



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
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COMMON CARRIER BUREAU REITERATES SERVICES ELIGIBLE FOR DISCOUNTS TO SCHOOLS AND LIBRARIES CC Docket No. 96-45

On May 8, 1997, the Federal Communications Commission (Commission) released a *Report and Order* on Universal Service (*Universal Service Order*).¹ In the *Universal Service Order*, the Commission determined that all eligible schools and libraries should receive discounts on all telecommunications services, Internet access, and internal connections² provided by telecommunications carriers, as well as on Internet access and internal connections provided by non-telecommunications carriers.³

The Common Carrier Bureau (Bureau) reiterates that schools and libraries are not eligible to receive support for services or equipment that do not qualify as telecommunications services, Internet access, or internal connections. Personal computers, fax machines, and modems, for example, are not eligible for universal service support discounts.⁴ The Bureau also emphasizes that no universal support will be provided for asbestos removal, teacher training, telephone handsets, the costs of tearing down walls to install wiring, repairing carpets, or repainting.

The Bureau also reiterates that schools and libraries are required to select the most cost effective bid when examining their bids for eligible services. This means that the price should be the primary factor in evaluating the bids. Other relevant factors may include: prior experience; personnel qualifications, including technical excellence; management capability, including schedule compliance;

¹ Federal-State Joint Board on Universal Service, *Report and Order*, CC Docket No. 96-45, FCC 97-157, 12 FCC Rcd 8776 (rel. May 8, 1998).

² See *Universal Service Order*, 12 FCC Rcd at 9006-09, paras. 431-36. The Commission concluded that "a given service is eligible for support as a component of the institution's internal connections only if it is necessary to transport information all the way to individual classrooms." See *Universal Service Order*, 12 FCC Rcd at 9021, para. 459. Support for internal connections includes such items as routers, hubs, network file servers, and wireless LANS and their installation and basic maintenance because all are needed to switch and route messages within a school or library. *Id.* at para. 460.

³ *Universal Service Order*, 12 FCC Rcd at 9002, para. 424, and 9084-85, para. 589.

⁴ We note that personal computers programmed to operate solely as network switches or network file servers would be eligible for universal support.

and environmental objectives.⁵ The Bureau strongly emphasizes that the value or price competitiveness of services and products that are ineligible for universal service discounts may not be factored into the evaluation of the most cost-effective supplier of eligible services.⁶

For further information contact Matthew Vitale, Common Carrier Bureau at (202) 418-0866.

-Common Carrier Bureau-

⁵ *Universal Service Order*, 12 FCC Rcd at 9029-30, para. 481.

⁶ On March 27, 1998, the Schools and Libraries Corporation issued an advisory to that effect, which can be found on its website <www.slcfund.org/reference/471ORfreesvc.asp>.

June 11, 1998

**STATEMENT OF COMMISSIONER HAROLD FURCHTGOTT-ROTH
REGARDING THE CLARIFICATION/REITERATION OF "SERVICES" ELIGIBLE
FOR DISCOUNTS TO SCHOOLS AND LIBRARIES**

Today, the Common Carrier Bureau issues a "clarification" or "reiteration" as to what "services" are eligible for discounts to schools and libraries. As an initial matter, I point out that it is this type of confusion surrounding what is and what is not covered by the program that compels me to follow the abundant Congressional advice that we place this program on hold temporarily. Do all the schools really understand that "the costs of tearing down walls to install wiring" is not a part of the "installation" and therefore not covered? How many schools have made such an error in their applications and how much is demand overstated? If there were not widespread questions and confusion on the part of Congressional leaders, school applicants, and the public, then why would such a clarification or reiteration be necessary?

In addition, I remain fundamentally disturbed by this Commission's decision that the lowest qualified bidder is not necessarily awarded the contract. Today's Bureau Notice states that when comparing all of the qualified bids,

price should be the primary factor in evaluating bids. Other relevant factors may include: prior experience; personnel qualifications, including technical excellence; management capability, including compliance; and environmental objectives.

