

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Schools and Libraries Universal Service	)	
Support Mechanism	)	CC Docket No. 02-6
	)	
Proposed Revisions to	)	
FCC Forms 472, 473 and 474	)	

**REPLY COMMENTS**

BellSouth Corporation, on behalf of itself and its wholly owned subsidiaries (“BellSouth”), replies to comments filed on March 22, 2005 in response to the *Public Notice*.<sup>1</sup>

At the outset, BellSouth notes that commenters are largely in agreement over essential aspects of the Bureau’s proposed revisions to Forms 472, 473, and 474. BellSouth, accordingly, replies to pertinent comments addressing each of these Forms in sequence.

**Form 472**

BellSouth is sympathetic to those commenters who point out deficiencies in requiring program applicants to provide the service provider’s FCC Registration Number (“RN”) on Form 472.<sup>2</sup> BellSouth, for example, has 54 different FCC RNs, and there is no current way for a program applicant to ascertain the correct RN in any given set of circumstances. The State E-Rate Coordinators’ Alliance (“SECA”) describes the applicant’s dilemma comprehensively in its Comments at 3-5. If the Commission continues to require this field, it should order USAC to

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<sup>1</sup> *Wireline Competition Bureau Seeks Comment on Proposed Revisions to FCC Forms 472, 473 and 474*, CC Docket No. 02-6, *Public Notice*, DA 05-513 (rel. Mar. 1, 2005).

<sup>2</sup> SECA Comments at 3-5; On-Tech Comments at 3.

establish a database that will enable program applicants to link the appropriate FCC RN with the appropriate Service Provider Identification Number (“SPIN”). The most efficient way to obtain accurate FCC RNs would be to require the service provider to provide, on the appropriate Form 473, the appropriate FCC RN for the SPIN identified on that form.

Commenting service providers are unanimous in their criticism of the over-breadth of the proposed revised form 472, and many of the comments support BellSouth’s observation that to the extent several of the proposed certifications continued to exist in some form, they are more appropriate to Form 473.<sup>3</sup> With respect to Certification E, the so-called “whistleblower” certification, BellSouth proposed that the certification (1) be moved to the Service Provider Annual Certification (“SPAC”) Form, and (2) be tailored in a manner to address the problems posed by its general vagueness. However, comments in the record demonstrate that there is no sound legal or policy basis for the Bureau to adopt a whistleblower requirement in any of its E-Rate forms.

Verizon demonstrates that it would be procedurally improper to adopt a requirement that service providers be whistleblowers for the program insofar as the Commission has neither sought public comment on nor adopted a rule requiring service providers to report violations to USAC.<sup>4</sup> Because, as Verizon points out, the requirement potentially creates liability for failure to engage in whistle blowing, and, as Sprint points out, the requirement has no basis in statute or FCC regulation,<sup>5</sup> the proposed language constitutes a substantive change to existing Commission rules in violation of the Administrative Procedures Act.<sup>6</sup>

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<sup>3</sup> See, e.g., Qwest Comments at 2-3; SBC Comments at 3; Verizon Comments at 3.

<sup>4</sup> Verizon Comments at 2-3.

<sup>5</sup> Sprint Comments at 3; Qwest Comments at 4-5. See also SBC Comments at 4.

<sup>6</sup> Verizon Comments at 2-3.

Moreover, as a practical matter, proposed Certification E has been demonstrated to be unreasonably lacking in standards, scope and definition. Sprint observes that the proposed certification is “extremely vague, and is so broad as to preclude meaningful compliance.”<sup>7</sup> SBC, like Sprint, BellSouth and others, emphasizes the hopelessly broad aspect of the phrase “in any way” in suggesting that any attempt to shift compliance oversight from the Bureau to service providers will impose unnecessary burdens on service providers.<sup>8</sup> And Qwest demonstrates that the lack of definition and clarity inherent in the proposed certification is “inimical to the relationship of trust that should be fostered between a service provider and its customers.”<sup>9</sup> The Bureau should therefore eliminate the certification as proposed, or, in the alternative, limit the certification to an acknowledgment of the consequences to individuals who are convicted or otherwise found liable for certain conduct associated with their participation in the program.<sup>10</sup> In any event, the certification, if it should exist at all, should be moved to Form 473.<sup>11</sup>

Certification F, relating to document retention, would benefit from the modifications proposed by Sprint, which, along with SBC and BellSouth, also demonstrates that the appropriate Form for any document retention certification is Form 473.<sup>12</sup> Finally, both On-Tech Consulting and SECA advocate that opportunities for applicant remittance contact information on the “manual” Form 472 be provided.<sup>13</sup> While these proposals sound reasonable, as a practical matter they will not add efficiencies in BellSouth’s reimbursement process. BellSouth’s process

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<sup>7</sup> Sprint Comments at 3.

