

## PUBLIC UTILITIES COMMISSION

### IN RE: UNIVERSAL SERVICE PROVISIONS OF THE FEDERAL TELECOMMUNICATIONS ACT OF 1996 - DOCKET NO. 2577

#### REPORT AND ORDER

On May 8, 1997, the Federal Communications Commission ("FCC") issued FCC Order No. 97-157 ("Order") in CC Docket No. 96-45, implementing key portions of the Telecommunications Act of 1996 ("Act"), Pub. L. No. 104-104, 110 Stat. 56, to be codified at 47 U.S.C. §§ 151 et seq., and particularly Section 254 addressing universal service.

In the Act, Congress clearly intended to ensure that eligible schools and libraries have affordable access to modern telecommunications and information services that will enable them to provide educational services to all parts of the nation. The Order, based on the recommendations of the Federal/State Joint Board on Universal Service, identifies telecommunications services and certain non-telecommunications services for schools and libraries to be supported by federal universal service funds and the mechanisms for providing such funding.

The Order also establishes discount for interstate services. Eligibility for discounts is predicated upon adoption by the state of discount levels for intrastate services, equal to the federal discount levels for interstate services. No state funding is required for these intrastate discounts, so long as the state adopts the FCC discount levels. Participating service providers will be compensated for the discounts completely through the federal universal service fund.

Section 254 also imposes several restrictions on schools and libraries receiving services funded through universal support money. For example, such schools and libraries must meet statutory eligibility criteria, may not resell any services provided under Section 254, must make a bona fide request for the services, and must use the services for educational purposes. Finally, carriers providing services to eligible schools and libraries shall be compensated for any discount they are required to grant, through either an offset to their universal service obligations, or reimbursement from universal service support mechanisms.

The FCC discounts range from 20% to 90% of pre-discount prices for interstate services, for all telecommunications services, Internet access, and internal connections, subject to a \$2,250,000,000 annual cap. The range of discounts is correlated to schools or libraries that are defined as economically disadvantaged, and for those schools or libraries located in high cost areas. The discount matrix adopted by the FCC is attached as an Appendix to this Report and Order.

The Public Utilities Commission ("Commission") initiated this docket, as an uncontested matter, to determine the appropriate discount rate to ensure affordable access to and use of intrastate telecommunications services by elementary schools, secondary schools, and libraries.

Following public notice, the Commission held a hearing concerning the universal service intrastate discount matrix on July 25, 1997 at 100 Orange Street, Providence. The following appearances were entered at that time:

FOR NYNEX: John B. Messenger, Esq.

FOR COX RHODE ISLAND TELCOM, INC. ("Cox"): Jennifer Johns, Esq.

FOR AT&T: Melinda Thaler, Esq.

FOR THE DIVISION OF PUBLIC UTILITIES AND CARRIERS ("Division"): Alan Shoer, Esq., Special Assistant Attorney General

At the hearing, the Chairman noted that correspondence had been received from MCI Telecommunications, Inc. and

AT&T Communications of New England, Inc., as well as the Rhode Island Department of Education.

The representatives of NYNEX, AT&T, and Cox stated that their companies were in favor of the State's adoption of the federal discounts for schools and libraries. The Division concurred, recommending adoption of the federal matrix at this time, so as to permit Rhode Island schools and libraries to take advantage of the universal service funding mechanism in the upcoming school year.

Public comments were received from Dorothy Frechette on behalf of Barbara Weaver, Chief Information Officer from the Office of Library and Information Services. Ms. Frechette noted that the current arrangement with NYNEX has brought significant benefits to Rhode Island non-profit libraries and schools. The telecommunications lines for more than sixty libraries and branches of the Cooperating Libraries Automated Network ("CLAN"), to connect them to the automated library system as well as the Internet, have been supported through the NYNEX agreement. Thus, users of even the smallest Rhode Island libraries have access to the resources of the Internet, and can request books or other materials from CLAN libraries throughout the state. CLAN intends to submit one telecommunications plan and one proposal for services under the universal service discount provisions, on behalf of all member libraries. Because the consortium does not include any libraries which are not eligible for discounts, the problem of adopting accounting rules for determining the percent of services eligible for discount will not be relevant in Rhode Island.

Ms. Frechette stated that there was no need to consider other alternatives to the federal discount matrix at this time. She added that approximately 34% of Rhode Island's K-12 students are eligible for the school lunch program, which would yield a discount rate of 50% in accordance with the federal matrix. If this were to be applied to library services, it would yield additional funds, beyond those already provided through the NYNEX agreement.

Susan Reed, President of the Rhode Island Libraries Association, added her support to the adoption of the federal discount matrix.

