

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

In the Matter of)	
)	
Requests for Review of a)	
Decision of the)	
Universal Service Administrator by)	
)	
Baltimore City School District)	File No. SLD- 553330
Baltimore, MD)	
)	
Cobb County School District)	File Nos. SLD- 600728, 615126,
Marietta, GA)	667772, 667984, 667991
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

ORDER

Adopted: August 8, 2011

Released: August 8, 2011

By the Deputy Chief, Telecommunications Access Policy Division, Wireline Competition Bureau:

I. INTRODUCTION

1. In this order, we grant requests by the Baltimore City School District (Baltimore) and the Cobb County School District (Cobb) seeking review of decisions by the Universal Service Administrative Company (USAC) concerning discounted services under the E-rate program (more formally known as the schools and libraries universal service program) for funding years 2007-2009.¹ USAC rescinded funding for five of Baltimore's funding requests as part of its funding year 2007 FCC Form 471 application, on the ground that Baltimore violated the Commission's competitive bidding requirements.² For the same reasons, USAC also denied funding for two of Cobb's funding requests as part of its funding year 2008

¹ See Letter from Edwin Lavergne, Baltimore City School District, to Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, CC Docket No. 02-6 (filed Jan. 3, 2011) (regarding funding year 2007 FCC Form 471 application number 553330, funding request numbers (FRNs) 1566234, 1583021, 1566299, 1612695, and 1570796) (Baltimore Request for Review); Letter from Chris Ragsdale, Cobb County School District, to Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, CC Docket No. 02-6 (filed Jan. 8, 2010) (regarding funding year 2008 FCC Form 471 application number 600728, FRN 1693489, and funding year 2008 FCC Form 471 application number 615126, FRN 1750040); Letter from Chris Ragsdale, Cobb County School District, to Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, CC Docket No. 02-6 (filed June 17, 2010) (regarding funding year 2009 FCC Form 471 application number 667772, FRN 18626133; funding year 2009 FCC Form 471 application number 667984, FRN 1827581; and funding year 2009 FCC Form 471 application number 667991, FRN 1883994) (collectively, Cobb Requests for Review). In this order, we also use the term "appeal" to generically refer to the applicants' requests for review of USAC's decisions. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of USAC may seek review from the Commission. 47 C.F.R. § 54.719(c).

² See Baltimore Request for Review.

FCC Form 471 applications, and three of Cobb's funding requests as part of its funding year 2009 FCC Form 471 applications.³ Upon review of the record before us, we find that Baltimore and Cobb did not violate the Commission's competitive bidding requirements when selecting vendors using a tiered selection process. We therefore grant Baltimore's and Cobb's appeals. We thus direct USAC to discontinue recovery actions against Baltimore and its service providers, Verizon Maryland, Inc. and Verizon Network Integration Corporation (collectively, Verizon), consistent with this order. We also direct USAC to apply this ruling to all pending appeals and applications.⁴

II. BACKGROUND

2. E-rate Program Rules and Requirements. Under the E-rate program, eligible schools, libraries, and consortia that include eligible schools and libraries may apply for discounts for eligible services.⁵ The Commission's rules provide that an eligible school, library, or consortium that includes eligible schools and libraries must seek competitive bids for all services eligible for support.⁶ In accordance with the Commission's competitive bidding rules, applicants must submit for posting on USAC's website an FCC Form 470 requesting discounts for E-rate eligible services, such as tariffed telecommunications services, month-to-month Internet access, or any services for which the applicant is seeking a new contract.⁷ The applicant must describe the requested services with sufficient specificity to enable potential service providers to submit bids for such services.⁸ The applicant must provide this description on its FCC Form 470 or indicate on the form that it has a request for proposal (RFP) available providing detail about the requested services.⁹ The RFP must be available to all potential bidders for the duration of the bidding process.¹⁰ A service provider participating in the competitive bidding process cannot be involved in the preparation of the entity's FCC Form 470.¹¹

³ See Cobb Requests for Review.

