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**Appeal, and request for Expedited Relief, to the Federal  
Communications Commission on behalf of Berkeley County  
School District**

97-21

April 9, 2004

Secretary  
Office of the Secretary  
Federal Communications Commission  
445 -12th Street, S.W., Rm TW-204B  
Washington, D.C. 20554

This is an appeal from a decision by the Schools and Libraries Division of the USAC.

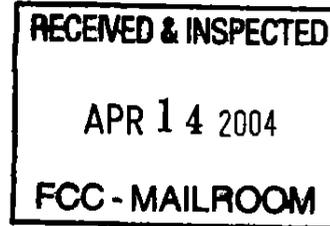
Enclosed are the original and four copies of the Appeal. An extra copy is also enclosed. Please time stamp the extra copy and return it to me in the enclosed self addressed-stamped envelope.



Nathaniel Hawthorne  
Attorney for Berkeley County School District

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

<b>In the Matter of the</b>	)	<b>File No. SLD -</b>
	)	
<b>Appeal of the Decision of the</b>	)	
	)	
<b>Universal Service Administrator by</b>	)	
<b>the</b>	)	
	)	
<b>Berkeley County School District</b>	)	
	)	
	)	<b>CC Docket No. 96 - 45</b>
<b>Federal-State Joint Board on</b>	)	
<b>Universal Service</b>	)	
<b>Changes to the Board of Directors of</b>	)	
<b>The National Exchange Carrier</b>	)	
<b>Association, Inc.</b>	)	<b>CC Docket No. 97 - 21</b>

**Appeal  
and  
Request for Expedited Relief  
on behalf of the  
Berkeley County School District**

**April 9, 2004**

Marlene H. Dortch  
Office of the Secretary  
Federal Communications Commission  
445 12th Street, S.W. Suite TW-A325  
Washington, D.C. 20554

This is an appeal from a decision by the Schools and Libraries Division of the USAC.

Enclosed are the original and four copies of the Appeal. An extra copy is also enclosed.

Please time stamp the extra copy and return it to me in the enclosed self addressed-stamped envelope.

(1) **Funding Commitment Decision Letter Appealed**

Form 471 Application Number: 346450  
Funding Year 2003: 07/01/2003-06/30/2004  
Billed Entity Number: 126681  
Date of Funding Denial Notice: March 16, 2004  
Date of Appeal: April 9, 2004  
Identifier: Berkeleyyr6#2

(2) **SLD Contact Information**

Cathy Crytzer  
27600 Chagrin Blvd., Ste 260  
Cleveland, OH 44122  
Tel. (216) 682.0169  
Fax. (216) 514-3337

(3) **Funding Request Numbers Appealed**

FRNS -957562,961011

(4) **SLD's Reason for Funding Denial**

The SLD stated that funding is denied because:

“Documentation provided demonstrates that price was not the primary factor in selecting this service provider’s proposal.”

(5) **Price was the primary factor in selecting both vendors.**

- a) The Berkeley County School District (Berkeley) prepared and timely filed a FCC Form 471 for telecommunications service with Verizon Network Integration, Inc. and State Electric Supply for Internal Connections. The State

of West Virginia selected Verizon to provide hardware/service to K-12 schools *via* a bid process. See attachment A. In the same manner (*via* a bid process, the State of West Virginia selected State Electric Supply to provide Internal Connections to K-12 schools.

- b) Not only has the State of West Virginia repeatedly stated to the SLD how vendors are selected for K-12 purchases, always a bid, Berkeley has similarly stated the same to the SLD on every occasion. Price was the primary factor in selecting both vendors; price is the primary factor in selecting bidders in West Virginia for K-12.

**Conclusion:**

**Berkeley is Requesting the Following Action by the FCC:**

- (a) Within 90 days or less Order funding for the telecommunications services requested in the 471 Application, specifically FRNs –957562, 961011**
- (b) Set aside funds to totally fund Berkeley's request.**

Respectfully submitted,



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Attorney for  
Berkeley County School District

Cc: Berkeley County School District

<b>Berkeley County School District</b>							
<b>SLD E-Rate Selective Review Information Request</b>							
<b>Application Number 338662 &amp; 346450</b>							
<b>PART 1</b>							
<b>Question 1 - RFP</b>		<b>Question 3 - Vendor Selection</b>					
<b>Question 2 - Bid Responses</b>		<b>Question 4 - Contracts and Other Agreements</b>					
<b>Month to Month</b>							
<b>FRN</b>	<b>VENDOR</b>	<b>Tariff Contract</b>	<b>470 Appl #</b>	<b>RFP</b>	<b>Bid Response</b>	<b>Vendor Selection</b>	<b>SLD Ref Case #</b>
957511	Verizon-WV	Tariff	625210000415186	State of WV	The State of WV and the WV Depart. Of Education did all RFPs and bids to establish master contracts	The local Service provider, and bought off State Master Contract for tariff services	SR-2002-BEN#126796 and SR-2002-BEN#27099
957519	AT&T	Tariff	625210000415186	None	None	Available long distance provider	
957526	OneStar Long Dist.	Tariff	625210000415186	None	None	Available long distance provider	
957535	Verizon-WV	Tariff	798200000009067	State of WV	The State of WV and the WV Depart. Of Education did all RFPs and bids to establish master contracts	The local Service provider, and bought off State Master Contract for tariff services	SR-2002-BEN#126765 and SR-2002-BEN#126796

961011	State Electric Supply	Contract	625210000415186		The State of WV and the WV Dept. Of Education did all RFPs and bids to establish master contracts	Provided under State Master Contract (copy attached, Attachment SES-001)	
961021	State Electric Supply	Contract	625210000415186		The State of WV and the WV Dept. Of Education did all RFPs and bids to establish master contracts	Provided under State Master Contract (copy attached, Attachment SES-001)	
<b>Question 5 - Consulting Agreements</b>							
See attachment Alpha-001							
<b>Question 6 - Correspondence</b>							
None							