In other words, price does not have to be the sole factor in evaluating bids. Factors such as "personnel qualifications" and "management capability" are inherently ambiguous, and will open up the program to charges of fraud, waste and abuse. Does prior experience include the work a bidder is currently doing at a very good price? How can we ask the American consumer to fund an administrator's discretion, especially when he is not even an expert in government contracting? In addition, while the Notice emphasizes that the value of ineligible services and products may not be a factor in selection, schools do not appear to have been notified of that decision until March 27, 1998, after some schools had begun the application process.

Interestingly, the aspect of eligible "services" that needed the most public clarification does not really concern "services" but, rather, the expensive hardware and software for sophisticated computer networks that are euphemistically characterized as "internal connections" for schools and libraries. Indeed, buried in a footnote of this Public Notice is the sad fact that this Commission would allow universal service "taxes" to support installation and maintenance of high-speed computer networks -- including "routers, hubs, network file servers, and wireless

LANS" -- inside schools and libraries.¹ Such internal networks would rival those of the largest corporations and universities; most small businesses cannot afford the luxury of installing and maintaining expensive equipment like this. Although the Commission clarifies that "personal computers" and "modems" are not eligible, it should be noted that the eligible routers, hubs, and servers are much more sophisticated (and expensive) devices than personal computers. Moreover, common PC modems simply are not necessary when the PC is connected to a high-speed network that has a direct connection to the Internet. (You don't need a small gate in the white picket fence when you've got an entire highway on-ramp dedicated to your use.)

I agree that there has been some confusion as to what type of "services" are and should be covered. As an example of the type of sophisticated networks that definitely are eligible under the Commission's now clarified rules regarding inside wiring, I have attached as Appendix A a diagram provided by one of the computer network hardware companies of the type of system they could provide to a school under the Commission's rules. This sophisticated network would require 3 different types of network routers, a microhub, a micro webserver, a dedicated switch, and an interface card. All of that is in addition to the eligible T-1 link, the eligible software and the ineligible desktop PCs that would also be necessary.

How many schools have asked for such extensive and sophisticated networks? How much of the demand is for routers? For web servers and new switches? For that matter, how much of the \$2 billion in demand is for equipment that this Bureau Notice clarifies is not covered? I wish I knew. It would help this commission and Congress determine how much money we really need to continue this program and achieve its worthy goals. More important, however, I think the consumers who are footing the bill have a right to know. But, unfortunately nobody knows the answer to these questions.

Just last week, in response to reported abuses in the applications, I asked these questions of the Schools and Libraries Corporation. *See* June 1, 1998, Letter to Ira Fishman, attached as Appendix B. The Schools and Libraries Corporation responded in part on June 9, 1998, that they are "currently processing the more than 30,000 applications that we received by the close of the 75-day window on April 15, 1998. Until that process is completed, we will not be able to produce an electronic database of the information you requested for all the applications we have received." A perfectly reasonable explanation: that they have not had enough time to finish processing all of these applications for this new program. The problem, however, is that the FCC plans to push ahead with funding before these vital issues are addressed. It would be irresponsible to issue funding commitments, allow public money to be distributed, or to raise consumers rates -- which is undeniably necessary at least with respect to wireless rates if not overall -- to pay for these "services" before these questions can be answered.

¹ The Frequently Asked Questions on Universal Service section of the FCC's Web-page indicates that all "necessary software" is also eligible for discounts.

Congressional leaders have demanded that the Commission suspend the schools and libraries program until all aspects of universal service are resolved.² Most Senators at yesterday's hearing encouraged the Commission at least to freeze temporarily this program while the Commission revisits both the substance and the ramp-up period of these new universal service programs. Indeed, in response to Sen. Wyden's (D-Ore.) suggestion that FCC take 6-8 weeks to fix the universal service program, I stated that I would welcome the opportunity. I can only hope that the Commission will follow Sen. Wyden's counsel to suspend the program and make a public commitment to address the entire universal service dilemma -- including the rural, high-cost issues -- in the next 6-8 weeks.

I recognize that some will argue that we must proceed now. But I am not convinced that a minor 6-8 week delay in a new program will cause great harm. Indeed, recent reports indicate that many schools will not even be able to spend the money allocated for inside wiring in 1998. Internal connections create substantial disruption to students, and schools typically have the work done during vacation periods. Because funding commitments cannot be made until sometime in June or July, many schools have realized that they cannot finish the installation of inside wiring before this summer ends. Thus, to minimize disruption, many schools would wait until the spring/summer of 1999 to provide internal connections in any event.

