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Before the
Federal Communications Commission
Washington, DC 20554

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In the Matter of	)	
	)	
Request for Review of the Decision of the Administrator by	)	
	)	
Seventh Day Adventist School Milwaukee, Wisconsin	)	File No. SLD-193882
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Changes to the Board of Directors of the National Exchange Carrier Association, Inc.	)	CC Docket No. 97-21

ORDER

Adopted: January 11, 2002 **Released: January 14, 2002**

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division has under consideration a Request for Review filed by Seventh Day Adventist School (SDAS), Milwaukee, Wisconsin.[1] SDAS requests review of a decision by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) to deny SDAS discounts under the schools and libraries universal service support mechanism.[2] For the reasons set forth below, we deny SDAS's Request for Review.

2. Under the 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] In order to receive discounts on eligible services, the Commission's rules require that the applicant submit to SLD a completed FCC Form 470, in which

[1] Letter from Brandy Sand, on behalf of Seventh Day Adventist School, to Federal Communications Commission, filed November 17, 2000 (Request for Review). Ms. Sand submits the Request for Review in her capacity as an employee of Total Communications USA (Total Com), a consultant to SDAS. *See* Request for Review (listing Ms. Sand's contact information as a Total Com address); *see also* Letter from Eti Wise, Total Com USA, to Schools and Libraries Division, Universal Service Administrative Company, undated, indicating Total Com's designation as an authorized representative of SDAS.

[2] *Id.*

[3] 47 C.F.R. §§ 54.502, 54.503.

the applicant sets forth its technological needs and the services for which it seeks discounts.[3] The Administrator must post the FCC Form 470 on its website, and the applicant is required to wait 28 days before making a commitment with a selected service provider.[5] Once the applicant has complied with the Commission's competitive bidding requirements and entered into an agreement for eligible services, it must file an FCC Form 471 application to notify the Administrator of the services that have been ordered, the carrier with whom the applicant has entered into an agreement, and an estimate of funds needed to cover the discounts to be given for eligible services.[6] The Commission's rules allow the Administrator to implement an internal filing period ("filing window") for the FCC Form 471 applications that treats all schools and libraries filing within that period as if their applications were simultaneously received.[7] Applications that are received outside this filing window are subject to separate funding priorities under the Commission's rules.[8] It is to all applicants' advantage, therefore, to ensure that the Administrator receives their applications prior to the close of the filing window.

3. As part of the FCC Form 471 application, all applicants are required to submit a "Description of Services" (Item 21 Attachments) in accordance with Item 21 of the form.[9] The instructions to FCC Form 471 explain in detail how this should be compiled.[10] Applicants in Funding Year 3 that filed electronically were not required to submit their Item 21 Attachments before the filing deadline closed, but were encouraged to file them promptly.[11]

4. SDAS requests a review of SLD's determination that SDAS failed to provide sufficient timely information regarding its application.[12] SDAS filed its Funding Year 3 FCC Form 471 electronically on January 19, 2000, the last day of the filing window.[13] It submitted three funding requests (Funding Request Numbers, or FRNs) for that FCC Form 471.[14] On October 5, 2000, an

[4] 47 C.F.R. § 54.504(b)(1), (b)(3).

[5] 47 C.F.R. §§ 54.504(b)(3), (4); § 54.511.

[6] 47 C.F.R. § 54.504(c).

[7] 47 C.F.R. § 54.507(c).

[8] 47 C.F.R. § 54.507(g).

[9] *See* Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (September 1999) (Form 471).

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

[11] *See, e.g.*, SLD web site, Additional Form 471 Guidance Documents, Pitfalls to Avoid When Filing Form 471 (December 13, 1999) <http://www.sl.universalservice.org/reference/eligible.asp> (directing applicants to file Item 21 attachments along with Block 6 certifications). SDAS filed its Block 6 certification on January 21, 2000, but did not file its Item 21 attachments at that time. *See* FCC Form 471, Certification, filed January 21, 2000.

[12] Request for Review.

[13] FCC Form 471, Seventh Day Adventist School, filed January 19, 2000 (SDAS Form 471).

[14] *See id.*

SLD representative sent an Email to SDAS's contact person, Rachel Burg, a consultant with Total Com.[15] SLD stated the following:

> I'm in the process of reviewing the Seventh Day Adventist School's Application (#193882) and need the following additional information to continue my review.
>
> 1- Need to validate the schools discount for 80%. The free and reduced lunch form would be sufficient.
>
> 2- The item 21 attachment or bills to support all 3 funding requests.
>
> 3- For FRN 416302 need the correct service provider and SPIN # they used SLD Interim when filing the 471 application.
>
> Please forward all information to Kathi Mangone at fax (973) 884-8429 as soon as possible but not more than 7 days in order to process this application.
>
> Any questions please don't hesitate to call me at (973) 428-7362
>
> Once again I would need this information within 7 days or a decision will be made using the available data.
>
> Thank you in advance for your assistance.
>
> Kathi Mangone.[16]

5. Seven days later, SDAS replied by Email, stating:

> Regarding your request for item 21 attachments or bills, please explain what exactly you are requesting and list the FRN numbers.
>
> I would appreciate it if you send me a confirmation of extension for this documentation and I will forward the information as soon as possible.
>
> Thank you, Rachel.[17]

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[15] Email from Kathi Mangone, Schools and Libraries Division, Universal Service Administrative Company, to Total Com, on behalf of Seventh Day Adventist School, dated October 5, 2000 (October 5 Email) (the Email was sent to "contact@mail.totalcomusa.com."). Kathi Mangone is employed by NECA, the National Exchange Carrier Association, which processes applications at the direction of SLD. Ms. Mangone is therefore described in this matter as representing SLD. Ms. Burg is a contact person for SDAS working with Total Com, who represents SDAS. *See* FCC Form 470, Seventh Day Adventist School, posted October 27, 1999; *see also* October 5 Email; Request for Review.