⁴ See, e.g., Letter from Jessica Delahunty, Baltimore City School District, to USAC, Schools and Libraries Division (filed Feb. 16, 2010) (regarding funding year 2008 FCC Form 471 application number 631534, FRNs 1744099, 1744101, 1744107, 1744108, and 1744109); Letter from Jessica Delahunty, Baltimore City School District, to USAC, Schools and Libraries Division (filed Feb. 23, 2010) (regarding funding year 2006 FCC Form 471 application number 493626, FRNs 1482232, 1482588, 1485519, and 1485441).

⁵ 47 C.F.R. §§ 54.501-54.502.

⁶ 47 C.F.R. § 54.503. The Commission's rules provide one exception to the competitive bidding requirement for existing, binding contracts signed on or before July 10, 1997. See 47 C.F.R. § 54.511(c).

⁷ 47 C.F.R. § 54.503(c).

⁸ *Id.*

⁹ See, e.g., Schools and Libraries Universal Service, Description of Services Requested and Certification Form, OMB 3060-0806 (September 1999) (FCC Form 470); Schools and Libraries Universal Service, Description of Services Requested and Certification Form, OMB 3060-0806 (October 2004) (current FCC Form 470).

¹⁰ See FCC Form 470.

¹¹ See *Request for Review by Mastermind Internet Services, Inc., Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket No. 96-45, Order, 16 FCC Rcd 4028, 4033 (2000) (*Mastermind Order*).

3. After submitting an FCC Form 470, the applicant must wait 28 days before making commitments with the selected service providers.¹² The Commission's rules require that an applicant carefully consider all submitted bids prior to entering into a contract, and price must be the primary factor in selecting the winning bid.¹³ Once the applicant has selected a provider and entered into a service contract, the applicant must file an FCC Form 471 requesting support for eligible services.¹⁴ USAC assigns a funding request number (FRN) to each request for discounted services and issues funding commitment decision letters (FCDLs) approving or denying the requests for discounted services.¹⁵

4. *Baltimore's Request for Review.* On November 4, 2006, Baltimore submitted an FCC Form 470 to initiate the competitive bidding process for E-rate eligible services.¹⁶ Baltimore then entered into a multi-year contract with Verizon to provide telecommunications services and Internet access.¹⁷ On February 7, 2007, Baltimore filed an FCC Form 471 application seeking support for the underlying services.¹⁸ USAC subsequently approved the funding requests at issue in Baltimore's funding year 2007 application.¹⁹ During post-funding review, however, USAC rescinded Baltimore's funding commitment for FRNs 1566234, 1583021, 1566299, 1612695, and 1570796 as part of its funding year 2007 applications on the ground that Baltimore did not consider price as the primary factor in each tier of its multi-tier vendor selection process.²⁰ Baltimore then filed the instant appeal with the Commission.²¹

5. In its appeal, Baltimore argues that it complied with all federal, state, and local competitive bidding requirements and considered price as the primary factor in selecting the bidder that would meet its needs.²² Baltimore states that Verizon also offered the lowest price of the two proposals submitted, by \$86 million.²³ Baltimore further argues that there is no Commission rule or policy providing guidance

¹² 47 C.F.R. § 54.503(c). See, e.g., *Request for Review of the Decision of the Universal Service Administrator by Approach Learning and Assessment Center, et al., Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 23 FCC Rcd 15510 (2008) (*Approach Learning Order*).

¹³ 47 C.F.R. § 54.503(c).

¹⁴ See *Schools and Libraries Universal Service, Services Ordered and Certification Form*, OMB 3060-0806 (October 2000) (FCC Form 471); *Schools and Libraries Universal Service, Services Ordered and Certification Form*, OMB 3060-0806 (November 2004) (current FCC Form 471).

¹⁵ See USAC website, *Schools and Libraries, Funding Commitment Decision Letter*, <http://www.universalservice.org/sl/applicants/step09/funding-commitment-decision-letter.aspx> (last visited Apr. 1, 2011).

¹⁶ FCC Form 470, Baltimore City School District (posted Nov. 4, 2005).

¹⁷ See Baltimore Request for Review at 3; FCC Form 471, Baltimore City School District (filed Feb. 7, 2007) (Baltimore FCC Form 471).

¹⁸ See Baltimore FCC Form 471.