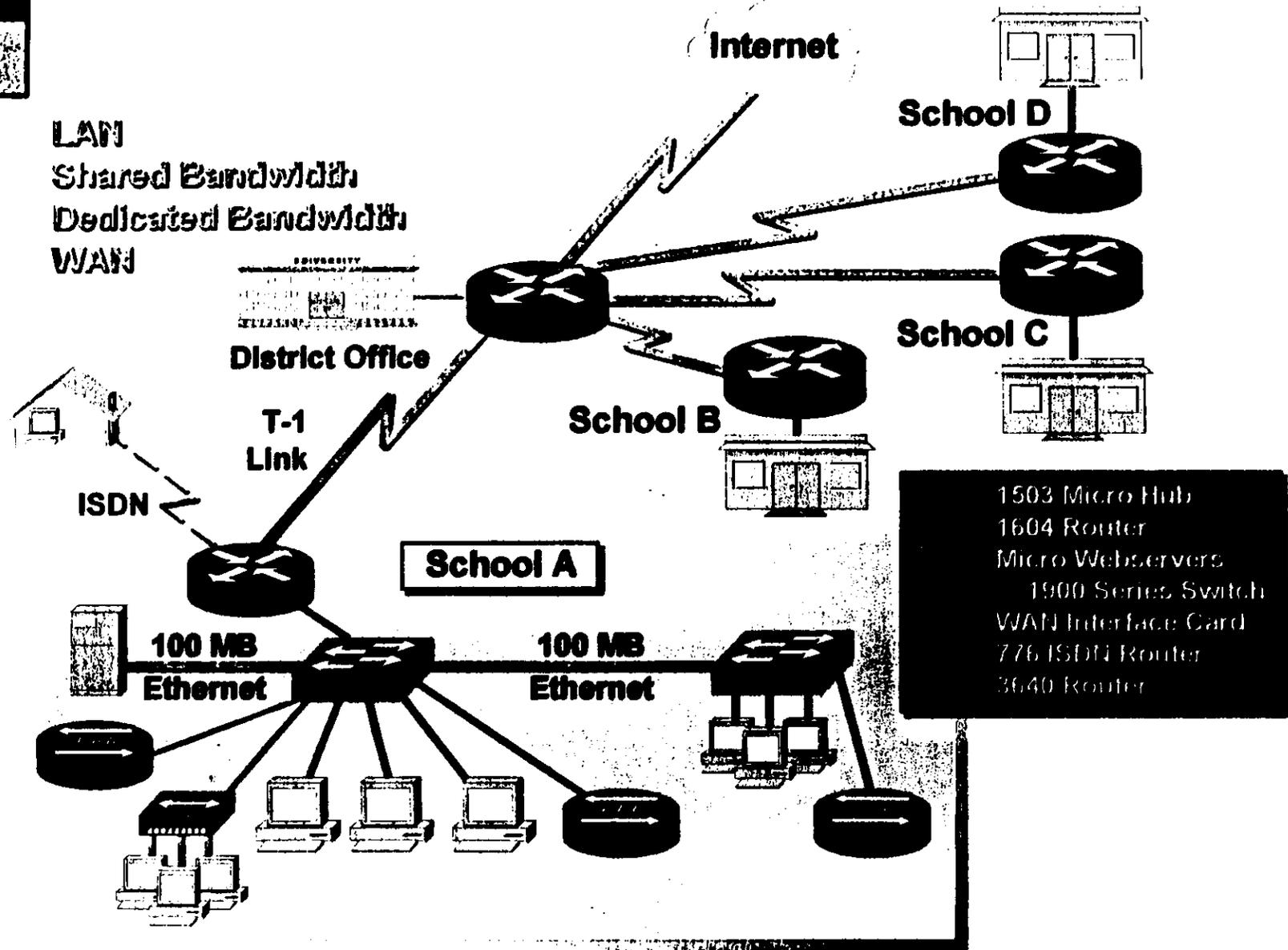
Sadly, but perhaps not surprisingly, several huge companies that manufacture internal computer network equipment support the Commission's interpretation and urge the Commission to move ahead. They know a great deal when they see it: minimally constrained by budgetary considerations, schools and libraries can be expected to purchase the best and most expensive networking equipment. Some manufacturers have brazenly suggested to the FCC that internal networks for schools should run at 100 Mbits/sec. This capacity is not just for students to exchange e-mail with other students in far away lands or for quickly surfing the Web to research term papers. Rather, this is sufficient capacity for students to send several dozen simultaneous television-quality video programs to one another around the school. Is this capability really necessary for a well-rounded education? Do Dick and Jane need an Ethernet? This is like replacing school hallways with eight-lane highways.

