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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	)	
	)	
North Chicago Community Unit School District 187 North Chicago, Illinois	)	File No. SLD-135304
	)	
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: April 23, 2002 **Released: April 24, 2002**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division (Division) has before it a Request for Review filed by North Chicago Community Unit School District 187 (North Chicago), North Chicago, Illinois, seeking review of a decision of the Schools and Libraries Division (SLD) of the Universal Service Administrative Company.[1] SLD returned without consideration North Chicago's Funding Year 3 application for discounted services under the schools and libraries universal service support mechanism because it omitted certain information required under SLD's Funding Year 3 minimum processing standards.[2] For the reasons discussed below, we deny the Request for Review.

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]

[1] Letter from Tyrone Pipkin, North Chicago Community Unit School District 187, to Federal Communications Commission, filed July 13, 2001 (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).

[2] Letter from Schools and Libraries Division, Universal Service Administrative Company, to Tyrone Pipkin, North Chicago Community Unit School District 187, dated February 16, 2000 (Rejection Letter).

[3] 47 C.F.R. §§ 54.502, 54.503.

The Commission's rules require that the applicant make a bona fide request for services by filing with the Administrator an FCC Form 470,[4] which is posted to the 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] Each request is submitted on a separate Block 5.[7] SLD reviews the FCC Forms 471 that it receives and issues funding commitment decisions in accordance with the Commission's rules.

3. Every funding year, SLD establishes and notifies applicants of a "minimum processing standard" to facilitate the efficient review of the thousands of applications requesting funding.[8] When an applicant submits a FCC Form 471 that omits an item subject to the minimum processing standards, SLD automatically returns the application to the applicant without considering the application for discounts under the program.[9] In Funding Year 3, SLD added to the minimum processing standards the requirement that applicants identify, in Item 22 of each Block 5 funding request, the specific entity receiving a service or, if that service is shared by more than one entity, the applicant list the Block 4 worksheet number that identifies the entities sharing the service.[10]

4. In the pending case, SLD rejected North Chicago's application on February 16, 2000.[11] SLD found that that North Chicago's FCC Form 471 had failed minimum processing standards because Block 5, Item 22 did "not correspond with a [Block 4] Worksheet provided to the SLD" with the application.[12] North Chicago appealed to SLD, arguing that the entities receiving service did correspond with the entities listed in Block 4, Worksheet A-1 provided to

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

[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] FCC Form 471, Block 5.

[8] *See, e.g.*, SLD web site, Form 471 Minimum Processing Standards and Filing Requirements for FY3, <http://www.sl.universalservice.org/reference/471mps.asp> (*Minimum Processing Standards*).

[9] *Minimum Processing Standards.*

[10] *Id.*

[11] Rejection Letter.

[12] *Id.* at 1.

SLD.[13] SLD denied the appeal, concluding that the rejection of the application was proper under the standards established in the Commission's *Naperville Order*.[14] SLD found that North Chicago did not satisfy the standards for relief under the *Naperville Order* because the information omitted from Item 22, Block 5, the entities receiving service, could not be easily discerned from other information in the application.[15] North Chicago then filed the pending Request for Review.

5. In its Request for Review, North Chicago argues again that it did satisfy the minimum processing standards because Item 22, Block 5 for each of its requests corresponded with a Worksheet A-1 provided to SLD.[16] It also argues that the attachments to Block 5 also have the correct "shared services" boxes checked. It further asserts that it was not given the opportunity to make corrections.

6. On review of the application, we find that Item 22, Block 5 was blank for each of North Chicago's applications and that SLD correctly found that the application did not satisfy minimum processing standards.[17] Further, we agree with SLD that North Chicago is not entitled to reversal of the minimum processing standard rejection under the *Naperville Order* because the information is not easily discernable from other information in the application.

7. Under program rules, each funding request must be presented on a separate Block 5 of the FCC Form 471.[18] For each Block 5, an applicant specifies, in Item 22, which entity or group of entities listed in the applicant's Block 4 worksheets will receive the service.[19] In Block 4, an entity is listed together with its associated discount rate, and groups of entities that will be receiving shared services are listed with their average discount rate.[20] In the *Naperville Order*,

[13] Letter from Tyrone Pipkin, North Chicago Community Unit School District 187, to Schools and Libraries Division, Universal Service Administrative Company, filed April 6, 2000, at 1.

