

Regarding: Deployment of Wireline Services Offering Advanced
Telecommunications Capability, CC Docket No. 98-147

SUMMARY: We endorse LATA relief for rural primary and secondary education. We urge to Commission to implement rules to make the statutory Incidental Exemption more accessible. We warn against rules changes that would make telecommunications procurement more complex. We endorse LATA relief for Universities.

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Introduction

I am replying to the Commission's invitation to comment on behalf of CTAP Region V consisting of California counties Monterey, Santa Cruz, San Benito and Santa Clara. We discussed FCC98-188 at the regularly scheduled meeting held in San Benito County on 23 September 1998.

CTAP (California Technology Assistance Program) regional coordinating councils consist of county, school district and site representatives. Formed under programs established by the Morgan-Farr-Quackenbush Educational Technology Act, the purpose of the CTAP councils is to promote the effective use of technology in teaching and learning through regional coordination of educational support services based on local needs.

We comment here from the perspective of a group charged with promoting regional collaboration in an area split by a LATA boundary. The line separating California LATAs 1 and 8 runs through the North Monterey County School District stranding schools apart from their district office. The LATA barrier also works to inhibit cooperation and coordinated efforts to form a single regional educational network in the Monterey Bay Area.

The ILEC serving both LATAs is Pacific Bell - SBC. Nothing contained in the comments that follow should be read in a way that indicates anything but the highest regard for SBC and their employees. Indeed, the rule changes and interpretations we recommend would permit us to increase the services we purchase from SBC.

191. Incidental Services.

The Commission asks first about its authority as related to these services. Section 271(b)(3) plainly establishes that the BOCs need no special permissions, waivers, forbearances nor LATA boundary adjustments to provide any services over dedicated facilities where the purpose is Internet access or interactive video for K-12. The

Communications Act of 1996 further provides in 254(h)(1)(A)

All telecommunications carriers serving a geographic area shall, upon a bona fide request for any of its services that are within the definition of universal service under subsection (c)(3), provide such services to elementary schools, secondary schools, and libraries for educational purposes at rates less than the amounts charged for similar services to other parties.

These words mean that if the BOCs can provide the services under the incidental exemption, they MUST provide the services if requested. And these services must be quoted at rates at least as favorable as if no LATA boundary existed.

A quick survey we were able to make in preparing these remarks among individuals and organizations in the education community with a track record for being most astute at communications purchases suggests that the intent of Congress as expressed in Incidental Exemptions for K-12 has not been implemented. Regulatory language that creates at least as much risk to the BOCs for inaction as there is for action would probably be a good idea to assure these services are de facto available.

We further believe that in light of some of the questions the Commission has asked in this NOI/NRPM that ILECs should be required to report to the Commission annually on the number of quotations for services offered to K-12 under the Incidental Exemption and the number of services or circuit IDs currently in operation under the Exemption.

192. LATA Boundary modifications.

We believe that schools attempting to procure the most cost effective network and communications services could reasonably select Frame Relay, SMDS or ATM services to build their district and county LANs. To put rural schools on a footing minimally at parity with their urban counterparts, they should be permitted to purchase "fast packet" services across a single LATA boundary on the same or better terms than non-educational customers may purchase intraLATA services.

We request, however, that the Commission not couch K-12 relief in terms of Boundary modifications. That pathway will lead to even more confusion and exacerbate the already serious problem that school districts already are having difficulty coping with the maze of rates and rules. To be truly effective at promoting advanced services, the Commission needs to select actions which lower the bar to purchasing communications services. We recommend something simple like:

LATA boundaries do not apply to telecommunications services ordered for primary and secondary schools. Services may be procured from any carrier that can provision them.

We applaud the proposal that POTS services among district schools should all be charged as local calls. We can imagine that because of the way that exchange cables are deployed, this might create extra costs for the LEC which ultimately would have to be shared by

"normal" customers. We believe that is fair. The "normal" customers have all shared in the benefits from the LATA system in the form of lower interLATA rates. These customers should help pay for any inefficiencies that derive from the device that has brought them benefit. LATA boundaries place an extra burden on communities unfortunate enough to be near the LATA line. Those lines fall in rural areas.

Finally, it is a distinction without a difference whether the advanced services are provided directly by a BOC or a BOC-affiliate. This is the kind of proposal that serves only to provide full employment for attorneys.

194. LATA modification for rural access

The commission seeks comment on whether LATA boundary modification for Internet access is necessary to provide rural access to full strength internet services. California LATA 1 has three major NAPs. LATA 8 has none. We are reluctant to offer our experience here since LATA 8 is not rural by the yardstick of e.g. much of U.S. West territory. We would like to see the largest possible number of cost-effective options for LATA 8 schools to connect indirectly to the NAPs in LATA 1. But our largest concern is the extra cost that translates into staff time for running a more complex network because of LATA barriers. We believe other areas need boundary modification more than Monterey and San Benito Counties.

Our point in comment here is that for primary and secondary education, regulatory changes to LATA boundaries should not affect the statutory Incidental Exemption granted by the Act. We request that in choosing wording for any regulations that might spring from the Commission's tentative conclusions in paragraph 194 that the Commission should respect the statute and make the rules sufficiently clear that even the BOCs will not be confused about school's rights to receive interLATA quotations and services at intraLATA tariff rates.

195. LATA modification procedure

The Commission seeks comment on the documentation that should be required where BOCs will cross LATA boundaries for data circuits. We believe that some documentation should also be required when circuits are ordered on behalf of primary and/or secondary education under the Incidental Exemption in the Act. We believe that the school or district ordering dedicated facilities across a LATA boundary from a BOC should certify by letter:

The circuit(s) herewith ordered will be used to provide Internet access and/or 2-way interactive video service to or for primary or secondary schools.

We recommend that recertification interval should be 1 year.

We believe that making this requirement explicit in the regulations will make it easier for schools and districts to get service under the Incidental Exemption.

196. targeted relief for universities

The Commission seeks comment on whether interLATA relief should extend to facilities provided to Universities. Within our CTAP V region, public schools in three of the four counties receive their Internet services through the California State University system. As their customers, we believe we understand their business well enough to say that an interLATA exemption could reduce their costs which would in turn likely reduce or control the cost to the separate County Education Offices. We believe that all of education taken together represents a small enough segment of the market that the effect of an exemption on competition would be indiscernible. We urge the Commission not to require services to be provided through arms length affiliates but instead directly by the BOCs. We believe that the affiliate pathway will further confuse and confound the already complex task of selecting and ordering telecommunications services.