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

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In the Matter of	)	
Request for Review of the Decision of the Universal Service Administrator By	)	
Weathersfield Local Schools Mineral Ridge, Ohio	)	File Nos. SLD-226039, SLD-226107
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: September 24,2002 **Released: September 25,2002**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Review filed by Weathersfield Local Schools (Weathersfield), Mineral Ridge, Ohio.[1] Weathersfield requests review of decisions by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) relating to Weathersfield's two applications for discounted services under the schools and libraries universal service support mechanism for Funding Year 2001.[2] For the reasons discussed below, we dismiss in part and deny in part Weathersfield'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.[3] In

[1] Letter from Weathersfield Local Schools, Mineral Ridge, Ohio, to Federal Communications Commission, filed February 19,2002 (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). In prior funding years, this funding period was referred to as Funding Year 4. Funding periods are now described by the year in which the funding period starts. Thus, the funding period that begins on July 1, 2002 and ends on June 30, 2002, previously known as Funding Year 4, is now called Funding Year 2001. Similarly, the funding period that begins on July 1, 2002 and ends on June 30,2003, previously known as Funding Year 5, is now called Funding Year 2002, and so on.

[3] 47 C.F.R. §§ 54.502, 54.503

order to receive discounts on eligible services, the Commission's rules require that the applicant submit to SLD a completed FCC Form 470, in which the applicant sets forth its technological needs and the services for which it seeks discounts.[4] This form is posted *to* the Administrator's website for all competing service providers to review.[5] Applicants may file the FCC Form 470 electronically, but must print out and mail in a certification page (Block 5 of the form) before the close of the filing window for the FCC Form 471.[6] The Administrator will post an electronically filed Form 470 on its website prior to receipt of the Form 470 certification. However, if the certification is not received by the close of the filing window, the Administrator will deny all Forms 471 that cite to that Form 470.[7] Once the applicant has 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.' Among other thiigs, this Form 471 must state which Form 470 solicited the bids from which the final contracts were chosen. This is commonly referred to as the "establishing Form 470."

3. The Commission's rules direct 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 filed.[9] Applications that are received outside of this filing window are subject to separate funding priorities under the Commission's rules." It is to all applicants' advantage, therefore, to ensure that the Administrator receives their applications prior to the close of the filing window.

4. Weatherfield filed its FCC Form 470 No. 690530000305246 (Form 470 No. 5246) online, and SLD posted it on November 8,2000." On November 13,2000, SLD notified Weathersfield that it had received FCC Form 470 No. 5246 but not the certification for it.[12] On January 2,2001, Weathersfield filed two FCC Forms 471, SLD-226107 and SLD-226039, both

[4] 47 C.F.R. § 54.504 (b)(1), (b)(3)

[5] 47 C.F.R. § 54.504(b)

[6] *See, e.g.,* SLD web site, What's New, "FCC Form 471 Window Opens for Year [2001] Applicants; New Filing Requirements Firmly Established," (November 2,2000)<http://www.sl.universalservice.org/whatsnew/112000.asp#110200>.

[7] *See, e.g.,* SLD web site, What's New, "FCC Form 471 Window Opens for Year [2001] Applicants; New Filing Requirements Firmly Established," (November 2,2000)<http://www.sl.universalservice.org/whatsnew/l12000.asu#11O200>; SLD web site, Reference Area, "Form 470 Minimum Processing Standards and Filing Requirements" (October 3,2001) <http://www.sl.universalservice.org/reference/470mps.asp>; SLD web site, Reference Area, "Form 471 Minimum Processing Standards and Filing Requirements for FY [2002]" (October 3,2001) <<http://www.sl.universalservice.org/reference/47 1mps.asp>.

[8] 47 C.F.R. § 54.504(c)

[9] 47 C.F.R. § 54.507(c)

[10] 47 C.F.R. § 54.507(g).

[11] FCC Form 470, Weathersfield Local Schools, filed November 8,2000 (Form 470 No. 5246)

[12] Lener from Schools and Libraries Division, Universal Service Administrative Co., to Greg Shepley, Weathersfield Local Schools, dated November 13,2000 (Form 470 No. 5246 Receipt Acknowledgment Letter).

citing FCC Form 470 No. 5246 as the establishing FCC Form 470.[13] On April 20,2001, SLD contacted Weathersfield by telephone and confirmed that both FCC Forms 471 were based upon that FCC Form 470.[14] By letter dated July 23,2001, SLD denied Weathersfield discounts for both of its FCC Form 471 applications, on the grounds that it had failed to receive a timely certification for the establishing FCC Form 470.[15]

5. On August 10,2001, Weathersfield filed an appeal with SLD of the July 23,2001 decision regarding application SLD-226107, but did not appeal SLD's decision to deny discounts for application SLD-226039.[16] On January 21,2002, SLD issued a decision affirming its determination to deny application SLD-226107 because it did not receive a related FCC Form 470 certification from Weathersfield.[17] Weathersfield filed the instant Request for Review with the Commission on February 19, 2002.[18]

6. In the instant a peal, Weathersfield challenges SLD's decision to deny discounts for application SLD-226107.[19] Weathersfield argues that according to SLD's web site, the certification for the relevant FCC Form 470 was received November 13,2000, and that on November 20,2000, the Administrator wrote Weathersfield and stated that the appropriate certification had been received.[20] The information cited by Weathersfield verifies the timely certification of FCC Form 470 No. 831610000308353 (Form 470 No. 8353), whereas SLD denied discounts based on the absence of certification for FCC Form 470 No. 5246.[21]

7. Weathersfield also appeals SLD's decision to deny discounts for application SLD-226039.[22] It contends that it mailed the FCC Form 470 certification in the same envelope as the certification for FCC Form 470 No. 8353.[23]

8. As an initial matter, we dismiss as untimely Weathersfield's Request for Review as it relates to application SLD-226039. For requests for review of decisions issued before

[13] FCC Form 471 No. SLD-226107, Weathersfield Local Schools, filed January 2,2001; FCC Form 471 No. SLD-226039, Weathersfield Local Schools, filed January 2,2001.

