

FOC MAIL SECTION

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Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)	
Request for Review of the)	
Decision of the)	
Universal Service Administrator by)	
Vancouver Public Schools)	File Nos. SLD-119796,
Vancouver, Washington)	SLD-142293, SLD-123302,
)	SLD-124574
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: April 14, 2000

Released: April 17, 2000

By the Common Carrier Bureau:

1. The Common Carrier Bureau (Bureau) has under consideration a Letter of Appeal of the Vancouver Public Schools (Vancouver), Vancouver, Washington, filed on January 28, 2000.¹ In that Letter of Appeal, Vancouver seeks review of a funding commitment letter issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC or Administrator) on August 17, 1999, and of three funding commitment decision letters issued by the SLD on October 5, 1999.² For the reasons set forth below, the Bureau denies Vancouver's appeal with respect to the August 17 funding commitment decision letter, and dismisses without prejudice Vancouver's appeal with respect to the three October 5 funding commitment decision letters.

2. On November 1, 1999, Vancouver filed appeals of the four funding commitment decision letters with the SLD.³ On January 4, 2000, the SLD issued an Administrator's Decision on Appeal indicating that it would not consider Vancouver's appeal of the August 17 funding

¹ Letter of Appeal from Thomas E. Cone, Ph.D., Vancouver Public Schools, to Federal Communications Commission (filed January 28, 2000) (Vancouver Letter of Appeal).

² Vancouver Letter of Appeal.

³ Letter of Appeal from Thomas E. Cone, Ph.D., Vancouver Public Schools, to the Schools and Libraries Division (filed November 1, 1999).

commitment letter because it was received more than 30 days after the date its Funding Commitment Decision Letter was issued.⁴ Vancouver subsequently filed its letter of appeal with the Bureau.

3. In the appeal before us, Vancouver argues that its appeal before the SLD was erroneously denied for untimeliness.⁵ Vancouver states that it submitted the appeal on behalf of four relevant funding decision commitment letters which were itemized as part of the appeal.⁶ Vancouver argues that the SLD chose to rely on the funding decision commitment letter referring to SLD application number 119796, issued August 17, 1999, in refusing to consider its appeal when, in fact, three funding decision commitment letters (application numbers 142293, 123302, and 124574) were issued October 5, 1999.⁷ The November 1 letter of appeal was received within the 30-day deadline established by the October 5, 1999, issuance of the funding commitment letters.

4. With respect to Vancouver's appeal from the August 17 funding commitment decision letter, under section 54.720 of the Commission's rules, any appeal must be filed within 30 days of the issuance of the decision as to which review is sought.⁸ Documents are considered to be filed with the Commission or the SLD only upon receipt.⁹ As noted in the funding commitment decision letter issued by the Administrator to Vancouver, "[i]f you wish to appeal to the SLD, your appeal must be made in writing and received by us within 30 days of issuance of this letter"¹⁰ The filing of Vancouver's appeal to the SLD occurred on November 1, 1999. Because the instant Letter of Appeal was not filed within the specified 30-day period, Vancouver's appeal was not timely with respect to the August 17 funding commitment letter. SLD properly refused to consider Vancouver's appeal from the August 17 funding commitment letter, regarding application number 119796.

5. The Administrator's Decision on Appeal did not refer to Vancouver's appeals of the three October 5 funding commitment letters, relating to application numbers 142293, 123302, and 124574.¹¹ Vancouver's appeal with respect to those applications, therefore, remains

⁴ Administrator's Decision on Appeal, from the Schools and Libraries Division, Universal Service Administrative Company, to Joe Schoelein, Vancouver Public School District No. 37 (issued January 4, 2000) (Administrator's Decision on Appeal).

⁵ Vancouver Letter of Appeal.

⁶ Vancouver Letter of Appeal. Vancouver's letter of appeal refers to the various funding request numbers contained within the funding commitment decision letters. Because a single funding commitment decision letter may refer to multiple funding request numbers, for convenience this Order refers instead to the application number that specifically identifies each funding commitment decision letter.

⁷ Vancouver Letter of Appeal.

⁸ 47 C.F.R. § 54.720

⁹ 47 C.F.R. § 1.7.

¹⁰ Funding Commitment Decision Letter, from Schools and Libraries Division, Universal Service Administrative Company, to Joe Schoenlein, Vancouver Public Schools, issued August 17.

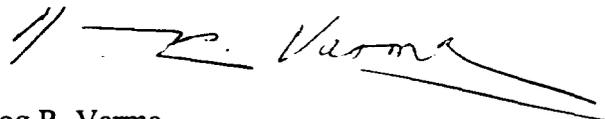
¹¹ Administrator's Decision on Appeal.

pending before the SLD. The Commission's rules regarding appeals of SLD decisions do not contemplate simultaneous appeals to the Commission and the Administrator.¹² In this case, because Vancouver has appeals pending before the Administrator, we dismiss without prejudice Vancouver's Letter of Appeal to the Commission to the extent that it concerns the October 5 funding commitment decision letters, relating to application numbers 142293, 123302, and 124574. Once the Administrator has issued its decision on Vancouver's initial appeal with respect to these issues, Vancouver may then appeal to the Commission if it believes such appeal is warranted at that time.¹³

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 January 28, 2000, by Vancouver Public Schools, Vancouver, Washington, with respect to the funding commitment letter regarding application number 119796, IS DENIED.

7. FURTHER, 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 Vancouver Public Schools, Vancouver, Washington, with respect to the funding commitment letters regarding application numbers 142293, 123302, and 124574, IS DISMISSED WITHOUT PREJUDICE.

FEDERAL COMMUNICATIONS COMMISSION



Yog R. Varma
Deputy Chief, Common Carrier Bureau

¹² See 47 C.F.R. § 54.720 (allowing appeals to either the Commission or the Administrator, but tolling the filing period with the Commission, when an applicant has an appeal pending with the Administrator, until the Administrator issues a decision on the appeal).

¹³ See 47 C.F.R. §§ 54.719 – 54.725 (setting forth rights of review, filing deadlines, standards of review, and other rules pertaining to Commission review of the Administrator's decisions).