

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

In the Matter of)	
)	
Requests for Review of Decisions of the Universal Service Administrator by)	
)	
BellSouth Telecommunications, Inc.)	File No. SLD-160965, 229706
)	
Union Parish School Board Farmerville, Louisiana)	File Nos. SLD-121741, 160965, 163210, 209497, 229706
)	
Schools and Libraries Universal Service Support Mechanism)	CC Docket No. 02-6
)	

ORDER

Adopted: September 26, 2012

Released: September 26, 2012

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

1. Consistent with precedent,¹ we deny a request for review filed by Union Parish School Board (Union Parish)² and grant two requests for review filed by BellSouth Telecommunications, Inc. (BellSouth)³ of decisions by the Universal Service Administrative Company (USAC) seeking to recover

¹ See *Request for Review of the Decision by the Universal Service Administrator by Union Parish School Board, Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 22 FCC Rcd 4950 (Wireline Comp. Bur. 2007) (*Send Order*) (finding that BellSouth and Send Technologies, Inc. violated the Commission's competitive bidding rules); *Federal-State Joint Board on Universal Service, Changes to the Board of Directors for the National Exchange Carrier Association, Inc., Schools and Libraries Universal Service Support Mechanism*, CC Docket Nos. 96-45, 97-21 and 02-6, Order on Reconsideration and Fourth Report and Order, 19 FCC Rcd 15252, 15255-15257, paras. 10-15 (2004) (*Schools and Libraries Fourth Report and Order*) (directing USAC to pursue commitment adjustment recovery actions against the party or parties that have violated the Commission's rules).

² See Appendix A; Letter from Stephen J. Katz, Union Parish School Board, to Office of the Secretary, Federal Communications Commission, CC Docket Nos. 96-45 and 97-21 (filed Feb. 27, 2004) (Union Parish Request for Review) (regarding FCC Form 471 application number 121741, funding request numbers (FRN) 176108, 176115, 176121, 176128, 176132, 176141, 176227, 176237; FCC Form 471 application number 160965, FRNs 385749, 385761, 405626, 405655; FCC Form 471 application number 163210, FRNs 405275, 405449; FCC Form 471 application number 209497, FRN 483189; and FCC Form 471 application number 229706, FRNs 594001, 594023, 594092, 594323, 618168).

³ See Appendix B; Letter from E. Earl Edenfield, Jr., BellSouth Telecommunications, Inc., to Office of the Secretary, Federal Communications Commission, CC Docket Nos. 96-45 and 97-21 (filed Feb. 4, 2005) (BellSouth Feb. 4 Request for Review) (regarding FCC Form 471 application number 229706, FRN 594001); Letter from E. Earl Edenfield, Jr., BellSouth Telecommunications, Inc., to Office of the Secretary, Federal Communications Commission, CC Docket Nos. 96-45 and 97-21 (filed Feb. 7, 2005) (BellSouth Feb. 7 Request for Review) (regarding FCC Form 471 application number 160965, FRN 385749). BellSouth Telecommunications, Inc. is now known as AT&T Inc. as the result of a merger between the two companies.

funds disbursed to Union Parish and BellSouth for discounted services under the E-rate program (more formally known as the schools and libraries universal service support program).⁴ Specifically, USAC sought to recover funds from Union Parish and from BellSouth on the basis that Union Parish's applications were tainted because Union Parish violated the Commission's competitive bidding rules due to a conflict of interest between it and one of its service providers, Send Technologies, LLC (Send).⁵

2. In the *Send Order*, the Wireline Competition Bureau (Bureau) addressed a request for review filed by Send regarding five of Union Parish's applications,⁶ four of which are at issue in the instant matter.⁷ Specifically, in the *Send Order*, the Bureau upheld USAC's finding that Union Parish's competitive bidding process violated the letter, spirit, and intent of the Commission's competitive bidding requirements and therefore held that USAC acted appropriately in seeking to recover disbursed funds.⁸ Union Parish's request for review involves the same competitive bidding violations addressed in the *Send Order*.⁹ Further, Union Parish makes no new legal arguments, and provides no new facts or changed circumstances that would justify reaching a different conclusion in this case.¹⁰ With respect to the one application that is part of Union Parish's appeal but was not addressed in the *Send Order*, FCC Form 471 application number 209497, FRN 483189, USAC's decision to recover funds was based on the same facts and rationale at issue in the *Send Order*.¹¹ We therefore deny Union Parish's request for review.

⁴ 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).

⁵ See Letter from Stephen J. Katz, Union Parish School Board, to USAC, Schools and Libraries Division (dated May 17, 2003) (Union Parish Appeal to USAC); Letter from USAC, Schools and Libraries Division, to Stephen J. Katz, Union Parish School Board (dated Jan. 20, 2004) (regarding FCC Form 471 application number 121741); Letter from USAC, Schools and Libraries Division, to Stephen J. Katz, Union Parish School Board (dated Jan. 20, 2004) (regarding FCC Form 471 application number 160965); Letter from USAC, Schools and Libraries Division, to Stephen J. Katz, Union Parish School Board (dated Jan. 20, 2004) (regarding FCC Form 471 application number 163210); Letter from USAC, Schools and Libraries Division, to Stephen J. Katz, Union Parish School Board (dated Jan. 20, 2004) (regarding FCC Form 471 application number 209497); and Letter from USAC, Schools and Libraries Division, to Stephen J. Katz, Union Parish School Board (dated Jan. 20, 2004) (regarding FCC Form 471 application number 229706) (collectively, Union Parish Administrator's Decisions on Appeal); Letter from USAC, Schools and Libraries Division, to Brenda Slaughter, BellSouth Telecommunications, Inc. (dated Dec. 7, 2004) (regarding FCC Form 471 application number 229706); Letter from USAC, Schools and Libraries Division, to Brenda Slaughter, BellSouth Telecommunications, Inc. (dated Dec. 7, 2004) (regarding FCC Form 471 application number 160965) (collectively, BellSouth Administrator's Decisions on Appeal).