¹⁹ See Baltimore Request for Review at 3.

²⁰ See Letter from USAC, Schools and Libraries Division, to Jessica Delahunty, Baltimore City School District (dated Nov. 3, 2010); Letter from USAC, Schools and Libraries Division, to Jessica Delahunty, Baltimore City School District (dated Nov. 30, 2010) (collectively, Notification of Commitment Adjustment Letter (COMAD)).

²¹ See Baltimore Request for Review.

²² *Id.* at 4, 7-8.

²³ *Id.* at 4-6.

concerning the use of a multi-tier vendor selection process and that USAC may not impose any such requirements on its own.²⁴ Finally, Baltimore asserts that if the Commission were to adopt such a rule or policy, it could not be applied retroactively to the FRNs at issue.²⁵

6. *Cobb's Request for Review.* In December 2005 and September 2007, Cobb submitted FCC Forms 470 to initiate the competitive bidding process for E-rate eligible services.²⁶ Cobb subsequently selected BellSouth Telecommunications and Sunesys, LLC, to provide telecommunications services for a multi-year term.²⁷ On February 5 and February 7, 2008, Cobb filed two funding year 2008 FCC Form 471 applications seeking support for the underlying telecommunications services.²⁸ Cobb also sought support for eligible telecommunications services by filing three separate applications in funding year 2009.²⁹ USAC ultimately denied these funding year 2008 and 2009 funding requests after finding that Cobb did not consider price as the primary factor in each tier of its multi-tiered vendor selection processes.³⁰ Cobb then filed the instant appeal with the Commission.³¹

7. In its appeal, Cobb states that its bid evaluation process was identical for each of the procurements at issue and complied with its local purchasing regulations, which in turn, were based on the National Institute of Government Purchasing, Inc.'s (NIGP) purchasing regulations.³² Cobb also maintains that each of its procurement processes complied with the Commission's *Ysleta Order* by ensuring that price was ranked the highest of the evaluation criteria.³³ Cobb states that it conducted an

²⁴ *Id.* at 8-9.

²⁵ *Id.* at 9-10.

²⁶ FCC Form 470, Cobb County School District (posted Dec. 21, 2005); FCC Form 470, Cobb County School District (posted Sept. 24, 2007).

²⁷ *See Cobb Request for Review.*

²⁸ *See* FCC Form 471, Cobb County School District (filed Feb. 5, 2008) (application number 600728, FRN 1693489); FCC Form 471, Cobb County School District (filed Feb. 7, 2008) (application number 615126, FRN 1750040).

²⁹ *See* FCC Form 471, Cobb County School District (filed Feb. 2, 2009) (application number 667772, FRN 1826133); FCC Form 471, Cobb County School District (filed Jan. 27, 2009) (application number 667984, FRN 1827581); FCC Form 471, Cobb County School District (filed Feb. 11, 2009) (application number 667991, FRN 1883994).

³⁰ *See* Letter from USAC, Schools and Libraries Division, to Chris Ragsdale, Cobb County School District (dated Nov. 11, 2009) (regarding FCC Form 471 application number 615126); Letter from USAC, Schools and Libraries Division, to Chris Ragsdale, Cobb County School District (dated Dec. 3, 2009) (regarding FCC Form 471 application number 600728); Letter from USAC, Schools and Libraries Division, to Chris Ragsdale, Cobb County School District (dated Apr. 21, 2010) (regarding FCC Form 471 application numbers 667772, 667984, and 667991) (collectively, Cobb FCDLs).

³¹ *See Cobb Requests for Review.*

³² *Id.* at 2 (*citing* National Institute of Purchasing Guidelines, <http://www.nipg.org>).

