

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

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In the Matter of	)	
	)	
Request for Review by	)	
	)	
Desert Sands Unified School District	)	File No. SLD-249106
La Quinta, California	)	
	)	
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 Associations, Inc.	)	

## ORDER

Adopted: June 27, 2002

Released: June 28, 2002

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Review by Desert Sands Unified School District (Desert Sands), La Quinta, California.<sup>1</sup> Desert Sands seeks review of a determination by the Schools and Libraries Division of the Universal Service Administrative Company (Administrator) that Desert Sands' funding application was filed outside the filing window for Funding Year 4.<sup>2</sup> For the reasons set forth below, we deny the Request for Review.<sup>3</sup>

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>4</sup> In order to receive discounts on eligible services, the Commission's rules require that the applicant submit to the Administrator a completed FCC Form 470, in which the applicant sets forth its technological needs and the services for which it seeks discounts.<sup>5</sup> Once the applicant has

<sup>1</sup> Letter from George Araya, Desert Sands Unified School District, to the Federal Communications Commission, filed August 22, 2001 (Request for Review).

<sup>2</sup> See Request for Review. See also Letter from Schools and Libraries Division, Universal Service Administrative Company, to George Araya, Desert Sands Unified School District, dated August 9, 2001 (Administrative Decision on Waiver Request). 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> Desert Sands specifically declines to seek a waiver of the Commission's rules governing the Funding Year 4 application filing deadline. See Request for Review. Accordingly, we consider Desert Sands's appeal as a Request for Review.

<sup>4</sup> 47 C.F.R. §§ 54.501-54.503.

<sup>5</sup> 47 C.F.R. § 54.504(b)(1), (b)(3).

complied with the Commission's competitive bidding requirements and entered into agreements for eligible services, the applicant must submit a completed FCC Form 471 application to the Administrator.<sup>6</sup> In the FCC Form 471 instructions, SLD has clearly set forth its standards for processing a FCC Form 471 application.<sup>7</sup> Specifically, the FCC Form 471 instructions state that if a school or library does not provide the information requested, "the processing of your application may be delayed or your application may be returned to you without action."<sup>8</sup>

3. Section 54.507(c) of the Commission's rules states that fund discounts will be available on a first-come, first-served basis.<sup>9</sup> The Commission's rules also allow the Administrator to implement an initial filing period ("filing window") for the FCC Form 471 applications that treats all schools and libraries filing within that period as if their applications were simultaneously received.<sup>10</sup> Applications that are received outside of this filing window are subject to separate funding priorities under the Commission's rules.<sup>11</sup> It is to all applicants' advantage, therefore, to ensure that the Administrator receives their applications prior to the close of the filing window. In Funding Year 4, the window closed on January 18, 2001.<sup>12</sup>

4. Applicants may file their FCC Form 471 electronically.<sup>13</sup> In order to have successfully completed the submission of the FCC Form 471 application in Funding Year 4, applicants who filed electronically must also have completed and mailed to SLD the Item 21 description of services, and a paper copy of the Block 6 certification, the latter of which applicants also must have signed.<sup>14</sup> A commitment of support is contingent upon the timely filing of the applicants' completed FCC Form 471.<sup>15</sup> Prior to Funding Year 4, the deadline by which these items had to be received by SLD to be considered within the window was later than the deadline for the filing of the FCC Form 471, so that applicants could file electronically on the last day of the filing window, and mail their certifications and attachments thereafter. However, because in previous years the delivery of a number of applications was significantly delayed by the postal service, SLD, starting in Funding Year 4, directed that all FCC Forms 471 would be deemed filed when postmarked, rather than when received by SLD.<sup>16</sup> This procedural change

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<sup>6</sup> 47 C.F.R. § 54.504(c).

<sup>7</sup> Instructions for Completing the Schools and Libraries Universal Service, Services Ordered and Certification Form (FCC Form 471), OMB 3060-0806 (October 2000) (Form 471 Instructions). *See also* 47 C.F.R. § 54.504(c).

<sup>8</sup> Form 471 Instructions at 2.

<sup>9</sup> 47 C.F.R. § 54.507(c).

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

<sup>11</sup> 47 C.F.R. § 54.507(g).

