

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

In the Matter of)	
)	
Request for Review of the)	
Decision of the)	
Universal Service Administrator by)	
)	
Quillayute Valley School District)	File No. SLD-215879
Forks, Washington)	
)	
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: November 13, 2003

Released: November 14, 2003

By the Wireline Competition Bureau:

1. The Wireline Competition Bureau has under consideration a Request for Review filed by Olympic Peninsula Consultants (Olympic) on behalf of Quillayute Valley School District (Quillayute), Forks, Washington.¹ Quillayute seeks review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) relating to Quillayute's application for discounts in Funding Year 2001 under the schools and libraries universal service support mechanism.² For the reasons set forth below, we grant and remand to SLD Quillayute's Request for Review.

2. On January 16, 2001, Quillayute filed a FCC Form 471 with SLD.³ At issue in the instant Request for Review is Funding Request Number (FRN) 531822, which requested discounts on telecommunications services for nine cellular telephones.⁴ During Program Integrity Assurance (PIA) review, SLD contacted Quillayute and requested a copy of the cellular

¹ Letter from Jim Bennett, Olympic Peninsula Consultants on behalf of Quillayute Valley School District, to Federal Communications Commission, filed October 18, 2001 (Request for Review).

² See 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).

³ FCC Form 471, Quillayute Valley School District, filed January 16, 2001 (Quillayute Form 471).

⁴ *Id.*

service bill detailing the funding request.⁵ Quillayute faxed SLD a copy of the monthly bill, which listed 15 cellular telephones and totaled \$223.02.⁶ It also included handwritten notations that specified the job title for each of the 15 school employees who used the cellular services listed on the bill.⁷ The bill, however, did not indicate which of the nine cellular phones were to be included in the funding request.⁸ Based on the job titles written on the bill, SLD determined that five of the phones were used by employees that were ineligible for discounted cellular services under program rules in effect at the time the application was filed.⁹ The ineligible users accounted for \$82.33 of the overall bill.¹⁰

3. Applicants may seek support for eligible services only.¹¹ The instructions for the FCC Form 471 clearly state: “You may not seek support for ineligible services, entities, and uses.”¹² The instructions further clarify that “[i]f ineligible services are also being provided under this contract or service agreement, and if they are featured on this list, the applicant should clearly identify them as ineligible...”¹³ Although SLD reduces a funding request to exclude the cost of ineligible services in circumstances where the ineligible services represent less than 30 percent of the total funding request, SLD will deny a funding request in its entirety if ineligible services constitute more than 30 percent of the total.¹⁴ An applicant can avoid denial by subtracting out, at the time of its initial application, the cost of ineligible services. In Funding Year 2001, cellular telephone service was a service conditionally eligible for discount funding if

⁵ PIA Exception Documentation, Quillayute Valley School District, Application No. 215879, dated September 12, 2001 (with date entry for January 31, 2001) (PIA Exception Documentation).

⁶ Facsimile from Jim Bennett, Quillayute Valley School District, to Chris Bond, Schools and Libraries Division, Universal Service Administrative Company, dated January 31, 2001 (10:08 a.m.) (January 31 Fax).

⁷ *Id.*

⁸ *Id.*

⁹ Specifically, the bill indicated that five of the phones were used by a maintenance supervisor, transportation supervisor, and three bus drivers. *Id.* The bill also indicated that a cellular phone was used by a business manager, which was not considered to be ineligible by SLD. *See* PIA Exception Documentation. The cellular phone for the business manager was not one of the nine cellular phone users for which Quillayute requested support. *See* Letter from Jim Bennett, Olympic Peninsula Consultants on behalf of Quillayute Valley School District, to Schools and Libraries Division, Universal Service Administrative Company, filed August 9, 2001 (SLD Appeal Letter) at attachment.

¹⁰ *See* January 31 Fax; PIA Exception Documentation. The five users determined to be ineligible by SLD actually totaled \$82.34. Because SLD used \$82.33 in its computations, and we believe that the \$0.01 difference is inconsequential for purposes of our analysis, we will use \$82.33 in the instant Order.

¹¹ 47 C.F.R. § 54.504 *et seq.*

¹² Instructions for Completing the Schools and Libraries Universal Service Services Ordered and Certification Form (FCC Form 471) (October 2000) at 17 (Form 471 Instructions).

¹³ Form 471 Instructions at 20.

¹⁴ *See* 47 C.F.R. §54.504(c)(1); *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Second Report and Order and Further Notice of Proposed Rulemaking, FCC 03-101 (rel. April 30, 2003) (*Schools Second Order*), paras. 40-41; *Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service*, CC Docket Nos. 97-21 and 96-45, Third Report and Order in CC Docket No. 97-21 and Fourth Order on Reconsideration in CC Docket No. 97-21 and Eighth Order on Reconsideration in CC Docket No. 96-45, 13 FCC Rcd 25058 (1998).