One final note of caution to the network equipment manufacturing industry. As with any instance of corporate welfare, the beneficiaries -- here the hardware and software providers in that industry -- are on a slippery slope. If the government is taxing telecommunications services in order to subsidize telecommunications services to schools and libraries, what's to stop the government from taxing computer network equipment manufacturers in order to subsidize computer networks for schools and libraries? Network equipment makers should beware, as

² Letter from The Honorable John McCain, Chairman, Senate Committee on Commerce; The Honorable Ernest F. Hollings, Ranking Minority Member, Senate Committee on Commerce; The Honorable Tom Bliley, Chairman, House Committee on Commerce; The Honorable John D. Dingell, Ranking Minority Member, House Committee on Commerce; to The Honorable William Kennard, Chairman, Federal Communications Commission, June 4, 1998.

many have already argued that it is unfair to allow an industry to take from a public fund without having the corresponding obligation to contribute to it.

APPENDIX A



APPENDIX B



Federal Communications Commission
Washington, D.C. 20554

June 1, 1998

Ira Fishman
Chief Executive Officer
Schools and Libraries Corporation
1023 15th Street, N.W.
Suite 200 Washington, D.C. 20005

Dear Mr. Fishman:

As you are aware, currently the Commission is exploring numerous possible modifications to the schools and libraries and rural health care support mechanisms including changes to the total amount that may be collected, the method of collection, and the possible prioritization of funding requests. To better inform my decision-making in these proceedings, I would appreciate your prompt response to the following questions:

1. Please list any and all documents that describe how Schools and Libraries Corporation ("SLC") defines "rural" areas for the purposes of considering applications to the SLC. Please provide the total amount of funding requested by rural schools and libraries in each category of service (telecommunications, internet access, and internal connections) by discount rate.
2. Please provide a narrative explanation and list any and all documents that describe auditing and verification responsibilities for applications for funds from the SLC:
 - a. Auditing and verification of the bidders at the time of the bid
 - b. Auditing and verification of the applicant at the time of application
 - c. Auditing and verification of the bidders at time of the application.
 - d. Auditing and verification of the disbursement of funds at the time of the award of funds.
 - e. Auditing and verification of the disbursement of funds after installation of services.
3. For each application that SLC has received for 1998 from a school or library in a rural area, please provide an electronic database listing the following information:
 - a. Name of institution
 - b. Location
 - c. Amount requested for telecommunications services

- d. Amount requested for internet access services
- e. Amount requested for computers, routers, servers, and other equipment to support internal networks generally included under the heading of "internal wiring"
- f. Amount requested for training and other educational services under the heading of "internal wiring."
- g. Amount requested for purchase and installation of wiring, cable, fiber under the heading of "internal wiring"
- h. Amount requested for all other goods and services under the heading of "internal wiring"
- i. Discount rate
- j. Low bid and identity of bidder for each category of service
- k. Winning bid and identity of bidder for each category of service
- l. Which of the winning bidders are eligible carriers?
- m. Entity auditing application, bidders, and services providers for each category of audits and verification under question (2) above.
- n. Amount institution receives in 1998 from other federal sources for telecommunications infrastructure and/or telecommunications services.
- o. Amount institution receives in 1998 from state and local governments sources for telecommunications infrastructure and/or telecommunications services.
- p. Value of services institution receives at reduced rates in 1998 from private sector sources for telecommunications infrastructure and/or telecommunications services.

4. For each institution for which any of the requested information is not available, please give an approximate date of when such information will be available.

I would appreciate your prompt attention to these issues and request a response by June 9, 1998. Should you or your staff have any questions, please do not hesitate to contact Kevin Martin on my staff at 418-2000.

Sincerely,



Harold Furchtgott-Roth
Commissioner