

Public Service Commission

4007 Interim Rules for the Determination of Intrastate Discounts for Services Provided to Elementary and Secondary Schools and Libraries for Purposes of Receipt of Federal Universal Service Support

IN THE MATTER OF THE PROMULGATION OF RULES REGARDING THE DISCOUNTS FOR INTRASTATE TELECOMMUNICATIONS PSC REGULATION AND INFORMATION DOCKET NO. 47 SERVICES PROVIDED TO SCHOOLS AND LIBRARIES

(OPENED JUNE 17, 1997)

ORDER NO. 4555

This 15th day of July, 1997, the Commission finds, determines, and Orders:

1. In PSC Order No. 4524 (June 17, 1997), the Commission proposed to adopt rules governing the discounts to be available to eligible schools and libraries for the purchase of intrastate telecommunications services. See 47 U.S.C. §254(h)(1)(B). The proposed rules incorporate the discount matrix adopted by the Federal Communications Commission ("FCC") for interstate telecommunications and other additional services provided to eligible schools and libraries. See Federal-State Board on Universal Service, CC Dckt. No. 96-45, Report and Order, FCC 97-157 (rel. May 8, 1997) (62 Fed. Reg. 32862) ("the Universal Service Order"). The Commission's proposed rules also set forth implementing procedures similar to those adopted by the FCC. The Commission proposed the new rules, with the discount matrix, because the FCC's Universal Service Order requires a state to adopt a discount for intrastate services as deep as the federally prescribed one in order for schools and libraries in that state to receive support, for both interstate and intrastate services, from the federal Universal Service fund. 47 C.F.R. § 54.505(e)(1).
2. Because federal support will be provided to schools and libraries nationwide under a first-come, first-served application process, the Commission sought to adopt the rules promptly to allow Delaware schools and libraries to make timely applications for support. Thus, in compliance with 29 **Del.C.** §§1133 and 10115, the Commission caused notice of the proposed rules to be published in the *Delaware Register of Regulations* and caused notice of a public hearing to be published in two newspapers of general circulation. However, due to the time requirements surrounding the promulgation of regulations, it would appear that a final adoption of the proposed rules cannot occur until mid-September, 1997.
3. On July 9, 1997, the Governor signed House Joint Resolution No. 9. This resolution authorizes the Commission to adopt discounts for telecommunications services provided to eligible schools and libraries for purposes of the receipt of federal universal service support. It also specifically releases the Commission from the procedures set forth in 29 **Del.C.** §§ 1133 and 10115 in adopting those discounts.
4. The Commission believes that the intent of House Joint Resolution No. 9 was to allow this Commission to adopt discounts for eligible schools and libraries on an expedited basis so that our State's schools and libraries would not be delayed in applying for universal service support. In light of such direction, the Commission now decides to adopt the discount matrix set forth in the proposed rules without awaiting the public hearing and the close of the comment period ordered in PSC Order No. 4524. This prompt adoption of the discount matrix will ensure that schools and libraries in this State will have the opportunity to file for universal service support at the time the federal support administrator begins to accept applications. The Commission believes that the adoption of the discount matrix by this Order will satisfy the requirements of 47 C.F.R. § 54.505(e)(1).
5. At the same time, the Commission will continue the scheduled comment and hearing proceedings and may, after the receipt of such comments and the conclusion of the hearing, alter or amend the proposed rules based on the testimony and materials submitted.

Now, therefore, IT IS ORDERED:

1. That, pursuant to 47 U.S.C. § 254(h)(1)(B) and House Joint Resolution No. 9 of the 139th General Assembly, the following matrix shall be the discount rate to be applied to eligible intrastate services and facilities purchased by eligible schools, school districts, libraries, or library consortia based on the institution's level of poverty and location.

SCHOOLS & LIBRARIES DISCOUNT MATRIX	DISCOUNT LEVEL	
HOW DISADVANTAGED? % 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

Schools and libraries located in New Castle County and Kent County are designated as urban. Schools and libraries located in Sussex County are designated as rural. The above discounts shall be applicable only for the receipt of support from a universal service fund.

2. That the procedures set forth in PSC Order No. 4524 (June 17, 1997) shall continue to be followed and the designated Hearing Examiner shall endeavor to submit his report for Commission review by August, 1997. Interested persons shall still submit comments by July 31, 1997, and may present comments and testimony at the public hearing scheduled for August 1, 1997. The Commission reserves the right to make such modifications, amendments, and revisions to the above matrix and the rules proposed in PSC Order No. 4524 as a result of the comments and public hearing. Pursuant to the authority granted by House Joint Resolution No. 9, the Commission may do so without any further, additional publication of such changes in the *Delaware Register of Regulations* or in newspapers of general circulation.
3. That the Secretary shall mail or deliver a copy of this Order to: (1) the Secretary of Education; (2) the State Librarian; (3) the Executive Director of the Office of Information Systems; (4) the Executive Director of the Delaware Center for Educational Technology; (5) the Public Advocate; and (6) all persons who have made a timely request for advance notice of rule-making proceedings.
4. That the Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

1 DE Reg. 139 (08/01/97)

1 DE Reg. 462 (11/01/97)