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

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In the Matter of	)	
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Request for Review of a Decision of the Universal Service Administrative Company by	)	
	)	
Naperville Community Unit School District 203 Naperville, Illinois	)	File No. SLD-203343
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Changes to the Board of Directors of the National Exchange Carriers Association, Inc.	)	CC Docket No. 97-21

ORDER

Adopted: February 22, 2001 **Released:** February 27, 2001

By the Commission:

1. In this Order, the Commission has under consideration a Request for Review filed by Naperville Community Unit School District 203 (Naperville).[1] Naperville requests review of a decision by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC or Administrator) that returned, without consideration, Naperville's application under the schools and libraries universal service support mechanism for failing to complete its application consistent with SLD's minimum processing standards.[2] For the reasons discussed below, we grant Naperville's Request for Review.

I. BACKGROUND

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.[3] To

[1] Letter from Eric Militz, Naperville Community Unit School District 203, to the Federal Communications Commission, filed July 11, 2000 (*Request for Review*).

[2] Letter from Schools and Libraries Division, Universal Service Administrative Company, to Marty Barnicle, Naperville Community Unit School District 203, dated June 14, 2000 (*Administrator's Decision*).

[3] 47 C.F.R. §§ 54.502, 54.503.

receive discounts for eligible services, an eligible school or library "shall . . . submit a completed FCC Form 471 to the Administrator."[4] The FCC Form 471 requires the applicant to provide specific information about the service for which a discount is sought.[5] Applications filed during the filing window are deemed simultaneously filed.[6] The filing window for the 2000-01 funding year (Year 3) opened on November 10, 1999, and closed on January 19, 2000.[7] Applicants requested discounts in excess of the program funding cap during the Year 3 filing window.[8] As a result, SLD considered only those applications filed during the window pursuant to the Commission's funding priority rules.[9]

3. The FCC Form 471 is broken up into "blocks" that group related or interdependent requests for information, called "items," together.[10] The application form is designed to enable SLD to determine efficiently whether the applicant meets statutory requirements and our implementing rules. For applications involving more complex requests, the applicant may need to complete a given block several times with different responses.[11] When an applicant reproduces a block multiple times in the same application, each reproduced block is considered a separate "worksheet." When completing multiple worksheets applicants are instructed to number the worksheets, *e.g.*, A-1, A-2, A-3.

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[4] 47 C.F.R. § 54.504(c).

[5] *See* Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (*FCC Form 471*) (attached as Appendix A). On the FCC Form 471, the applicant records data used by SLD to evaluate the eligibility for discounts of the services received and the entities receiving them, as well as to determine the applicant's priority to receive a discount for a particular request and the discount available to the applicant if the discount is granted. Specific information requested on the FCC Form 471 identifies, for example, the applicant; the individual entities (*i.e.*, particular schools and libraries) that will be receiving services; the vendors; key terms of contracts between vendors and the applicant, including pricing and length of contract; and which entities will be receiving what services included in the application.

[6] The Commission's rules establish a window to be determined by SLD. *See* 47 C.F.R. § 54.507(c). Commission rules also establish funding priorities for those requests filed during the window. *See* 47 C.F.R. § 54.507(g).

[7] *See* SLD website, SLD Announces Availability of New Forms, http://www.sl.universalservice.org/whatsnew/101999.asp.

[8] SLD website, SLD President Announces First Funding Wave for Year 3, http://www.sl.universalservice.org/whatsnew/042000.asp.

[9] 47 C.F.R. § 54.507(g). The Commission's funding priority rules for applications submitted during the filing window provide that, for all discount categories, requests for telecommunications services and for Internet access shall receive first priority for the available funding while requests for installation of internal connections and other nonrecurring costs receive lower priority. To the extent that funds are not available to provide discounts to all internal connections, the Commission's rules prioritize support for schools and libraries receiving the highest discount and proceeding downward; in other words, the most disadvantaged entities receive the highest priority.

