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

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| In the Matter of | ) | |
| | ) | |
| Request for Review of the Decision of the Universal Service Administrator by | ) | |
| | ) | |
| Adams Twelve Five Star Schools Northglenn, Colorado | ) | File No. SLD-139110 |
| | ) | |
| Federal-State Joint Board on Universal Service | ) | CC Docket No. 96-45 |
| | ) | |
| Changes to the Board of Directors of the National Exchange Carrier Association, Inc. | ) | CC Docket No. 97-21 |

# ORDER

**Adopted: February 13, 2001** **Released: February 14, 2001**

By the Common Carrier Bureau:

1. The Common Carrier Bureau (Bureau) has under consideration a Request for Review filed by Adams Twelve Five Star Schools (Adams Twelve), Northglenn, Colorado, on April 26, 2000.[1] Adams Twelve seeks review of a decision of the Schools and Libraries Division (SLD) of the Universal Service Administrative Company, denying Adams Twelve's request for support. For the reasons discussed below, we grant Adams Twelve's Request for Review and remand its application to SLD for further consideration.

2. Adams Twelve requests review of a decision by SLD to deny Adams Twelve's funding request.[2] SLD concluded that ineligible services constituted more than 30 percent of Adams Twelve's funding request.[3] In requesting review, Adams Twelve argues that SLD's

[1] Letter from Judy Margrath-Huge, Adams Twelve Five Star Schools, to the Federal Communications Commission, filed April 26, 2000 (Request for Review). 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] Letter from Schools and Libraries Division, Universal Service Administrative Company, to John Ackelson, Adams Twelve Five Star District, dated August 10, 1999 (Funding Commitment Decision Letter); Letter from Schools and Libraries Division, Universal Service Administrative Company, to Peggy Crimins, Adams Twelve Five Star District, dated March 28, 2000 (Administrator's Decision on Appeal).

[3] The "30-percent policy" is not a Commission rule, but rather is an SLD operating procedure established pursuant to FCC policy. *See Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service,* CC Docket Nos. 97-21 and 96-45, Third Report and Order in CC Docket No. 97-21 and Fourth Order on Reconsideration in CC Docket No. 97-21 and Eighth Order on (continued....)

erroneous determination of ineligibility for several items caused it to exceed the 30 percent threshold. Specifically, Adams Twelve identifies two items—a warranty/maintenance line item and an alpha battery line item—for which it requested support at each of multiple sites.[4] As a general matter, both items are conditionally eligible, depending on whether they are associated with other eligible services.[5] If these services are eligible in this instance, then SLD erroneously applied the 30 percent rule to deny Adams Twelve's application. Neither the Funding Commitment Decision Letter nor the Administrator's Decision on Appeal, however, indicate the basis for SLD's determination that these components of Adams Twelve's funding request were ineligible. In other instances where SLD has failed to provide an explanation for its determination of ineligibility, the Bureau has remanded the application to SLD for further consideration.[6] We believe that such action is also appropriate here and shall remand Adams Twelve's application to SLD for further consideration.[7]

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Reconsideration in CC Docket No. 96-45, 13 FCC Rcd 25058 (1998). This operating procedure, used during SLD's application review process, enables SLD to efficiently process requests for funding for services that are eligible for discounts but that also include some ineligible components. If 30 percent or less of the request is for funding of ineligible services, SLD normally will issue a funding commitment for the eligible services. If more than 30 percent of the request is for funding of ineligible services, SLD will deny the funding request in its entirety. The 30 percent policy allows SLD to efficiently process requests for funding that contain only a small amount of ineligible services without expending significant fund resources working with applicants that, for the most part, are requesting funding of ineligible services.

[4] Adams Twelve requests support for four of the five schedules (Schedules A through E) included in its contract for services. Each schedule relates to a package of services to be provided to an educational building of a particular size or type. For example, "Schedule C" relates to "large schools/campuses." Because Adams Twelve has three schools of that type, it requests support for all of the items on Schedule C for each of the schools. Therefore, even though Schedule C lists only one alpha battery, Adams Twelve actually requested support for three alpha batteries pursuant to its Schedule C. The other alpha batteries and warranty line items at issue in Adams Twelve's appeal are similarly multiplied on Schedules C, D, and E.

[5] *See* SLD web site, Eligible Services List (December 2, 1999) <http://www.sl.universalservice.org/reference/eligible.asp.

[6] *See, e.g., Request for Review by Terral School District 3, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-118223, CC Dockets No. 96-45 and 97-21, Order, 15 FCC Rcd 17969 (Com. Car. Bur. 2000).

[7] As in *Terral School District 3*, we do not suggest that the circumstances require a decision in Adams Twelve's favor, but find only that under the circumstances SLD's failure to explain the basis for its decision requires remand.

3. 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 Request for Review filed by the Adams Twelve Five Star Schools, Northglenn, Colorado, on April 26, 2000, IS GRANTED to the extent provided herein. We direct the Schools and Libraries Division to review Adams Twelve's funding application and, if warranted, to issue a revised Funding Commitment Decision Letter in accordance with the above-stated decision.

FEDERAL COMMUNICATIONS COMMISSION

Carol E. Mattey

Carol E. Mattey
Deputy Chief, Common Carrier Bureau