⁶ See *Send Order*, 22 FCC Rcd at 4950, para. 2. The *Send Order* addressed the following FCC Form 471 application numbers and FRNs: FCC Form 471 application number 119672, FRN 171021; FCC Form 471 application number 121741, FRN 175066; FCC Form 471 application number 160965, FRN 385823; FCC Form 471 application number 163210, FRN 405241; and FCC Form 471 application number 229706, FRN 594052.

⁷ See *supra* n.2; Appendix A; Union Parish Request for Review at 2. In addition to these four applications, Union Parish also seeks review of USAC's decision related to FCC Form 471 application number 209497, FRN 483189. See Union Parish Request for Review.

⁸ See *Send Order*, 22 FCC Rcd at 4954, para. 8.

⁹ See Union Parish Request for Review.

¹⁰ See *Send Order*; Union Parish Request for Review.

¹¹ See Letter from USAC, Schools and Libraries Division, to Tom Snell, Union Parish School Board (dated Apr. 24, 2003).

3. We grant, however, BellSouth's requests for review. BellSouth challenges USAC's decision to seek to recover funds disbursed to BellSouth for services BellSouth provided to Union Parish pursuant to the tainted Union Parish applications.¹² BellSouth does not dispute USAC's determination that the competitive bidding process was tainted, but instead asserts that BellSouth had no role in the errors or rule violations committed by Union Parish and Send.¹³ Because we find no evidence in the record suggesting that BellSouth violated the Commission's competitive bidding requirements or that there was a conflict of interest between Union Parish and BellSouth, we find that USAC erroneously sought recovery from BellSouth for violations committed by Union Parish and Send.¹⁴ We therefore, grant BellSouth's requests for review and, consistent with the Commission's *Schools and Libraries Fourth Report and Order*, direct USAC to discontinue its recovery actions against BellSouth and issue revised commitment adjustment recovery actions against Union Parish, the party at fault, for any monies disbursed to BellSouth under FCC Form 471 application number 229706, FRN 594001 and FCC Form 471 application number 160965, FRN 385749 for services provided to Union Parish.

4. 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 sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the request for review filed by Union Parish School Board IS DENIED.

5. IT IS FURTHER ORDERED, pursuant to authority delegated under sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the requests for review filed by BellSouth Telecommunications, Inc. ARE GRANTED.

¹² See BellSouth Requests for Review.

¹³ See BellSouth Feb. 4 Request for Review at 1; BellSouth Feb. 7 Request for Review at 1.

¹⁴ See *Send Order*. In 2003, USAC commenced recovery actions against BellSouth under the procedures established in the 2001 *Commitment Adjustment Implementation Order*. See BellSouth Feb. 4 Request for Review at 1; BellSouth Feb. 7 Request for Review at 1; *Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, 15 FCC Rcd 22975, 22980, para. 11 (2001) (*Commitment Adjustment Implementation Order*). BellSouth appealed to USAC and, during the pendency of the appeals, the Commission issued the *Schools and Libraries Fourth Report and Order* which directed USAC to pursue commitment adjustment recovery actions against the party that is determined to be in violation of the Commission's rules. See Letter from Lisa Spooner Foshee, BellSouth Telecommunications, Inc., to USAC, Schools and Libraries Division (dated Jun. 24, 2003) (regarding FCC Form 471 application number 229706); Letter from Lisa Spooner Foshee, BellSouth Telecommunications, Inc., to USAC, Schools and Libraries Division (dated Jun. 24, 2003) (regarding FCC Form 471 application number 160965); *Schools and Libraries Fourth Report and Order*, 19 FCC Rcd at 15255-15257, paras. 10-15 (*Schools and Libraries Fourth Report and Order*). In the *Schools and Libraries Fourth Report and Order*, the Commission determined that, with regard to recovery actions that were under appeal to USAC or the Commission, recovery should be sought from the party or parties at fault. See *id.* at 15255-15256, para. 10.

6. 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 in sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, that USAC SHALL DISCONTINUE its recovery actions against BellSouth Telecommunications, Inc. and SHALL SEEK recovery for any monies disbursed under FCC Form 471 application number 229706, FRN 594001 and FCC Form 471 application number 160965, FRN 385749, against Union Parish School Board no later than 60 calendar days from the release date of this order.

FEDERAL COMMUNICATIONS COMMISSION

Trent B. Harkrader
Chief
Telecommunications Access Policy Division
Wireline Competition Bureau

APPENDIX A

Appeal Denied on the Merits

Petitioner	Application Number(s)	Funding Year(s)	Date Request for Review Filed
Union Parish School Board Farmerville, Louisiana	121741, 160965, 163210, 209497, 229706	1999-2001	Feb. 27, 2004

APPENDIX B

Appeals Granted on the Merits

Petitioner	Application Number(s)	Funding Year(s)	Date Request for Review Filed
BellSouth Telecommunications, Inc.	160965	2000	Feb. 4, 2005
BellSouth Telecommunications, Inc.	229706	2001	Feb. 7, 2005