[10] *FCC Form 471*.

[11] *FCC Form 471*; Instructions for Completing the Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (September 1999) (*FCC Form 471 Instructions*).

4. Consistent with the Commission's rule requiring applicants to submit a "completed FCC Form 471 to the Administrator," SLD utilizes what it calls "minimum processing standards" to facilitate the efficient review of the thousands of applications requesting funding.[12] These minimum processing standards are designed to require an applicant to provide at least the minimum data necessary for SLD to initiate review of the application under statutory requirements and Commission rules. When an applicant submits an FCC Form 471 that omits an item subject to the minimum processing standards, SLD automatically returns the application to the applicant without considering the application for discounts under the program.[13] Both the minimum processing standards and the automatic return for failure to comply are explained in a document available on SLD's website, from SLD's fax-on-demand service, and from SLD customer services representatives at its toll-free number.[14]

5. In Year 3, SLD added to the minimum processing standards the requirement that applicants identify the specific entity receiving a service or, if that service is shared by more than one entity, the applicant list the Block 4 worksheet number that identifies the entities sharing the service.[15] The worksheet number was collected in Block 5, Item 22, on the FCC Form 471.[16] SLD alerted potential applicants of the minimum processing standards for Year 3 in a letter sent to schools and libraries before the application process commenced.[17] That letter referred applicants to a document that more fully set forth the revised minimum processing standards for Year 3.[18]

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[12] 47 C.F.R. § 54.504(c); *see* SLD website, Form 471 Minimum Processing Standards and Filing Requirements for FY 3, http://www.sl.universalservice.org/reference/471mps.asp (*Minimum Processing Standards*).

[13] *Minimum Processing Standards*.

[14] *Minimum Processing Standards*.

[15] *Minimum Processing Standards*; *see also FCC Form 471*. The minimum processing standards changed primarily because the FCC Form 471 was redesigned for Year 3. In the redesigned FCC Form 471, the Block 4 worksheet generally requires the applicant to list all the entities receiving a service for which discounts are sought. In those situations where an applicant is seeking discounts for a service to be shared by a group of schools within the district, the worksheet calculates the weighted average discount of those schools which is then applied to the shared service. Where a school district is seeking multiple shared services for different groups of schools within its district, the applicant must complete a different Block 4 worksheet for each group, labeling the worksheets "A-1", "A-2", and so forth. In this situation, separate Block 4 worksheets are required because the weighted average discount will vary from group to group. The FCC Form 471 requests that the applicant identify the Block 4 worksheet for a particular group at Item 22 of the Block 5 worksheet used to request the discounted services to be received by that group.

[16] *FCC Form 471*, Block 5, Item 22.

[17] Letter from Kate L. Moore, Schools and Libraries Division, to School and Library Leaders, dated October 11, 1999 (*Year 3 Opening Letter to the Field*).

[18] *Year 3 Opening Letter to the Field*. Moreover, links to the minimum processing standards document appear frequently on SLD's website, which is the method preferred by SLD and most applicants for obtaining information regarding the application process and for obtaining and submitting forms. *See FCC Form 471 Instructions* at 6 ("You are encouraged to complete and submit this form electronically, online."); SLD website, (continued....)

6. Naperville filed an FCC Form 471 requesting discounted services for Year 3.[19] In Block 4 of its FCC Form 471, Naperville indicated that it was applying for discounts for shared services to be shared by all schools in the district.[20] In doing so, Naperville explicitly indicated that it did not seek discounts for shared services for different groups of schools.[21] Naperville listed 21 schools on its sole Block 4 worksheet, yielding a Weighted Average Discount of 26 percent for shared services.[22] Naperville did not label its Block 4 worksheet with an "A-1", "A-2", or similar label.[23]

