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

AUG 21 2002

In the Matter of	)	
	)	
Request for Review of a Decision of the Universal Service Administrative Company By	)	
	)	
Indiana Intelenet Commission Indianapolis, Indiana	)	File No. SLD-201666
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Changes to the Board of Directors of the National Exchange Carriers Association, Inc.	)	CC Docket No. 97-21

ORDER

Adopted: August 5, 2002 **Released: August 6, 2002**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Review filed by the Indiana Intelenet Commission (Intelenet) Indianapolis, Indiana.[1] Intelenet requests review of a decision by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC or Administrator) relating to Intelenet's application for discounts under the schools and libraries universal service support mechanism. For the reasons set forth below, we deny Intelenet's 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.[2] 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.[3]

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[1] Letter from Bob G. Carnel, Indiana Intelenet Commission, Indianapolis, Indiana, to Federal Communications Commission, filed June 18, 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] 47 C.F.R. §§ 54.502, 54.503.

[3] 47 C.F.R. § 54.504 (b)(1), (b)(3).

3. Once the applicant has complied with the Commission's competitive bidding requirements and entered into agreements for eligible services, it must file an FCC Form 471 application to notify the Administrator of the services that have been ordered, the carriers with whom the applicant has entered into an agreement, and an estimate of funds needed to cover the discounts to be given for eligible services.[4] In Funding Year 3, this information was provided in Block 5 of the FCC Form 471.[5] Using information provided by the applicant in its FCC Form 471, the Administrator determines the amount of discounts for which the applicant is eligible. Approval of the application is contingent upon the filing of FCC Form 471, and funding commitment decisions are based on information provided by the school or library in this form.

4. Intelenet filed an FCC Form 471 with SLD on January 18, 2000.[6] The record demonstrates that the FCC Form 471 was missing pages 2, 3, 4, 5, and 14 of Block 5.[7] In April 2000, the Program Integrity Assurance (PIA) unit of SLD contacted Intelenet to resolve issues regarding Block 4 of the application.[8] PIA requested that Intelenet submit certain revisions to Block 4 and revised copies of the corresponding Block 5 funding requests already submitted.[9] In response, Intelenet sent SLD the revised Block 4 and relevant Block 5 pages. Intelenet also included pages 2, 3, and 4 from Block 5 which were not previously submitted to SLD.[10] On August 2, 2000, SLD issued a Receipt Acknowledgement Letter (RAL) indicating that the Form 471 had been received.[11] It also indicated the terms of 17 funding requests as entered by SLD and advised Intelenet that "[i]f you find data entry errors on this letter, or you previously identified errors on your Form 471, these can be corrected using this Form 471 Receipt Acknowledgment Letter."[12] Intelenet did not identify any errors or respond to the RAL.[13]

5. On September 29, 2000, SLD issued a Funding Commitment Decision Letter, which approved the 17 funding requests including the funding requests described on pages 2, 3, and 4 of Block 5.[14] The FCDL did not approve funding for the requests described on pages 5 and 14 of Block 5.[15] In its October 27, 2000 letter of appeal to SLD, Intelenet claimed that it

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[4] 47 C.F.R. § 54.504(c).

[5] Schools and Libraries Universal Service, Service Ordered and Certification Form, OMB 3060-0806 (September 1999) (FCC Form 471).

[6] FCC Form 471, Indiana Intelenet Commission, filed January 18, 2000 (Intelenet Form 471).

[7] *Id.*

[8] *See* Problem Resolution Form Detail Log, Indiana Intelenet Commission, Application No. 201666, entries dated April 4, 2000 – April 17, 2000 (Problem Resolution Form Detail Log).

[9] *Id.*

[10] *Id. See also* Schools and Libraries Division, SPC Review Form, April 17, 2000 (SPC Review Form).

[11] Letter from Schools and Libraries Division, Universal Service Administrative Company, to Bob Carnal, Indiana Intelenet Commission, issued August 3, 2000 (Receipt Acknowledgement Letter).

[12] *Id.* at 1.

[13] Intelenet acknowledges that it did not respond to the RAL in its Request for Review. *See* Request for Review at 1.

[14] Letter from Universal Service Administrative Company, Schools and Libraries Division to Bob Carnel, Indiana Intelenet Commission, issued September 29, 2000 (Funding Commitment Decision Letter).

[15] *Id.*

submitted two additional funding requests in its FCC Form 471 on behalf of Clark County Special Education Cooperative (Clark) and Porter County Education Interlocal (Porter).[16] Intelenet attached copies of the Block 4 and Block 5 worksheets relating to the two omitted funding requests and asserted that the worksheets were included in their original application.[17] The attached Block 5 worksheets indicated that the Clark funding request was page 5 of 19 and the Porter funding request was page 14 of 19.[18]

6. On June 4, 2001, SLD affirmed its initial funding decision and denied Intelenet's appeal.[19] Specifically, SLD explained that the original documentation did not include the two funding requests at issue in the appeal and that SLD's records did not indicate that Intelenet requested the revision after receiving the RAL.[20] SLD also stated that any additional funding requests that were not included on the original FCC Form 471 could only be considered if a new FCC Form 471 was filed.[21] Intelenet requests review of SLD's decision and maintains that the funding requests made on behalf of Clark and Porter were part of the original FCC Form 471.[22] Intelenet further asserts that although they did not notify SLD of the omission after reception of the Receipt Acknowledgement Letter, the omission was the responsibility of SLD.[23]

7. After review of the record, we find that SLD correctly concluded that the Clark and Porter funding requests were not properly submitted. SLD's records reveal that the FCC Form 471 filed on January 18, 2000 included the Block 4 worksheets relating to Clark and Porter.[24] The records also indicate, however, that the original application did not include pages 2, 3, 4, 5, and 14 of the Block 5 worksheets.[25] During review by the PIA unit, SLD requested

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[16] Letter from Bob Carnel, Indiana Intelenet Commission, to Universal Service Administrative Company, Schools and Libraries Division, filed October 27, 2000 (SLD Appeal Letter).

