

Before the
Federal Communications Commission
Washington, DC 20554
2001 MAR 15 P 12:02

In the Matter of)
)
Request for Review of the)
Decision of the)
Universal Service Administrator by)
)
Portland Public Schools)
Portland, Oregon)
)
Federal-State Joint Board on)
Universal Service)
)
Changes to the Board of Directors of the)
National Exchange Carrier Association, Inc.)

REIVED

File No. SLD-119609

CC Docket No. 96-45 ✓

CC Docket No. 97-21

ORDER

Adopted: March 13, 2001

Released: March 14, 2001

By the Common Carrier Bureau:

1. The Common Carrier Bureau has under consideration a Request for Review filed by the Portland Public Schools (Portland), Portland, Oregon, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).¹ Portland seeks review of SLD's denial of its application for discounted services under the schools and libraries universal service support mechanism. For the reasons set forth below, we deny the Request for Review and affirm SLD's denial of Portland's application.

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.² By letter dated July 13, 1999, SLD approved two of Portland's requests for funding for Year 2 of the schools and libraries universal service support mechanism, but denied funding for a third on

¹ Letter from Chris Bronsema, Portland Public Schools, to Federal Communications Commission, filed February 22, 2000 (Request for Review).

² 47 C.F.R. §§ 54.502, 54.503. The Commission's rules require that the applicant make a bona fide request for services by filing with the Administrator an FCC Form 470, which is posted to the Administrator's website for all potential competing service providers to review. After the FCC Form 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. SLD reviews the FCC Form 471 and issues funding commitment decisions in accordance with the Commission's rules.

the grounds that a significant portion of that third request was for discounts on ineligible rental charges for paging devices.³ On August 2, 1999, Portland appealed to SLD its denial of discounts for Portland's funding request for paging services.⁴ On appeal to SLD, Portland offered two arguments. First, it attached a copy of SLD's instructional materials that indicated that "Paging Services" are eligible for discounts and observed that "[t]here are no limitations in the description" in the instructions. Second, it stated that it received funding for the paging services package in Year 1 of the program. On January 31, 2000, SLD denied Portland's appeal, stating that "although paging service is an eligible service, rental of pagers is an ineligible service."⁵ SLD noted that the service requested, as described in Portland's FCC Form 471, was for pager rental.⁶

3. On February 22, 2000, Portland filed the instant Request for Review seeking review of SLD's decision.⁷ Portland asserts that it did not seek funding for the rental of pagers, stating that "the wording that we used in the attachment was incorrect."⁸ Rather, it emphasized that it was requesting discounts for the service of pagers, not the rental of pagers.⁹ Moreover, Portland added that it had spoken with its representative from the paging company to make sure that it was paying for paging services of the pagers and not the rental of pagers. In support, Portland attached to its Request for Review a letter from its service provider, Arch Paging.

4. After reviewing the record in this case, we deny Portland's appeal. The sole matter at issue concerns the nature of the services provided by Arch Paging for \$3.65 per month per numeric pager. SLD rejected Portland's request for support because it found that the payment covered the rental of pagers, as indicated in Portland's FCC Form 471.¹⁰ Portland claims that it is not paying for the rental of pagers, and states that the letter it attaches from Arch Paging confirms that it only sought support for paging services. Rather than supporting Portland's contention, however, Arch Paging's letter states only that Portland has approximately 630 pagers on service from Arch Paging at the monthly rate of \$3.65 per numeric pager, and that the rate is consistent with the State of Oregon rates.¹¹ The letter does not confirm that the

³ See Letter from Schools and Libraries Division, Universal Service Administrative Company, to Susan McLaughlin, Portland School District, dated July 13, 1999.

⁴ See Letter from Susan Keller, Portland Public Schools, to the Schools and Libraries Division of the Universal Service Administrative Company, filed August 2, 1999.

⁵ See Letter of Schools and Libraries Division of the Universal Service Administrative Company to Susan Keller, Portland Public Schools, dated Jan. 31, 2000 (Administrator's Decision on Appeal).

⁶ FCC Form 471, Portland Public Schools, filed April 5, 1999. An attachment to Portland's FCC Form 471 states that, for contract #30709 with Arch Communications, "[s]ervice provided is for the rental of pagers."

⁷ See Request for Review.

⁸ See Request for Review at 1.

⁹ *Id.*

¹⁰ See note 6, *supra*.

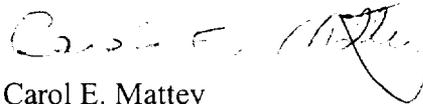
¹¹ See Letter from Lindy Bergerson, Arch Paging, to Chris Bronsema, Portland School District #1, dated February 9, 2000.

services sought covered only eligible paging service. Portland offers no other evidence that the contract rate of \$3.65 per numeric pager does not include the rental of pagers.

5. The Commission's May 1997 *Universal Service Order* clearly states that peripheral equipment, such as personal computers, modems, and telephone handsets are not eligible for support.¹² The record is devoid of any evidence that might support Portland's claim that its request for funding did not include expenses for the rental of pagers. In light of the thousands of applications that SLD reviews and processes each funding year, administrative necessity requires that each applicant be responsible for clearly and accurately describing its funding request and for understanding all applicable program rules. We decline to overturn SLD's decision when the applicant effectively revises its application on appeal. We, therefore, affirm SLD's decision to deny Portland's request for discounts.

6. 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 Portland Public Schools, Portland, Oregon, on February 22, 2000, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Carol E. Matthey
Deputy Chief, Common Carrier Bureau

¹² *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9021-9022, para. 460 (1997) (*Universal Service Order*), as corrected by *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Errata, FCC 97-157 (rel. June 4, 1997), *affirmed in part*, *Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393 (5th Cir. 1999) (affirming *Universal Service Order* in part and reversing and remanding on unrelated grounds), *cert. denied*, *Celpage, Inc. v. FCC*, 120 S. Ct. 2212 (May 30, 2000), *cert. denied*, *AT&T Corp. v. Cincinnati Bell Tel. Co.*, 120 S. Ct. 2237 (June 5, 2000), *cert. dismissed*, *GTE Service Corp. v. FCC*, 121 S. Ct. 423 (November 2, 2000). Moreover, the *Universal Service Order* states that support is not available "for contracts that provide only a single price for a package that bundles services eligible for support with those that are not eligible for support." *Id.* at 9022. Support may be provided for a bundle of eligible and ineligible services only if the contract for the bundle also provides unbundled prices so that a cost of the eligible services can be calculated. *Id.*