

Before the
Federal Communications Commission
Washington, DC 20554

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In the Matter of)
)
Request for Review of the)
Decision of the)
Universal Service Administrator by)
)
Old Town School Department)
Old Town, Maine)
)
Federal-State Joint Board on)
Universal Service)
)
Changes to the Board of Directors of the)
National Exchange Carrier Association, Inc.)

File No. SLD-142237

CC Docket No. 96-45 ✓

CC Docket No. 97-21

RECEIVED

ORDER

Adopted: April 27, 2001

Released: April 30, 2001

By the Common Carrier Bureau:

1. The Common Carrier Bureau (Bureau) has under consideration a Request for Review filed by Old Town School Department (Old Town), Old Town, Maine.¹ Old Town seeks review of a funding commitment decision by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) pursuant to a funding request for discounted services.² Specifically, it asserts that it should have been awarded funding of additional services. For the reasons set forth below, we deny Old Town'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.³

¹ Letter from Richard M. Beaudoin, Old Town School Department, to Federal Communications Commission, filed June 1, 2000 (Request for Review).

² See Letter from the Schools and Libraries Division, Universal Service Administrative Company, to Richard M. Beaudoin, Old Town School Department, issued May 5, 2000 (Administrator's Decision on Appeal); See Letter from Schools and Libraries Division to Richard M. Beaudoin, Old Town School Department, issued October 5, 1999 (Funding Commitment Decision Letter).

³ 47 C.F.R. §§ 54.402, 54.503.

Schools and libraries must apply for support each funding year.⁴ In order to receive discounts on eligible services, the Commission's rules require that an applicant submit to the Administrator a completed FCC Form 470, in which the applicant sets forth its technological needs and the services for which it seeks discounts.⁵ Once the applicant has complied with the Commission's competitive bidding requirements and entered into an agreement for the eligible services, it must file an FCC Form 471 application to notify the Administrator of the services that have been ordered, the provider with whom the applicant has entered into the agreement, and an estimate of funds needed to cover the discounts to be given for eligible services.⁶ Upon receipt and successful data entry of an FCC Form 471, SLD issues a Receipt Acknowledgement Letter (RAL), which summarizes the applicant's funding requests and provides a limited period for the applicant to make corrections.⁷ Requests for discounts are then approved or denied in a Funding Commitment Decision Letter.⁸

3. At issue here is SLD's failure to award support to Old Town for discounted telecommunications services in Funding Year 2. SLD issued a Funding Commitment Decision Letter on October 5, 1999, awarding support to Old Town for internal connections.⁹ Old Town appealed to SLD by letter filed on November 1, 1999, asserting that SLD had erred in failing to also award funding for telecommunications services.¹⁰ Old Town asserted that it had included several telecommunications service funding requests on a particular page of its application.¹¹ Although not denying that this page was not present in the application which SLD had on record, Old Town asserted that the page was either misplaced by SLD or accidentally not submitted by Old Town with the rest of the application.¹² Old Town requested that SLD issue a new funding

⁴ 47 C.F.R. § 54.507(d).

⁵ 47 C.F.R. § 54.504(b)(1), (b)(3).

⁶ 47 C.F.R. § 54.504(c).

⁷ The Commission's regulations authorize SLD to establish rules and procedures for the administration of the schools and libraries support application process in an efficient and effective manner. *See* 47 C.F.R. §§ 54.701(a), 54.702, 54.705(a). Pursuant to this authority, SLD has incorporated the FCC Form 471 RAL as part of the FCC Form 471 application process. *See* <<http://www.sl.universalservice.org/data/pdf/prgm2000.pdf>> (SLD Program Description) (providing overall description of SLD application process, including description of the Form 471 Receipt Acknowledgement Letter).

⁸ *See id.*

⁹ *See* Funding Commitment Decision Letter.

¹⁰ Letter from Richard M. Beaudoin, Old Town School Department, to Schools and Libraries Division, Universal Service Administrative Co., filed November 1, 1999 (Appeal to SLD).

¹¹ Appeal to SLD at 1.

¹² *Id.*

letter which included funding of the requests on the missing page.¹³

4. On May 5, 2000, SLD denied Old Town's appeal.¹⁴ SLD explained that the original submission of FCC Form 471 did not include discounts for the requested services.¹⁵ SLD further explained that since the April 6, 1999 deadline for amendments to the FCC Form 471 for Funding Year 2 had passed, SLD would not be able to consider the request.¹⁶ Old Town now requests that the Commission direct SLD to award support for the requested telecommunications services.