[16] October 5 Email.

[17] Email from Rachel Burg, Seventh Day Adventist School, to Kathi Mangone, Schools and Libraries Division, Universal Service Administrative Company, dated October 12, 2000 (October 12 Email).

6. The record fails to demonstrate any response from SLD to SDAS's request for additional information. On October 20, 2000, SLD issued SDAS a Funding Commitment Decision Letter denying discounts on each of its three funding requests, for the reason that the "[a]pplicant has not provided sufficient documentation to determine the eligibility of this item."[18]

7. In its Request for Review, SDAS contends that the October 5 Email constituted an "unclear request" for information by SLD.[19] It further states that SDAS tried contacting SLD by telephone after October 12, 2000, but received no response.[20] SDAS argues that the circumstances of SLD's denial of discounts provide "a strong indication that the decision to deny funding was a foregone conclusion" because SDAS was not contacted until October 5, 2000, and its request for clarification was ignored.[21]

8. After a careful review of the record, we find that SDAS's claim does not merit relief. Given the enormous volume of applications and other submissions that SLD processes and reviews each year, it is necessary for SLD to put in place measures to ensure prompt resolution of applications. One such measure in place in Funding Year 3 was an administrative rule that applicants from whom SLD solicits additional information necessary to complete their application respond with that information within seven days of being contacted.[22] The rule has been necessary in order to prevent applicants from unduly delaying the application process.

9. SDAS argues that the fact that SLD did not contact it until October 5, 2000 suggests somehow that SLD had already decided not to grant SDAS discounts.[23] There is no evidence that the denial of SDAS's request was a "foregone conclusion."[24] Indeed, the fact that SDAS had not sent in its Item 21 Attachments by October 5, 2000 rather reflects SDAS's significant delay in completing its application.

10. Once SLD did contact SDAS on October 5, 2000, SDAS did not respond until seven days later, which SLD, in its October 5, 2000 Email, had warned SDAS would be the last day for receiving the additional information.[25] In the October 5 Email, SLD had very specifically and clearly requested, among other items, "[t]he Item 21 attachment or bills to support all 3 funding

[18] Letter from Schools and Libraries Division, Universal Service Administrative Company, to Sharon West, Seventh Day Adventist School, dated October 20, 2000. Ms. West is also an employee of Total Com. *See* SDAS Form 471.

[19] Request for Review.

[20] *Id.*

[21] *Id.*

[22] *See* Request for Review by Nefesh Academy, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc., File No. SLD-27881, CC Dockets No. 96-45 and 97-21, Order, DA 99-2284 (Com. Car. Bur. rel. October 22, 1999) (citing seven-day rule).

[23] Request for Review.

[24] *Id.*

[25] October 5 Email.

requests."[26] SDAS's last-minute response was to ask SLD, regarding that request, to "explain what exactly you are requesting and list the FRN numbers."[27] SDAS then sought a confirmation of extension of the seven-day deadline.[28]

11. We find that SLD's October 5 request was sufficiently clear and explicit, and that SDAS's purported failure to understand the question and its seeking of an extension was in contravention of SLD's seven-day rule, of which SDAS was on sufficient notice. For example, even though SLD had clearly asked for the Item 21 attachments for "all 3 funding requests," and SDAS had submitted only three funding requests, SDAS requested that SLD specify the FRNs.[29] SDAS also asked for a clarification of what was required for the Item 21 attachments, even though the FCC Form 471 instructions clearly explain this.[30] Further, despite its stated confusion regarding the Item 21 attachments, SDAS, in the October 12 Email, did not seek clarification regarding SLD's other two requests for specific information, and did not provide that information even though it was on notice that the seven-day period ended on that day. SDAS did, however, explicitly request an extension based on its request for clarification.[31] These circumstances suggest that SDAS's questions were not good faith requests for clarification. Our denial of SDAS's request is consistent with our previous orders.[32]

12. In light of the thousands of applications that SLD reviews and processes each year, it is administratively necessary to place on the applicant the responsibility of complying with all relevant rules and procedures.[33] In order for the program to work efficiently, the applicant must assume responsibility for timely submission of correct application materials if it wishes to be considered within the window. Given SDAS's failure to substantiate its claim, we deny its Request for Review.

13. 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

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[26] *Id.*

[27] October 12 Email.

[28] *Id.*

[29] October 5 Email; October 12 Email.

[30] *See* Form 471 Instructions.

[31] October 12 Email.

[32] *See, e.g., Request for Review by Central Minnesota Computing Center, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-143701, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 7110 (Acc. Pol. Div. 2001) (denying Request for Review where applicant responded to SLD but failed to provide information requested).

[33] *See Request for Review by Anderson School Staatsburg, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association*, File No. SLD-133664, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 25610 (Com. Car. Bur. 2000), para. 8 ("In light of the thousands of applications that SLD reviews and processes each funding year, it is administratively necessary to place on the applicant the responsibility of understanding all relevant program rules and procedures.").

the Request for Review filed by Seventh Day Adventist School, Milwaukee, Wisconsin, on November 17, 2000 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

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