

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

2001 MAR -6 P 1: 16

In the Matter of	)	
	)	
Request for Review of the Decision of the	)	
Universal Service Administrative Company	)	RECEIVED
by	)	
	)	
Maine School Administrative District #49	)	SLD-126566
Fairfield, Maine	)	
	)	
Federal-State Joint Board on Universal	)	CC Docket No. 96-45
Service	)	
	)	
Changes to the Board of Directors of the	)	CC Docket No. 97-21 ✓
National Exchange Carrier Association, Inc.	)	

**ORDER**

**Adopted:** February 28, 2001

**Released:** March 1, 2001

By the Common Carrier Bureau:

1. The Common Carrier Bureau (Bureau) has under consideration a Request for Review filed by Maine School Administrative District #49 (Maine), Fairfield, Maine, on April 7, 2000.<sup>1</sup> Maine seeks review of a funding commitment decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) pursuant to a request for support for internal connections services.<sup>2</sup> For the reasons set forth below, we deny Maine's Request for Review.

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>3</sup> In

<sup>1</sup> Request for Review by Maine School Administrative District #49 of the Decision of the Universal Service Administrator, CC Docket Nos. 96-45 and 97-21, Request for Review, filed April 7, 2000 (Request for Review).

<sup>2</sup> See Letter from Schools and Libraries Division, Universal Service Administrative Company, to Allen J. Curtis, Maine School Administrative District #49, dated September 14, 1999 (Funding Commitment Decision Letter); Letter from Schools and Libraries Division, Universal Service Administrative Company, to Allen J. Curtis, Maine School Administrative District #49, dated May 4, 2000 (Administrator's Decision on Appeal).

<sup>3</sup> 47 C.F.R. §§ 54.502, 54.503.

order to receive discounts on eligible services, the applicant must file with the Administrator an FCC Form 471 to notify the Administrator of the services that have been ordered, the carrier with whom the applicant has signed the contract, and an estimate of funds needed to cover the discounts to be given for eligible services.<sup>4</sup> Using information provided by the applicant in its FCC Form 471, the Administrator determines the amount of discounts for which the applicant is eligible.

3. Applicants may only seek support for eligible services.<sup>5</sup> The instructions for the FCC Form 471 clearly state: “YOU MAY NOT SEEK SUPPORT ON THIS FORM FOR INELIGIBLE SERVICES.”<sup>6</sup> The instructions further clarify that “[w]hile you may contract with the same service provider for both eligible and ineligible services, your contract or purchase agreement must clearly break out costs for eligible services from those for ineligible services.”<sup>7</sup> The instructions direct applicants to SLD’s website for additional information. Although SLD reduces a funding request to exclude the cost of ineligible services in circumstances where the ineligible services represent less than 30 percent of the total funding request, SLD will deny a funding request in its entirety if ineligible services constitute more than thirty percent of the total.<sup>8</sup> Similarly, SLD will also deny support for a particular product—even if the remainder of the funding request is granted—if more than thirty percent of the requested support associated

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<sup>4</sup> 47 C.F.R. § 54.504(c); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (Form 471).

<sup>5</sup> 47 C.F.R. §54.504 *et seq.*

<sup>6</sup> Instructions for Completing the Schools and Libraries Universal Service Services Ordered and Certification Form (FCC Form 471) (December 1998) at 15 (Form 471 Instructions).

<sup>7</sup> Form 471 Instructions at 16.

<sup>8</sup> See *Request for Review of the Decision of the Universal Service Administrative Company by Ubly Community Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD 113262, CC Docket Nos. 96-45 and 97-21, Order, DA 00-1517 (Com. Car. Bur. rel. July 10, 2000) (*Ubly Community Schools*); *Request for Review of the Decision of the Universal Service Administrator by Anderson School, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-133664, CC Docket Nos. 96-45 and 97-21, Order, DA 00-2630, para. 8 (rel. November 24, 2000) (*Anderson School*). 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 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 consider the application and 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 are requesting funding of ineligible services.

with the product is attributable to ineligible services. In either the funding-request or product-specific situation, an applicant can avoid denial by subtracting out, at the time of its initial application, the cost of ineligible services.

4. SLD denied Maine's request for support, stating that more than thirty percent of Maine's request included support for three ineligible voice servers.<sup>9</sup> Upon appeal, SLD again concluded that the cost for the voice servers as well as surge protector panels and labor associated with the installation of those ineligible items was greater than thirty percent of the amount of discounts requested.<sup>10</sup> In the instant appeal, Maine contends SLD incorrectly determined that the voice servers were ineligible voice-mail servers, rather than PC-based private branch exchanges (PBX), which are eligible.<sup>11</sup>

5. According to the documentation supplied by Maine, the equipment at issue provides a number of services, both eligible, such as PBX and PC Attendant Console, and ineligible, such as voice mail.<sup>12</sup> Maine requested support for the entire cost of purchasing and installing the voice server system, despite the fact that the system is capable of providing ineligible services. Although applicants are admonished not to seek support for ineligible services and to separate the costs of ineligible and eligible services in contracts or purchase agreements that include both, Maine's application failed to distinguish between eligible and ineligible costs in its application.<sup>13</sup> On appeal, Maine argues only that the PBX functionality of the voice servers is an eligible service and never acknowledges the equipment also provides ineligible services, even though it submitted vendor-produced documentation that fully describes a host of ineligible services that the product can provide.<sup>14</sup>

6. In light of these circumstances, the Bureau concludes that SLD properly determined that a significant portion of Maine's request included ineligible services and, therefore, was properly denied.<sup>15</sup> Both the instructions to the FCC Form 471 and the SLD website clearly indicate that applicants may not seek support for ineligible services. It is incumbent on applicants to be familiar with the functionality of the equipment that they are ordering, particularly when such equipment offers multiple functionalities. In this case, Maine cannot credibly argue it was unaware of the ineligible services that the product could provide, when Maine's own submission describes those functionalities. As noted above, the instructions direct applicants to break out the cost of ineligible services, which enables SLD to conserve its

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<sup>9</sup> Funding Commitment Decision Letter.

<sup>10</sup> Administrator's Decision on Appeal.

<sup>11</sup> Request for Review at 2.

<sup>12</sup> Request for Review, Exhibit 2.

<sup>13</sup> Form 471 Instructions at 15-16.

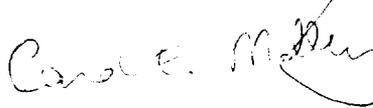
<sup>14</sup> Request for Review.

<sup>15</sup> See *Ubly Community Schools*, para. 6; *Anderson School*, para. 8.

administrative costs in determining whether the application can properly be funded. Given the volume of applications that SLD reviews every year, it is critical that applicants follow instructions and seek support only for eligible services, so that the program can effectively target funds to those services that can be supported. Ultimately, this benefits deserving schools and libraries.

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 April 7, 2000, Request for Review filed by Maine School Administrative District #49, Fairfield, Maine, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Carol E. Matthey  
Deputy Chief, Common Carrier Bureau