7. Because Naperville was seeking discounts for six different services, it submitted six copies of Block 5, one for each discount request included in the application.[24] Each Block 5 was identical with respect to the items relevant here. On each Block 5, Naperville indicated that the percentage discount from Block 4 (*i.e.*, the Weighted Average Discount) was 26 percent.[25] On each copy of Block 5, however, Naperville failed to answer Item 22, which asks that the applicant identify by worksheet number the Block 4 worksheet listing the entities to receive the service if the service is shared.[26]

8. Naperville filed its FCC Form 471 on January 19, 2000, the final day of the Year 3 filing window.[27] Because Naperville failed to complete Item 22 of Block 5 with respect to each of its six requests for discounts, SLD sent a letter to Naperville indicating that its application had failed to meet the minimum processing standards, and returned Naperville's application.[28] Because Naperville submitted its incomplete FCC Form 471 on the final day of the Year 3 filing window, SLD was unable to issue the minimum processing letter to Naperville before the close

(Continued from previous page)
$4.72 Billion Requested for E-Rate in Year 3, http://www.sl.universalservice.org/whatsnew/022000.asp (noting that nearly 80 percent of Year 3 applications were submitted electronically).

[19] FCC Form 471, Naperville Community Unit School District 206, filed January 19, 2000 (*Naperville Form 471*).

[20] *Naperville Form 471*, Block 4, Item 10a.

[21] *Naperville Form 471*, Block 4, Item 10a.

[22] *Naperville Form 471*, Block 4, Items 10b, 10c.

[23] *Naperville Form 471*, Block 4.

[24] *Naperville Form 471*, Block 5.

[25] *Naperville Form 471*, Item 23j.

[26] *Naperville Form 471*, Block 5, Item 22; *Administrator's Decision*. For services that are to be provided to one site, rather than shared, a second blank in Item 22 asks the applicant to identify by entity number of the school or other site to receive the service. Because Naperville was seeking shared services, that portion was properly left blank.

[27] *Naperville Form 471*.

[28] Letter from Schools and Libraries Division, Universal Service Administrative Company, to Marty Barnicle, Naperville CUSD 203, dated May 15, 2000.

of the Year 3 filing window. Therefore, Naperville refiled its application after the close of the window. On May 26, 2000, Naperville refiled its application, including the previously incomplete items, and requested that SLD treat its application as having been filed within the filing window.[29] On June 14, 2000, SLD issued its decision, stating that it could not consider Naperville's request for waiver of the Year 3 filing window and advising Naperville to file its request with the Commission.[30] Naperville filed the instant Request for Review with the Commission on July 11, 2000.[31]

II. DISCUSSION

9. At the outset, we emphasize that our primary objective is to ensure that schools and libraries benefit from the schools and libraries universal service support mechanism as contemplated by the statute. For purposes of considering this Request for Review, this means we must balance the need to minimize administrative costs, while expediting fair and efficient review of applications. With that objective in mind, we consider the circumstances surrounding SLD's return of Naperville's FCC Form 471 for failure to meet SLD's minimum processing standards.

10. After considering the totality of the circumstances, we grant Naperville's Request for Review. As described below, we believe as a general matter that minimum processing standards can serve the important purpose of minimizing the administrative costs of the program. Notwithstanding that fact, however, we conclude that the omission of a response to Item 22 does not merit return of Naperville's entire application under the totality of the circumstances presented here. Specific factors that weigh against such return in this instance include the possible confusion resulting from the redesign of the FCC Form 471 and its impact on the minimum processing standards; the specific request at issue was new to the application; the information omitted in Item 22 is easily discerned from the remainder of Naperville's FCC Form 471; and the substantial completeness of the remainder of Naperville's FCC Form 471.

11. In Year 3 of the program, SLD received more than 36,000 applications.[32] As administrator of the schools and libraries universal service mechanism, SLD incurs significant additional administrative costs by reviewing and processing applications that fail to include information essential to their evaluation under the mechanism's rules. Under Commission rules, SLD's administrative funds are drawn from the same pool from which support is distributed to

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[29] FCC Form 471, Naperville Community Unit School District 203, filed May 26, 2000; *Request for Review* at 3.

