

Before the
Federal Communications Commission
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION

In the Matter of)
)
Request for Review of the)
Decision of the)
Universal Service Administrator by)
)
Fort Worth Independent School District)
Forth Worth, Texas)
)
Federal-State Joint Board on)
Universal Service)
)
Changes to the Board of Directors of the)
National Exchange Carrier Association, Inc.)

File No. SLD-203703

CC Docket No. 96-45 ✓

CC Docket No. 97-21

ORDER

Adopted: January 11, 2002

Released: January 14, 2002

By the Common Carrier Bureau:

1. Before the Common Carrier Bureau is a Request for Review filed by Forth Worth Independent School District (Forth Worth ISD), Fort Worth, Texas, seeking review of decisions of the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).¹ Because Fort Worth ISD filed a request with SLD to correct site information in some of its funding awards more than 30 days after the funding decision was issued, SLD dismissed the requests as untimely appeals. For the reasons below, we vacate SLD's dismissal, and remand to SLD for further review consistent with this Order.

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.² The Commission's rules require that the applicant make a bona fide request for services by filing with the Administrator an FCC Form 470,³ which is posted to the Administrator's website for all

¹ Letter from Warren Anderson, Fort Worth Independent School District, to Federal Communications Commission, filed September 14, 2000 (Request for Review).

² 47 C.F.R. §§ 54.502, 54.503.

³ Schools and Libraries Universal Service, Description of Services Requested and Certification Form, OMB 3060-0806 (September 1999) (FCC Form 470).

potential competing service providers to review.⁴ After the FCC Form 470 is posted, the applicant must wait at least 28 days before entering an agreement for services and submitting an FCC Form 471, which requests support for eligible services.⁵ In Block 4 of the FCC Form 471, applicants provide information about each of the entities that are receiving services, including an Entity Number associated with each entity. Then, in connection with each funding request, applicants specify the sites from Block 4 by their entity number that will be receiving the service involved in that specific request.

3. In Funding Year 3, after receiving and successfully entering the FCC Form 471, SLD issued a Receipt Acknowledgement Letter (RAL) to the applicant, confirming what was requested on the FCC Form 471. For each Funding Request Number (FRN), the RAL noted the Service Provider Information Number (SPIN), the category of the service requested, the pre-discount cost of the requested service, and the discount rate percentage, but not the site information associated with the FRN. The Funding Year 3 RAL further provided that if the applicant, after reviewing the information provided in the RAL, discovered that it submitted data in error or that SLD entered the data erroneously, the applicant could request correction within a specified period of time.

4. On June 30, 2000, Fort Worth ISD received a Funding Commitment Decision Letter on its Funding Year 3 application for discounts.⁶ As relevant here, the Funding Commitment Decision Letter granted funding for Funding Request Numbers (FRNs) 466013, 466041, and 466284. On August 10, 2000, Fort Worth ISD sent a letter to SLD, asserting that the site identifier numbers for these FRNs were incorrect.⁷ Fort Worth ISD requested that SLD substitute the correct identifier.⁸ Fort Worth ISD indicated that in each case, the correct school would have the same discount rate as the listed school, and so the actual dollar amount of the discount for each FRN would not change.⁹

⁴ 47 C.F.R. § 54.504(b); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9078, para. 575 (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 First Report and 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).

⁵ 47 C.F.R. § 54.504(b), (c); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (September 1999) (FCC Form 471).

⁶ See Funding Commitment Decision Letter.

⁷ Letter from Warren Anderson, Fort Worth Independent School District, to Schools and Libraries Division, Universal Service Administrative Company, filed August 10, 2000 (Site Correction Request).

⁸ *Id.*

⁹ *Id.* at 1.

