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OKLAHOMA STATE REGENTS FOR HIGHER EDUCATION

State Capitol Complex
500 Education Building
Oklahoma City, Oklahoma
73105-4500

April 3, 1998

APR 6 1998
FCC

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, NW
Washington, D.C. 20554

Dear Ms. Salas:

Re: Comments in CC Docket 96-45

Enclosed are a signed original and eleven copies of the Comments of the Oklahoma State Regents for Higher Education, the Oklahoma Office of State Finance, the State Superintendent of Public Instruction, and State Senator Ben Robinson in Support of the February 12, 1998, Petition of the Washington Department of Information Services, et al., for Reconsideration of the Commission's Fourth Order on Reconsideration dated December 30, 1997.

Please call if you have any questions. Thank you for your assistance.

Sincerely,

Hans Brisch
Chancellor

HB/jm

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Before the
Federal Communications Commission
Washington, D.C. 20554

Federal State Board on	)	CC Docket 96-45
Universal Service	)	

REPLY COMMENTS OF THE
OKLAHOMA STATE REGENTS FOR HIGHER EDUCATION
THE OKLAHOMA OFFICE OF STATE FINANCE
THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION, AND
STATE SENATOR BEN ROBINSON

The Oklahoma State Regents for Higher Education ("OSRHE"), the Oklahoma Office of State Finance, the State Superintendent of Public Instruction, and Oklahoma State Senator Ben Robinson (collectively referred herein as "Commenters"), jointly submit these Reply Comments in support of the Petition for Reconsideration filed by the Washington State Department of Information Services on February 12, 1998, in the above captioned proceeding. As it does in Washington and other states, the Commission's Fourth Order on Reconsideration undermines the ability of the public sector in Oklahoma to achieve efficiencies in the use and procurement of telecommunications and information services, especially in the provision of services to the state's public schools. These Reply Comments describe Oklahoma's longstanding efforts in this regard, and urge the Commission to revisit those portions of the Fourth Order that undermine these efforts.

OSRHE, under authority of the Oklahoma State Legislature, established OneNet, a statewide network that provides telecommunications and information services to public entities in Oklahoma, including state and federal agencies, local and tribal governments, K-

12 schools, colleges and universities, libraries, hospitals and clinics and vocational-technical schools.

In its Fourth Order, the Commission clarified several issues first addressed in its May 8, 1997, Report and Order implementing the universal service discount program for schools and libraries. Among other things, the Commission determined that state telecommunications networks would not be eligible to receive direct reimbursement from the Universal Service Fund ("USF") for telecommunications services provided to schools and libraries. The Commission also determined that schools and libraries that receive state-provided telecommunications services cannot receive discounts for "value added" integration of these services, even though they may receive discounts on such services when provided directly by a private provider.

The Commission's determinations on these issues create what we feel is an unmerited burden on the State of Oklahoma (and other states, most notably Washington, Arizona, Tennessee, Georgia and Maine). The Commission's actions threaten to undermine Oklahoma's twenty-five year effort to provide educational opportunities for rural schools, promote efficiencies in public-sector telecommunications, avoid duplication of resources, and ensure interoperability among public entities' telecommunications components. By denying the state the ability to obtain discounts directly from the USF for services provided to schools and libraries, the Commission has subjected Oklahoma to a tremendous administrative burden to comply with the discount program. These resulting administrative costs must be passed on to the schools and libraries OneNet serves. And by denying Oklahoma's schools and libraries the ability to obtain discounts for legitimate costs associated with the state's aggregation of telecommunications services, the Commission has made these services less attractive to schools and libraries.

As a consequence, the Commission's order has created disincentives for Oklahoma's schools and libraries to use state-aggregated telecommunications services, even though the costs of state service would be considerably lower *but for* the greater discounts that apply to the more expensive private carriers' service options under the current rules. This not only creates added pressure on the USF, as discounts to schools will be based on the higher costs of services provided directly by private companies, but by potentially draining OneNet's user base of schools and libraries, it also reduces the volume purchasing power of the state and raises the costs of telecommunications service for all state agencies, local governments, universities, and other public entities in Oklahoma.

OneNet does not provide services to the private sector (with the exception of some private hospitals). OneNet does not price its services in a predatory or anti-competitive manner. OneNet is a discretionary provider, meaning that no organization is required to use its services, and it operates on a full cost-recovery basis. OneNet relies on the private telecommunications companies for the provision of the telecommunications circuits to which it adds value. Through leveraged competition, economies of scale, and value-added integration of private sector infrastructure, these state network services expand service options available to public entities and reduce costs to the taxpayers who fund them.

Following are some of the issues the State of Oklahoma would like the Commission to consider in its future deliberations:

1. **OneNet *is* the telecommunications service provider**

OneNet received $14 million from a 1992 Higher Education Bond Issue and, in conjunction with the Oklahoma Turnpike Authority, Office of State Finance, and Department of Transportation, leveraged highway right-of-way to operate carrier-class facilities throughout the state. OneNet owns the core fiber backbone of the network and leases nearly fifty DS-3 backbone circuits from private telecommunications companies. Additionally, OneNet leases approximately 700 "tail circuits" from eighteen private companies connecting customer premises to the nearest OneNet point of presence.

