

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

In the Matter of

**Schools and Libraries
Universal Service
Support Mechanisms**

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CC Docket No. 02-6

**WORLDCOM, INC.
COMMENTS**

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February 23, 2004

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I. Introduction

In the instant Second Further Notice of Proposed Rule Making *Second FNPRM*, the Commission seeks comments on various proposals to improve the administrative efficiency of the schools and libraries universal service mechanism (“E-rate Program”).¹ WorldCom, Inc., d/b/a/ MCI, has been an active provider of discounted services to schools and libraries since the initiation of the E-rate Program, and takes this opportunity to respond to the Commission’s proposals as well as offer its own suggestions to improve the operation of the E-rate Program.

II. The Commission Should Ensure Bids Are Competitive

In its *Second FNPRM*, the Commission seeks comment on ways to ensure the competitive bidding process results in the most affordable service to applicants.² MCI believes an open and verifiable competitive bidding process is essential to the provision of least cost service to applicants, and efficient use of E-rate funds. MCI’s experience is that applicants often find it more convenient to continue taking service from existing providers. They may post their Form 470 on the web site of the Universal Service Administrative Company (“USAC or Administrator”), may receive multiple bids, but do not necessarily choose the least price bid. Administrator policies only require an applicant to consider price as one factor among many in selecting a winning bid. Applicants are not required to identify which service providers bid on their contracts. This makes it possible for applicants to continue receiving service from

¹ Schools and Libraries Universal Service Support Mechanism, Third report and Order and Second Further Notice of Proposed Rulemaking, *Second FNPRM*, CC Docket No. 02-6, rel. December 23, 2003.

²*Id.*, & 63.

providers who may not be offering least price bids. This undermines the competitive bidding process and results in an inefficient use of E-rate funds.

MCI proposes that the Commission direct the Administrator to make price the default presumptive determinant of winning bids.³ Applicants should also be required to identify all bidders, report bid prices for all bidders, certify that the winning bid was offered at the lowest price, and justify choosing bids that come in above the lowest price bid. For this reason, MCI opposes allowing applicants to avoid the competitive bidding process for any service, whether the service be an existing local, long distance, or Internet access service.⁴ By adopting the policies recommended immediately above, the Commission will ensure that E-rate funds are used most efficiently, and ensure competitive market forces are relied upon to the maximum extent possible. At present, the Administrator is not able to discern whether multiple bids were even considered. To the Administrator, all contracts appear as single bids. MCI believes that true single bid contracts should not be a major concern to the Commission. Of much greater concern is the unwillingness of many applicants to seriously entertain and evaluate bids from providers not currently providing service to an applicant. MCI also believes service providers should be subject to open, verifiable bidding procedures and supports requiring them to certify they have provided independent bids.⁵

Once effective competitive bidding procedures are established the Commission will not need to rely on audits and retention of records to the extent it envisions in order to ensure that E-rate funds are used efficiently. For this reason, MCI believes retaining records related to the

³ *Second FNPRM*, & 87.

⁴ *Second FNPRM*, & 64.

bidding process for 5 years places an unnecessary burden on service providers and applicants. Retaining such records for 3 years should be more than sufficient.⁶ MCI believes it would be far more efficient to establish a truly effective competitive bidding environment up-front, than to require long term billing retention for post-funding audit investigation.

II. Internet Access Has Always Been An Information Service

The Commission asks whether to amend its definition of Internet access.⁷ In its *Universal Service Order*, the Commission defined Internet Access, in part, as the “...transmission of information as part of a gateway to an information service...that enable users to access information services...and electronic mail services.”⁸ The Commission now asks whether to amend its E-rate definition of Internet access to conform to the definition in its recent *Rural Health Care Order and Further Notice*, where it defines Internet Access as “...transport of digital communications using any Internet-based protocols, including encapsulation of data, video, or voice.”⁹

MCI supports adopting of the definition in the *Rural Health Care Order and Further Notice*. Doing so will make available services that compete with telecommunications services such as virtual private networks possibly more cheaply than would otherwise be the case. So long as the Commission establishes an open and verifiable competitive bidding process, MCI

⁵ *Id.*, ¶¶ 88-89.

⁶ *Id.*, ¶ 66.

⁷ *Id.*, ¶ 71.

⁸ Federal-State Joint Board on Universal Service, (*Universal Service Order*), CC Docket 96-45, Report and Order, 12 FCC Rcd 8776, ¶444.

⁹ Rural Health Care Support Mechanism, Report and Order, Order On Reconsideration, And Further Notice Of Proposed Rulemaking, (*Rural Health Care Order and Further Notice*), ¶ 25.

does not believe the expansion of discounts to other Internet services will negatively impact the availability of funds for Priority Two Services.

