

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)	
)	
Request for Review of the)	
Decision of the)	
Universal Service Administrator by)	
)	
Runnemede Public Schools)	File No. SLD-154153
Runnemede, New Jersey)	
)	
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: December 20, 1999

Released: December 21, 1999

By the Common Carrier Bureau:

1. The Common Carrier Bureau has under consideration a Letter of Appeal filed by Runnemede Public Schools, Runnemede, New Jersey on September 10, 1999, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC or Administrator). Runnemede seeks review of the SLD's denial of its application for discounts under the schools and libraries universal service support mechanism. For the reasons set forth below, we grant the Letter of Appeal to the extent provided below.

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.¹ The Commission's rules provide that, with one limited exception for existing, binding contracts, an eligible school, library or consortium must seek competitive bids for all services eligible for support.² In accordance with the Commission's rules, upon receipt of a FCC Form 470 from an

¹ 47 U.S.C. § 254(h)(1)(B); 47 C.F.R. §§ 54.502, 54.503.

² 47 C.F.R. § 54.504, 54.511(c).

eligible school, SLD posts the applicant's FCC Form 470 specifying requested services on its web site for 28 days prior to the applicant's signing a contract.³

3. In its Letter of Appeal⁴ and accompanying materials, Runnemedede indicates that it filed its FCC Form 470 on February 25, 1998, but that SLD did not post the FCC Form 470 on its web site. Upon discovering that its FCC Form 470 was not posted, and after contacting SLD, Runnemedede filed a copy of its FCC Form 470, along with its FCC Form 471, on April 8, 1998, with an explanation of the circumstances surrounding its simultaneous filing of both forms.⁵ Runnemedede's FCC Form 470 was finally posted to the SLD website on April 15, 1998. SLD notified Runnemedede on December 16, 1998 that its FCC Form 471 had been rejected and returned. Runnemedede thereafter filed an appeal with SLD that was denied on August 12, 1999. In the Administrator's Decision on Appeal, SLD explained that it must stringently enforce the 28 day posting period and, because Runnemedede's FCC Form 470 was not posted on the website for 28 days prior to the filing of the FCC Form 471, it would have to deny Runnemedede's appeal.⁶

4. We have reviewed Runnemedede's appeal and the materials accompanying it. Runnemedede has provided documentation confirming February 26, 1998 as the initial filing date of its FCC Form 470 with SLD. Review of the record also reveals that SLD did not post Runnemedede's FCC Form 470 to its web site at that time, nor did it notify Runnemedede that it was not doing so. The lack of 28 days posting prior to the filing of Runnemedede's FCC Form 471 thus resulted from SLD's failure to timely post the FCC Form 470 in accordance with section 54.504(b)(3) of the Commission's rules.⁷ In light of the fact that SLD's failure to post Runnemedede's FCC Form 470 to its web site resulted in Runnemedede's non-compliance with the 28 day posting requirement set forth in 47 C.F.R. § 54.504(b)(4), we believe that a waiver of that requirement is warranted. Under these circumstances, we remand Runnemedede's application to SLD for reprocessing and the issuance of an appropriate Funding Commitment Letter.

5. To effectuate the decision above, we recognize that it may be necessary also to waive section 54.507 of the Commission's rules. This rule section provides that schools and libraries may receive discounts on nonrecurring services only through September 30, 1999.

6. 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 appeal filed by Runnemedede Public Schools, Runnemedede, New Jersey on September 10, 1999 IS GRANTED to the extent provided herein and that Runnemedede's application IS REMANDED to SLD for further consideration in light of this decision.

³ 47 C.F.R. § 54.504(c).

⁴ Letter from Joseph F. Sweeney, Superintendent, Runnemedede Public Schools, to Federal Communications Commission, received September 10, 1999.

⁵ Letter from Susan T. Milon, Technology Coordinator, Runnemedede Public Schools, to Schools and Libraries Corporation, dated April 9, 1998.

⁶ Letter from the Schools and Libraries Division, Universal Service Administrative Company, to Joseph F. Sweeney, dated August 12, 1999 (Administrator's Decision on Appeal).

⁷ 47 C.F.R. § 54.504(b)(3).

7. IT IS FURTHER ORDERED, pursuant to sections 0.91 and 0.291 that section 54.504(b)(4) of the Commission's rules, 47 C.F.R. § 54.504(b)(4), IS WAIVED and section 54.507(b)(2) of the Commission's rules, 47 C.F.R. § 54.507(b)(2), IS WAIVED for a period of up to 180 days following the date of issuance of any Funding Commitment Letter by the Administrator pursuant to this order.

FEDERAL COMMUNICATIONS COMMISSION

Yog R. Varma
Deputy Chief, Common Carrier Bureau