5. The record demonstrates that SLD treated the site identifier change request as an appeal.¹⁰ Because, under Commission regulations, all appeals from SLD decisions must be filed within 30 days of the issuance of the decision, SLD dismissed the request as untimely.¹¹ Fort Worth ISD then filed the pending Request for Review with the Commission. In its Request for Review, Fort Worth ISD asks the Commission to consider its site identifier change requests, notwithstanding the appeals deadline, because the request does not ask for changes in the amount of funding awarded.¹²

6. After reviewing the record and SLD's existing rules and procedures, we conclude that Fort Worth ISD's request for a site identifier correction should not have been dismissed as an untimely appeal. We note that both Service Provider Identification Number (SPIN) correction requests and SPIN change requests are submitted pursuant to a procedure that is separate from the appeal procedure, and are thus not subject to the appeals deadline. We find that site identifier correction requests are analogous to SPIN correction requests and that they should not be subject to the appeals process. We therefore conclude that such requests should not be treated as appeals of funding decisions and thus should be reviewed without regard to the appeals deadline.

7. We must emphasize the narrow extent of our holding. We address only correction requests that seek changes solely to the site identifier number. Indeed, we have previously upheld SLD's dismissal of a request to correct an erroneous contract termination date where that request was submitted after the 30-day deadline period.¹³ Further, although we are directing SLD to develop a procedure for site identifier corrections that is not subject to the appeals period, we do not preclude SLD from developing a procedure for site identifier correction requests that includes deadlines that SLD finds appropriate to maintain operational efficiency. However, we would expect that SLD provide applicants with some form of notice, *e.g.*, in the Receipt Acknowledgement Letter or on its web site, of the method and deadlines of site correction procedures that it develops.

8. Finally, we do not prescribe at this time any particular substantive standards for or limitations on permissible site corrections. A standard for processing such error corrections is an operational issue, and thus one to be decided by SLD in the first instance pursuant to its general authority to administer the schools and libraries universal service mechanism.

¹⁰ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Warren Anderson, Fort Worth Independent School District, dated August 25, 2000 (Administrator's Decision on Appeal).

¹¹ *Id.* at 1. We note that, due to recent disruptions in the reliability of the mail service, the appeal period has been extended to 60 days for Requests for Review seeking review of decisions issued on or after August 13, 2001. See *Implementation of Interim Filing Procedures for Filings of Requests for Review, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, FCC 01-376 (rel. December 26, 2001; erratum rel. December 28, 2001; second erratum rel. January 4, 2002).

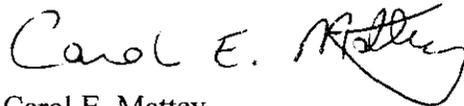
¹² Request for Review, at 1.

¹³ *Request for Review by Solon City Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-68608, CC Dockets No. 96-45 and 97-21, Order, 16 FCC Rcd 3876 (Com. Car. Bur. 2001).

9. Applying our narrow holding here, we find that Forth Worth ISD's August 10, 2000 letter sought a site correction in three FRNs.¹⁴ The documentation attached to Fort Worth ISD's FCC Form 471 confirms that the amounts requested in the FRNs were intended for the sites that it seeks to have substituted, and that the site identifier information that Fort Worth ISD initially entered in its application for these FRNs was erroneous.¹⁵ We further find that the three FRNs were granted in full, and that none of the requested corrections would affect the amount of funds awarded because the originally designated schools and the schools that Forth Worth ISD seeks to substitute are all entitled to 90% discounts under the discount matrix.¹⁶ We conclude that these requests are not subject to the appeals period and therefore, we vacate the dismissal and remand for further review in accordance with this decision. If, under the substantive standard that SLD develops for permissible site corrections, the pending requests are denied on the merits, Forth Worth ISD may seek further review from the Commission at that time, subject to the deadlines for appeal of SLD action.

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 54.722(a), that the Request for Review filed by Forth Worth Independent School District, Forth Worth, Texas on September 14, 2000 IS GRANTED, and the site correction requests are REMANDED to SLD for further action consistent with this opinion.

FEDERAL COMMUNICATIONS COMMISSION



Carol E. Matthey
Deputy Chief, Common Carrier Bureau

¹⁴ See Site Correction Request.

¹⁵ FCC Form 471, Fort Worth Independent School District, filed January 19, 2000, attachment #ER2000-3.1.

¹⁶ See Site Correction Request, at 1; FCC Form 471, Fort Worth Independent School District, filed January 19, 2000, Block 4, Item 10b.