

~~FILE ROOM~~

Before the  
Federal Communications Commission  
Washington, DC 20554

2002 MAY 22 P 4: 19

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

FILED

File No. SLD-49281

CC Docket No. 96-45 ✓

CC Docket No. 97-21

**ORDER**

**Adopted: May 18, 2001**

**Released: May 21, 2001**

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division has under consideration a Request for Review filed by Esoft, Inc. (Esoft), Broomfield, Colorado, on behalf of Tularosa Municipal Schools, Tularosa, New Mexico, on April 27, 2001.<sup>1</sup> In its Request for Review, ESoft seeks review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) on February 18, 1999.<sup>2</sup> Prior to the time that ESoft filed its request with the Commission, it filed a Request for Review with the Administrator.<sup>3</sup> For the reasons set forth below, we dismiss ESoft's Request for Review to the Commission without prejudice.

<sup>1</sup> Request for Review from Jackie Johnson, Esoft, Inc., to Federal Communications Commission, filed April 27, 2001.

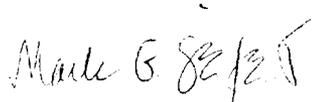
<sup>2</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to Waburn Martin, Esoft, Inc., dated February 23, 2001 (Funding Commitment Decision Letter).

<sup>3</sup> Request for Review from Jackie Johnson, Esoft, Inc., to Schools and Libraries Division, Universal Service Administrative Company, filed July 20, 2000.

2. The Commission's rules regarding appeals of SLD decisions do not contemplate simultaneous requests to the Commission and the Administrator.<sup>4</sup> In this case, because ESoft has a request pending before the Administrator, we dismiss ESoft's Request for Review to the Commission without prejudice. Once the Administrator has issued its decision on ESoft's initial request, ESoft may then appeal to the Commission if it believes such appeal is warranted at that time.<sup>5</sup>

3. 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 Esoft, Inc., Broomfield, Colorado, IS DISMISSED WITHOUT PREJUDICE.

FEDERAL COMMUNICATIONS COMMISSION



Mark G. Seifert  
Deputy Chief, Accounting Policy Division  
Common Carrier Bureau

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<sup>4</sup> 47 C.F.R. § 54.720 (allowing appeals to either the Commission or the Administrator, but tolling the filing period with the Commission, when an applicant has an appeal pending with the Administrator, until the Administrator issues a decision on the appeal).

<sup>5</sup> See 47 C.F.R. §§ 54.719 – 54.725 (setting forth rights of review, filing deadlines, standards of review, and other rules pertaining to Commission review of the Administrator's decisions).