

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )  
Federal-State Board on ) CC Docket No. 96-45  
Universal Service )

ORDER

Adopted: December 29, 1997

Released: December 30, 1997

By the Chief, Common Carrier Bureau:

1. On May 8, 1997, based on the recommendations of the Federal-State Joint Board on Universal Service (Joint Board),<sup>1</sup> the Commission adopted the *Universal Service Order*,<sup>2</sup> which established federal universal service support mechanisms for eligible schools and libraries that will provide discounts on telecommunications services, access to the Internet, and internal connections. In order to provide more support to disadvantaged schools and libraries, the Commission adopted a discount matrix that bases the level of discount on the extent to which a school or library meets specified criteria.<sup>3</sup> In addition, the Commission provided that "[f]ederal universal service support under this subpart for eligible schools and libraries in a state is contingent upon the establishment of intrastate discounts no less than the discounts applicable for interstate services."<sup>4</sup>

2. Two state commissions have filed petitions for waiver of this provision.<sup>5</sup> In this Order, we conclude that the petitioners do not appear to be in conflict with section

<sup>1</sup> Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Recommended Decision*, 12 FCC Rcd 87, 132 (1996) (Recommended Decision).

<sup>2</sup> Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Report & Order*, 12 FCC Rcd 8776 (1997) (Order).

<sup>3</sup> Order, 12 FCC Rcd at 9002-92, paras. 424-607.

<sup>4</sup> 47 C.F.R. § 54.505(e)(1); *see also* Order, 12 FCC Rcd at 9064-65, para. 550.

<sup>5</sup> North Dakota Public Service Commission, *Petition for Waiver*, CC Docket 96-45 (July 2, 1997) (NDPSC Petition); Arkansas Public Service Commission, *Petition for Waiver*, CC Docket 96-45 (July 17, 1997) (APSC Petition).

54.505(e)(1) of our rules and therefore do not appear to require a waiver.<sup>6</sup> Accordingly, we dismiss these petitions.

3. On July 2, 1997, the North Dakota Public Service Commission (NDPSC) filed a petition for waiver of section 54.505(e)(1) of the Commission's rules.<sup>7</sup> The NDPSC states that it may not have jurisdiction under state law to establish discounts on intrastate telecommunications services and that action may be required by the state legislature to either adopt the discount matrix itself or empower the NDPSC to do so. Because the legislature will not convene until the year 1999, the NDPSC seeks a waiver in order to provide additional time to adopt the matrix.<sup>8</sup> On August 27, 1997, however, the NDPSC adopted an order that states ". . . insofar as the Commission has jurisdiction under state law over telecommunication service providers to set discounts for intrastate telecommunication service providers for schools and libraries, the Commission adopts the federal discounts for North Dakota . . . ." On July 17, 1997 the Arkansas Public Service Commission (APSC) filed a petition for waiver of section 54.505(e)(1) to allow additional time for the Arkansas state legislature, which will not convene until the year 1999, to adopt the discount matrix.<sup>9</sup> Like the NDPSC, the APSC adopted an order directing those local exchange carriers subject to rate regulation by the APSC to file tariffs that provide the federally mandated discounts, but noted that its action did not address carriers over which it has no jurisdiction.<sup>10</sup>

4. Section 54.505(e)(1) of the Commission's rules states that "[f]ederal universal service support under this subpart for eligible schools and libraries in a state is contingent upon the establishment of intrastate discounts no less than the discounts applicable for interstate services."<sup>11</sup> Moreover, before support will be provided for discounted services, carriers must establish rates reflecting discounts no less than the discounts applicable for interstate services. Thus, the actions taken by the NDPSC and the APSC do not appear to conflict with section 54.505(e)(1).<sup>12</sup> Accordingly, we see no need for the waivers requested and therefore dismiss the petitions.

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<sup>6</sup> 47 C.F.R. § 54.505(e)(1).

<sup>7</sup> NDPSC Petition.

<sup>8</sup> North Dakota Public Service Commission, *Order Adopting the Federal Universal Service Telecommunications Discount for Schools and Libraries for North Dakota*, Case No. PU-439-96-149 (Aug. 27, 1997) at 2.

<sup>9</sup> APSC Petition.

<sup>10</sup> APSC Petition at 2 (citing 1997 Ark. Act 77).

<sup>11</sup> 47 C.F.R. § 54.505(e)(1).

<sup>12</sup> 47 C.F.R. § 54.505(e)(1).

5. IT IS ORDERED, pursuant to Sections 1, 4(i) and (j), and 254 of the Communications Act as amended, 47 U.S.C. §§ 151, 154(i) and (j), and 254 and pursuant to sections 1.3 and 54.505 of the Commission's rules, 47 C.F.R. §§ 1.3, 54.505, that the above-referenced petitions are HEREBY DISMISSED for the reasons described above.



A. Richard Metzger, Jr.  
Chief, Common Carrier Bureau