



PUBLIC NOTICE

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STREAMLINED RESOLUTION OF REQUESTS RELATED TO ACTIONS BY THE UNIVERSAL SERVICE ADMINISTRATIVE COMPANY

CC Docket No. 96-45
CC Docket No. 02-6

Pursuant to our revised procedure for resolving requests for review, requests for waiver, and petitions for reconsideration of decisions related to actions taken by the Universal Service Administrative Company (USAC) that are consistent with precedent (collectively, Requests), the Wireline Competition Bureau (Bureau) grants and denies the following Requests.¹ The deadline for filing petitions for reconsideration or applications for review concerning the disposition of any of these Requests is 30 days from release of this Public Notice.²

Schools and Libraries (E-rate)

CC Docket No. 02-6

Dismiss as Moot³

Xchange Telecom, (Bais Broncho of Karlin Stolin), Application No. 580557, Request for Review, CC Docket No. 02-6 (filed Nov. 28, 2011)

¹ See *Streamlined Process for Resolving Requests for Review of Decisions by the Universal Service Administrative Company*, CC Docket Nos. 96-45, 02-6, WC Docket Nos. 02-60, 06-122, 08-71, 10-90, 11-42, 14-58, Public Notice, 29 FCC Rcd 11094 (Wireline Comp. Bur. 2014). 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 47 C.F.R. §§ 1.106, 1.115; see also 47 C.F.R. § 1.4(b)(2) (setting forth the method for computing the amount of time within which persons or entities must act in response to deadlines established by the Commission).

³ See, e.g., *Requests for Review and/or Requests for Waiver of the Decisions of the Universal Service Administrator by Al Noor High School et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 8223 (Wireline Comp. Bur. 2012) (dismissing as moot requests for review where USAC approved the underlying funding request).

Granted⁴

*Equipment Transfer*⁵

Montgomery County School District R-II, Application No. 727886, Request for Review, CC Docket No. 02-6 (filed Oct. 27, 2010)

*Failure to Timely Respond to USAC with Information*⁶

Mount Abraham High School 28, Application No. 982970, Request for Waiver, CC Docket No. 02-6 (filed Feb. 18, 2015)

Robinson Elementary School, Application No. 981824, FRN 2676613, Request for Waiver, CC Docket No. 02-6 (filed Feb. 18, 2015)

Robinson Elementary School, Application No. 981824, FRN 2676641, Request for Waiver, CC Docket No. 02-6 (filed Feb. 18, 2015)

*Failure to Consider Price as the Primary Factor in Vendor Selection Process*⁷

Wilson School District #7, Application No. 771668, Request for Review, CC Docket No. 02-6 (filed July 9, 2014)

Wilson School District #7, Application No. 836390, Request for Review, CC Docket No. 02-6 (filed July 10, 2014)

⁴ We remand these applications to USAC and direct USAC to complete its review of the applications and issue a funding commitment or a denial based on a complete review and analysis no later than 90 calendar days from the release date of this Public Notice. In remanding these applications to USAC, we make no finding as to the ultimate eligibility of the services or the petitioners' applications. We also waive sections 54.507(d) and 54.514(a) of the Commission's rules and direct USAC to waive any procedural deadline that might be necessary to effectuate our ruling. See 47 C.F.R. § 54.507(d) (requiring non-recurring services to be implemented by September 30 following the close of the funding year); 47 C.F.R. § 54.514(a) (codifying the invoice filing deadline).

⁵ See, e.g., *Requests for Waiver by Abbeville County School District, Union County School District, Williamsburg County School District.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 14494 (Wireline Comp. Bur. 2010) (granting appeals to allow districts to transfer funding commitments from closed schools to other eligible entities within the district); 47 C.F.R. § 54.513(d).

⁶ See, e.g., *Requests for Review of the Decision of the Universal Service Administrator by Alpaugh Unified School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 22 FCC Rcd 6035 (2007); *Requests for Review of Decisions of the Universal Service Administrator by Ben Gamla Palm Beach et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd 1876 (Wireline Comp. Bur. 2014) (granting requests for review for applicants that had been denied funding because they failed to respond to USAC's request for information within the USAC-specified time frame).

⁷ See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Allendale County School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 6109, 6114-15, para. 9 (Wireline Comp. Bur. 2011) (granting appeals where the record demonstrated that applicants gave the most weight to price during the bid evaluation process).