<sup>12</sup> In Funding Year 4, SLD processed applications as "in-window," if they were postmarked by January 18, 2001. *See* SLD web site, Form 471 Minimum Processing Standards and Filing Requirements for Funding Year 4, <<http://www.sl.universalservice.org/reference/471mps.asp>> (Funding Year 4 Minimum Processing Standards).

<sup>13</sup> Form 471 Instructions at 4-5.

<sup>14</sup> Block 6 is the section of the FCC Form 471 where applicants must sign the form and make certifications required under program rules. *See* Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (October 2000).

<sup>15</sup> Form 471 Instructions at 3-6.

<sup>16</sup> *See* SLD website, What's New (November 2, 2000) <<http://www.sl.universalservice.org/whatsnew/110200.asp#110200>> (SLD Year 4 Change Notice).

protects applicants from excessive mail delays.

5. Prior to the close of the window, SLD notified potential applicants that all Block 6 certifications and Item 21 attachments must also be postmarked no later than the close of the filing deadline. Specifically, the FCC Form 471 instructions referred applicants to the SLD Client Service Bureau or its website for annual filing deadline dates.<sup>17</sup> SLD notified applicants about the postmark deadline: (1) through a November 6, 2000 letter mailed to 61,000 applicants, including previous applicants;<sup>18</sup> (2) through a press release distributed on November 2, 2000, to approximately 100 news outlets;<sup>19</sup> and (3) by posting several notifications in different areas on the SLD website.<sup>20</sup>

6. Desert Sands filed the electronic portion of its FCC Form 471 on January 16, 2001.<sup>21</sup> Desert Sands argues that it therefore filed the entire application within the window.<sup>22</sup> However, Desert Sands's Block 6 certification page and Item 21 attachments were postmarked on January 22, 2001.<sup>23</sup> Consequently, SLD informed Desert Sands that its application was filed outside the filing window.<sup>24</sup> On appeal to the Commission, Desert Sands does not address whether it submitted its Block 6 certification page and Item 21 attachments in a timely fashion. Desert Sands argues instead that the electronic submission of the FCC Form 471 constitutes compliance with program requirements.<sup>25</sup>

7. Based on our review of the record, we find that Desert Sands filed its Block 6 certification page and Item 21 attachments outside the filing window, causing its entire application to be filed outside the window. The standard for whether an applicant met the priority funding deadline for Funding Year 4 is whether the entire application, complete with certification and attachments, was posted by the last day of the window. As noted above, the

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<sup>17</sup> Form 471 Instructions.

<sup>18</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to applicants, dated November 6, 2000. SLD records indicate that a copy of the letter was mailed to Virginia Savarese at St. Mary's School-Rosebank.

<sup>19</sup> "Window Opens For Year Four E-rate Applications," Schools and Libraries Division, Universal Service Administrative Company, Press Release, November 2, 2000.

<sup>20</sup> See SLD Year 4 Change Notice ("Year 4 features NEW and FIRM filing requirements: The January 18 deadline is a POSTMARKING deadline. In order to make sure your application is in the window, all manually submitted materials must be postmarked no later than January 18. Unlike Year 3, all materials associated with the Form 471 have a January 18 deadline: the 471 Form itself (whether electronic or paper); the Block 6 certification for the Form 471 with an original signature by the authorized person; all attachments for Item 21; [and] the Block 5 certification of Form 470 filed for Year 4 (and which is cited in a Year 4 Form 471) with an original signature by the authorized person"); see also SLD website, Program Description for the 2001-2002 Funding Year (November 2000) at 1, 4-5, 14-15 <<http://www.sl.universalservice.org/data/doc/ProgramDescriptionY4.doc>>; Funding Year 4 Minimum Processing Standards at 3.

<sup>21</sup> FCC Form 471, Desert Sands Unified School District, filed January 16, 2001 (Desert Sands Form 471) (electronic copy).

<sup>22</sup> Request for Review.

<sup>23</sup> Desert Sands Form 471 (express mail label on envelope).

<sup>24</sup> See Request for Review (attaching copy of one side of a postcard from the Schools and Libraries Division, Universal Service Administrative Company).

<sup>25</sup> See Request for Review.

Block 6 certification page and Item 21 attachments were postmarked on January 22, 2001, and were therefore ineligible to be considered within the filing window. Therefore, we deny the Request for Review.

8. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), that the Request for Review filed by Desert Sands Unified School District, La Quinta, California, on August 22, 2001, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Mark G. Seifert  
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Wireline Competition Bureau