[17] *Id.*

[18] *Id. See also* Request for Review.

[19] Letter from Universal Service Administrative Company, Schools and Libraries Division to Bob Carnel, Indiana Intelenet Commission, issued June 4, 2001.

[20] *Id.* Even if Intelenet had indicated that two FRN's were missing in response to the RAL, SLD would not have considered those requests. SLD will not accept changes after the close of the filing window that will increase the amount of funding requested. USAC's administrative practice, which is set forth on its website, is to permit the applicant to correct data entry errors; change contact information; reduce the amount of requests included in an application; change the service provider identity number, if the original service provider has merged with or been acquired by the new service provider; or "unbundle" a funding request that incorrectly included services provided by multiple service providers, or included services from more than one eligible service category, if materials supporting the original FCC Form 471 confirm the distinctions. *See* SLD website, <http:// www.sl.universalservice.org/>. The Wireline Competition Bureau has previously affirmed this USAC administrative practice. *See Request for Review by Genesee Intermediate School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD- 151960, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 11820 (Com. Car. Bur. 2001).

[21] *Id.*

[22] Request for Review.

[23] *Id.*

[24] Intelenet Form 471.

[25] *Id. See also* SPC Review Form.

certain modifications to some of the Block 4 worksheets from Intelenet's application.[26] In accord with those changes, SLD requested that Intelenet make corresponding modifications to the Block 5 worksheets that had already been submitted.[27] In response, Intelenet submitted the revised Block 5 worksheets and 3 additional Block 5 funding requests.[28] The record shows that SLD received and processed pages 2, 3, and 4, but never received pages 5 and 14.[29]

8. We therefore find that Intelenet has failed to provide persuasive evidence demonstrating that pages 5 and 14 were filed with the January 18, 2000, FCC Form 471 or that they were otherwise received by SLD prior to the close of the filing window or during PIA review.[30] We emphasize that SLD's records show that SLD first received the missing pages 5 and 14 as an attachment to Intelenet's SLD Appeal Letter.[31] As a result, we conclude that it was appropriate for SLD to not consider pages 5 and 14 of Block 5. The burden of ensuring the application is timely, complete and accurate properly rests with the applicants themselves. Thus, Intelenet's Request for Review is denied.

9. Furthermore, after review of the record, we direct SLD to investigate and determine whether the funding requests on pages 2, 3, and 4 were awarded consistent with program rules. It is the Commission's policy that applicants are not permitted to amend completed FCC Forms 471 to include additional requests for funding after closure of the filing window deadline.[32] If applicants were permitted to amend their applications after close of the filing window, it would eliminate any incentive to avoid making unauthorized service requests or to comply with the SLD's document demands in a timely fashion.[33] This would significantly increase the administrative burden SLD would face while carrying out its obligation to guard against the occurrence of errors and fraud.[34] If applicants are permitted to amend their requests after the filing window closed, it could jeopardize SLD's ability to accurately apply the rules of priority in years where requests for funding exceed the annual funding cap.[35]

10. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under

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[26] *See* Problem Resolution Form Detail Log.

[27] *Id.*

[28] *See* SPC Review Form.

[29] *Id.;* SPC Review Form. As noted above, the Block 5 worksheets attached to Intelenet's SLD Appeal Letter and Request for Review indicated that the Clark funding request was page 5 of 19 and the Porter funding request was page 14 of 19. *See* SLD Appeal Letter; Request for Review.

[30] *In re Application of Herbert L. Rippe*, 44 FCC Rcd 91 (Rev. Bd. 1973) ("It is well established law that the absence of an official record of an event is evidence of the non-occurrence of the event.")

[31] *See* SLD Appeal Letter.

[32] *See Request for Review by Free Library of Philadelphia, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-112605, CC Dockets No. 96-45 and 97-21, Order, 15 FCC Rcd 23820 (Com. Car. Bur. 2000).

[33] *See Request for Review by Cheney Public Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-142969, CC Dockets No. 96-45 and 97-21, Order, DA 01-351 (Com. Car. Bur. rel. Feb. 13, 2001), at para. 6.

[34] *Id.*

[35] *Id.*

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 June 18, 2001 by Indiana Intelenet Commission, Indianapolis, Indiana, IS DENIED.

11. ACCORDINGLY, IT IS FURTHER ORDERED that the Schools and Libraries Division review its treatment of Block 5, pages 2, 3, and 14 from Intelenet's Application Number 201666 and, if warranted, issue a revised Funding Commitment Decision Letter in accordance with program rules.

FEDERAL COMMUNICATIONS COMMISSION

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