

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Telecommunications Division
Public Programs Branch

RESOLUTION T-16052
June 25, 1997

R E S O L U T I O N

RESOLUTION T-16052. ALL TELECOMMUNICATIONS UTILITIES. TO APPROVE THE DISCOUNTS FOR SCHOOLS AND LIBRARIES FOR INTRASTATE SERVICES ESTABLISHED BY THE FEDERAL COMMUNICATIONS COMMISSION'S REPORT AND ORDER (FCC 97-157) IN THE MATTER OF FEDERAL-STATE JOINT BOARD ON UNIVERSAL SERVICE (CC DOCKET NO. 96-45).

SUMMARY

This Resolution approves the schools and libraries discount matrix contained in the Federal Communications Commission's (FCC) universal service Report and Order (FCC 97-157). According to the Telecommunications Act and the Report and Order, states must approve discounts for intrastate services. This action will enable California schools and libraries to request federally funded discounts for intrastate telecommunications services under the new program.

BACKGROUND

On May 7, 1997 the FCC created a new discount program for schools and libraries as part of its universal service Report and Order. In that Order, the FCC asserts that it has the authority to fund intrastate discounts for schools and libraries.¹ The FCC further asserts that, in order for schools and libraries to receive discounts for intrastate telecommunications services through the federal discount program, the state in which the schools or libraries are located must adopt intrastate discounts at least as great as those established by the FCC for interstate services.²

The FCC's discounts apply to all commercially available telecommunications services schools and libraries believe will

¹ FCC 97-157, ¶550.

² FCC 97-157, ¶550.

meet their needs. The FCC extends the discounts to the telecommunications and information services needed to use the Internet, and internal connections.

The FCC's discounts vary depending on the level of economic disadvantage of the school or library and whether the school or library is located in an urban or rural area. The level of economic disadvantage for schools is determined by the percentage of students eligible for the national school lunch program. The level of economic disadvantage for libraries is determined by the percentage of students eligible for the national school lunch program in the school district in which the library is located. The urban and rural status is identified according to the definition adopted by the Department of Health and Human Services' Office of Rural Health policy.¹ The discounts are listed in the following schools and libraries' discount matrix.

How Disadvantaged?	Discount Level	
% of students eligible for national school lunch program	Urban Discount (%)	Rural Discount (%)
< 1	20	25
1 - 19	40	50
20 - 34	50	60
35 - 49	60	70
50 - 74	80	80
75 -100	90	90

The FCC indicates that funding for the federal schools and libraries discount program will begin to be distributed on January 1, 1998. Typically, requests for discounts will be accepted beginning July 1 for the following calendar year. In an Erratum to the Universal Service Report and Order released on June 6, 1997 the FCC clarifies that for the first year, requests for support will be accepted when the program administrator's schools and libraries website is open and applications are

¹ The Health and Human Services Office of Rural Health Care Policy uses the Office of Management and Budget's Metropolitan Statistical Area designation of metropolitan and non-metropolitan counties as adjusted by the most current Goldsmith Modification. FCC 97-157, ¶ 504.

¹ FCC 97-157, Appendix I, § 54.505 (c).

available. No specific date when schools and libraries will first be able to apply for discounts is mentioned. The program is funded through an assessment based on a carriers' total end user revenue. In the Report and Order, the FCC permits recovery of contributions for the support mechanisms for schools and libraries solely through rates for interstate services.⁵

For the application of the federal discounts, the discount percentages in the discount matrix are to be applied to a pre-discount price. According to the FCC, that "lowest corresponding price" must be no higher than the lowest price the carrier charges to similarly situated non-residential customers for similar services. The pre-discount price is significant because it is the total price that carriers receive for the services they sell to schools and libraries. While schools and libraries only pay the carrier the discounted price, the carrier receives the full pre-discount price because the discount amount is recovered through universal service support mechanisms. The FCC believes that the fact that schools have to pay a portion of the pre-discounted price for services will give schools and libraries a strong incentive to secure the lowest pre-discount price.

In order to participate in the federal schools and libraries program, eligible entities must also participate in a competitive bidding process established in the Report and Order. According to this competitive bidding process, schools and libraries shall submit requests for services and facilities to a subcontractor designated by the administrator of the program. The administrator will then post this description of the requested services on a website. The school or library must wait four weeks from the date in which the request is posted to select a provider for the services and facilities it has requested. The school or library does not have to select solely on the basis of price.

The FCC's schools and libraries discount program performs a similar function to the California Teleconnect Fund (CTF) established by the Commission in its Universal Service Order Decision (D.) 96-10-066. Both programs provide discounts to eligible schools and libraries for telecommunications services. The FCC's program differs in several respects from the CTF. First, the FCC's discounts extend to a broader set of services and facilities than the CTF, such as usage, internal connections

⁵ FCC 97-157, ¶ 838.

and Internet service. Second, the FCC's program has additional requirements, such as competitive bidding and submission of a technology plan. Third, the level of discounts varies based on the level of economic disadvantage and urban or rural status of the eligible institution. Finally, the FCC's program is confined to schools and libraries, while the CTF includes certain types of community based organizations (CBOs) and municipally owned health care institutions. The Commission's universal service order anticipated the possibility that the state and federal programs would need to be reconciled and directed the Telecommunications Division staff to make recommendations on this issue to the Commission.

