



Merrimack Valley Library Consortium
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February 21, 2001

FEB 22 2001

Federal Communications Commission
 Office of the Secretary
 445 12th Street S.W.
 Room TW-A325
 Washington, D.C. 20554

FCC MAIL ROOM

Reference: CC Docket Nos. 96-45 and 97-21

Merrimack Valley Library Consortium appeals the Administrator's Decision on Appeal on Form 471 Application Number 170257, Funding Request Number 338072 contained in the attached letter dated February 15, 2001.

This ruling is in error in that it denies the funding request in full based on the inclusion of some elements of internal connections in an application for internet service support. The internal connections portion of the application (one time charges before discount of \$2,633.75) account for less than 12% of the total funding before discount (\$23,357.75).

If the application is denied, it should not be denied as a whole. The month-to-month cost of the internet connection should be considered as eligible, and should be funded at the Consortium's 44% discount. Rather than a denial in full, the appropriate ruling is a denial of discount on \$2,633.75 before discount and a granting of a 44% discount on the recurring costs of \$20,727.00.

I will be leaving Merrimack Valley Library Consortium at the end of this month. Further correspondence on this matter should be directed to Lawrence W. Rungren, Acting Executive Director, at this address. He may be reached by telephone at (978) 475-7160. His email address is lrungren@mailserv.mvlc.lib.ma.us

Respectfully submitted,

Bill B. Manson
 Executive Director

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2.20.01

**Administrator's Decision on Appeal
Funding Year Three (June 30, 2000 – July 31, 2001)**

February 15, 2001

Bill Manson
Merrimack Vly Lib Consortium
123 Tewksbury Street
Andover, MA 01810

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FEB 22 2001

FCC MAIL ROOM

Re: Billed Entity Number: 120368
471 Application Number: 170257
Funding Request Number(s): 338072
Your Correspondence Dated: July 6, 2000

After thorough review and investigation of all relevant facts, the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") has made its decision in regard to your appeal of SLD's Year Three Funding Commitment Decision for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 30-day time period for appealing this decision to the Federal Communications Commission ("FCC"). If your letter of appeal included more than one Application Number, please note that for each application for which an appeal is submitted, a separate letter is sent.

Funding Request Number: 338072
Decision on Appeal: **Denied in full**
Explanation:

The services you listed as Internet Access on your Form 471 included some internal connection services. In appeal you stated that the change of service category was done in error by SLD. Upon review of the 471 application, the FRN was reclassified due to an equipment charge. Based on the original attachment sent by you, the one-time cost is for a Cisco router, a CSU/DSU and installation of the line. Since you included equipment charge in a priority-one service category (Internet Access), you were contacted to see if the equipment used was to provide an end-to-end Internet Access. To be considered part of the end-to-end Internet Access services, the applicant must meet certain criteria. The criteria are: 1) There can be no indication of a future transfer of ownership of the equipment to the applicant, 2) The equipment must not be used for any purpose other than the provision of the telecommunications services or Internet access, and 3) If the equipment were removed from the network, the school/library Local Area Network (LAN) would continue to function without interruption. Since your e-mail responded

that you own the Cisco Router and the CSU/DSU in this matter, the equipment in FRN 338072 does not meet the criteria to be considered part of the end-to-end Internet Access services. The equipment charge is what causes the reclassification of the service category from Internet Access to Internal connections. For Funding Year Three, there are not sufficient funds to provide internal connections discounts to applicants at your discount rate. Your discount rate is 44%. Consequently, SLD denies your appeal because funding cap will not provide for Internal Connections less than 82% discount to be funded this year.

FCC rules require that where demand for funding exceeds available support, first priority be given to requests for telecommunications services and Internet access. *See* 47 C.F.R. §54.507(g)(1)(i). FCC rules further require that requests for internal connections be given second priority, and be funded only if funds remain after support has been provided for telecommunications and Internet access through all discount levels in a funding year. *See* 47 C.F.R. § 54.507(g)(1)(ii). Where demand for discounts for internal connections exceeds available support, FCC rules require funding be awarded first to applicants eligible for a ninety percent discount level, and then at each descending single discount percentage until funds are depleted. *See* 47 C.F.R. § 54.507(g)(1)(iii). Program procedures further require that funding requests for telecommunications/Internet access services that include internal connections services be recategorized as internal connections services to prevent priority two services (internal connections) being treated as priority one services (telecommunications and Internet access services) for funding decisions.

If you believe there is a basis for further examination of your application, you may file an appeal with the Federal Communications Commission, Office of the Secretary, 445 12th Street, SW, Room TW-A325, Washington, DC 20554. Please reference CC Docket Nos. 96-45 and 97-21 on the first page of your appeal. Before preparing and submitting your appeal, please be sure to review the FCC rules concerning the filing of an appeal of an Administrator's Decision, which are posted on the website at <www.universalservice.org>. **You must file your appeal with the FCC no later than 30 days from the date on this letter for your appeal to be filed in a timely fashion.**

We thank you for your continued support, patience, and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

Yr 3 ADL

Date