III. The Commission Should Recover Misallocated Funds From The Primary Beneficiary of the Misallocation

The Commission asks parties to comment on whether it should adopt different recovery methods for misallocations of funds when the misallocations involve statutory violations by the applicant or service provider or involve a violation of the Administrator's programmatic rules or procedures.¹⁰ MCI contends that the significant policy issue is whether the applicant or service provider intentionally deceived and defrauded the Administrator. In such instances, the entire year's funding should be recovered from the party responsible for the deception and the party should be barred from participating in the fund for the coming year. In instances where the misallocation was due to an unintentional error by the Administrator, applicant, or service provider, the Commission should recover the misallocated funds from the beneficiary, i.e. the school or library. The recovery may take the form of a reduction in subsequent year funding commitments, or where a school or library does not participate in the following year, or where the misallocation exceeds what would be the following year's funding commitment, the Commission should require the school or library to directly reimburse the Universal Service Fund. Similarly, MCI also supports the proposal for the Administrator to defer action on any additional funding request involving a beneficiary for whom there is an outstanding commitment adjustment proceeding.¹¹

¹⁰ Second FNPRM, & 79-84.

¹¹ *Id.*, & 84.

IV. Consultants Should Be Required To Register With The Administrator

The Commission seeks comment on whether consultants or outside experts who aid in the preparation of the applicant's technology plan or in the applicant's procurement process should be required to register with the Administrator and to disclose any potential conflicts of interests derived from relationships with service providers.¹² MCI strongly supports both proposals. They would allow the Administrator to determine whether technology plans and bids have been independently developed and in turn help the Administrator determine whether an applicant has established a fair and neutral competitive bidding process. For the same reason, MCI proposes requiring any entity applying for a SPIN number to certify that it has not provided any consulting services to schools or libraries during the 24 months prior to its application, and to be barred from providing funded services for two years from the date from which it certifies it ended its consulting relation.

V. The Commission Should Extend The E-Rate Filing Window To Conform With the Rural Health Care Program And Require Applicants To Choose Their Preferred Funding Method On Their 471 Form

The Commission seeks comment on whether to codify the Administrator's existing policy not to provide support for untimely-filed invoices.¹³ Currently, the Schools and Libraries Division (SLD) allows carriers or school and libraries to submit invoices up to 120 days after the end of a funding year. In contrast, carriers and rural health clinics are allowed 180 days after the end of a funding year to submit invoices. MCI proposes the Commission apply the filing window deadlines for the Rural Health Care Program to that of the E-rate program. Carriers are required to assist thousands more applicants for this program than the rural health care program.

¹² *Id.*, & 91.

Many applicants submit monthly BEAR forms. The amount of assistance and paperwork carriers are required to undertake to fulfill their E-rate obligations is tremendous and often done on a case-by-case basis. Given the reductions in force imposed on all carriers by the economic downturn extending the E-rate filing window to conform to the Rural Health Care Program is necessary. MCI also supports the Commission's proposal to codify the Administrator's policy of extending invoice filing deadlines, provided those extensions begin 180 days after the end of a funding year.¹⁴

MCI regularly doesn't receive notification from applicants whether they want their discount provided on an invoice or via the BEAR form until the end of the funding year. Current policies give applicants the choice of discount method, but do not require them to notify carriers of their decision in time to make the necessary billing modifications to process their discounts in a timely fashion. MCI therefore proposes the Commission require applicants to choose their form of funding method on their 471 Form.

VI. Congress Intended Discounted E-Rate Services To Be The Mechanism By Which Telecommunications and Information Services Would Be Provided To Schools and Libraries On An Affordable Basis

The Commission seeks comment on how it may ensure access to telecommunications and information services at affordable rates, given the myriad of service offerings in today's marketplace.¹⁵ The Commission may most effectively ensure affordability by establishing truly competitive bidding environments are implemented, as discussed above. There is no need for the Commission to examine the undiscounted rates at which eligible services are normally

¹³ *Id.*, & 92.

¹⁴ *Id.*, & 92.

¹⁵ *Id.*, & 97.

offered. Congress intended the discounts from existing rates to be the mechanism by which telecommunications and information services were made affordable to schools and libraries. The undiscounted rates for these services are either provided at regulated rates, in which case they are just and reasonable, or they are considered competitive services.

VII. The Commission Should Allow Schools or Libraries Serving Low-Income Populations That Have Not Yet Received Internal Connection Funding To Receive Priority Funding

Finally, the Commission asks whether it should provide priority for internal connections to low income applicants that have not yet achieved Internet connectivity in their classrooms.¹⁶ MCI agrees with the Commission that the lack of internal connections for schools serving low-income populations is most likely responsible for their failure to apply for subsidized Internet access service. MCI supports the Commission's proposal.

X. Conclusion

For the reasons stated herein, WorldCom urges the Commission to adopt the positions advocated in these Comments.

Sincerely,

Larry Fenster

Larry Fenster

¹⁶ *Id.*, & 98.

Statement of Verification

I have read the foregoing and, to the best of my knowledge, information and belief, there is good ground to support it, and it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct.

Executed on February 20, 2004

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