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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 Universal Service Administrator by | ) | |
| | ) | |
| Flagler County School District Bunnell, Florida | ) | File No. SLD-180015 |
| | ) | |
| 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: February 5, 2002** **Released: February 13, 2002**

By the Common Carrier Bureau:

1. Before the Common Carrier Bureau is a Request for Review filed by Flagler County School District (Flagler), Bunnell, Florida, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).[1] Flagler seeks review of SLD's denial of one of its Funding Year 3 requests for discounts under the schools and libraries universal service mechanism.[2] For the reasons discussed below, we deny the Request for Review and affirm SLD's decision.

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] The Commission's rules require that to obtain discounts, an applicant make a bona fide request for services by filing with the Administrator an FCC Form 470,[4] which is posted to the

[1] Letter from Louise Hurd, Flagler County School District, to Federal Communications Commission, filed May 1, 2001 (Request for Review).

[2] 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).

[3] 47 C.F.R. §§ 54.502, 54.503.

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

Administrator's website for all potential competing service providers to review.[5] 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.[6] SLD reviews the FCC Forms 471 that it receives and issues funding commitment decisions in accordance with the Commission's rules.

3. As discussed in the *Universal Service Order*, and affirmed in the *Fourth Reconsideration Order*, the Communications Act permits only "telecommunications carriers" to receive direct reimbursement under the universal service support mechanisms for the provision of discounted telecommunications services, and the term "telecommunications carrier" includes only carriers that offer telecommunications on a common carriage basis.[7]

4. Flagler's Funding Year 3 application sought support for telecommunications services in Funding Request Number (FRN) 364968, to be provided by Trans Florida Communications (TFC).[8] During SLD's review, it discovered and informed Flagler that TFC was no longer a valid provider.[9] Flagler then investigated and determined that TFC had sold its operations to another carrier. Maycom Communications (Maycom).[10] On or around May 19, 2000, Flagler requested a Service Provider Information Number (SPIN) change for FRN 364968 from TFC to Maycom.[11] SLD granted this request on June 6, 2000.[12]

5. On June 23, 2000, SLD issued a Funding Commitment Decision Letter denying FRN 364968 on the grounds that the provider was "not a telecommunications common carrier

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[5] 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).

[6] 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).

[7] *Universal Service Order*, 12 FCC Rcd at 9177-78, 9005-23, 9084-90; *Federal-State Joint Board on Universal Service, Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charge*, CC Docket Nos. 96-45, 96-262, 94-1, 91-213, 95-72, *Fourth Order on Reconsideration*, 13 FCC Rcd 5318, 5413-14 (1997) (*Fourth Reconsideration Order*).

[8] FCC Form 471, Flagler County School District, filed January 15, 2000, at 3.

[9] *See* Letter from Louise Hurd, Flagler County School District, to School and Libraries Division, Universal Service Administrative Company, filed July 12, 2000 (Appeal to SLD), at 1.

[10] *See id.*

[11] *See id.*

[12] *See* Letter from Schools and Libraries Division, Universal Service Administrative Company, to Louise Hurd, Flagler County School District, dated March 19, 2001 (Administrator's Decision on Appeal), at 2.

service provider."[13] The provider listed for FRN 364968 was "Trans Florida Communications."[14]

6. Flagler appealed, arguing that it had properly requested a SPIN change to Maycom.[15] On March 19, 2001, SLD denied the appeal.[16] It stated that it had granted the SPIN change to Maycom, but had determined that Maycom was itself not a state-licensed common carrier of telecommunications, and was therefore ineligible to provide discounted telecommunications service.[17] Flagler then filed the pending Request for Review.

7. In its Request for Review, Flagler does not dispute that Maycom is ineligible, but asserts that Maycom is not the actual carrier.[18] Flagler states that Maycom is only the "local provider" for Nextel Direct Connect Service (Nextel), which, Flagler asserts, is an eligible telecommunications carrier.[19] Flagler asserts that the actual bill for the service comes from Nextel.[20] Flagler therefore now requests a second SPIN correction from Maycom to Nextel.[21] Finally, Flagler objects to the ineligibility determination because it has allegedly applied in previous years for service from the "same ineligible provider" and been granted discounts.[22]

8. After reviewing the record, we find that Flagler's Request for Review must be denied because it is not entitled to a SPIN correction under the facts presented here. As a general matter, applicants may request and obtain SPIN corrections both before and after the issuance of the Funding Commitment Decision Letter.[23] However, SLD does not grant SPIN correction requests after the issuance of the Funding Commitment Decision Letter where the identity of the service provider has led to a funding denial.[24] This practice is consistent with SLD's general

[13] Letter from Schools and Libraries Division, Universal Service Administrative Company, to Louise Hurd, Flagler County School District, dated June 23, 2000, at 5.

[14] *Id.*

[15] Appeal to SLD, at 1.

[16] Administrator's Decision on Appeal.

[17] *Id.* at 1-2.

[18] Request for Review, at 1.

[19] *Id.*

[20] *Id.*

[21] *Id.*

[22] *Id.*

[23] *See* SLD web site, <http://www.sl.universalservice.org/reference/SPINCorrection.asp>.

[24] *See, e.g.*, Letter from Schools and Libraries Division, Universal Service Administrative Company, to Sr. Elizabeth S. Hatzenbuehler, Ursuline Academy, App. No. 178448, dated April 10, 2001 (stating, in response to appeal from funding denial, that "SLD will not grant a SPIN Change, since your original request included a SPIN that you were not authorized to use.").

practice of denying requests to correct a data entry error after the error has led to an adverse funding decision unless the error is demonstrated to be the fault of SLD.[25] We have upheld this practice, finding that it is administratively necessary to require an applicant to be responsible for providing complete and accurate information in its FCC Form 471 upon which its ultimate funding is dependent.[26]

9. With SPIN corrections, as with data errors, we find that if applicants were permitted to correct or modify their applications after SLD has denied them, it would eliminate any incentive for them to ensure that they are contracting with a bona fide telecommunications carrier when requesting funding for telecommunications service. This would significantly increase the administrative burden SLD would face while carrying out its obligation to guard against the occurrence of errors and fraud. In this case, Flagler does not dispute SLD's determination that Maycom is not a telecommunications carrier. Thus, we find that FRN 364968 was correctly denied based on its SPIN. Because the first SPIN change led to a funding denial, we conclude that Flagler was not thereafter entitled to a second SPIN correction.

10. We need not determine whether Flagler has received discounted telecommunications service from TFC in the past, as it alleges. Assuming that this is true, it is not grounds for relief, as the relevant question is whether Flagler is currently seeking discounts on telecommunications services that are provided by telecommunications carriers.[27]

11. 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 Flagler County School District, Bunnell, Florida, on May 1, 2001 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Carol E. Mattey

Carol E. Mattey
Deputy Chief, Common Carrier Bureau

[25] *See Request for Review by Baltimore Junior Academy, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-195870, CC Dockets No. 96-45 and 97-21, Order, DA 01-1819, para. 4 (Com. Car. Bur. rel. July 31, 2001).

[26] *Id.*, para. 12.

[27] Based on the record before us, TFC was a telecommunications carrier prior to its cessation of operations. Appeal to SLD, at 1.