

Before the  
Federal Communications Commission  
Washington, D.C. 20554

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| In the Matter of                            | ) |                       |
|   | ) |                       |
| Request for Review of the                   | ) |                       |
| Decision of the                             | ) |                       |
| Universal Service Administrator by          | ) |                       |
|   | ) |                       |
| Milford School District                     | ) | File No. SLD-198352   |
| Milford, Delaware                           | ) |                       |
|   | ) |                       |
| Federal-State Joint Board on                | ) | CC Docket No. 96-45   |
| Universal Service                           | ) |                       |
|   | ) |                       |
| Changes to the Board of Directors of the    | ) | CC Docket No. 97-21 ✓ |
| National Exchange Carrier Association, Inc. | ) |                       |

ORDER

Adopted: February 25, 2002

Released: February 26, 2002

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division has under consideration a Request for Review filed by Milford School District (Milford).<sup>1</sup> Milford seeks review of a decision of the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) to deny a funding request included in its Funding Year 3 application for discounts.<sup>2</sup> For the reasons set forth below, we grant Milford's Request for Review and remand to SLD for further determination in accordance 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.<sup>3</sup> The Commission's rules require that the applicant make a bona fide request for services by filing with

<sup>1</sup> Letter from Kay Buck, Office of Telecommunications Management, State of Delaware, to Federal Communications Commission, filed March 28, 2001 (Request for Review).

<sup>2</sup> See Request for Review. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

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

the Administrator an FCC Form 470,<sup>4</sup> which is posted to the Administrator's website for all potential competing service providers to review.<sup>5</sup> 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.<sup>6</sup> As part of the FCC Form 471 application, schools and libraries must certify that their requests are based on an approved technology plan.<sup>7</sup> The plans are required to be independently approved, to ensure that they are based on the reasonable needs and resources of the applicant and are consistent with the goals of the schools and libraries mechanism.<sup>8</sup> SLD reviews the FCC Forms 471 that it receives and issues funding commitment decisions in accordance with the Commission's rules.

3. On January 13, 2000, Milford filed a FCC Form 471 with SLD.<sup>9</sup> The application included three funding requests.<sup>10</sup> One of the funding requests was for a Centrex system (FRN 430758), that was to be used for the delivery of dial tone services to the school district.<sup>11</sup> According to SLD's Eligible Services List, it is necessary for applicants requesting discounts on a Centrex system to have an approved technology plan.<sup>12</sup> Milford's FCC Form 471 indicated that they did not have a technology plan.<sup>13</sup> On July 7, 2000, SLD denied FRN 430758 and stated that Milford had not provided sufficient documentation to determine the eligibility of the

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<sup>4</sup> Schools and Libraries Universal Service, Description of Services Requested and Certification Form, OMB 3060-0806 (FCC Form 470).

<sup>5</sup> 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).

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

<sup>7</sup> See FCC Form 471; *Universal Service Order*, 12 FCC at 9077, paras. 572-573. Schools and libraries are not required to file a technology plan if they only apply for basic local and long distance telephone service. See Instructions for Completing the Schools and Libraries Universal Service Services Ordered and Certification Form (FCC Form 471) (September 1999) at 25 (Form 471 Instructions).

<sup>8</sup> *Universal Service Order*, 12 FCC at 9078, para. 574. See also SLD web site, Technology Plans: Policies and Procedures (July 2000), <<http://www.sl.universalservice.org/apply/2proc.asp>>.

<sup>9</sup> FCC Form 471, Milford School District, filed January 13, 2000 (Milford Form 471).

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at attachment 1.

<sup>12</sup> See SLD web site, Eligible Services List (December 29, 2000), <<http://www.sl.universalservice.org/reference/eligible.asp>>.

<sup>13</sup> Milford Form 471.

funding request.<sup>14</sup> Milford appealed this decision to SLD, and asserted that they had, in fact, provided SLD with all the necessary information relating to this funding request.<sup>15</sup>

4. Upon receiving Milford's appeal letter, SLD's Program Integrity Assurance unit (PIA) contacted the Delaware Department of Education in order to determine whether Milford had an approved technology plan. The record shows that the Delaware Department of Education did not have a record of an approved technology plan for Milford.<sup>16</sup> PIA subsequently contacted Milford and requested that the school provide verification that Milford either did or did not have an approved technology plan.<sup>17</sup> PIA established a deadline of March 19, 2001 for such documentation.<sup>18</sup> According to Milford, PIA agreed to extend the deadline to March 20, 2001.<sup>19</sup>

5. On March 16, 2001, several days before the verification deadline, SLD issued their decision on appeal.<sup>20</sup> SLD determined that although Milford responded to all inquires from SLD, they were unable to provide verification that Milford had an approved technology plan.<sup>21</sup> In the Administrator's Decision on Appeal letter, SLD noted that they contacted the Delaware Department of Education, and the Delaware Department of Education confirmed that they did not have a record of an approved technology plan for Milford.<sup>22</sup> On March 20, 2001, however, the Delaware Department of Education faxed a letter to SLD certifying that Milford had an approved technology plan.<sup>23</sup>

6. Upon review of the record before us, we find that Milford was not permitted to

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<sup>14</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company to Kay Buck, Milford School District, dated July 7, 2000.

<sup>15</sup> Letter from Kay Buck, Office of Information Services, State of Delaware to Schools and Libraries Division, Universal Service Administrative Company, filed July 14, 2000.

<sup>16</sup> See Letter from Schools and Libraries Division, Universal Service Administrative Company to Kay Buck, Office of Information Services, State of Delaware, issued March 16, 2001 (Administrator's Decision on Appeal).

<sup>17</sup> See Request for Review.

<sup>18</sup> E-mail from Andrew Easley, Schools and Libraries Division, Universal Service Administrative Company, to Kay Buck, State of Delaware, Office of Telecommunications Management, dated March 11, 2001 (10:40 a.m.).

<sup>19</sup> See Request for Review.

<sup>20</sup> Administrator's Decision on Appeal. For purposes of this Request for Review, we conclude it is not necessary to determine whether March 19, 2001, or March 20, 2001, was the agreed upon deadline. Both dates were subsequent to the issuance of the Administrator's Decision on Appeal.

<sup>21</sup> *Id.*

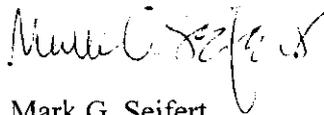
<sup>22</sup> *Id.*

<sup>23</sup> See Letter from Valerie Woodruff, Department of Education, to Schools and Libraries Division, Universal Service Administrative Company, dated on or about March 20, 2001 (undated letter, with cover page dated March 20, 2001). See also Request for Review.

submit evidence relating to their technology plan within the time-frame that SLD established. Technology plans must be prepared and approved before schools and libraries may receive discounted services under the universal service support mechanism.<sup>24</sup> SLD provided Milford with an opportunity to verify that a technology plan had been approved, but issued the Administrator's Decision on Appeal before the apparent deadline for submission of the information. By opening the door to additional evidence relating to the technology plan, SLD was obligated to wait until the agreed upon deadline to complete their review of the appeal. As a result, we find that it is appropriate to remand FRN 430758 to SLD for further review.

7. 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 Milford School District on March 28, 2001 IS GRANTED and that its application IS REMANDED to SLD for further consideration in light of this decision.

FEDERAL COMMUNICATIONS COMMISSION



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

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<sup>24</sup> Form 471 Instructions at 25.