

FCC MAIL SECTION

Before the
Federal Communications Commission
Washington, DC 20554
JAN 12 11 39 AM '00

In the Matter of)
 Request for Review of the)
 Decision of the)
 Universal Service Administrator by)
 Ozarks Unlimited Resources Cooperative)
 Harrison, Arkansas)
 On behalf of the Greenbrier School District)
 Federal-State Joint Board on)
 Universal Service)
 Changes to the Board of Directors of the)
 National Exchange Carrier Association, Inc.)

File No. SLD-49050

CC Docket No. 96-45

CC Docket No. 97-21 ✓

ORDER

Adopted: January 6, 2000

Released: January 7, 2000

By the Common Carrier Bureau:

1. The Bureau has under consideration a Letter of Appeal filed by the Ozarks Unlimited Resources Cooperative of Harrison, Arkansas (Ozarks) on April 12, 1999, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator). Ozarks seeks review of the SLD's denial of its application on behalf of the Greenbrier School District for discounts under the schools and libraries universal service support mechanism.¹ For the reasons set forth below, we deny the Letter of 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.²

3. By letter dated February 9, 1999, SLD denied Ozarks request for discount funding in Year 1 of the schools and libraries universal service support mechanism, on the grounds that a significant portion of Ozarks' request included a request for discounts on ineligible video/audio

¹ 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).

² 47 C.F.R. §§ 54.502, 54.503.

control equipment.³ By letter dated February 19, 1999, Ozarks appealed SLD's denial of discounts for Ozarks' funding request. In its letter, Ozarks stated that the ineligible equipment at issue was customer premises equipment, which was not part of its funding request. Rather, according to Ozarks, its funding request was for telecommunications services for a video conferencing link, and not for the ineligible video/audio control equipment.⁴ By letter dated March 19, 1999, SLD again denied Ozarks' request for discounts.⁵ In its Decision on Appeal, SLD stated that Ozarks' funding request included a request for discounts on ineligible products, specifically a video encoder/decoder for the Greenbrier School District and a spare video encoder/decoder.

4. On April 12, 1999, Ozarks filed with the Commission a Letter of Appeal seeking review of SLD's Decision on Appeal.⁶ Ozarks' letter to the Commission raises two questions: (1) whether video encoding and decoding equipment used for interactive educational teleconferencing services is eligible for discounts; and (2) whether the costs for such services less the portion corresponding to the lease of such equipment is eligible for discount.⁷ Ozarks' letter seeks full discount eligibility for the high-bandwidth videoconferencing link for the Greenbrier School District.⁸

5. The leased video encoding and decoding equipment for which Ozarks seeks discounts is ineligible for discounts. Under the schools and libraries support mechanism, only telecommunications services, Internet access, and internal connections are eligible for discounts. The function of Ozarks' leased video equipment is not to transmit information without change in form or content, so it cannot constitute telecommunications service.⁹ The function of the equipment also is unrelated to Internet access. Finally, the equipment does not constitute internal connections, because it is not necessary to transport information.¹⁰ Rather than transporting information, the function of video encoding and decoding equipment is altering the content of information delivered to it. Consequently, the equipment for which Ozarks seeks discounts is

³ See Letter of the Schools and Libraries Division of the Universal Service Administrative Company to Leon McLean, Greenbrier Public School District, dated February 9, 1999 (*Funding Commitment Letter*).

⁴ See Letter of Leon McLean, Ozarks Unlimited Resources Cooperative, to the Schools and Libraries Division of the Universal Service Administrative Company, dated February 19, 1999.

⁵ See Letter of Schools and Libraries Division of the Universal Service Administrative Company to Leon McLean, Ozarks Unlimited Resources Cooperative, dated March 19, 1999 (*Decision on Appeal*).

⁶ See Letter of Leon McLean, Ozarks Unlimited Resources Cooperative, to the Office of the Secretary, FCC, dated April 8, 1999 (*Letter of Appeal*).

⁷ See *id.* at 1.

⁸ See *id.* at 2.

⁹ See 47 U.S.C. § 153(43) (telecommunications "means the transmission . . . of information of the user's choosing . . . without change in the form or content of the information as sent and received.").

¹⁰ See 47 C.F.R. § 54.506 ("A service is eligible for support as a component of an institution's internal connections if such service is necessary to transport information within one or more instructional buildings of a single school campus or within one or more non-administrative buildings that comprise a single library branch.").

ineligible for support. Consequently, we cannot make Ozarks' requested finding of full discount eligibility for the high-bandwidth videoconferencing link for the Greenbrier School District.

6. Finally, we conclude that Ozarks' request for discounts on the costs of teleconferencing services less the portion reflecting the costs of Ozarks' leased video encoding and decoding equipment also is denied. Although Ozarks has submitted information to SLD concerning its monthly aggregate costs to its teleconferencing services provider, it has not submitted any information detailing a breakdown of these costs into those associated with eligible telecommunications services versus those associated with ineligible products or services, such as the costs of the ineligible video encoding and decoding equipment. According to SLD's records pertaining to Ozarks' funding application, SLD requested from Ozarks during the application process a breakdown of its teleconferencing charges into eligible and ineligible services. Ozarks apparently failed to provide SLD with the requested information. Ozarks' Letter of Appeal to the Commission presented it with another opportunity to provide a breakdown of its teleconferencing charges that would distinguish the portion of those charges that is eligible for discounts from the portion that is ineligible. Despite these opportunities throughout the application and appeals processes for Ozarks to offer a cost breakdown, this information has not been forthcoming. Without this information, SLD cannot determine the appropriate level of discount funding to which Ozarks may be entitled. Because Ozarks has failed to provide the requested information, no portion of its request for discounts on teleconferencing services may be funded. Therefore, we find that the Administrator correctly denied Ozarks' request.

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 Ozarks Unlimited Resources Cooperative on behalf of the Greenbrier School District on April 12, 1999, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Yog R. Varma
Deputy Chief, Common Carrier Bureau