OneNet provides a vast range of services, from dial-up services for government employees to high-performance ATM networking for research universities. OneNet operates one of the world's largest full-motion video networks, in addition to offering compressed and IP-based video services. OneNet also provides Internet access, DNS, web page hosting, data warehousing, e-mail, security and filtration services, and access to proprietary databases.

In all of these cases, OneNet *is* the telecommunications services provider. The private companies from which OneNet leases facilities merely provide the transport medium for OneNet's services.

OneNet offers Internet access and much more. OneNet currently broadcasts 650 full-motion video classes *each week* across the state. These high-quality, fully-interactive classes are in many cases far superior to the services available on the Internet at its current stage of development. We believe these advanced video services are consistent with the Commission's goal of providing educational opportunities to all children. However, the Commission's rules prohibit discounts for such advanced services.

2. **OneNet stimulates competition where there was little or none**

As a discretionary state network, OneNet must compete for customers to remain financially viable. The three qualities most consumers look for in a telecommunications service provider are service, reliability and affordability. OneNet offers these on a statewide basis. In rural communities, the incumbent LECs are experiencing competition for the first time. In metropolitan areas, cable companies, telephone companies and ISPs are launching new services and new pricing to protect market share.

In many rural areas, OneNet's arrival marked the first time government and education consumers had a choice in telecommunications services. OneNet has created markets where none existed before. Many incumbent providers compete with OneNet for customers. Most providers, however, are more interested in leasing facilities to OneNet. In so doing, the private providers get business in greater volume than they could generate on their own, and schools and libraries get more affordable service.

In urban areas, OneNet has accelerated the private providers' introduction of alternative services, such as ISDN. Since OneNet's introduction, more and more private companies are reducing their prices or actually *giving* equipment, wiring or services to schools and libraries. Many service providers are creatively partnering with OneNet. For example, several companies provision fiber cabling between schools that share one OneNet connection. Lower prices, new services and creative partnerships are all a result of the competition OneNet stimulates.

3. **OneNet is a telecommunications *customer***

While OneNet is a service provider, it is also a telecommunications customer. Last year, OneNet paid private telecommunications companies more than $2.9 million for leased circuits, making OneNet one of the largest telecommunications customers in the state. The revenues telecommunications companies receive from OneNet are already factored into their USF contributions. For this reason, OneNet should not also be required to make contributions into the Universal Service Fund should the Commission grant OneNet a waiver from the definition of telecommunications carrier. This would, in effect, be double counting of revenues. It would be a form of double taxation on a non-profit entity created to aggregate telecommunications services on behalf of government and education institutions. We do not believe this is what Congress or the Commission intended.

4. **The Commission's order has forced OneNet to change its pricing structure**

Before Universal Service, OneNet charged flat rates for its services, regardless of geographic location. The costs of the circuit, Internet access and OneNet's other value-added services were included in these rates.

Subsequent to the Commission's order, OneNet had to "unbundle" its value-added services. This restructuring of our pricing schedule is confusing to our K-12 and library customers. Though OneNet was only segregating its costs, these changes open the door for private companies to claim OneNet is now charging for services that used to be free. Unscrupulous Internet service providers are telling OneNet customers that OneNet is not recognized as an eligible telecommunications service provider for the purposes of USF. Unfortunately, this is technically correct. The confusion and misinformation that followed the Commission's order have strained public trust in OneNet.

5. **USF rules are an administrative burden on OneNet**

Because OneNet is considered by the Commission to be an "aggregator" rather than a service provider, schools and libraries in Oklahoma may have difficulty completing their applications for discounts. In many cases, the school or library has no way of knowing who the circuit provider is. And the circuit provider has the service contract with OneNet, not the school or library.

Under current USF rules, a school or library must list the circuit provider (e.g., Chickasaw Telecom) on its application even though OneNet is the service provider and

OneNet pays the cost of the circuit. This means that OneNet must work with the circuit provider to apply for USF reimbursement so that the provider can pass the discount on to OneNet so that OneNet can pass the discount on to the end user. Obviously, this is a circuitous route for USF funds to follow. OneNet's billing and accounting systems will have to be reprogrammed to account for these changes. The current USF reimbursement process is inefficient and will ultimately lead to delays in making connections and higher administrative costs.

Conclusion

State networks such as OneNet are models of 21st Century telecommunications. They save taxpayers millions of dollars each year while providing educational opportunities and critical government services to millions of constituents. They level the playing field for rural hospitals, schools and libraries by 1) providing statewide coverage (even in areas that are not profitable to private companies), 2) creating uniform pricing irrespective of geographic location, and 3) leveraging the state's purchasing power to make services affordable. The Commission should encourage these ambitious efforts and strive to replicate them elsewhere, not subject state networks to financial and administrative hardship.

We fully support the principles of USF and the Commission's efforts to implement it efficiently and equitably. However, the Commission's current positions do not promote the efficient or equitable use of telecommunications services by the public sector, including schools and libraries. We urge the Commission to review favorably the Petition for Reconsideration filed by the Washington State Department of Information Services, and to work with Oklahoma and other states to minimize the negative impact USF might have on their state networks.

Respectfully submitted,

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