

for record-keeping and the proper allocation of universal service benefits to individual members.

The Commission should also clarify what happens when a consortium undergoes membership, usage pattern, or other changes that affect universal service benefits. In many cases, consortia membership and/or usage patterns will change frequently, potentially every month. Service providers, unless otherwise notified, do not know when these changes occur. Since the annual application process established by the Commission does not appear to accommodate these adjustments, USTA urges the Commission to establish a procedure, such as a quarterly reporting requirement, whereby the customer (e.g., the lead consortium member) is responsible for notifying both the fund administrator and the provider when changes of this type occur.

### **C. Rural Health Care.**

Under the Commission's rules, the rate charged to a rural health care provider is based solely on a defined formula. Therefore, it does not appear that a carrier can modify the rate applicable to the rural health care provider through the competitive bid process. If the Commission's intent is to maintain a competitive bid requirement, then USTA requests that it clarify how this requirement is to mesh with the determination of rural and urban rates and the resulting universal service support levels.

The Commission's *Order* clearly states that the Federal universal service fund will support discounts for schools and libraries on both inter- and intrastate services if certain conditions are met. The *Order*, however, is silent regarding support from the Federal universal

service mechanism for intrastate services provided to rural health care providers. USTA seeks clarification that the Federal fund will cover intrastate services provided to rural health care providers.

USTA seeks clarification concerning a rural health care customer's ability to purchase a mileage-based service that is longer than the distance to the farthest point on the boundary of the nearest large city. USTA seeks clarification that a rural health care customer is permitted to purchase a service that is longer than this distance, and that the customer would pay the rural mileage price for the distance beyond the maximum supported distance.

USTA requests that the Commission clarify that total universal service support for a rural health care provider is capped on a per location basis at the amount of support that would be associated with the purchase of a *single* service with a bandwidth capacity of 1.544 Mbps. This interpretation would be consistent with the Commission's basis for setting the total health care fund size at \$400 million per year.

#### **D. Competitive Bidding.**

Under both the health care and schools and libraries programs, customers are required to seek competitive bids when purchasing services. However, there appear to be cases where a competitive bid may not be appropriate. For example, a school may need to add a few additional lines to an already existing contract and it would appear burdensome to require it to adhere to the entire bid process. In addition, in some states, schools, libraries, and health care customers may be eligible to purchase services from a master contract at special master contract rates negotiated by a third party. The decision to purchase from the master contract may be

independent of the competitive bid process although the rates offered via that contract may in fact be the most competitive, lowest rates available. USTA recommends that the Commission develop streamlined application processes to address minor modifications to contracts and other circumstances whereby an eligible entity should be able to apply for universal service benefits without participating in the full competitive bid process.

**E. Responsibility for Payment for Service.**

The Commission should clarify that schools, libraries, and rural health care customers remain responsible for all charges incurred regardless of the expectation of receiving universal service benefits, particularly if a provider is unable to receive full reimbursement from the universal service fund. In addition, the Commission should clarify that eligible entities remain responsible for the full, non-discounted, payment of other charges that may arise such as state and Federal taxes, termination liability or penalty surcharges, franchise fees, etc.

**F. Administration.**

USTA seeks to clarify that information provided to the fund administrator, such as the information contained in the winning bid and any justification for the LCP and pre-discount price, remains proprietary. Such information is extremely sensitive in a competitive market. There is no reason to provide public access to that information which could be used to seek competitive advantage in future negotiations and undermine the competitive bidding process.

USTA also requests that the Commission reconsider its decision to require rural health care customers to submit all of the bids received to the fund administrator. This requirement

serves no purpose, creates concerns due to the proprietary nature of the information, and will only serve to add an unnecessary administrative burden to the process.

USTA also requests clarification on several issues that are not evident from the *Order* itself. USTA recommends that the Commission specify: 1) that the Administrator be solely responsible for calculating and assigning the actual discount percentage under the schools and libraries program which will be posted on the website; 2) that the Administrator be responsible for establishing the standard urban distance and the maximum supported distance applicable to the rural health care program and that this information also be posted on the website; and 3) that the Administrator certify the make-up of consortia regarding private vs. public members.

Finally, USTA requests that the Commission require the Administrator to submit an annual report regarding the schools and libraries program similar to the report required under Section 54.619(d) regarding the rural health care program. Given the size and objectives of the schools and libraries program, such a report is imperative. USTA recommends that the Administrator be authorized to utilize all information collected via the requirements of Section 54.504(a) and (b) and Section 54.516 to compile a report and that the report also assess the progress made towards increased access and evaluation of the use of discounted services. The report should be submitted annually and made available in its entirety to the public.

**XI. CONCLUSION.**

Reconsideration and/or clarification of the issues as addressed in this Petition will ensure that the new universal service program better meets the principles contained in the Act and will facilitate the timely administration of this program. USTA urges the Commission to adopt the recommendations included herein.

Respectfully submitted

**UNITED STATES TELEPHONE ASSOCIATION**

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