*Considering Price of Eligible and Ineligible Items as Primary Factor in Vendor Selection Process*⁸

Alhambra Elementary School District #68, Application No. 900314, Request for Review and Waiver, CC Docket No. 02-6 (filed Aug. 1, 2014)

*Ministerial and/or Clerical Error Resulting in Appearance of 2-in-5 Rule Violation*⁹

Bridgeport School District, Application Nos. 741345, 548892, Request for Review and Petition for Waiver, CC Docket No. 02-6 (filed Oct. 16, 2014)

*Selecting Lowest Priced Responsive Service Offering Where Price Was Not Primary Factor in Vendor Selection Process*¹⁰

Biblioteca Abelardo Diaz Alfaro, Application Nos. 753259, 752817, Request for Review and Waiver, CC Docket No. 02-6 (filed Jan. 24, 2014, supplemented Aug. 25, 2014)

Biblioteca Abelardo Diaz Alfaro, Application No. 867068, Request for Review and Waiver, CC Docket No. 02-6 (filed June 30, 2014)

Biblioteca Abelardo Diaz Alfaro, Application No. 920752, Request for Review and Waiver, CC Docket No. 02-6 (filed July 15, 2014)

*Discount Calculation*¹¹

Mesivta High School of Greater Miami, Application No. 873862, Request for Review, CC Docket No. 02-6 (filed Oct. 22, 2012)

⁸ See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Coolidge Unified School District 21; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 28 FCC Rcd 16907 (Wireline Comp. Bur. 2013) (waiving sections 54.504 and 54.511 of the Commission's rules where the record demonstrates that the applicant would have selected the same vendor if it had excluded the price of ineligible items from the "cost" criterion).

⁹ See, e.g., *Request for Review of a Decision of the Universal Service Administrator by Hemet Unified School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 24 FCC Rcd 12725, 12727, para. 5 (Wireline Comp. Bur. 2009) (granting request for review where applicant has demonstrated that it inadvertently omitted four funding request numbers from applicant's request for extension of the implementation of services deadline); *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Ann Arbor Public Schools et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 17319, 17320 nn.14 & 16 (Wireline Comp. Bur. 2010) (permitting applicants to correct the pre-discount price to match the contract rate and to correct mistake concerning list of Block 4 entities based on findings of inadvertent clerical errors by applicants).

¹⁰ See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Allendale County School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 6109, 6115-17, paras. 10-12 (Wireline Comp. Bur. 2011) (granting waiver of requirement that price of E-rate supported services be the primary factor in bid evaluation where the petitioner demonstrated that it selected the least expensive responsive bid for E-rate eligible services).

¹¹ See, e.g., *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Aberdeen School District 5 et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 2152 (Wireline Comp. Bur. 2012) (finding that petitioners demonstrated that they are eligible for the discount level requested); 47 C.F.R. § 54.505.

*Providing Applicants 15 days to Submit Supporting Discount Calculation Documentation*¹²

AIM High Children's Services, Application Nos. 862869, 866060, Request for Review, CC Docket No. 02-6 (filed Feb. 4, 2014)

ICEF Public Schools Consortium, Application No. 982545, Request for Review, CC Docket No. 02-6 (filed Jan. 26, 2015)

Nez Perce Joint School District, Application No. 859178, Request for Review, CC Docket No. 02-6 (filed Feb. 12, 2013)

Omega Schools, Application No. 811951, Request for Waiver and Review, CC Docket No. 02-6 (filed July 17, 2012)

Our Lady of the Lakes, Application No. 808387, Request for Review, CC Docket 02-6 (filed Feb. 13, 2012)

Prairie-Hills Elementary School District, Application No. 982526, Request for Review, CC Docket No. 02-6 (filed Nov. 20, 2014)

The Strong-Huttig Public School District, Application Nos. 961066, 964124, 978212, Request for Review, CC Docket No. 02-6 (filed Nov. 10, 2014)

Yeshiva Gedola of Woodlake Village Inc., Application No. 798734, CC Docket No. 02-6 (filed May 7, 2012)

*Authority to Apply for Support on Behalf of Consortium Members*¹³

Kan-ed, Kansas Board of Regents, Application No. 449052, Request for Review, CC Docket No. 02-6 (filed Jan. 6, 2012)¹⁴