<sup>8</sup> SBC Comments at 3-4.

<sup>9</sup> Qwest Comments at 5.

<sup>10</sup> *Id.* at 4; SBC Comments at 3.

<sup>11</sup> *See, e.g.*, Qwest Comments at 2-3; SBC Comments at 3; Verizon Comments at 3.

<sup>12</sup> Sprint Comments at 3-4; SBC Comments at 5.

<sup>13</sup> On-Tech Comments at 2; SECA Comments at 2-3.

would benefit from the addition of remittance contact information to the electronic data stream transmission of the 472 information.

However, BellSouth commends to the Bureau Verizon's suggestion that Certification "C" in block 4 of Form 472 be modified by adding the clause "or its designee" after the term "Billed Entity."<sup>14</sup> As Verizon explains, payments by service providers are sometimes made to a designee of the billed entity in accordance with information provided on other applicant records.<sup>15</sup> BellSouth typically remits payment to the entity designated for such remittance by way of an applicant's Form 486 Billed Entity information submission. Verizon's proposal will, therefore, avoid needless disruptions to participants' billing arrangements.<sup>16</sup>

### **Form 473**

There is agreement that proposed Certification 17 needs to be narrowly tailored, or even eliminated.<sup>17</sup> To the extent that the Commission decides to retain a certification of this type, it should follow the general suggestion of BellSouth and Verizon, and the specific suggestions of Qwest and SBC, and tie the certification directly to the requirements of 47 C.F.R. § 54.511(b) of the Commission's rules. BellSouth commends to the Commission SBC's proposed certification, "I certify that the rates charged by the service provider listed on this Form 473 for goods and services provided pursuant to the program comply with the requirements of section 54.511(b) of

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<sup>14</sup> Verizon Comments at 6-7.

<sup>15</sup> *Id.* at 6.

<sup>16</sup> BellSouth also agrees with Sprint that the effective date of any revised Form 472 should be no earlier than October 29, 2005, in order to maximize the efficient implementation of the new form.

<sup>17</sup> BellSouth Comments at 5-6; Sprint Comments at 8 (eliminate certification as duplicative); SBC Comments at 8; Qwest Comments at 6-7; Verizon Comments at 4; Dell, Inc. Comments *passim*.

the Commission's rules, 47 C.F.R. § 54.511(b)."<sup>18</sup> BellSouth believes the alternative certification offered by Dell does not fully meet all of the objections raised in the record concerning the current certification, and believes that the service providers' consensus on this matter should be reflected in a modified final certification.

Most of the comments support BellSouth's proposals concerning certifications that exceed the scope of the Form and the E-Rate program, and are not specifically drawn to combat waste, fraud and abuse in connection with program administration. Thus, BellSouth concurs with commenters that support the elimination of Certifications 18, 19 and 20, and that advise the Commission to narrowly draft any certifications geared toward program compliance that may remain on Form 473, particularly forms of certifications that may have had analogs removed from Form 472. BellSouth agrees with those commenters that point out that Certification 9 is unnecessarily vague, and welcomes modifications proposed by SBC and Sprint to the extent they are consistent with BellSouth's proposal to delete the word "fully" from the certification.

#### **Form 474**

BellSouth agrees with Verizon and SBC that the Bureau should not adopt the proposed modifications to columns 11 and 12 of the Service Provider Invoice Form ("SPIF"). For the reasons set forth by Verizon, the changes required by the proposed revisions would in turn drive extensive changes to BellSouth's billing systems in order to enable it to collect data separately for non-recurring and recurring billings on E-Rate customer accounts. The cost and effort to accomplish this would far outweigh any benefit gained. Similarly, the Commission should not adopt a proposal to modify Form 474 to include the amount paid by the Billed Entity for its

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<sup>18</sup> SBC Comments at 8.

“corresponding percentage of responsibility.”<sup>19</sup> Because the existing Form 474 information is hard-coded in BellSouth’s billing systems, these proposed changes would result in unnecessary and significant re-programming costs and effort.

### **CONCLUSION**

The Bureau’s proposed revisions to Form 472 and 473 are a step in the right direction, and will go a long way toward improving administrative efficiency if additional modifications, as set forth above and in BellSouth’s Comments, are adopted.

Respectfully submitted,

**BELLSOUTH CORPORATION**

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Date: April 5, 2005

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<sup>19</sup> Miami-Dade County School Board Comments at 2.

**CERTIFICATE OF SERVICE**

I do hereby certify that I have this 5<sup>th</sup> day of April 2005 served the following parties to this action with a copy of the foregoing **REPLY COMMENTS** by electronic filing and/or by placing a true and correct copy of same in the United States Mail, postage prepaid, addressed to the parties listed on the attached service list.

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