³³ *Id.* at 6-8; Cobb County School District, RFP 01-08 (Sept. 24, 2007); Cobb County School District, RFP 53-05 (Dec. 21, 2005); *see also Request for Review by Ysleta Independent School District of the Decision of the Universal Service Administrator*, CC Docket Nos. 96-45, 97-21, Order, 18 FCC Rcd 26407 (2003) (*Ysleta Order*) (noting that schools are required to have a separate "cost category" when evaluating bids and that category must be given more weight than any other category.)

initial evaluation round to determine whether bidders' substantive proposals were sufficiently responsive to the specifications outlined in Cobb's RFP.³⁴ Cobb thus maintains that the initial evaluation round resulted in the disqualification of two proposals because of deficiencies in those proposals.³⁵ Cobb asserts that its evaluation process was explained in its RFP and therefore put all bidders on notice of its evaluation procedure.³⁶ Cobb further argues that neither the *Ysleta Order* nor any other Commission E-rate order indicates that the disqualification of a proposal because it is non-responsive must be based on binary criteria as USAC concluded in its decision denying funding.³⁷ Therefore, Cobb argues that USAC improperly established a prohibition against using a scored evaluation to disqualify vendors' proposals after Cobb conducted its procurements, and then retroactively applied the new prohibition in denying Cobb's funding requests.³⁸

III. DISCUSSION

8. We grant Baltimore's and Cobb's requests for review.³⁹ Based on the record before us and consistent with precedent, we find that the procurement processes at issue complied with the Commission's competitive bidding rules and state procurement requirements.⁴⁰ Specifically, we find that the applicants' multi-tier evaluation processes did not violate the Commission's competitive bidding requirements because the applicants provided documentation demonstrating that price was given the highest weight during their respective bid evaluation processes.⁴¹

9. In the case of Baltimore, the record shows that the RFP in Baltimore's two-step procurement process directed bidders to submit technical solutions and price proposals in separate envelopes.⁴² Bidders had to have a score sufficient to satisfy minimum technical requirements in Phase I of the evaluation process in order for their proposals to be considered further.⁴³ In evaluating technical

³⁴ *Id.* at 7.

³⁵ *Id.* at 7-8. For example, Cinergy's and AT&T's proposals were disqualified because they did not meet Cobb's technical, service, and implementation criteria. *Id.* at 7.

³⁶ *Id.* at 7.

³⁷ *Id.* at 11; *see also* Cobb FCDLs. USAC has determined that applicants must evaluate price as the primary factor in each tier of a multi-tier vendor selection process, unless the first round of a multi-tier selection process is a "disqualification round." USAC further required that evaluation criteria in a "disqualification round" be binary (e.g., yes, the vendor satisfies the specified criteria, or no, the vendor does not satisfy the specified criteria) and cannot be scored on a range. *See* USAC website, Schools and Libraries, Service Providers, <http://www.usac.org/sl/applicants/step04/construct-evaluation.aspx> (last visited July 25, 2011).

³⁸ *Id.* at 8.

³⁹ The Bureau must conduct a *de novo* review of requests for review of decisions issued by USAC. 47 C.F.R. § 54.723.

⁴⁰ *See* 47 C.F.R. §§ 54.503, 54.511; *Ysleta Order*, 18 FCC Rcd 26407.

⁴¹ *See* Baltimore Request for Review at 5-6; Cobb Requests for Review at 6-7; *see also Ysleta*, 18 FCC Rcd 26407.

⁴² *See* Baltimore Request for Review at 4-5, Exhibit B, Baltimore City Public School System, Request for Proposals for Procurement of Wide Area Network Upgrade, RFP 06039 (Nov. 4, 2005) (Baltimore RFP). *See also* Code of Maryland Regulations (COMAR) 21.05.03.03 (stating that "technical proposals and price proposals shall be evaluated independently of each other.")

⁴³ *See* Baltimore Request for Review at 5-6. Baltimore established a minimum score in order to rule out proposals that did not provide an acceptable technical solution and would not, in the terminology of the state procurement

proposals, Baltimore assessed the vendor's business qualifications, the proposed solution's conformance to technical specifications, manageability features, and warranty provisions.⁴⁴ Bidders that had a score sufficient to satisfy the minimum technical requirements then moved to Phase II of the evaluation process where nine criteria were assessed, including price, which had the highest weight of 50 percent.⁴⁵ The other evaluation criteria were weighted at 6¼ percent each.⁴⁶ Two bidders responded to the RFP, but only one bidder, Verizon, met the minimum technical requirements.⁴⁷ Verizon also offered the lowest price.⁴⁸ Thus, Verizon ultimately was awarded the contract.⁴⁹