¹² See, e.g., *Requests for Review of the Decision of the Universal Service Administrator by Academia Claret et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 21 FCC Rcd 10703, 10709, para. 14 (Wireline Comp. Bur. 2006); *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Bright Star Schools Consortium et al.; Schools and Libraries Support Mechanism*, CC Docket No. 02-6, Order, 28 FCC Rcd 11204, 11204, para. 1 (Wireline Comp. Bur. 2013) (granting applicants a limited 15-day opportunity to file additional documentation to support their calculation of the correct discount rate). Consistent with precedent, we also find good cause exists to waive section 54.720(a) of the Commission's rules, which requires that petitioners file their appeals within 60 days of an adverse USAC decision, for Omega Schools and Prairie-Hills Elementary School District. See *Requests for Review and/or Waiver of Decisions of the Universal Service Administrator by ABC Unified School District et al.; Schools and Libraries Universal Service Support Mechanism*, Order, 26 FCC Rcd 11019, 11019, para. 2 (Wireline Comp. Bur. 2011) (waiving the filing deadline for petitioners who submitted their appeals to the Commission or USAC only a few days late).

¹³ See *Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 8870, 8742, para. 180 (2014) (*E-rate Modernization Order*) (a consortium may show that it is authorized to order eligible services for applicants by providing relevant state statutes or regulations). See also e.g., *Requests for Review of Decisions of the Universal Service Administrator by Bootheel Consortium et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket 02-6, Order, 22 FCC Rcd 8747, 8750, para. 6 (Wireline Comp. Bur. 2007) (letters of agency not necessary where a state statute gave procurement authority to the state agency).

*Allowing Multi-Year Contract Despite Previous Taint During an Unsupported Year*¹⁵

Send Technologies, LLC / Nexus Systems, Inc. (Jackson Parish School District), Application Nos. 376220, 423981, Petition for Reconsideration, CC Docket No. 02-6 (filed Mar. 24, 2008)

Denied

*Failure to File FCC Form 470 for Current Funding Year*¹⁶

RAILS (Reaching Across Illinois Library System), Application No. 970468, Request for Waiver, CC Docket No. 02-6 (filed June 27, 2014)

*Differential Treatment of Potential Vendors*¹⁷

Blessed Sacrament School, Application Nos. 831551, 863006, Request for Review and Waiver, CC Docket No. 02-6 (filed July 11, 2014)

Mt. Carmel-Holy Rosary School, Application No. 858216, Request for Review and Waiver, CC Docket No. 02-6 (filed July 11, 2014)

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¹⁴ We grant Kan-ed's request that USAC only reduce its 2005 commitment to reflect the hospital and 23 entities of higher education that used Kan-ed, (13.1 percent) and the three otherwise eligible libraries that used Kan-ed, but did not file the required technology plans (1.0 percent), *see* Letter from Jerry Huff, Kan-ed, to Office of the Secretary, Federal Communications Commission at 3 n.1 (filed Mar. 24, 2006) and Letter from Jerry Huff, Kan-ed, to Office of the Secretary, Federal Communications Commission at 3 (filed Jan. 6, 2012). Combining those two figures (86.9 x 99.0 = 86.0) we find that USAC should reduce Kan-ed's funding commitment by 14 percent.

¹⁵ *See Request for Review of the Decision of the Universal Service Administrator by Kalamazoo Public Schools; Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket Nos. 96-45 and 97-21, Order on Reconsideration, 17 FCC Rcd 22154, 22157, para. 6 (Com. Car. Bur. 2002); *Request for Review by Cochrane-Fountain City School District; Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 16628, 16631, para. 7 (Com. Car. Bur. 2000) (determining that applicants may use contracts signed before the expiration of the 28-day waiting period if: (i) the applicant is choosing to continue service under an existing contract; (ii) the applicant competitively bid the services for the new funding year; and (iii) the applicant decides, after appropriate review of the other bids received during a compliant competitive review process, to continue with the existing contract).

¹⁶ *See, e.g., Application for Review of the Decision of the Universal Service Administrator by Aberdeen School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 22 FCC Rcd 8757, 8763, para. 10 (2007) (denying appeal where applicant failed to file a new FCC Form 470 and solicit bids in the year for which it sought services, thereby circumventing the competitive bidding process).

