

**Before the
Federal Communications Commission
Washington, DC 20554**

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| In the Matter of |) | |
| |) | |
| Request for Review of the |) | |
| Decision of the |) | |
| Universal Service Administrator by |) | |
| |) | |
| Locust Valley Library |) | File No. SLD-265734 |
| Locust Valley, New York |) | |
| |) | |
| 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 Association, Inc. |) | |

ORDER

Adopted: January 14, 2003

Released: January 15, 2003

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Review filed by Locust Valley Library (Locust), Locust Valley, New York, seeking review of a decision of the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).¹ Specifically, Locust requests review of a determination that it failed to file a completed application for universal service support within the filing window for Funding Year 2001.² For the reasons set forth below, we deny Locust'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 Salvatore Marino, Locust Valley Library, to Federal Communications Commission, filed January 11, 2002 (Review 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 See Request for Review. Previously, this funding period would be referred to as Funding Year 4. Funding periods are now described by the year in which the funding period starts. Thus the funding period which began on July 1, 2001 and ends on June 30, 2002, previously described as Funding Year 4, and is now called Funding Year 2001. The funding period which began on July 1, 2002 and ends on June 30, 2003, previously described as Funding Year 5, and is now called Funding Year 2002, and so on.

³ 47 C.F.R. §§ 54.501–54.503.

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 Once the applicant has complied with the Commission's competitive bidding requirements and entered into an agreement for eligible services, it must file an FCC Form 471 application to notify the Administrator of the services that have been ordered, the carrier with whom the applicant has entered an agreement, and an estimate of funds needed to cover the discounts to be given for eligible services.⁵

3. The Commission's rules require that the applicant file a completed FCC Form 471 by the filing window deadline to be considered pursuant to the funding priorities for in-window applicants.⁶ In order to have successfully completed the submission of the FCC Form 471 application in Funding Year 2001, applicants who filed electronically must also have completed and mailed to SLD the Item 21 description of services, and completed and sent either electronically or by mail a Block 6 certification.⁷ Prior to Funding Year 2001, 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 2001, directed that all FCC Forms 471 would be deemed filed when postmarked, rather than when received by SLD.⁸ The last day of the filing window for Funding Year 2001 was January 18, 2001.⁹

4. Locust submitted its Funding Year 2001 application on January 16, 2001, making one request for discounted telecommunications services.¹⁰ However, it did not submit an Item 21 attachment describing the service.¹¹ On August 6, 2001, SLD sent Locust a postcard stating that the application, certifications, or Item 21 attachment was postmarked after the close of the filing window and that the application would therefore not be considered for funding.¹² On

⁴ 47 C.F.R. §§ 54.504(b).

⁵ 47 C.F.R. § 54.504(c).

⁶ 47 C.F.R. §§ 54.504(c), 54.507(g).

⁷ Block 6 is the section of the FCC Form 471 where applicants must sign the form and make certifications required under program rules. See FCC Form 471, Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (October 2000).

⁸ See SLD website, What's New (November 2, 2000) <<http://www.sl/universalservice.org/whatsnew/110200.asp#110200>> (SLD Year 4 Change Notice).

⁹ See SLD website, FCC Form 471 Window Opens for Year 4 Applicants (November 2, 2000), <<http://www.sl.universalservice.org/whatsnew/112000.asp#110200>>.

¹⁰ FCC Form 471, Locust Valley Library, filed January 16, 2001 (Locust Form 471).

¹¹ Request for Review.

¹² Postcard from Schools and Libraries Division, Universal Service Administrative Company, to Salvatore Marino, Locust Valley Library, dated August 6, 2001.

August 20, 2001, Locust appealed this decision to SLD.¹³ On October 25, 2001, SLD issued a letter to Locust Valley in connection with its application.¹⁴ SLD noted that it had no evidence that Locust had submitted an Item 21 attachment with its application but stated that it would provide an additional opportunity for the applicant to submit an Item 21 attachment if, among other things, the applicant was willing to certify that it had, in fact, submitted an Item 21 attachment with its application.¹⁵ SLD further stated that, “[i]f you did NOT include an Item #21 Attachment with your original application, no action is required and your application will be denied for failing to meet the filing requirements.”¹⁶ With regard to the pending appeal, SLD stated: “We have received your appeal concerning this issue for the application referenced above. Because you have the opportunity to resolve your issue through the above process, your current appeal will not be addressed.”¹⁷

5. Because Locust had not originally submitted an Item 21 attachment with its application, it did not resubmit the Item 21 attachment at that time, and instead filed the pending Request for Review.¹⁸ Subsequently, SLD issued a letter formally rejecting Locust’s application for lack of an Item 21 attachment.¹⁹

6. In its Request for Review, Locust concedes that it did not provide an Item 21 attachment with its Funding Year 2001 application but asserts that, when it was contacted on April 6, 2001 by SLD to address an unrelated issue, no mention was made of the absence of the Item 21 attachment and Locust assumed that the application was otherwise correct.²⁰ Locust also objects to the denial of its telecommunications service request for failure to attach a copy of a telephone bill, asserting that this error is too minor to warrant funding denial.²¹

7. Because Locust never submitted an Item 21 attachment for its application, we find that SLD correctly rejected Locust’s application. Neither the limited nature of the error nor SLD’s failure to mention the problem warrants relief from the failure to submit a complete application. In light of the thousands of applications that SLD reviews and processes each year, it is administratively necessary to place on applicants the responsibility of complying with all

¹³ Letter from Salvatore Marino, Locust Valley Library, to Schools and Libraries Division, Universal Service Administrative Company, filed August 20, 2001.

¹⁴ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Salvatore Marino, Locust Valley Library, dated October 25, 2001 (Item 21 Letter).

¹⁵ *Id.* at 1.

¹⁶ *Id.* at 2.

¹⁷ *Id.*

¹⁸ *See* Request for Review.

¹⁹ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Salvatore Marino, Locust Valley Library, dated March 14, 2002.

²⁰ Request for Review at 1.

²¹ *Id.*

relevant rules and procedures.²²

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 Locust Valley Library, Locust Valley, New York, on January 11, 2002 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

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

²² 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, Inc.*, File No. SLD-133664, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 25610, para. 8 (Com. Car. Bur. 2000).