William Fiske, speaking on behalf of Commissioner Peter McWalters of the Rhode Island Department of Education as well as the Coalition for Internet Service ("RINET"), pointed out that Rhode Island has enjoyed a remarkable opportunity since the Commission's ruling regarding NYNEX's obligations with regard to school data network access connections. Over 1,700 data network access lines have been deployed, permitting classroom teachers to dial out on the Internet. In addition, approximately 120 of the 440 public, private and parochial schools are directly wired, with high speed digital services, or have cable connections with direct services. The state has been able to create innovative training programs because of the almost ubiquitous access to the Internet from schools. The National Science Foundation program had a \$750,000 grant to train teachers (especially in the areas of math and science) to use data services. The Rhode Island Foundation has contributed \$5,000,000 and offered to provide portable computers and extended training for teachers. Mr. Fiske noted that the Act's mandates broaden the context by providing funding for additional telecommunications services, internal wiring, and more telephone lines, all of which will make a major difference in the ways that schools employ technology. It also improves the likelihood that when other schools get internal wiring and computers go into the classrooms, teachers can plug into high speed connections as well as dial up support. On behalf of the Department and RINET, Mr. Fiske enthusiastically endorsed the adoption of the federal discount matrix.

The final witness was Carol Brouwer, Director of the North Smithfield Public Library and also chair of CLAN. She added her support to the ground swell favoring the federal matrix.

Based on the testimony and Division recommendation, the Commission considered the matter at an open meeting on August 5, 1997. The level of discounts the Commission adopts will have no impact on the federal universal fund assessments paid by Rhode Island carriers. Telecommunications carriers, and through them the ratepayers of this state, will be contributors to the federal universal service fund regardless of the Commission's action in this docket.

The Order recognizes that Section 254(h)(1)(B) provides that states may establish discounts greater than those established as federal levels. States also retain the discretion to establish pre-discount prices, to which the discount is then applied, lower than that which would be determined by the market. However, no federal funding will be provided above the amounts necessary to support the federally approved discount levels. Therefore, a state which chooses to establish greater discounts must provide the funding to support the difference between the federal and state discounts.

Rhode Island has not established a funding mechanism for telecommunications services for schools and libraries. [Footnote 1](#) The Commission finds that imposing additional charges on carriers to create a state fund to support telecommunications services for schools and libraries would be inappropriate at this time. Furthermore, while we may arguably have authority to create such a fund, we would seek direction from the General Assembly before taking such a step.

Schools and libraries wishing to take advantage of the first-come, first-served federal funding must apply to the FCC as soon as possible after July 1, 1997, once their technology plans are in place and the FCC's applications become available. Further, because the Commission believes that legislative input is appropriate before creating further intrastate discounts, we find that the public good will be served by establishing the discount levels as soon as possible. This is particularly appropriate given that the preliminary analysis of the federal discount matrix reveals that many eligible Rhode Island schools will receive a 50% discount, a considerable savings and incentive to participate.

Based upon the foregoing, the Commission will unanimously adopt the discount matrix set forth in FCC Order No. 97-157, CC Docket No. 96-45.

Accordingly, it is

**(15379) ORDERED:**

The federal interstate discount matrix set forth in FCC Order No. 97-157, CC Docket No. 96-45 is hereby adopted for application to intrastate services.

EFFECTIVE AT PROVIDENCE, RHODE ISLAND PURSUANT TO AN OPEN MEETING DECISION ON AUGUST 5, 1997. WRITTEN ORDER ISSUED AUGUST 21, 1997.

**PUBLIC UTILITIES COMMISSION**

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James J. Malachowski, Chairman

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Kate F. Racine, Commissioner

**Appendix A**

**SCHOOLS AND LIBRARIES DISCOUNT MATRIX**

## HOW DISADVANTAGED DISCOUNT LEVEL

<b>% students eligible for national school lunch program</b>	<b>Estimated % of US schools in category</b>	<b>Urban Discount (%)</b>	<b>Rural Discount (%)</b>
<b>{Special Char 62 in Font "Onyx"} 1</b>	<b>3</b>	<b>20</b>	<b>25</b>
<b>1-19</b>	<b>31</b>	<b>40</b>	<b>50</b>
<b>20-34</b>	<b>19</b>	<b>50</b>	<b>60</b>
<b>35-49</b>	<b>15</b>	<b>60</b>	<b>70</b>
<b>50-74</b>	<b>16</b>	<b>80</b>	<b>80</b>
<b>75-100</b>	<b>16</b>	<b>90</b>	<b>90</b>

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### Footnote1

The agreement reached with NYNEX in the Price Regulation Plan, Docket No. 2370, Section 3 and Appendix 1, is not such a funding mechanism.