¹⁷ *See e.g., Petitions for Reconsideration by Callisburg Independent School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order and Order on Reconsideration, 28 FCC Rcd 9459, 9460-61, para. 3 (Wireline Comp. Bur. 2013) (explaining that "all potential bidders and service providers must have access to the same information and be treated in the same manner throughout the procurement process"). For Application Nos. 831551, 863006, 837162, 858274, and 858291, we also deny the appeals based on the petitioners' failure to produce documentation regarding their vendor selection processes. *See, e.g., Requests for Review of Decisions of the Universal Service Administrator by Central Islip Free Union School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 8630, 8635-36, paras. 11-12 (Wireline Comp. Bur. 2011) (denying appeal where the applicant failed to produce documentation regarding its vendor selection process (*i.e.*, documents describing the bid evaluation criteria and weighting, bid evaluation worksheets, correspondence between the beneficiary and prospective bidder) and, thus, could not demonstrate compliance with the E-rate program's competitive bidding rules).

St. Aloysius School, Application Nos. 837162, 858274, Request for Review and Waiver, CC Docket No. 02-6 (filed July 11, 2014)

St. Ann School, Application Nos. 858098, 860715, Request for Review and Waiver, CC Docket No. 02-6 (filed July 11, 2014)

St. Mark the Evangelist School, Application No. 858291, Request for Review and Waiver, CC Docket No. 02-6 (filed July 11, 2014)

*Failure to Maintain and Provide Copies of Bids or Other Documentation in Support of Bid Evaluation Process*¹⁸

St. Anthony School, Application Nos. 837212, 868057, Request for Review and Waiver, CC Docket No. 02-6 (filed July 11, 2014)

St. Brigid School, Application Nos. 828062, 859000, 868933, Request for Review and Waiver, CC Docket No. 02-6 (filed July 11, 2014)

St. Jude School, Application No. 828179, Request for Review and Waiver, CC Docket No. 02-6 (filed July 11, 2014)

St. Nicholas Tolentine School, Application Nos. 858249, 829699, Request for Review and Waiver, CC Docket No. 02-6 (filed July 11, 2014)

*Untimely Filed Request for Review*¹⁹

Andalusia School, Application No. 922246, Request for Waiver, CC Docket No. 02-6 (filed Mar. 6, 2015)

Biblioteca Abelardo Diaz Alfaro, Application No. 807387, Request for Review and Waiver, CC Docket No. 02-6 (filed Oct. 15, 2014)

Blue Ridge School District, Application No. 975318, Request for Waiver, CC Docket No. 02-6 (filed Mar. 6, 2015)

¹⁸ See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Central Islip Free Union School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 8630, 8635-36, paras. 11-12 (Wireline Comp. Bur. 2011) (denying appeal where the applicant failed to produce documentation regarding its vendor selection process and, thus, could not demonstrate compliance with the E-rate program's competitive bidding rules).

¹⁹ See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Agra Public Schools I-134 et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 5684 (Wireline Comp. Bur. 2010); *Requests for Waiver or Review of Decisions of the Universal Service Administrator by Bound Brook School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd 5823 (Wireline Comp. Bur. 2014) (denying appeals on the grounds that the petitioners failed to submit their appeals either to the Commission or to USAC within 60 days, as required by the Commission's rules, and did not show special circumstances necessary for the Commission to waive the deadline). We remind applicants that pursuant to the *E-rate Modernization Order*, USAC decisions must be appealed in the first instance to USAC. See *E-rate Modernization Order*, 29 FCC Rcd at 8970-71, para. 250.

KanOkla Networks (Braman Independent School District 1-18), Application No. 825935, Request for Waiver, CC Docket No. 02-6 (filed Feb. 18, 2015)

Cape Coral Charter Schools Authority, Application No. 981369, Request for Waiver, CC Docket No. 02-6 (filed Feb. 23, 2015)

Colonial School District, Application No. 964562, Request for Waiver, CC Docket No. 02-6 (filed Feb. 12, 2015)

Del Norte County Office of Education, Application No. 815306, Request for Waiver, CC Docket No. 02-6 (filed Mar. 6, 2015)

Fresco Academy for Civic and Entrepreneurial Leadership, Application No. 929101, Request for Waiver, CC Docket No. 02-6 (filed Feb. 18, 2015)

Harvey School District 152, Application No. 964804, Request for Waiver, CC Docket No. 02-6 (filed Feb. 9, 2015)