[30] *Administrator's Decision*. SLD treated this refiled application as a request for a waiver of the Year 3 filing window, which SLD refused to consider. *Administrator's Decision*. Although SLD treated Naperville's refiled application as a request for a waiver of the filing window deadline, we are not obligated to treat its Request for Review as such. As discussed below, by granting Naperville's Request for Review, we conclude that SLD erred in returning Naperville's initial application without consideration, given the circumstances presented here.

[31] *Request for Review*.

[32] SLD website, Website Letter, http://www.sl. universalservice.org/whatsnew/012000.asp.

applicants.[33] Any additional costs incurred in the administration of the program, therefore, directly reduce the funds available for eligible schools and libraries. As such, and consistent with the Commission's rule requiring applicants to submit a "completed" FCC Form 471, SLD's minimum processing standards provide an efficient means to minimize unnecessary administrative costs by reducing the number of substantially incomplete applications that SLD must review and process. In that context, Item 22 of Block 5 is used because it confirms the discount assigned to the entity or entities receiving the requested service. In many instances, without that information, an essential determination—confirmation of the discount assigned to the requested service—cannot be made and the application cannot be processed. Where applicants are seeking discounts on multiple services for different groups of schools in the same application, this information is critical to determine what discount applies to the various services. Against this backdrop, we conclude that it is appropriate for SLD to require the information requested by Item 22, and for SLD to return applications that fail to provide this information in any form.

12. We nevertheless conclude that Naperville's application did not merit return given the totality of the circumstances presented here. We base our decision on several factors. The FCC Form 471 was redesigned extensively for Year 3.[34] Although in the most general sense the information requested in Item 22 had been requested in previous years, the Year 3 form requested the information in a substantially different manner in order to permit SLD to more easily identify relevant facts. Given that Item 22 was a new information request on the Year 3 form, some applicants might misunderstand what the appropriate response to Item 22 would be. Moreover, it is not clear whether applicants understood the impact this redesign had on the minimum processing standards.

13. Furthermore, we find from our review of the record that SLD reasonably could have easily discerned the information omitted in Item 22 in this application from the other information in the application. After reviewing Naperville's FCC Form 471, we find that Blocks 4 and 5 of Naperville's application provided the necessary information for SLD to conclude with reasonable certainty what the omitted response to Item 22 was without requiring a detailed review of the application. First, on Block 4, Naperville indicated that all schools in the district would be receiving the same shared services, and that there were no requests for different shared services for different groups of schools.[35] Accordingly, if the funding request on Block 5 was for shared services—which SLD could have determined from Naperville's response to Item 23j on

[33] 47 C.F.R. § 54.715(c).

[34] SLD redesigned the FCC Form 471 in Year 3 to better isolate information important to the processing of funding requests. The form used in prior years invited responses that often did not permit complete review of the underlying funding requests without substantial additional analysis by SLD reviewers or contact with the applicant for further information. The new form, when properly completed, greatly reduces this work as compared to the form used in Years 1 and 2 because more aspects of the review may be automated and fewer requests for additional information from applicants are necessary.

[35] *Naperville Form 471*, Block 4, Item 10a.

Block 5—the only appropriate response to Item 22 would have been worksheet A-1.[36] Moreover, because the 26 percent recorded on each Block 5 matches exactly with the Weighted Average Discount shown in Naperville's only attached Block 4, SLD could have determined that the funding request on the Block 5 worksheets referred to the group of school's identified on Naperville's Block 4 worksheet.[37] For these reasons, SLD could have easily determined that the only response on Naperville's Item 22 would have been to refer to the only attached Block 4 worksheet. In these circumstances, completing Item 22 required merely the ministerial act of repeating a fact readily available and easily discernable elsewhere in the application.