DISCUSSION

The purpose of this Resolution is to allow California schools and libraries to participate in the federal schools and libraries discount program. According to the Telecommunications Act, States must determine the appropriate level of discounts to schools and libraries.⁶ According to the FCC's Report and Order, States must approve discounts at least as great as those the FCC has approved for interstate discounts as a condition for federal universal service support. This Resolution approves the discount matrix the FCC has established as a minimum requirement for intrastate services and thereby allows California schools and libraries to participate in the federal program. This Resolution does not attempt to extend the Commission's regulatory authority over services it does not currently regulate.

This Resolution does not modify the CTF. The discounts approved in this order pertain only to the federal universal service program. The CPUC's universal service decision directed the Telecommunications Division staff to (1) review the FCC's universal service order to identify areas of inconsistency between the federal and state universal service policies and (2) recommend to the Commission what issues need to be resolved.⁷ This process will allow for any necessary or appropriate modifications to the CTF as a consequence of the new federal universal service program. This process of reconciling state and federal universal service policies will occur within the universal service proceeding and is beyond the scope of this

⁶ Telecommunications Act, § 254(h)(1)(B)

⁷ See Decision 96-10-066 p. 92 and Ordering Paragraph 17. (Ordering Paragraph 18 as modified by Decision 97-01-020.)

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Resolution. The Commission will have an opportunity to modify the CTF to ensure that the CTF and the federal program complement one another between now and when the federal schools and libraries discounts go into effect on January 1, 1998.

As a point of clarification, for schools and libraries that participate in both the CTF and the federal programs, the discounted CTF rate does not appear to satisfy the FCC's criteria for a pre-discount price. This means that the federal discounts cannot be applied after the CTF discounts. The Report and Order establishes two conditions for the pre-discount price. First, schools and libraries are required to seek competitive bids. Second, discounts must be applied to the "lowest corresponding price" the carrier charges to similarly situated non-residential customers. The CTF does not have a competitive bidding requirement, so the CTF discounted price does not satisfy the first requirement for a pre-discount price. The CTF discounts do not represent prices that are available to similarly situated non-residential customers, so they do not satisfy the second requirement for a pre-discounted price. However, the presence of the new FCC program does not mean that the discounts offered through the CTF are no longer available. Schools and libraries are encouraged to determine which discount program offers them the best solution to their telecommunications needs at the best price. Indeed, in certain instances, institutions might be able to benefit from both discounts. For example, a school might choose to purchase certain services from the FCC's program that are not covered in the CTF, but go to the CTF for certain services for which the federal discount might be less than the 50% discount offered by the CTF. Of course, the CTF will also continue to provide discounts that might not qualify for the federal discounts, but are eligible under the CTF.

In its Order, the FCC clarified that the tariffed rate of a carrier would represent a carrier's lowest corresponding price in a geographic area in which that carrier has not negotiated rates that differ from the tariffed rate. The FCC is not requiring carriers to file new tariffs to reflect the discounts it has adopted for schools and libraries, but rather, discounts will be applied to existing tariff rates where appropriate. We believe that this is appropriate for California carriers as well. Accordingly, we will not require that tariffs reflecting the discounts for schools and libraries be filed. General Order 96-A contract filing provisions are not affected by this Resolution.

FINDINGS

1. The FCC established a new discount program for schools and libraries on May 7, 1997 in FCC Order No. 97-157. The FCC's interstate discounts apply to all commercially available telecommunications services and range from 20 to 90 percent according to the discount matrix.
2. The FCC's schools and libraries discount program will fund discounts on intrastate services.
3. The FCC's schools and libraries discount program will only fund discounts on intrastate services if the state approves discounts at least as great as those contained in the discount matrix.
4. In order for California schools and libraries to participate in the federal schools and libraries discount program, the CPUC must approve the discount matrix in FCC Order No. 97-157, CC Docket 96-45.
5. No additional tariffs need to be filed to identify these discount levels.
6. The role of the California Teleconnect Fund in the wake of the new federal schools and libraries discount program should be addressed as part of the universal service proceeding and is not addressed through this Resolution.
7. California Teleconnect Fund discounted rates do not appear to satisfy the FCC's conditions for a "pre-discount" price for determining federal schools and libraries discounts.
8. The California Teleconnect Fund remains available as set forth in D.96-10-066 to California schools and libraries.

THEREFORE, IT IS ORDERED that:

1. The discount matrix in FCC Order No. 97-157, CC Docket 96-45, which is contained in the body of this Resolution, and which will permit schools and libraries to receive federally funded discounts for intrastate services is hereby adopted.

This Resolution is effective today.

All Telecommunications Utilities/BPR

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on June 25, 1997. The following Commissioners approved it:

Wesley Franklin

WESLEY M. FRANKLIN
Executive Director

P. GREGORY CONLON
President

JESSIE J. KNIGHT, Jr.

HENRY M. DUQUE

JOSIAH L. NEEPER

RICHARD A. BILAS

Commissioners