10. In the case of Cobb, all bidders responding to Cobb's RFPs were put on notice that they must obtain a certain number of points in the initial evaluation round in order to have their proposals considered further.⁵⁰ According to Cobb, it designed this evaluation process as part of its RFP procedures to ensure that the bidders' proposals were sufficiently responsive to the specifications in the RFPs.⁵¹ If a bidder's proposal was insufficient, then the proposal was deemed to be non-responsive by Cobb and disqualified from further consideration.⁵² After the disqualification round, all responsive bids were then evaluated with price being the primary factor.⁵³ The record shows that, when Cobb evaluated the bids responsive to its RFP for regional wide area network service, price was weighted 45 percent or 45 points, while the next highest factor was weighted at 35 percent or 35 points.⁵⁴ Similarly, when Cobb evaluated the bids responsive to its RFP for local and long distance telephone service, price was weighted 50 percent or 100 points, while the next highest factor was weighted at 8 percent or 16 points.⁵⁵ Ultimately,

regulations, be "reasonably susceptible of being accepted for award." *Id.* at Exhibit E. *See also* COMAR 21.05.03.03.

⁴⁴ *See* Baltimore RFP at 4.

⁴⁵ *See* Request for Review at 5. *See also* Baltimore RFP at 24.

⁴⁶ *Id.* at 5. The evaluation criteria were: (1) ability of vendor to provide the service described; (2) past experience; (3) personnel qualifications; (4) responsiveness to the scope of work; (5) quality of service plan; (6) ability to meet required schedule; (7) information received from references; (8) cost; and (9) proposal and presentation quality. *See* Baltimore RFP at 24.

⁴⁷ *Id.* at 5. The other bidder, TKCC Communications, LLC, fell short of the minimum technical requirements with an average score that was 38% below the required minimum score. *Id.* at 6.

⁴⁸ *Id.* As stated above, Verizon's bid was \$86 million less than the other non-responsive bidder. *Id.*

⁴⁹ *Id.* at 6.

⁵⁰ *See* Cobb Requests for Review at 7, Exhibits A and B, Cobb County School District, RFP 01-08 at 25 (stating that only proposals meeting non-cost RFP requirements (i.e., scoring at least 38.5 points in non-cost factors) will have their accompanying cost proposals evaluated) (Cobb RFP 01-08); Cobb County School District, RFP 53-05 at 7 (stating that only proposals meeting non-cost RFP requirements (i.e., scoring at least 70 points in non-cost factors) will have their accompanying cost proposals evaluated) (Cobb RFP 53-95).

⁵¹ *See* Cobb Requests for Review at 7.

⁵² *Id.* at 7-8. *See also supra* n. 50.

⁵³ *Id.*

⁵⁴ *Id.* at 6-7. *See also* Cobb RFP 01-08.

⁵⁵ *Id.* *See also* Cobb RFP 53-05.

consistent with the Commission's competitive bidding rules, Cobb selected the vendor with the highest number of points in the price category for each procurement.⁵⁶

11. Based on our review of the record, we find that Baltimore's and Cobb's multi-tiered competitive bidding processes did not violate E-rate program rules. Consistent with precedent, each petitioner submitted documentation to USAC detailing the competitive bidding process, including bid requests, bid proposals, and cost evaluation criteria.⁵⁷ Each petitioner also assigned the most weight to price when evaluating responsive bidders and selected the vendor that offered the most cost-effective offering.⁵⁸ In addition, in the record at this time, there is no evidence of waste, fraud or abuse, or misuse of funds. We therefore grant the petitioners' requests for review.

