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Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	)	
	)	
Request for Review of the Decision of the Administrator by	)	
	)	
Enoch Pratt Free Library Baltimore, MD	)	Control Nos. E009261, E009262, E009263
	)	
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 Enoch Pratt Free Library (Enoch Pratt), Baltimore, Maryland.[1] Enoch Pratt requests review of a decision by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) to deny three of Enoch Pratt's Funding Year 1 (1998-1999) FCC Forms 471 as untimely filed.[2] For the reasons set forth below, we deny Enoch Pratt's Request for Review relating to the issue of timely filing, but remand in part because of SLD's potentially mistaken cancellation of one 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.[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 the applicant sets forth its technological needs and the services

[1] Letter from Patricia Wallace, Enoch Pratt Free Library, to Federal Communications Commission, filed March 15, 2000 (Request for Review).

[2] *Id.* Although SLD treated Enoch Pratt's request as a Waiver Request seeking waiver of our filing window, because Enoch Pratt denies that its applications were filed late, we properly treat it here as a Request for Review. *See* 47 C.F.R. § 54.719 *et seq.* (governing requests for review).

[3] 47 C.F.R. §§ 54.502, 54.503.

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. Enoch Pratt requests a review of SLD's determination that Enoch Pratt filed three FCC Forms 471 outside of the Funding Year 1 application window, which closed on April 15, 1998.[9] Enoch Pratt contends that it mailed the three FCC Forms 471 that were found untimely together in a Federal Express package that contained its other 57 FCC Forms 471.[10] Enoch Pratt argues that these three applications could therefore not have been untimely when the other applications were timely.[11] In its appeal letter to SLD, Enoch Pratt stated that its records show further correspondence with SLD requesting corrections made to each of the untimely FCC Forms 471, suggesting that this demonstrates that those three FCC Forms 471 were not untimely, or else SLD would not have corresponded with Enoch Pratt about them.[12] Enoch Pratt includes in its Request for Review a Federal Express receipt indicating that a package was shipped to SLD on April 14, 1998, arriving April 15, 1998.[13] Enoch Pratt further notes that the applications denied as untimely totalled $25,683.18 for the 16-month funding period.[14]

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[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] Request for Review. Once an FCC Form 471 was received by SLD in Funding Year 1, it was given a date-stamped Application Control Number. Once an application was data-entered, it was given a six-digit File Number. Applications that were untimely were not data-entered, and therefore, did not receive File Numbers.

[10] *Id.*

[11] *Id.*

[12] Letter from Christy Wright, Enoch Pratt Free Library, to Schools and Libraries Division, Universal Service Administrative Company, filed April 13, 1999.

[13] Request for Review, Attachments.

[14] Request for Review.

4. The problem resolution response forms that Enoch Pratt submitted in its appeal to SLD in support of its claim of timely filing relate to Application Control Nos. E004730, E004736, and E004747.[15] However, SLD records reflect that each of the applications relating to these control numbers was timely filed. Control No. E004730 relates to SLD File No. 107794, which was approved by Funding Commitment Decision Letter dated January 19, 1999.[16] Control No. E004747 relates to SLD File No. 108762, which was approved in part by Funding Commitment Decision Letter dated January 31, 1999.[17] Control No. E004736 relates to SLD File No. 109061, which was cancelled as a duplicate application by SLD.[18] However, SLD's cancellation of the application may have been in error.[19]

5. After reviewing the record, we have determined that the three FCC Forms 471 that were filed outside the window by Enoch Pratt in Funding Year 1 were Control Nos. E009261, E009262, and E009263, and not the applications for which Enoch Pratt provides its evidence.[20] Date stamps on each mailed application show that SLD received them outside the filing window, on May 29, 1998.[21] Enoch Pratt provides no evidence that it submitted any of these three applications in a timely manner. Nor is there any evidence, as Enoch Pratt claims but fails to substantiate, of any correspondence between Enoch Pratt and SLD regarding these applications, prior to SLD's denial of them. Furthermore, it is unclear exactly which applications are alleged to total $25,683.18.

6. After a thorough review of the record, we conclude Enoch Pratt fails to substantiate its claim that its three untimely FCC Forms 471 were filed in a timely manner. Requests for review must include "a full statement of relevant, material facts with supporting affidavits and documentation."[22] Enoch Pratt fails to provide adequate relevant and material facts and documentation. The evidence that Enoch Pratt does provide relates only to applications that were filed in a timely manner, and which are not at issue.[23]

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[15] Problem Resolution Response Forms. These forms are used internally by SLD to document its review of applications that may not be fully completed or completed correctly.

[16] Letter from Schools and Libraries Division, Universal Service Administrative Company, to Enoch Pratt Free Library, dated January 19, 1999.

[17] Letter from Schools and Libraries Division, Universal Service Administrative Company, to Enoch Pratt Free Library, dated January 31, 1999.

[18] FCC Form 471, Application Control No. E004736 (SLD File No. 109061); Enoch Pratt Free Library, filed April 5, 1999.

[19] *See* para. 8.

[20] *See* FCC Form 471, Application Control No. E009261, Enoch Pratt Free Library, filed May 29, 1998 (Control No. E009261); FCC Form 471, Application Control No. E009262, Enoch Pratt Free Library, filed May 29, 1998 (Control No. E009262); FCC Form 471, Application Control No. E009263, Enoch Pratt Free Library, filed May 29, 1998 (Control No. E009263). These applications were not data-entered, and therefore have no corresponding SLD File Number.

[21] *See* Control Nos. E009261, E009262, E009263.

[22] 47 C.F.R. § 54.721(b).

[23] *See* Request for Review, Attachments (Problem Resolution Response Forms).

7. 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.[24] 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. In light of Enoch Pratt's failure to substantiate its claim, we deny its Request for Review regarding the untimely filing of its three FCC Forms 471.

8. However, a review of the record demonstrates that SLD may have mistakenly cancelled Application Control No. E004736 (File No. SLD-109061), believing it to be a duplicate of Application Control No. E004730 (File No. SLD-107794). Other materials submitted originally by Enoch Pratt appear to establish that each of the two applications relate to different Bell Atlantic accounts.[25] In light of this possible incorrect cancellation, we remand Application Control No. E004736 (File No. SLD-109061) to SLD to determine whether discounts should have been granted for that application.

9. 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 Enoch Pratt Free Library, Baltimore, Maryland, on March 15, 2000 IS DENIED IN PART, and REMANDED IN PART, to the extent provided herein.

FEDERAL COMMUNICATIONS COMMISSION

Mark G. Seifert

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

[24] *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-13364, 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.").

[25] *See* Facsimile from Russell Doyen, Enoch Pratt Free Library, to NECA, filed July 27, 1998 (indicating that Application Control No. E004736 relates to Account Nos. 301-424-4200-845 and 301-424-4200-847, while Application Control No. E004730 relates to Account No. 301-925-2400-172). NECA processes applications at the direction of SLD.