[14] Universal Service Administrative Co., Schools and Libraries Division, Program Integrity Assurance Application Activity Logs, Application Nos. 226107,226309 (Activity Logs).

[15] Letter from Schools and Libraries Division, Universal Service Administrative Co., to Greg Shepley, dated July 23, 2001 (Funding Commitment Decision Letter).

[16] Letter from Greg Shepley, Weathersfield Local Schools, to Schools and Libraries Division, Universal Service Administrative Co., filed August 10,2001 (Appeal to SLD).

[17] Letter from Schools and Libraries Division, Universal Service Administrative Co., to Greg Shepley, Weathersfield Local Schools, dated January 21,2002 (Administrator's Decision on Appeal).

[18] Request for Review.

[19] Request for Review. This application deals with Funding Request Number (FRN) 521019

[20] *Id.* at 1, Exhibit B (SLD web site showing information for FCC Form 470 No. 8353); *Id.* at 1, Exhibit C (Letter from Schools and Libraries Division, Universal Service Administrative Co., to Greg Shepley, dated November 20, 2000 (Form 470 Receipt Notification Letter for Form 470 No. 8353)).

[21] Request for Review at Exhibits B, C; Activity Logs; Administrator's Decision on Appeal.

[22] Request for Review. This application deals with Funding Request Number (FRN) 520998

[23] *Id.*

August 13,2001, under section 54.720(b) of the Commission's rules, an appeal must be filed with the Commission or SLD within 30 days of the issuance of the decision that the party seeks to have reviewed.[24] Documents are considered to be filed with the Commission or SLD only upon receipt.[25] The 30-day deadline contained in section 54.720(b) of the Commission's rules applies to all such requests for review filed by a party affected by a decision issued by the Administrator.[26] In its February 19,2002 Request for Review, Weathersfield appeals SLD's decisions to deny discounts both for applications SLD-226039 and SLD-226107.[27] However, SLD's decision to deny application SLD-226039 was issued on July 23,2001. Therefore, Weathersfield's February 19,2002 Request for Review is untimely as to application SLD-226039. Because Weathersfield failed to file an appeal regarding SLD-226039 with either SLD or the Commission of the July 23,2001 Funding Commitment Decision Letter within the requisite 30-day appeal period, we dismiss the instant Request for Review as it relates to that application.

9. Secondly, we affirm SLD's decision to deny discounts for application SLD-226107. Weathersfield indicates its belief that FCC Form 470 No. 8353, for which SLD received a certification, is the establishing FCC Form 470 for application SLD-226107.[28] However, the record reflects that FCC Form 470 No. 5246 is the Form 470 that is the basis for SLD-226107.[29] When Weathersfield submitted application SLD-226107 to SLD, it listed FCC Form 470 No. 5246 as the relevant FCC Form 470.[30] In addition, SLD contacted the applicant and confirmed that FCC Form 470 No. 5246 was the establishing Form 470 for application SLD-226107.[31] Weathersfield fails to provide any evidence demonstrating that it submitted the certification for FCC Form 470 No. 5246. Weathersfield's claim is insufficient to raise an issue of error on the part of SLD.[32]

10. Signature certifications ultimately satisfy the program's policy objective of binding the applicants and service providers to the program requirements. The signature

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[24] 47 C.F.R. § 54.720(b).

[25] 47 C.F.R. § 1.7.

[26] We note that, due to recent disruptions in the reliability of the mail service, the 30-day appeal period has been extended by an additional 30 days for requests seeking review of decisions issued on or after August 13,2001. ***See Implementation of Interim Filing Procedures for Filings of Requests for Review, Federal-State Joint Board on Universal Service,*** CC Docket No. 96-45, Order, FCC 01-376 (rel. Dec. 26, 2001), as corrected by ***Implementation of Interim Filing Procedures for Filings of Requests for Review, Federal-State Joint Board on Universal Service,*** CC Docket No. 96-45, Errata (Com. Car. Bur. rel. Dec. 28,2001 and Jan. 4,2002). Because the July 23,2001 Funding Commitment Decision Letter was issued before August 13,2001, the extended appeal period does not apply to Weathersfield, and even if it did, Weathersfield's Request for Review was submitted well after 60 days.

[27] Request for Review

[28] Request for Review

[29] *See* FCC Form 471 (SLD-226107), Weathersfield Local Schools, filed January 2,2001

[30] *See id*

[31] Activity Logs

[32] *See, e.g., In re Applications of Stephen E. Powell*, Memorandum Opinion and Order, 11 FCC Rcd 11925 (1996) (observing that "if the Commission were to entertain and accept unsupported arguments that letters mailed in Commission proceedings were not delivered . . . procedural havoc and abuse would result.").

certification requirement is essential in that it protects the program from fraud and waste, serves as an additional means of holding applicants accountable for their representations, and assists in the efficient administration of the program. By failing to submit a signature certification, Weathersfield omitted the legally binding act that signifies compliance with program rules. In light of the thousands of applications that SLD must review and process each funding year, we believe it administratively appropriate for SLD to require applicants to adhere strictly to its filing deadlines and requirements. Weathersfield **has** failed to demonstrate the merits of its Request for Review. We therefore deny Weathersfield's request.

11. 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 February 19,2002 by Weathersfield Local Schools, Mineral Ridge, Ohio IS DISMISSED IN PART AND DENIED IN PART.

FEDERAL COMMUNICATIONS COMMISSION

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