Mauston School District, Application No. 933016, Request for Waiver, CC Docket No. 02-6 (filed Mar. 6, 2015)

Mountainair Public School District, Application No. 915206, Request for Waiver, CC Docket No. 02-6 (filed Mar. 6, 2015)

Nativity Catholic School, Application No. 992109, Request for Waiver, CC Docket No. 02-6 (filed Jan. 13, 2015)

Papillion-La Vista School District, Application No. 897395, Request for Waiver, CC Docket No. 02-6 (filed Mar. 6, 2015)

Santa Paula Elementary School District, Application No. 862544, Request for Waiver, CC Docket No. 02-6 (filed Mar. 4, 2014)

Selkirk School District, Application No. 932309, Request for Waiver, CC Docket No. 02-6 (filed Mar. 6, 2015)

Sequim School District 323, Application No. 865515, Request for Waiver, CC Docket No. 02-6 (filed Mar. 6, 2015)

Sigourney Community School District, Application No. 988111, Request for Waiver, CC Docket No. 02-6 (filed Mar. 6, 2015)

St. Louis Covenant School, Application No. 992090, Request for Waiver, CC Docket No. 02-6 (filed Jan. 13, 2015)

The Next Step Public Charter School, Application No. 982674, Request for Waiver, CC Docket No. 02-6 (filed Mar. 9, 2015)

Unity Lutheran Christian Elementary School, Application Nos. 989946, 991958, Request for Waiver, CC Docket No. 02-6 (filed Mar. 6, 2015)

*No Basis for Reconsideration*²⁰

Friendship Public Charter Schools, Application No. 573474, Petition for Reconsideration, CC Docket No. 02-6 (filed Apr. 20, 2012)

Pope John Paul II Catholic School, Application No. 822024, Petition for Reconsideration, CC Docket No. 02-6 (filed Feb. 27, 2015)

*Priority Two Funding Requests in Excess of the E-rate Cap*²¹

East Orange Child Development Corp., Application No. 931394, Request for Review, CC Docket No. 02-6 (filed Jul. 8, 2014)

Los Angeles Unified School District, Application Nos. 878119, 878214, 878231, 878296, 878618, 878642, 878808, 878810, Request for Review, CC Docket No. 02-6 (filed May 2, 2014)

*Discount Calculation*²²

Richmond City Library, Application No. 940708, Request for Review, CC Docket No. 02-6 (filed Sept. 17, 2014)

*Urban/Rural Classification*²³

Columbia-Brazoria Independent School District, Application Nos. 599045, 663979, 727182, 795736, 859264, Request for Review or Waiver, CC Docket No. 02-6 (filed Nov. 12, 2013)

²⁰ See, e.g., *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Allan Shivers Library et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd 10356 (Wireline Comp. Bur. 2014) (denying petitions for reconsideration that fail to identify any material error, omission, or reason warranting reconsideration, and rely on arguments that have been fully considered and rejected by the Bureau within the same proceeding).

²¹ See *Requests for Review of Decisions of the Universal Service Administrator by Green Tree School, Systems Development Integration, LLC (Virgin Island Department of Education), Three Stages; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd 9294, 9295, para. 2 (Wireline Comp. Bur. 2014) (affirming USAC denials of all funding year 2013 priority two funding requests); see also 47 C.F.R. § 54.507(g)(1)(i); USAC, *Schools and Libraries Program, 2/27/14 - Update on Priority 2 Commitments for FY 2013*, www.usac.org/sl/tools/news/news-archive.aspx (last visited Mar. 27, 2015).

²² See *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Enterprise City Schools et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd (Wireline Comp. Bur. 2012) (finding that the applicants did not provide sufficient documentation to support their requested discount rate).

²³ See *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Falcon School District 49 et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 2375, 2375-76, para. 1 (Wireline Comp. Bur. 2012) (upholding USAC determination that applicants were not located in a rural area based on E-rate program rules and finding no special circumstances existed to justify a waiver); see also *Request for Waiver by Elgin Independent School District; Federal-State Joint Board on Universal Service; Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket Nos. 96-45 and 97-2, Order, 16 FCC Rcd 15895, 15896, para. 5 (Com. Car. Bur. 2001) (finding that the obligation is on applicants to comply with program rules and procedures).

For additional information concerning this Public Notice, please contact Erica Myers at (202) 418-7400, in the Telecommunications Access Policy Division, Wireline Competition Bureau.

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