

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

In the Matter of)	
)	
Request for Review by)	
)	
Department of Education for the Commonwealth of Virginia)	SLD File Nos. at Appendix A
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Changes to the Board of Directors of the National Exchange Carrier Associations, Inc.)	CC Docket No. 97-21
)	

ORDER

Adopted: September 19, 2002

Released: September 20, 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 Department of Education for the Commonwealth of Virginia (Virginia DOE), on behalf of 31 Funding Year 2001 applicants to the schools and libraries universal service support mechanism.¹ Specifically, Virginia DOE requests review of a determination by the Schools and Libraries Division of the Universal Service Administrative Company (Administrator) to reject the Funding Year 2001 applications without review.² Virginia DOE asserts that it is inconceivable that so many Virginia applicants failed to follow filing procedures.³ For the reasons set forth below, with respect to some applicants, we dismiss the Request for Review as moot. For most of the remaining applicants, we dismiss the Request for Review as untimely. For four applicants, Powhatan School, Botetourt County School District, Isle of Wight County School District, and Newport News Public Schools, we deny the

¹ Letter from Greg Weisiger, Department of Education, Commonwealth of Virginia, to the Federal Communications Commission, filed September 5, 2001 (Request for Review). The Applicants are listed in Appendix A. Virginia DOE has also appealed on behalf of Winchester Public Schools, but this applicant is addressed in a separate order. *Request for Review by Winchester 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-259624, CC Dockets No. 96-45 and 97-21, Order, 17 FCC Rcd 4192 (Wireline Comp. Bur. 2002). 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 which begins on July 1, 2001 and ends on June 30, 2002, previously known as Funding Year 4, is now called Funding Year 2001.

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 Request for Review at 2.

Request for Review on the merits.

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.⁴ 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.⁵ 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.⁶ In the FCC Form 471 instructions, SLD has clearly set forth its standards for processing a FCC Form 471 application.⁷ 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."⁸

3. We have reviewed the applications at issue. We find that seven applications were accepted by SLD and have received Funding Commitment Decision Letters.⁹ Virginia DOE's request for review of the rejection of these applications is therefore moot, and we dismiss the Request for Review in connection with these applications accordingly.

4. We find that Virginia DOE's Request for Review is untimely with regard to most of the remaining applications. For requests seeking review of decisions issued before 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.¹⁰ Documents are considered to be filed with the Commission or SLD only upon receipt.¹¹ The 30-day deadline contained in section 54.720(b) of the Commission's rules applies

⁴ 47 C.F.R. §§ 54.501–54.503.

⁵ 47 C.F.R. § 54.504(b)(1), (b)(3).

⁶ 47 C.F.R. § 54.504(c).

⁷ 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).

⁸ Form 471 Instructions at 2.

⁹ *See* Letter from Schools and Libraries Division, Universal Service Administrative Company, to Charlome Pierce, Surry County School District, dated July 23, 2001 (Application No. 256402); Letter from Schools and Libraries Division, Universal Service Administrative Company, to Brett Charbeneau, Williamsburg Regional Library, dated October 31, 2001 (Application No. 252376); Letter from Schools and Libraries Division, Universal Service Administrative Company, to Rozalyn Klein, Norfolk Collegiate School, dated July 23, 2001 (Application No. 231117); Letter from Schools and Libraries Division, Universal Service Administrative Company, to Jeann Riedl, Meherrin Regional Library, dated November 16, 2001 (Application No. 252298); Letter from Schools and Libraries Division, Universal Service Administrative Company, to Jeann Riedl, Meherrin Regional Library, dated November 16, 2001 (Application No. 252525); Letter from Schools and Libraries Division, Universal Service Administrative Company, to M. Kenneth Wright, Colonial Heights Public School District, dated December 4, 2001 (Application No. 217919); and Letter from Schools and Libraries Division, Universal Service Administrative Company, to Thomas M. DeWeerd, Goochland County Public Schools, dated March 15, 2002 (Application No. 260330). The applicants and associated applications are also listed in Appendix B.

¹⁰ 47 C.F.R. § 54.720(b).

¹¹ 47 C.F.R. § 1.7.

to all such requests for review filed by a party affected by a decision issued by the Administrator.¹² SLD's records indicate that the applicants listed in Appendix C were issued postcards between July 6, 2001 and July 13, 2001 rejecting their applications because they were received out of window.¹³ Virginia DOE's September 5, 2001 appeal is more than 30 days after the issuance of these decisions, and is therefore untimely.

5. With regard to three of the applications, filed by Powhatan School, Botetourt County School District, and Newport News Public Schools, we deny the Request for Review on the merits. In order to have successfully completed the submission of the FCC Form 471 application in Funding Year 2001, applicants who filed electronically must have also 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 must also have signed.¹⁴ A commitment of support is contingent upon the timely filing of the applicants' completed FCC Form 471.¹⁵ 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 United States 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.¹⁶ This procedural change protects applicants from excessive mail delays. Consequently, SLD notified all potential applicants that all Block 6 certifications and Item 21 attachments must also be postmarked no later than the close of the filing deadline.¹⁷

6. The applications of the three remaining applicants were initially rejected by SLD because they lacked Item 21 attachments.¹⁸ Subsequently, SLD sent a letter to each applicant

¹² Due to disruptions in the reliability of the mail service last year, 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 postcard decisions on appeal were issued before August 13, 2002, the extended appeal period does not apply to the applicants listed in Appendix C.

