



PUBLIC NOTICE

Federal Communications Commission
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WIRELINE COMPETITION BUREAU SEEKS COMMENT ON PETITION OF UNITED STATES TELECOM ASSOCIATION AND CTIA – THE WIRELESS ASSOCIATION® FOR DECLARATORY RULING CLARIFYING CERTAIN ASPECTS OF THE “LOWEST CORRESPONDING PRICE” REQUIREMENT OF THE SCHOOLS AND LIBRARIES UNIVERSAL SERVICE PROGRAM

CC DOCKET NO. 02-6

Comment Date: May 14, 2010
Reply Comment Date: June 1, 2010

The United States Telecom Association and CTIA – The Wireless Association® have petitioned the Commission to issue a declaratory ruling to clarify several issues involving one element of the E-rate program, formally known as the schools and libraries universal service support program.¹ Petitioners seek clarification of the scope and meaning of the Commission’s “lowest corresponding price” rule.² The rule mandates that service providers cannot charge schools, school districts, libraries, library consortia, or consortia including any of these entities a price above the lowest corresponding price for supported services, unless the Commission, with respect to interstate services or the state commission with respect to intrastate services, finds that the lowest corresponding price is not compensatory.³

Specifically, Petitioners request that the Commission clarify that: (1) the lowest corresponding price obligation applies only to competitive bids submitted by a provider in response to a Form 470; (2) the lowest corresponding price obligation is not a continuing obligation that entitles a school or library to a constantly recalculated lowest corresponding price during the term of a contract; (3) there are no specific procedures that a service provider must use to ensure compliance with the lowest corresponding price obligation; (4) in determining whether a service bundle complies with the lowest corresponding price obligation, discrete elements in such bundles need not be individually compared and priced; and (5) in a challenge regarding whether a provider’s bid satisfies the lowest corresponding price obligation, the

¹ Petition by United States Telecom Association and CTIA – The Wireless Association® for Declaratory Ruling Clarifying Certain Aspects of the “Lowest Corresponding Price” Obligation of the Schools and Libraries Universal Service Program, WC Docket No. 02-6 (filed Mar. 19, 2010) (Petition).

² 47 C.F.R. § 54.511(b). The “lowest corresponding price” is defined as “the lowest price that a service provider charges to non-residential customers who are similarly situated to a particular school, library, or library consortium for similar services.” 47 C.F.R. § 54.500(f).

³ 47 C.F.R. § 54.511(b).

initial burden falls on the challenger (*i.e.*, a school or library) to demonstrate a prima facie case that the bid is not the lowest corresponding price.⁴

Interested parties may file **comments on or before May 14, 2010**, and **reply comments on or before June 1, 2010**. All pleadings are to reference **WC Docket No. 02-6**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS), or by filing paper copies.⁵

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

Effective December 28, 2009, all hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, D.C. 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. The filing hours at both locations are 8:00 a.m. to 7:00 p.m. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, S.W., Washington D.C. 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (tty).

In addition, one copy of each pleading must be sent to each of the following:

- (1) The Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, www.bcpweb.com; phone: (202) 488-5300 fax: (202) 488-5563;
- (2) Mark Nadel, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-B551, Washington, D.C. 20554; e-mail: Mark.Nadel@fcc.gov; and
- (3) Charles Tyler, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-A452, Washington, D.C. 20554; e-mail: Charles.Tyler@fcc.gov.

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, S.W., Room CY-

⁴ Petition at 1. *See also* 47 C.F.R. § 54.511(b).

⁵ *See Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322 (1998).

A257, Washington, D.C. 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, telephone: (202) 488-5300, fax: (202) 488-5563, or via e-mail www.bcpweb.com.

This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.⁶ Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented generally is required.⁷ Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in section 1.1206(b) of the Commission's rules.⁸

For further information, please contact Mark Nadel, Telecommunications Access Policy Division, Wireline Competition Bureau at (202) 418-7400 or TTY (202) 418-7385.

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⁶ 47 C.F.R. §§ 1.1200 *et seq.*

⁷ *See* 47 C.F.R. § 1.1206(b)(2).

⁸ 47 C.F.R. § 1.1206(b).