

FEDERAL SERVICE

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Aug 28 1 53 PM '00  
Before the  
Federal Communications Commission  
Washington, D.C. 20554

Aug 30 9 40 AM '00

In the Matter of	)	
	)	
Request for Waiver by	)	
	)	
Council Bluffs Community Schools	)	SLD-E007282
Council Bluffs, Iowa	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45 ✓
	)	
Changes to the Board of Directors of the	)	CC Docket No. 97-21
National Exchange Carrier Association, Inc.	)	

ORDER

Adopted: August 21, 2000

Released: August 22, 2000

By the Common Carrier Bureau:

1. The Common Carrier Bureau has under consideration a Request for Waiver filed by Council Bluffs Community Schools (Council Bluffs), Council Bluffs, Iowa, on March 9, 2000.<sup>1</sup> Council Bluffs seeks a waiver of the filing window deadline for the 1998-99 funding year (Year 1) of the schools and libraries universal service support mechanism. For the reasons set forth below, we grant Council Bluffs' Request for Waiver.

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.<sup>2</sup> The schools and libraries universal support mechanism is administered by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).<sup>3</sup> The Commission's rules require that the applicant make a bona fide request for services by filing with SLD an FCC Form 470,<sup>4</sup> which is posted to the Administrator's website for all potential competing service providers to review.<sup>5</sup> After the FCC Form

<sup>1</sup> Letter from Dr. Jo Campbell, Council Bluffs Community Schools, to Federal Communications Commission, filed March 9, 2000 (Request for Waiver).

<sup>2</sup> 47 C.F.R. §§ 54.502, 45.503.

<sup>3</sup> See 47 C.F.R. § 54.705(a)(1) (setting forth the functions of the Schools and Libraries Committee) and 47 C.F.R. § 54.701(g)(i) (directing the Administrator to establish the Schools and Libraries Division, and setting forth its functions).

<sup>4</sup> Schools and Libraries Universal Service, Description of Services Requested and Certification Form, OMB 3060-0806 (FCC Form 470).

<sup>5</sup> 47 C.F.R. § 54.504(b); *Universal Service Order*, 12 FCC Rcd at 9078, para. 575.

470 is posted, the applicant must wait at least 28 days before entering an agreement for services and submitting an FCC Form 471, which requests support for eligible services.<sup>6</sup> SLD reviews the FCC Forms 471 that it receives and issues funding commitment decisions in accordance with the Commission's rules.

Section 54.507(g) of the Commission's rules provides, *inter alia*, that applicants filing applications during a filing window receive priority for support as compared to applicants that file their applications after the window has closed.<sup>7</sup>

3. In its Request for Waiver and accompanying materials, Council Bluffs indicates that it filed its FCC Form 470 on February 6, 1998.<sup>8</sup> On March 20, 1998, Council Bluffs, in anticipation of awarding contracts for requested services, contacted SLD and learned that, due to SLD's error, its FCC Form 470 had not been posted to SLD's website.<sup>9</sup> An SLD representative arranged for the FCC Form 470 to be posted and advised Council Bluffs to wait 28 days before filing its FCC Form 471.<sup>10</sup> Council Bluffs followed the SLD representative's instructions and filed its FCC Form 471 on April 27, 1998.<sup>11</sup> Because Council Bluffs filed after the April 15, 1998, filing window deadline, Council Bluffs lost the priority for funding that it would have held had SLD correctly posted Council Bluffs' FCC Form 470. If SLD had correctly posted the FCC Form 470, Council Bluffs could have complied with the Commission's competitive bidding rules and filed its FCC Form 470 before April 15, 1998.

4. Council Bluffs now requests that we waive the filing window deadline to allow SLD to process Council Bluffs' application, thereby according it the same priority as applicants that filed during the window.<sup>12</sup> Review of the record reveals that an excessive delay by SLD in posting Council Bluffs' FCC Form 470 did, in fact, occur. The Administrator's error resulted in a circumstance that essentially forced Council Bluffs to choose between (1) complying with the 28-day waiting period required by the Commission's competitive bidding rules and, as a result, filing outside the window, and (2) filing its FCC Form 471 within the filing window in contravention of the 28-day waiting period requirement. In *Runnemedede*, the Bureau waived the 28-day waiting period for an applicant that chose to file during the window rather wait 28 days when faced with the same choice.<sup>13</sup> Similarly, in light of the fact that SLD's failure to post Council Bluffs' FCC Form 470 to its website resulted in Council Bluffs' failure to file its application within the Year 1 filing window, the Bureau believes that a waiver of the filing window deadline is warranted. Under these circumstances, we remand Council Bluffs' application to SLD for processing and the issuance of an appropriate Funding Commitment Letter.

5. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections

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<sup>6</sup> 47 C.F.R. § 54.504(b), (c); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (FCC Form 471).

<sup>7</sup> 47 C.F.R. § 54.507(g).

<sup>8</sup> Request for Waiver, at 15.

<sup>9</sup> Request for Waiver, at 15.

<sup>10</sup> Request for Waiver, at 15.

<sup>11</sup> Request for Waiver, at 16.

<sup>12</sup> Request for Waiver, at 1.

<sup>13</sup> *Runnemedede Public Schools*, CC Docket Nos. 96-45 and 97-21, Order, DA 99-2957 (rel. December 21, 1999).

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 Request for Waiver filed by Council Bluffs Community Schools, Council Bluffs, Iowa, on March 9, 2000, IS GRANTED to the extent provided herein and that Council Bluffs' application IS REMANDED to SLD for further consideration in light of this decision.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink, appearing to read "Yog R. Varma", with a long horizontal flourish extending to the right.

Yog R. Varma  
Deputy Chief, Common Carrier Bureau