¹³ *See* Appendix C.

¹⁴ 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).

¹⁵ Form 471 Instructions at 3-6.

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

¹⁷ *Id.*

¹⁸ *See* Postcard from Schools and Libraries Division, Universal Service Administrative Company, to Sister Elizabeth, Powhatan School, dated August 6, 2001; Postcard from Schools and Libraries Division, Universal Service Administrative Company, to H.W. Scott, Botetourt County School District, dated August 6, 2001; Postcard from Schools and Libraries Division, Universal Service Administrative Company, to Postcard from Schools and Libraries Division, Universal Service Administrative Company, to Gaddis Key, Newport News Public Schools, dated August 6, 2001;

noting that the Item 21 attachments were missing from the file and allowing the applicant to submit the Item 21 attachments again within 30 days if it certified that the attachments were sent before the filing deadline closed.¹⁹ The applicants failed to submit the Item 21 attachments by the end of the 30-day deadline, and were issued letters notifying them that their applications were denied for failing to meet the Funding Year 2001 Form 471 filing requirements.²⁰ In light of these facts, we find that the four applicants failed to complete their applications. The Request for Review on behalf of Powhatan School, Botetourt County School District, Isle of Wight County School District, and Newport News Public Schools is therefore denied.

7. 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 Department of Education of the Commonwealth of Virginia, on September 5, 2001, IS DISMISSED in part and DENIED in part.

FEDERAL COMMUNICATIONS COMMISSION

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

¹⁹ See Letter from Schools and Libraries Division, Universal Service Administrative Company, to Sister Elizabeth, Powhatan School, dated October 25, 2001; Letter from Schools and Libraries Division, Universal Service Administrative Company, to H.W. Scott, Botetourt County School District, dated October 25, 2001; Letter from Schools and Libraries Division, Universal Service Administrative Company, to Gaddis Key, Newport News Public Schools, dated October 25, 2001.

²⁰ See Letter from Schools and Libraries Division, Universal Service Administrative Company, to Sister Elizabeth, Powhatan School, dated March 13, 2002; Letter from Schools and Libraries Division, Universal Service Administrative Company, to H. W. Scott, Botetourt County School District, dated March 13, 2002; Letter from Schools and Libraries Division, Universal Service Administrative Company, to Gaddis Key, Newport News Public Schools, dated March 14, 2002.

APPENDIX A

<u>Applicant:</u>	<u>Application Number:</u>
Prince William County Government	270104
Falls Church City School District	239181
Timber Ridge Res. Treatment Center	260964
Patrick County School District	255954
	255882
	256005
	256035
	256073
	255762
	260030
Nelson County School District	259645
Northumberland Public Library	261325
	261383
King William School District	261548
Martinsville School District	261285
Corpus Christi Elementary School	261162
Essex County School District	262784
Southwestern Virginia Governors School	243642
Notre Dame Academy School	229710
St. Timothy School	249166
Lancaster County School District	264743
Danville Public Library	249567
St. William of York School	275097
Colonial Heights Public School District	217919
Norfolk Collegiate School	231117
Powhatan School	236216
Meherrin Regional Library	252298
	252525
Botetourt County School District	237614
Alleghany Highlands School District	257127
Williamsburg Regional Library	252376
Surry County School District	256402
Goochland County Public Schools	260330
Isle of Wight County School District	267220
Accomack County School District	267922
	275590
VSDBM-H	269175
Brunswick County School District	271956
Sacred Heart School	279752
	279792
Newport News Public Schools	265027

Appendix B – Moot Appeals**Applicant:****Application Number:**

Colonial Heights Public School District	271919
Norfolk Collegiate School	231117
Meherrin Regional Library	252598, 252525
Williamsburg Regional Library	252376
Surry County School District	256402
Goochland County Public School	260330

Appendix C – Untimely Appeals**Applicant:****Application Number:**

Prince William County Government	270104
Falls Church City School District	239181
Timber Ridge Res. Treatment Center	260964
Patrick County School District	255954
	255882
	256005
	256035
	256073
	255762
	260030
Nelson County School District	259645
Northumberland Public Library	261325
	261383
King William School District	261548
Martinsville School District	261285
Corpus Christi Elementary School	261162
Essex County School District	262784
Southwestern Virginia Governors School	243642
Notre Dame Academy School	229710
St. Timothy School	249166
Lancaster County School District	264743
Danville Public Library	249567
St. William of York School	275097
Alleghany Highlands School District	257127
Isle of Wight County School District	267220
Accomack County School District	267922
	275590
VSDBM-H	269175
Brunswick County School District	271956
Sacred Heart School	279752
	279792