14. We are comforted by the fact that review of the record leads us to conclude that Naperville completed every other item on its application for which a response was appropriate. There is no indication that Naperville intended to deceive or mislead SLD by the omission. Nor do we believe that Naperville lacked a sufficient response to Item 22 because it failed to exercise proper diligence in ordering services for which it could make effective use. Rather, Naperville provided sufficiently complete answers to the remainder of its FCC Form 471 to permit the ready discernment of the response that Naperville should have provided to Item 22. Except for the inadvertent omission of a response to Item 22, Naperville's FCC Form 471 reflects the diligence and good faith we expect from applicants.

15. Based on these facts, we conclude that, given the totality of the circumstances, Naperville's FCC Form 471 did not merit return. The administrative cost of accepting Naperville's application under these facts are minimal and are outweighed by the objective of ensuring that schools and libraries benefit from the schools and libraries universal service support mechanism as contemplated by the statute. Accordingly, we grant Naperville's request for review and remand the matter to SLD, so that Naperville's FCC Form 471 may be processed as a timely application.[38] We note that our decision today does not guarantee that Naperville's

[36] SLD could have known that each Block 5 was for a shared service—rather than a site-specific service—because, on Block 5, Naperville indicated a discount percentage of 26 percent. Pursuant to the Commission's implementing rules, only an application for shared services provides the necessary circumstances under which a school or school district would be eligible for a 26 percent discount. This is because, under the schools and libraries universal service mechanism, schools and libraries determine the discount for which they are eligible by consulting the "discount matrix" adopted by the Commission. 47 C.F.R. § 54.505(c). The discount matrix assigns the discount to an eligible entity based on the income level of students (using eligibility for participation in the National School Lunch Program as a proxy) and whether the entity is in a rural or urban area. 54 C.F.R. § 54.505(c). School districts, library systems, and consortia with multiple eligible entities determine the discount for which they are eligible by calculating a weighted average of the discounts available to their member entities. 54 C.F.R. § 54.505(b)(4). The discount matrix does not, under any circumstance, yield a 26 percent discount to an individual school, though it may yield both higher and lower discount percentages. Therefore, an applicant would be eligible for a 26 percent discount only if it applied for shared services and the weighted average of the discounts available to the schools sharing the services yielded a 26 percent discount.

[37] *Naperville Form 471*, Block 5, Item 23j; *Naperville Form 471*, Block 4, Item 10c.

[38] We note, however, that a different balancing might result in circumstances other than those present here, particularly where the omitted information cannot be discerned so easily from other material included in the application. This decision is narrowly limited to the facts presented here, and does not prevent SLD from applying its minimum processing standard in the future.

application will be granted upon processing by SLD. Naperville's appeal only addresses whether its application should be reviewed as filed within the filing window.

16. Presently, we have a number of requests for review that raise issues similar to the instant appeal. Moreover, we are aware that similar issues have been raised in matters that remain pending before SLD. We direct SLD and the Common Carrier Bureau to resolve these matters consistent with the underlying rationale of this Order. Specifically, we conclude that it is inappropriate for SLD to return an application without consideration under its minimum processing standard where (1) the request for information was a first-time information requirement on a revised form, thereby possibly leading to confusion on the part of the applicants; (2) the omitted information could be easily discerned by SLD through examination of other information included in the application; and (3) the application is otherwise substantially complete.

III. ORDERING CLAUSES

17. Accordingly, IT IS ORDERED, pursuant to sections 1-4, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 54.719 and 54.722 of the Commission's rules, 47 C.F.R. §§ 54.719 and 54.722, that the Request for Review filed on July 11, 2000, by Naperville Community Unit School District 203, Naperville, Illinois, IS GRANTED.

18. IT IS FURTHER ORDERED that the Request for Review filed on July 11, 2000, by Naperville Community Unit School District 203, Naperville, Illinois, is REMANDED to the Schools and Libraries Division of the Universal Service Administrative Company, and the Schools and Libraries Division is directed to take action to effectuate the steps outlined in this Order.

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas

Magalie Roman Salas
Secretary