contract we signed in April 1999, for year 2 of e-rate).⁵

2. Be'er Hagolah concedes that, if its contract covering the disputed FRNs was signed on April 7, 1999, it would not be eligible for funding from the federal schools and libraries program for these services. Under the Commission's rules, funds available for discounted services are provided on a first-come-first-served basis, but applications filed within an initial filing period (the filing window) are treated as if they were received simultaneously.⁶ For the 1998-1999 funding year, that filing window closed April 15, 1998. Moreover, because demand for discounted services exceeded the available funding, no applications for discounted services filed outside the filing window received funding. Based on a review of SLD's records, it is clear that Be'er Hagolah, in response to a request for a copy of the contract covering the disputed FRNs, sent a copy of a contract signed on April 7, 1999 to SLD. Indeed, Be'er Hagolah concedes that it "might have inadvertently submitted the wrong signature sheet."⁷ Therefore, based on the information before it, SLD correctly denied Be'er Hagolah's appeal.

3. Be'er Hagolah claims, however, that the contract covering the FRNs in dispute was signed prior to the close of the filing window and, therefore, it is eligible for funding.

³ See Administrator's Decision on Appeal, dated May 10, 1999.

⁴ See Letter from Lillian German, Be'er Hagolah Institutes, to Federal Communications Commission, dated May 24, 1999 ("Letter of Appeal").

⁵ Letter of Appeal at 1.

⁶ 47 C.F.R. § 54.507(c).

⁷ Letter of Appeal at 1.

On appeal to the Commission, Be'er Hagolah has provided a copy of a contract signed on April 7, 1998 that purports to cover the disputed FRNs. Although Be'er Hagolah's mistake is unfortunate, we deny its appeal here. In light of the thousands of applications that must be reviewed and processed each funding year, we believe it is administratively appropriate to require an applicant to be responsible for the accuracy of the information it submits to support its request for discounted services. SLD's records show that Be'er Hagolah failed to provide accurate information and, therefore, SLD's decision on the record before it was correct. Accordingly, we deny Be'er Hagolah's appeal.⁸

4. In addition, we note that SLD denied some of the relevant FRNs for reasons other than the date of the contract discussed in paragraph 4, *supra*. In seeking Commission review, however, Be'er Hagolah did not specifically state any other reason to support a decision to overturn the Administrator with regard to any disputed FRNs. Although Be'er Hagolah did ask the Commission to "review the attached material and adjust [funding requests] accordingly," Be'er Hagolah provided no additional reasons why it believes the Administrator's decision was incorrect. Our rules specifically state that a request for review "shall contain . . . (ii) a full statement of relevant, material facts with supporting affidavits and documentation; (iii) the question presented for review, with reference, where appropriate, to the relevant Federal Communications Commission rule, Commission order, or statutory provision; (iv) a statement of the relief sought and the relevant statutory or regulatory provision pursuant to which such relief is sought."⁹ Be'er Hagolah has failed to provide such information here, and, therefore, we have no basis to overturn these SLD decisions.

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 May 28, 1999, by the Be'er Hagolah Institutes IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Lawrence E. Strickling
Chief, Common Carrier Bureau

⁸ See *Request for Review of the Decision of the Universal Service Administrator by Ethical Culture Fieldston School*, CC Docket Nos. 96-45 and 97-21, File No. SLD-108771, DA 99-2201 (Com. Car. Bur. rel. Oct. 15, 1999).

⁹ 47 C.F.R. § 54.721(b).