

FCC MAIL SECTION

Federal Communications Commission

DA 99-2285

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

DISPATCHED BY

In the Matter of)	
)	
Request for Review)	
of the Decision of)	
the Universal Service Administrator by)	
)	
Weld County District 6)	File No. SLD-110746
Greeley, Colorado)	
)	
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 22, 1999

Released: October 22, 1999

By the Common Carrier Bureau:

1. The Common Carrier Bureau has under consideration a Letter of Appeal filed by Weld County School District 6, Greeley, Colorado (Weld County) on July 26, 1999, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC or Administrator). Weld County seeks review of the SLD's denial of its application for discounts for internal connection services under the schools and libraries universal service support mechanism. For the reasons set forth below, we deny the Letter of Appeal and affirm the SLD's denial of Weld County's application for discounts for internal connection services.

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 governing 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.³ For the first funding year, the Administrator allocated funds to cover discounts down to the seventy percent level.⁴

3. In accordance with the Commission's rules, the discount available to a particular school is determined by indicators of poverty and high cost.⁵ 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.⁶ A school's high-cost status is derived from rules that classify it as urban or rural.⁷ The rules provide a matrix reflecting both a school's urban or rural status and the percentage of its students eligible for the school lunch program to establish a school's discount rate, ranging from 20 percent to 90 percent, to be applied to eligible services.⁸

4. In applying for funding for the 1998 funding year, Weld County indicated on its Form 471 that its discount eligibility was 61 percent. In its Funding Commitment Letter on January 24, 1999, SLD denied Weld County's request for funding for internal connection services, stating that its discount level was below 62 percent. On February 22, 1999, Weld County submitted a Letter of Appeal to USAC indicating that it had recalculated its discount rate to be 63.11 percent based on January, 1998 numbers.

² See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Fifth Reconsideration Order, 13 FCC Rcd 14915, 14934 (1998) (*Fifth Reconsideration Order*), para. 31.

³ See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Twelfth Report and Order, 1999 WL 343067 (*Twelfth Report and Order*), para. 5.

⁴ *Id.*

⁵ 47 C.F.R. § 54.505(b).

⁶ 47 C.F.R. § 54.505(b)(1).

⁷ 47 C.F.R. § 54.505(b)(3)(i), (ii).

⁸ 47 C.F.R. § 54.505(c).

5. On March 4, 1999, USAC affirmed SLD's initial decision and denied Weld County's appeal. It explained that internal connections are funded only at the 70 percent level or above, and that Weld County was eligible for a discount percentage below this level. On July 26, 1999, Weld County filed this appeal of USAC's decision.⁹

6. We have reviewed Weld County's appeal and conclude that Weld County has not shown that its request for funding for internal connections was improperly denied. We need not determine whether Weld County's discount level should have been 61 percent or the corrected 63.11 percent, insofar as SLD's final determination for the first funding year was that it would be able to grant requests for internal connections only down to the 70 percent discount level. Although SLD's initial Funding Commitment Letter did not reflect SLD's final determination that funding would be insufficient to fund internal connections below 70 percent eligibility, ultimately SLD reached that determination and denied all internal connection requests with discount eligibility below 70 percent.¹⁰

7. 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 Weld County School District, Greeley, Colorado on July 26, 1999 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Robert C. Atkinson
Deputy Chief, Common Carrier Bureau

⁹ Section 54.720(a) of the Commission's rules states that requests for Commission review of an Administrator's decision shall be filed within thirty (30) days of issuance of the decision. 47 C.F.R. § 54.720(a). It appears that Weld County inadvertently did not receive a copy of the Administrator's Decision on Appeal, dated March 19, 1999, until July 8, 1999. For that reason, we will consider Weld County's July 26, 1999 appeal to be timely filed.

¹⁰ See *Twelfth Report and Order*, 1999 WL 343067, para. 5.