

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

In the Matter of)	
)	
Request for Review)	
)	
Iroquois West School District 10)	File No. SLD-343292
Gilman, Illinois)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

ORDER

Adopted: January 10, 2005

Released: January 11, 2005

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a request for review by Iroquois West School District 10, Gilman, Illinois (Iroquois).¹ Iroquois seeks review of a funding commitment decision letter issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC or Administrator) denying Iroquois's Funding Year 2003 application for discounted services under the schools and libraries universal service mechanism on the grounds that Iroquois's Funding Year 2003 application requested discounts for ineligible or unjustified services exceeding the "30 percent" policy.² We grant Iroquois's appeal to the extent described herein and remand this case to SLD to take appropriate action consistent with this decision.

2. When applying for funding from the schools and libraries universal service support mechanism, applicants may only seek support for eligible services.³ USAC utilizes a 30 percent processing benchmark when reviewing funding requests that include both eligible and ineligible services.⁴

¹ Letter from Scott J. Oyer, Iroquois School District 10, to Federal Communications Commission, filed June 16, 2003 (Request for Review). 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 Letter from Schools and Libraries Division, Universal Service Administrative Company, to Scott J. Oyer, Iroquois School District 10, May 1, 2003.

³ 47 C.F.R. § 54.504 *et seq.* See, e.g., *Request for Review by Fairfax County Public Schools, Schools and Libraries Universal Support Mechanism*, File No. SLD-266045, CC Docket No. 02-6, Order, 19 FCC Rcd 8899 (2004).

⁴ See *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, 25067 at para. 16 (1998); *Request for Review by Brooklyn Public Library, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-149423, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 18598, 18602 n.23, 18607 n.46 (2000) (*Brooklyn Order*).

The 30 percent benchmark was codified by the Commission in 2003.⁵ Under this benchmark, if 30 percent or more of the request seeks funding for ineligible services, the Administrator will deny the funding request in its entirety.⁶ The 30 percent benchmark deters applicants from seeking discounts on ineligible services and allows the Administrator to avoid the need to expend significant resources on applications seeking discounts on substantial amounts of such services.⁷ An applicant can avoid denial of its funding request by excluding ineligible services at the time of its initial application.

3. On January 15, 2003, Iroquois filed an FCC Form 471 application with SLD. Included in the application was Funding Request Number (FRN) 924840, which requested \$341 per month in telecommunications services.⁸ In their item 21 attachment for the funding request, Iroquois included three monthly phone bills for each of the two schools to be supported pursuant to the funding request.⁹ On March 5, 2003, during Program Integrity Assurance (PIA) review, SLD contacted Iroquois regarding FRN 924840 and requested additional documentation to support the full requested amount of the FRN.¹⁰ SLD stated that the total bills sent in with the Iroquois application supported the amount of \$232.90 monthly, but the application requested \$341 per month.¹¹ Iroquois responded that it had made an error in averaging its past bills for telecommunications services.¹²

4. On May 1, 2003, SLD issued a funding commitment decision letter denying funding for FRN 924840. In its decision, SLD determined that more than 30 percent of the request included a request for unsubstantiated basic phone charges, which SLD determined were ineligible under the 30 percent benchmark. In its appeal of SLD's decision to the Commission, Iroquois argues that SLD erred in denying the entire funding request, contending that SLD should have reduced the funding request to the justified \$232.90 per month.¹³ More specifically, Iroquois argues that the 30 percent policy does not apply here, because it applies only to ineligible items, not to incorrect estimates of eligible items.¹⁴ Iroquois further notes that it was not until after the close of the Funding Year 2003 filing window that

⁵ See *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202, 9215-9216, paras. 40-41 (2003) (*Schools Second Order*); 47 C.F.R. §54.504(d).

⁶ 47 C.F.R. § 54.504(d).

⁷ *Schools Second Order*, 18 FCC Rcd at 9215, para. 40.

⁸ Request for Review at 2.

⁹ More specifically, the Item 21 attachment included the September, October, and November phone bills from Verizon North for the Iroquois West Upper Elementary School and the Danforth Consolidated Schools. The October and November bills are included in Request for Review at 7-21.

¹⁰ Facsimile from Chul Choe, Program Integrity Assurance, SLD, to Scott J. Oyer, Iroquois West School District 10, March 5, 2003.

¹¹ *Id.* at 1.

¹² Facsimile from Scott J. Oyer, Iroquois West School District 10, to Chul Choe, Program Integrity Assurance, SLD, March 10, 2003.

¹³ Request for Review at 2.

¹⁴ Request for Review at 3.

SLD announced on its website that miscalculations would be treated as ineligible requests, which could subject entire requests to denial.¹⁵

5. We find that SLD's actions go beyond the appropriate application of the 30 percent benchmark. We understand SLD's rationale for applying the 30 percent policy to unsubstantiated amounts for eligible services – to create incentives for applicants to request only those amounts that they can justify as reasonable estimates of the costs of eligible services.¹⁶ The 30 percent policy, however, applies to requests for ineligible services, not for unsubstantiated amounts of eligible services. Such an application goes beyond the scope of the 30 percent policy as drafted. Applicants must be aware, however, that if funding requests are submitted in amounts that go beyond what they can substantiate, their funding requests will be reduced to the amount that is substantiated. Accordingly, we remand this case and direct SLD to grant the commitment request for FRN 924840 in the amount of \$232.90 monthly in accordance with this order, unless SLD identifies other grounds for denial.

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 Request for Review filed by Iroquois West School District 10, Gilman, Illinois IS GRANTED to the extent described herein and REMANDED to SLD for further action consistent with this decision.

FEDERAL COMMUNICATIONS COMMISSION

Vickie S. Robinson
Deputy Chief, Telecommunications Access Policy Division
Wireline Competition Bureau

¹⁵ Request for Review at 4.

¹⁶ *Schools Second Order*, 18 FCC Rcd at 9215, para. 40.