

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of
Request for Review of the
Decision of the
Universal Service Administrator by
Wilmington CUSD #209-U
Wilmington, Illinois
Federal-State Joint Board on
Universal Service
Changes to the Board of Directors of
the National Exchange Carriers Association, Inc.
File No. SLD-137122
CC Docket No. 96-45
CC Docket No. 97-21

ORDER

Adopted: August 9, 2000

Released: August 10, 2000

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division (Division) has under consideration a Letter of Appeal filed by Wilmington CUSD #209-U (Wilmington), Wilmington, Illinois, on April 14, 2000, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC or Administrator). Wilmington seeks review of the SLD's denial of requests for discounted services under the schools and libraries universal service support mechanism and requests a waiver of the Commission's competitive bidding requirements. For the reasons set forth below, we deny the Letter of Appeal and affirm the SLD's denial of Wilmington's requests.

2. Upon review of the record, the Division concludes that SLD correctly denied Wilmington's requests for support. To receive support for discounted services, the Commission's rules provide that, with limited exceptions for existing, binding contracts, an applicant must comply with the Commission's competitive bidding requirements, including the

1 Letter from Linda Phifer, Wilmington CUSD #209-U, to the Federal Communications Commission, filed April 14, 2000 (Letter of Appeal).

2 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).

posting of a request for services (FCC Form 470) on SLD's website for 28 days.<sup>3</sup> Because Wilmington checked Item 10, in Block 3 of its FCC Form 470, indicating that it sought support only for services provided pursuant to existing, binding contracts, SLD did not post Wilmington's request for services to SLD's website. The contracts for which Wilmington seeks support, however, do not meet either of the limited exceptions for existing, binding contracts permitted by the Commission's rules. Accordingly, consistent with prior Common Carrier Bureau (Bureau) decisions, SLD correctly denied Wilmington's requests for support.<sup>4</sup>

3. To the extent that Wilmington requests a waiver of the 28-day posting requirement on the ground that it misunderstood the instructions to the FCC Form 470, it has not shown good cause for waiver.<sup>5</sup> The Bureau previously has denied requests for waiver of its competitive bidding requirements when the applicant asserted the need for a waiver based on its own error or misunderstanding of the Commission's rules or SLD's procedures.<sup>6</sup> Because Wilmington offers no further basis for considering its request, the Division denies Wilmington's waiver request.

4. 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 April 14, 2000, Letter of Appeal filed by Wilmington CUSD #209-U, Wilmington, Illinois, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Sharon L. Webber  
Deputy Chief, Accounting Policy Division  
Common Carrier Bureau

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<sup>3</sup> 47 C.F.R. §§ 54.504, 54.511(c)(1) (exempting from competitive bidding requirements (1) contracts signed before July 10, 1997, for the life of the contract; and (2) in Year 1 only, contracts signed between July 10, 1997, and the opening of the Administrator's website on January 30, 1998); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, DA 99-1773, 1999 WL 680424 (Com. Car. Bur. 1999), para. 10 (permitting support for contracts signed in a prior funding year pursuant to the Commission's competitive bidding requirements).

<sup>4</sup> See *Cochrane-Fountain City School District*, CC Docket Nos. 96-45 and 97-21, Order, DA 00-1045, para. 4 (rel. May 17, 2000) (discussing the exceptions to the Commission's competitive bidding requirements for certain existing, binding contracts).

<sup>5</sup> See, e.g., *Mastermind Internet Service, Inc.*, Order, DA 00-167, para. 15 (rel. May 23, 2000) ("Waiver is . . . appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule."); 47 C.F.R. § 1.3.

<sup>6</sup> See, e.g., *Scranton School District*, CC Docket Nos. 96-45 and 97-21, Order, DA 00-20, para. 8 (rel. January 7, 2000).