[14] Letter from Schools and Libraries Division, Universal Service Administrative Company, to Tyrone Pipkin, North Chicago Community School District 187, dated June 15, 2001 (Admininstrator's Decision on Appeal); *see also Request for Review by Naperville Community United School District 203, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Dockets No. 96-45 and 97-21, File No. SLD-203343, Order, 16 FCC Rcd 5032 (2001) (*Naperville Order*).

[15] *Id.* at 2.

[16] Request for Review at 1.

[17] *See* FCC Form 471, North Chicago C. U. School District 187, NEC.471.01-19-00.05001220, dated January 19, 2000 (North Chicago Form 471).

[18] FCC Form 471, Block 5.

[19] *Id.*

[20] The Block 4 worksheet generally requires the applicant to list all the entities receiving a service for which discounts are sought. *See* FCC Form 471, Block 4. When an applicant is seeking discounts for a service to be shared by a group of schools within the district, the worksheet calculates the weighted average discount of those schools, which is then applied to the shared service. *Id.* When a school district is seeking multiple shared services for different groups of schools within its district, the applicant must complete a different Block 4 worksheet for each group, labeling the worksheets "A-1," "A-2," and so forth. In this situation, separate Block 4 worksheets are

the Commission found that a minimum processing standards rejection was improper in part because the omitted information was easily discernable from other information in the application.[21] Specifically, it found that although the Block 5 funding request at issue did not specify the entities that would receive service, the discount rate requested in the funding request was uniquely attributable to the average discount rate of all of the schools, as calculated on an accompanying Block 4 worksheet.[22] Thus, it was clear that the funding request sought shared services for the district schools. Here, North Chicago's funding requests seek discounts of 87 percent.[23] North Chicago's originally submitted FCC Form 471 application included two Block 4 worksheets each listing a group of schools.[24] The list of schools in the groups were not identical but they both had a shared discount rate of 87 percent.[25] Because the requested discount rate on the funding requests was not uniquely associated with a particular group of sites presented in a Block 4 worksheet, SLD could not determine, solely based on the discount rate, which of the two groups would be receiving the requested services.[26]

8. North Chicago argues that information was provided in its attachments indicating that the services were shared.[27] We find, however, that information found only in the attachments is not sufficient to satisfy the *Naperville Order*'s requirement that such minimum processing standards information be easily discernable from other information in the application. In addition, we note that information indicating that the services would be shared would still leave SLD unable to determine which of the two listed groups would be receiving the shared service.

9. Finally, we find that North Chicago is not entitled to relief on the grounds that SLD did not provide it a timely opportunity to make corrections. SLD's practice of immediately returning without consideration those applications that fail minimum processing standards has already been affirmed by the Commission.[28] In light of the thousands of applications that SLD

required because the weighted average discount will vary from group to group. *Id.* The FCC Form 471 requests that the applicant identify the Block 4 worksheet for a particular group at Item 22 of the Block 5 worksheet used to request the discounted services to be received by that group. *Id.*

[21] *Naperville Order*, para. 13.

[22] *Id.*

[23] North Chicago Form 471.

[24] *Id.*

[25] *Id.*

[26] We note that the copy of North Chicago's FCC Form 471 attached to its Request for Review includes only one Block 4 worksheet. Request for Review, Attachment. North Chicago asserts that this is the "original" application. Request for Review. We find, however, based on the record before us, that the application originally submitted to SLD included two Block 4 worksheets with different groups. *See* North Chicago Form 471; Administrator's Decision on Appeal, at 2.

[27] Request for Review, at 1.

[28] *See Naperville Order.*

reviews and processes each year, it is administratively necessary to place on the applicant the ultimate responsibility of complying with all relevant rules and procedures.[29]

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 North Chicago Community Unit School District 187, North Chicago, Illinois, on July 13, 2001 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Mark G. Seifert
Deputy Chief, Telecommunications Access Policy Division
Wireline Competition Bureau

[29] *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, para. 8 (Com. Car. Bur. 2000).