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Federal Communications Commission

DA 99-2364

DISPATCHED BY

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)	
)	
Helena Township Public Library)	File No. SLD-41261
Alden, Michigan)	
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45 ✓
)	
Changes to the Board of Directors)	
of the National Exchange Carrier)	CC Docket No. 97-21
Association, Inc.)	

ORDER

Adopted: October 29, 1999

Released: October 29, 1999

By the Common Carrier Bureau:

1. The Common Carrier Bureau has under consideration a Letter of Appeal filed by Helena Township Public Library (Helena Township), Alden, Michigan, on June 3, 1999, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC or Administrator). Helena Township seeks review of 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 the Letter of Appeal to the extent provided below.

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 In the *Fifth Reconsideration Order*, the Commission established new rules to govern how

¹ 47 U.S.C. 254(h)(1)(B); 47 C.F.R. §§ 54.502, 54.503.

discounts will be allocated when available funding is less than total demand.² These rules provide that requests for telecommunications and Internet access services shall receive first priority for available funds and that requests for internal connections shall receive secondary priority. When sufficient funds are not available to fund all requests for discounts on internal connections, the Administrator shall allocate funds for discounts to schools beginning with those applicants eligible for a ninety percent discount level and, to the extent funds remain, continue to allocate funds for discounts to applicants at each descending single discount percentage, *e.g.*, eighty-nine percent, eighty-eight percent, and so on. For the first funding year, the Administrator allocated funds to cover discounts down to the seventy percent level.

3. In accordance with the Commission's rules, the discount available to a particular school or library is determined by indicators of poverty and high cost.³ The level of poverty for schools and school districts is measured by the percentage of their student enrollment that is eligible for a free or reduced price lunch under the national school lunch program or a federally-approved alternative mechanism.⁴ For libraries, the level of poverty is based on the percentage of the student enrollment that is eligible for a free or reduced price lunch under those programs and mechanisms in the public school district in which they are located.⁵ A school's or library's high-cost status is derived from rules that classify it as urban or rural.⁶ The Commission's rules provide a matrix reflecting both the school's or library's urban or rural status and the percentage of its students who are eligible for the school lunch program to establish its discount rate, ranging from 20 percent to 90 percent.⁷ A school's or library's discount rate is then applied to the cost of eligible services requested by the school or library.⁸

4. In applying for funding for the 1998 funding year, Helena Township indicated that its discount eligibility was eighty percent. In its Funding Commitment Decision Letter, issued on February 24, 1999, SLD stated that Helena Township's discount was corrected to 62

² See *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 Reconsideration Order*), para. 36.

³ 47 C.F.R. § 54.505(b).

⁴ 47 C.F.R. § 54.505(b)(1).

⁵ 47 C.F.R. § 54.505(b)(2).

⁶ 47 C.F.R. § 54.505(b)(3)(i), (ii).

⁷ 47 C.F.R. § 54.505(c).

⁸ 47 C.F.R. § 54.505(c).

percent. SLD granted Helena Township's request for funding for telecommunications services at that corrected level but denied its request for internal connection services, finding that its corrected discount level was below 70 percent.

5. On February 17, 1999, Helena Township filed an appeal with SLD explaining that its township library is in the Mancelona School District, that the Mancelona Schools were funded at the 77 percent discount level and that, according to SLD guidelines, the library discount is to follow the school district. On May 7, 1999, SLD issued its Administrator's Decision on Appeal adjusting Helena Township's discount to 69 percent, based on its recalculation of Helena Township's level of disadvantage. It affirmed its initial decision with regard to internal connections, denying Helena Township's funding request because the adjusted discount level remained below the 70 percent level. With regard to the telecommunications funding requests, SLD partially approved a change to permit funding at the 69 percent level. On June 3, 1999, Helena Township filed the instant appeal of SLD's decision.

6. We have reviewed Helena Township's appeal and the materials accompanying it. Helena Township provides documentation concerning the Mancelona Public School District, the school district in which it is located, and it asserts that the school district was funded at the 77 percent level. We note the discrepancy between the 69 percent discount level established by SLD for Helena Township and the 77 percent discount level that apparently was used for funding Mancelona Public Schools. Because the Commission's rules provide that a library's discount level is to be based on the same percentage as the public school district in which it is located,⁹ we remand this application to SLD to consider this discrepancy, reprocess Helena Township's application, and issue a new funding commitment decision letter, based on the appropriate discount level.

7. To the extent necessary to effectuate the decision above, we grant a waiver of section 54.507(b) of the Commission's rules.¹⁰ This rule provides that schools and libraries may receive discounts on nonrecurring services only through September 30, 1999.¹¹

8. 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 appeal filed by Helena Township Public Library, Alden, Michigan, on

⁹ 47 C.F.R. § 54.505(b)(2).

¹⁰ 47 C.F.R. § 54.507(b)(2).

¹¹ See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Tenth Order on Reconsideration, 14 FCC Rcd 5983, 5993, para. 22 (1999). See also, 47 C.F.R. § 54.507(b)(2).

June 3, 1999 IS GRANTED to the extent provided herein and that Helena Township's application IS REMANDED to SLD for further consideration in light of this decision.

9. IT IS FURTHER ORDERED, pursuant to sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, that section 54.507(b)(2) of the Commission's rules, 47 C.F.R. § 54.507(b)(2), IS WAIVED for a period of six months from the date of this order.

FEDERAL COMMUNICATIONS COMMISSION



Yog R. Varma
Deputy Chief, Common Carrier Bureau