1) provided for use at a place of instruction, and 2) used for an educational purpose.¹⁵

4. On July 23, 2001, SLD denied FRN 531822 on the grounds that more than 30 percent of the funding request was for cellular phone service for maintenance and transportation employees, which were ineligible users.¹⁶ On August 9, 2001, Quillayute filed an appeal with SLD.¹⁷ Quillayute acknowledged that it did not specify on the bill which of the 15 cellular phones were included in its funding request for nine cellular phones.¹⁸ Quillayute provided SLD with a revised list that clarified that six of the 15 cellular phones listed on the bill were not included in the original funding request.¹⁹

5. SLD denied the appeal and explained that over 30 percent of the funding request was for ineligible cellular services.²⁰ SLD indicated that ineligible users included the maintenance supervisor, transportation supervisor, and three bus drivers.²¹ Subsequently, Quillayute filed the instant Request for Review.²² Quillayute states that the ineligible users were not included in their original funding request, as detailed by an attachment to their SLD Appeal Letter.²³ Quillayute requests that FRN 531822 be approved for funding.²⁴

6. After reviewing the record, and program procedures for Funding Year 2001, we conclude that Quillayute's funding request should not have been denied. At SLD's request, Quillayute provided PIA with a monthly bill supporting the costs associated with the funding request.²⁵ The monthly bill also indicated the job titles of the employees for each of the cellular

¹⁵ See SLD website, Eligible Services List (December 29, 2000) <<http://www.sl.universalservice.org/reference/eligible.asp>> (Funding Year 2001 Eligible Services List) at 3. The Eligible Services List provides guidance from SLD on the eligibility of products and services for which applicants may be seeking funding. The Commission recently clarified the scope of the requirement that services be used for an educational purpose and determined that, in the case of schools, activities that are integral, immediate, and proximate to the education of students qualify as educational purposes under this program. See *Schools Second Order* at paras. 17-21. The Commission further stated that "reasonable requests for any supported service – over any technology platform – to be used by any school or library staff while in a library, classroom, or on school or library property, shall be eligible for discounts" and that services would become available under this clarification beginning in Funding Year 2004. *Id.* at paras. 19-20.

¹⁶ *Id.*

¹⁷ SLD Appeal Letter.

¹⁸ *Id.*

¹⁹ According to Olympic, the 6 cellular phones that were not included in the funding request were to be used by the maintenance supervisor, transportation supervisor, three bus drivers, and business manager. SLD Appeal Letter at attachment.

²⁰ Letter from Schools and Libraries Division, Universal Service Administrative Company to Jim Bennett, Quillayute Valley School District, Olympic Peninsula Consultants, dated October 1, 2001.

²¹ *Id.*

²² Request for Review.

²³ *Id.*

²⁴ *Id.*

²⁵ See PIA Log, Quillayute Valley School District, Application No. 215879, January 31, 2001 (11:24 a.m.) (PIA Log). See also January 31 Fax.

phones listed on the bill.²⁶ Based on the job titles, SLD concluded that five of the 15 cellular phones listed on the bill were for ineligible users.²⁷ SLD further determined that if the five ineligible phones totaling \$82.33 per month were included in Quillayute's funding request for \$219.60 per month, this total would have accounted for well over 30 percent of the requested services.²⁸

7. In fact, subsequent documentation provided by Quillayute clarified that the total funding request – all nine cellular phones – was for eligible services.²⁹ Consistent with SLD's normal procedures, it is appropriate to consider additional documentation that was consistent with the original application, and also resolved the ambiguity regarding which of the nine cellular phones from the monthly bill were included in the original funding request.³⁰ Therefore, to the extent that SLD incorrectly assumed that a portion of the funding request was for cellular phones that were to be used for ineligible services, we conclude that SLD should have considered the additional documentation that Quillayute provided on appeal. The documentation provided by Quillayute clarifies that the nine cellular phones included in the funding request were for eligible purposes.³¹ Accordingly, we grant Quillayute's Request for Review and remand FRN 531822 to SLD for action consistent with this Order.

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 October 18, 2001, by Olympic Peninsula Consultants on behalf of Quillayute Valley School District, Forks, Washington IS GRANTED and REMANDED to SLD for action consistent with this Order.

FEDERAL COMMUNICATIONS COMMISSION

Carol E. Matthey
Deputy Chief, Wireline Competition Bureau

²⁶ See January 31 Fax.

²⁷ PIA Exception Documentation.

²⁸ *Id.*

²⁹ See SLD Appeal Letter at attachment.

³⁰ *Id.*; Quillayute FCC Form 471. SLD Appeals Guidelines state that SLD will grant an appeal when the appellant points out the incorrect assumption and provides documentation about the issue that is consistent with information originally provided but also successfully resolves the ambiguity in the original file. See SLD website, Appeals – SLD Guidelines for Review (January 24, 2002), <http://www.sl.universalservice.org/reference/AppealsSLDGuidelines.asp>.

³¹ See SLD Appeal Letter at attachment. As noted above, SLD determined that five of the cellular phones listed on the monthly bill were for ineligible users. Consequently, the remaining 10 were considered to be eligible. The nine cellular phones included in the funding request were among the 10 considered to be eligible. See *supra* para. 4.