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Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	)	
	)	
Request for Review of the Decision of the Universal Service Administrator by	)	
	)	
Chichester School District Boothwyn, Pennsylvania	)	File No. SLD-123978
	)	
Federal-State Joint Board on Universal Service	)	WC Docket No. 96-45
	)	
Changes to the Board of Directors of the National Exchange Carrier Association, Inc.	)	WC Docket No. 97-21

ORDER

Adopted: April 10, 2002 **Released: April 11, 2002**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. Before the Telecommunications Access Policy Division (Division) is a Request for Review filed by Chichester School District (Chichester), Boothwyn, Pennsylvania, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).[1] Chichester seeks review of SLD's decision to fund one of Chichester's Funding Year 2 requests at a 40% discount instead of the 49% discount rate that Chichester requested.[2] For the reasons discussed below, the Request for Review is denied.

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 the applicant make a bona fide request for services by filing with the Administrator an FCC Form 470, which is posted to the Administrator's website for all

[1] Letter from Joyce Voshell, Chichester School District, to Federal Communications Commission, filed June 4, 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.

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] SLD reviews the FCC Forms 471 that it receives and issues funding commitment decisions in accordance with the Commission's rules.

3. In accordance with the Commission's rules, the discount available to a particular school or library is determined by indicators of poverty and high relative cost of service.[6] An applicant's discount rate is then applied to the cost of eligible services requested by the applicant.[7] Where an applicant seeks "shared services," services that will be used by more than one eligible entity, the relevant discount rate is the weighted average of the discount rates of the entities receiving the service.[8] Applicants indicate the discount rate for which they are eligible in Block 4 of their FCC Forms 471.

4. In Funding Request Number (FRN) 190250 of Chichester's Funding Year 2 application for discounts, Chichester made a site-specific request for discounted internal connections at Chichester Senior High School (CSHS), and indicated a discount rate of 49%, the average discount rate for the district.[9] SLD awarded funding for discounted service, but at a 40% discount rate rather than the requested 49% discount rate.[10]

5. Chichester appealed to SLD, asserting that the school district's correct discount rate was 49%, not 40%.[11] SLD denied the appeal, on the grounds that Chichester had "indicated on [the] Form 471 that [the] requested service is site-specific."[12] SLD found that "[t]he entity

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[4] Schools and Libraries Universal Service, Description of Services Requested and Certification Form, OMB 3060-0806 (September 1999) (FCC Form 470); 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] 47 C.F.R. § 54.505(b).

[7] *Id.*.

[8] 47 C.F.R. § 505(b)(4).

[9] FCC Form 471, Chichester School District, filed April 5, 1999 (Chichester Form 471), at 3.

[10] Letter from Schools and Libraries Division, Universal Service Administrative Company, to Joyce Voshell, Chichester School District, dated January 19, 2001, at 1, 3.

[11] Letter from Joyce Voshell, Chichester School District, to Schools and Libraries Division, Universal Service Administrative Company, dated February 14, 2001, at 1.

[12] Letter from Schools and Libraries Division, Universal Service Administrative Company, to Joyce Voshell, Chichester School District, dated May 15, 2001, at 1.

receiving this service is Chichester High School, which is eligible for 40% as funded."[13] SLD concluded that "we cannot permit applicants to change their site-specific requests to shared services after the application is submitted unless a new application is submitted."[14] Chichester then filed the pending Request for Review, which asserts again that SLD erroneously applied a 40% rate instead of the 49% average rate of the district's member schools.

6. On review of the record, we affirm the decision of SLD. Although the average discount rate for the district is 49%, Chichester specified in its FCC Form 471 that FRN 190250 was a site-specific request for internal connections to CSHS.[15] Thus, as required by Commission rules, SLD correctly applied the discount rate for the specific CSHS site rather than the district's average discount rate of 49%. Chichester's FCC Form 471 provides that the discount rate for CSHS is 40%.[16]

7. Chichester argues that it correctly applied for site-specific services with a 49% discount rate because "it always was and still is one school district with the percent at 49%."[17] In support of this argument, Chichester refers to Block 4 of its FCC Form 471 application, in which the discount rate of the district is calculated, based on the weighted average of the member schools, to be 49%.[18] However, the same Block 4 document specifies that this 49% discount rate is only the "[d]iscount for *shared services* ordered by billed entity."[19] As noted, Chichester requested a site-specific service, not a shared service, and further specified the site as CSHS.[20] We therefore find that SLD correctly funded FRN 190250 at the 40% rate of CSHS rather than the district's overall 49% rate.

[13] *Id.*

[14] *Id.*

[15] Chichester Form 471, at 3.

[16] *Id.* at 2.

[17] Request for Review, at 2.

[18] *Id.*, Attachment.

[19] *Id.* (emphasis added).

[20] Chichester Form 471, at 2, 3.

8. 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 Chichester School District, Boothwyn, Pennsylvania, on June 4, 2001 is DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Mark G. Seifert

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Wireline Competition Bureau