12. Furthermore, we direct USAC to apply this ruling to all of the pending appeals and applications concerning the underlying issue addressed herein. That is, applicants may use a multi-tiered vendor selection process when evaluating bids, but ultimately, price must be the primary factor in selecting a qualified vendor.⁵⁹ Specifically, applicants may use the first tier of a multi-tiered evaluation process to assess whether a proposal satisfies minimum technical capabilities, such as the scope of or quality of service, to ensure that the proposal is responsive to the RFP.⁶⁰ This tier may be evaluated on a pass-fail basis or it may be scored numerically, where a minimum score is required to advance to the next phase of the evaluation process. Applicants may use the second tier of the evaluation process to examine price and other criteria. Consistent with state and local procurement requirements, we expect that any applicant using a multi-tiered process would provide notice – in either its FCC Form 470 or its RFP – to all potential bidders as to the specific criteria to be evaluated in each tier, how those criteria will be scored, which criteria will be used as disqualification criteria, and the circumstances under which bidders will be disqualified from further consideration. We also remind applicants that price must be weighted the highest among each of the evaluation criteria in a multi-tiered vendor selection process, consistent with the Commission's rules.⁶¹ For example, if price is weighted with 15 points, no other category, no matter which tier it is in, can be worth more than 14 points. We emphasize that applicants may not use a

⁵⁶ *Id.* at 7-8; *see also* 47 C.F.R. §§ 54.503, 54.511. Cobb received three bids in response to RFP 01-08. Cobb Requests for Review at 7-8. Two of the bids (from Cinergy and AT&T) were disqualified as being non-responsive. *Id.* Cobb ultimately selected Sunesys's proposal after considering price as the primary factor. *Id.* at 8. Cobb received four bids in response to RFP 53-05. Two of the bids (from ITC/Deltacom and Elite) were disqualified as being non-responsive. The two remaining bids met the non-cost RFP requirements and were evaluated further. *Id.* Southern Digital Networks received a total of 173 points with 95 points in the cost category and Bell South received a total of 191 points with 98 points in the cost category. *Id.* Thus, Bell South was ultimately awarded the contract. *Id.*

⁵⁷ *See* Baltimore Request for Review; Cobb Requests for Review; *see also* *Ysleta Order*, 18 FCC Rcd 26407.

⁵⁸ *See* Baltimore Request for Review; Cobb Requests for Review.

⁵⁹ In fact, multi-tiered competitive bidding processes mirror federal procurement processes where bids are initially evaluated for compliance with minimum technical requirements identified in an RFP. Pricing is not involved during the first phase or step in the federal procurement process. Rather, the objective is to determine the acceptability of the supplies or services offered. Bids meeting the minimum technical requirements are then elevated to the next level of review where cost is evaluated. *See, e.g.*, 48 C.F.R. § 14.501.

⁶⁰ *See* 48 C.F.R. § 14.501. We recognize that the criteria used to determine whether a proposal satisfies minimum requirements may vary among states.

⁶¹ *See* 47 C.F.R. §§ 54.503, 54.511.

multi-tiered process to evade E-rate program rules requiring the careful consideration of all bids submitted and the selection of the most cost-effective service offering.⁶²

IV. ORDERING CLAUSES

13. ACCORDINGLY, IT IS ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and pursuant to authority delegated under sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, 54.722(a), that the request for review filed by the Baltimore City School District on January 3, 2011, regarding funding year 2007 FCC Form 471 application number 553330 IS GRANTED to the extent provided herein.

14. IT IS FURTHER ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and 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, 54.722(a), that USAC SHALL DISCONTINUE its recovery actions against Baltimore City School District and its service providers, Verizon Maryland, Inc. and Verizon Network Integration Corporation, and SHALL REFUND the Baltimore City School District and/or Verizon Maryland, Inc. and Verizon Network Integration Corporation any funds that have already been recovered no later than 60 calendar days from the release date of this order.

15. IT IS FURTHER ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and pursuant to authority delegated under sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, 54.722(a), that the requests for review filed by the Cobb County School District on January 8, 2010 and June 17, 2010, regarding funding year 2008 FCC Form 471 application numbers 600728 and 615126, and funding year 2009 FCC Form 471 application numbers 667772, 667984, 667991, respectively, ARE GRANTED to the extent provided herein.

16. IT IS FURTHER ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and 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, 54.722(a), that USAC SHALL APPLY this ruling to all of the pending applications and appeals concerning the underlying issue addressed herein.

FEDERAL COMMUNICATIONS COMMISSION

Gina Spade
Deputy Chief
Telecommunications Access Policy Division
Wireline Competition Bureau

⁶² *Id.*