5. We have reviewed the record before us and conclude that SLD properly denied Old Town's appeal. Had SLD received and misplaced the page in question, this might constitute grounds for granting the appeal. However, there is no evidence in the record that SLD received the relevant page of Old Town's application. The FCC Form 471 application in the record does not contain this page, and Old Town has not submitted any evidence with its Request for Review indicating that the application it submitted was complete. Indeed, the Request for Review makes it clear that Old Town cannot say for certain whether it submitted the third page with its application. In the absence of evidence to the contrary, we accept the FCC Form 471 in the record as the application which was received by SLD. This application did not include the telecommunications requests for which Old Town now seeks funding.

6. Old Town argues that even if it did not submit the page, SLD should have noticed that the application was incomplete and contacted Old Town to obtain the missing page. We reject this argument. According to the document provided with Old Town's appeal, its missing telecommunication requests were made on a page containing Item 15 of Block 5 of the FCC Form 471 application.¹⁷ This is the location provided for listing requests for so-called "shared services," i.e., all services except site specific services, internal connections, or dedicated connections from one school or library to an Internet Service Provider or other end-user.¹⁸ As not every application includes a Block 5, Item 15 request, the mere absence of a page containing this section would not give SLD reason to know that the application was incomplete.

7. It is true that Item 14, Block 4 of Old Town's application did provide some evidence of missing requests, because it indicated that the member schools of Old Town would be using "shared services" listed in Item 15. It at least suggests that some Block 5, Item 15 requests were originally intended. However, it does not actually present or describe these requests. Further, we find that SLD was not obligated to search through the application for every

¹³ *Id.*

¹⁴ See Administrator's Decision on Appeal.

¹⁵ *Id.* at 1.

¹⁶ *Id.*

¹⁷ See Request for Review, attachment.

¹⁸ See FCC Form 471, Year 2, Block 5, Item 15.

sign that an applicant intended a request beyond those which had been presented in Block 5. 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 requests and for understanding and following program rules. Administrative necessity further requires that SLD be entitled to rely on those requests properly submitted as conclusive indication of the applicant's intent.

8. Placing the burden on Old Town of accurately specifying its requests in Block 5 is also appropriate because a Receipt Acknowledgement Letter was specifically issued to provide Old Town a pre-decision opportunity to detect any errors or omissions in its funding requests as entered by SLD.¹⁹ The RAL, which lists each funding request received and entered by SLD and its corresponding amount, states expressly: "If you believe that there were [funding requests] included in your application which are not listed in this letter AND you have not received a letter informing you that those [funding requests] are rejected, please write to us . . ."²⁰ The RAL sent to Old Town listed the six internal connection requests, but made no mention of the telecommunications requests. Thus, Old Town should have known at that time that SLD had not received its telecommunications requests and contacted SLD as indicated in the RAL. In the absence of such action, SLD was entitled to rely on the accuracy of the requests submitted with the FCC Form 471. Because SLD thus committed no error in granting funds only for those requests actually presented in Block 5, we conclude that it reasonably construed Old Town's telecommunications service requests as new requests rather than as part of the original application.

9. We also find that under the standards applicable to new requests, SLD properly denied funding for telecommunications services. Applicants are not permitted to make new funding requests after a funding decision or after the closure of the filing window deadline.²¹ If applicants were permitted to amend by adding new requests after errors had led to a funding denial, it would eliminate any incentive for them to avoid such mistakes in their original application. This would significantly increase the overall administrative cost of reviewing and processing applications and would result in fewer schools and libraries being funded. It would also prejudice those applicants who properly completed their applications and accurately described their funding requests. Moreover, permitting applicants to amend their requests after the window closed could jeopardize SLD's ability to accurately apply the rules of priority in years where requests for funding exceed the annual funding cap. We therefore deny Old Town's Request for Review.

10. 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

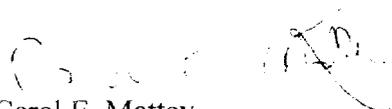
¹⁹ See *Western Wayne School District*, File No. SLD-107715, Order, CC Docket Nos. 96-45, 97-21, DA 99-1507 (Com. Car. Bur. rel. July 29, 1999), 1999 WL 552655, at para. 9 (denying appeal where applicant "was on notice once it received the Receipt Acknowledgment Letter that there was an error in its application.").

²⁰ FCC Form 471 RAL, Old Town School Department, dated July 5, 1999, at 2.

²¹ The Commission's rules require that applicants file a completed Form 471 by the filing window deadline to be considered pursuant to the funding priorities for "in-window" applicants. 47 C.F.R. §§ 54.504(c); 54.5079(c).

54.722(a), that the Request for Review filed June 2, 2000, by Old Town School District, Old Town Maine, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION


Carol E. Matthey
Deputy Chief, Common Carrier Bureau