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Before the  
Federal Communications Commission  
Washington, DC 20554

2001 AUG 27 P 3: 10

In the Matter of )  
)  
Request for Review of the )  
Decision of the )  
Universal Service Administrator by )  
)  
Preston Town County Library )  
Hot Springs, Montana )  
)  
Federal-State Joint Board on )  
Universal Service )  
)  
Changes to the Board of Directors of the )  
National Exchange Carrier Association, Inc. )

File No. SLD-197972

CC Docket No. 96-45 ✓

CC Docket No. 97-21

REIVED

ORDER

Adopted: August 22, 2001

Released: August 23, 2001

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division (Division) has under consideration a Request for Review filed by Preston Town County Library, Hot Springs, Montana (Preston).<sup>1</sup> Preston requests review of a decision by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company to deny Preston's application for discounted services under the schools and libraries universal service support mechanism.<sup>2</sup> For the reasons set forth below, we deny the Request for Review and affirm SLD's denial of Preston'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.<sup>3</sup> The Commission's rules provide that, with one limited exception for existing, binding contracts, an eligible school, library, or consortium that includes eligible schools or libraries must seek competitive bids for all services eligible for support.<sup>4</sup> In accordance with the Commission's

<sup>1</sup> Letter from Jean Patton, Preston Town County Library, Hot Springs, Montana, to the Federal Communications Commission, filed April 6, 2001 (Request for Review).

<sup>2</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to Jean Patton, dated June 2, 2000; Letter from Schools and Libraries Division, Universal Service Administrative Company, to June Patton, dated March 16, 2001.

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

<sup>4</sup> 47 C.F.R. §§ 54.504, 54.511(c).

rules, an applicant must file with SLD, for posting to its website, an FCC Form 470 requesting services.<sup>5</sup> The applicant must wait 28 days before entering into an agreement with a service provider for the requested services and submitting an FCC Form 471 requesting support for the services ordered by the applicant.<sup>6</sup> Further, the instructions for the FCC Form 471 state that the date of signature for the FCC Form 471 “CANNOT be earlier than the 29th day following the posting of the associated FCC Form 470 to the [SLD] Web Site.”<sup>7</sup>

3. The Commission has repeatedly emphasized the importance of the competitive bidding requirement, stating that it helps to ensure that schools and libraries will receive the lowest possible pre-discount price.<sup>8</sup> The Commission concluded that competitive bidding is the most efficient means for ensuring both that eligible schools and libraries are informed about the choices available to them and that prices are not unnecessarily high, thereby minimizing the amount of support needed.<sup>9</sup> In order to permit all interested parties sufficient time to respond to requests for services posted on the SLD web page, the Commission requires all schools and libraries, and consortia including such entities, to wait the requisite 28-day waiting period prior to signing a contract for discounted services.<sup>10</sup>

4. Upon review of the record, the Division concludes that SLD correctly denied Preston’s request for support. The record shows that Preston submitted its FCC Form 470 on December 13, 1999.<sup>11</sup> This created an allowable contract date of January 10, 2000. Despite the clear requirements of our rules that applicants may not sign the FCC Form 471 before the allowable contract date, Preston signed and dated the form on January 6, 2000, four days prior to the allowable contract date of January 10, 2000.<sup>12</sup> Preston does not deny that the form was signed prior to the allowable contract date, but argues that they did not mail the FCC Form 471

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<sup>5</sup> See Schools and Libraries Universal Service, Description of Services Requested and Certification Form, OMB 3060-0806 (September 1999) (FCC Form 470).

<sup>6</sup> 47 C.F.R. § 54.504(c); see Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (September 1999) (FCC Form 471).

<sup>7</sup> Instructions for Completing the Schools and Libraries Universal Service Services Ordered and Certification Form (December 1998), at 24 (FCC Form 471 Instructions).

<sup>8</sup> See *Federal-State Joint Board on Universal Service*, CC Docket 96-45, Order on Reconsideration, 12 FCC Rcd 10095, 10098, para. 9 (1997).

<sup>9</sup> *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9029, para. 480 (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).

<sup>10</sup> *Universal Service Order*, 12 FCC Rcd at 9080, para. 579.

<sup>11</sup> FCC Form 470, Preston Town County Library, filed December 13, 1999 (Preston FCC Form 470).

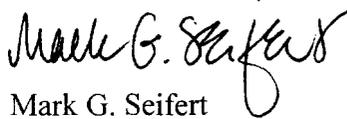
<sup>12</sup> See Preston FCC Form 470; FCC Form 471, Preston Town County Library, filed January 12, 2000.

until January 10, 2000.<sup>13</sup> We do not find this to be sufficient evidence that Preston complied with the Commission's competitive bidding requirements.

5. A signature date on an FCC Form 471 or on a service provider agreement that predates the expiration of the 28-day posting period indicates that the applicant failed to wait 28 days before entering into an agreement with a service provider and therefore violated the Commission's competitive bidding rules.<sup>14</sup> The date that Preston mailed its application is not conclusive for purposes of determining whether it complied with competitive bidding requirements. The Common Carrier Bureau has consistently denied requests for review by applicants that have violated the Commission's competitive bidding rules by signing the FCC Form 471 before the allowable contract date.<sup>15</sup> In light of the thousands of applications that SLD must review and process each year, we find that it is administratively necessary to require an applicant to be responsible for carefully following program rules. The Division, therefore, denies Preston's Request for Review.

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 Preston Town County Library, on April 6, 2001, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



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

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<sup>13</sup> See Request for Review.

<sup>14</sup> See Request for Review by Minor High School, *Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-139210, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 13790, 13792, para. 5 (2000).

<sup>15</sup> See, e.g., Request for Review by Cathedral Grade School, *Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-87608, CC Docket Nos. 96-45 and 97-21, Order, DA 99-2953 (Com. Car. Bur. rel. December 21, 1999); Request for Review by Currituck County Schools *Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-111040, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 5564 (2000); Request for Review by Gustine Independent School District, *Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-108651, CC Docket Nos. 96-45 and 97-21, Order, DA 99-2534 (Com. Car. Bur. rel. November 16, 1999).