

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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

COMMENTS OF QWEST CORPORATION

Qwest Corporation (“Qwest”) supports the Federal Communications Commission’s (“Commission”) proposal to consider alternative methods for allocating discounts to schools and libraries,¹ but urges the Commission to retain the current allocation rules for Funding Year 4. Qwest also supports the Commission’s proposals to provide additional time to complete implementation of non-recurring services.

I. THE CURRENT RULES FOR ALLOCATING DISCOUNTS TO SCHOOLS AND LIBRARIES FOR INTERNAL CONNECTIONS SHOULD BE RETAINED FOR FUNDING YEAR 4

In the *Further Notice*, the Commission concludes that it should reevaluate the current methodology used to allocate discounts to schools and libraries for internal connections. Qwest agrees that such a review is warranted. Given that the demand for discounts for internal connections is much greater than the funds available for such discounts, the Commission should carefully consider whether current priority rules could be improved to better serve the goals of the schools and libraries program.

Despite the need for such a review, the Commission should not revise the methodology for allocating discounts in Funding Year 4. Revising the allocation methodology for this year

¹ *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Further Notice of Proposed Rule Making And Order*, FCC 01-143, rel. Apr. 30, 2001 (“*Further Notice*”).

will not allow adequate time for the Commission, and affected parties, to consider the impacts of any proposed changes to the allocation methodology. As the Commission acknowledges, absent fundamental changes to the schools and libraries mechanism (such as an additional source of funds), the demand for internal connections will exceed available funds. The trend over the past few years suggests that this gap between demand and available funds will continue to grow. In light of this reality, the Commission should consider whether any proposed changes will serve the goals of the Act, not only this year but also in subsequent years. Such changes should not be made in haste without due consideration.

In addition, changing the allocation rules for Funding Year 4 at this late date would be unfair to applicants who have reasonably relied on the application of the current rules for this funding year. While the Commission is free to modify its rules (subject to the requirements of the Administrative Procedure Act), the Commission should seek to avoid last-minute changes to its rules, especially where the proposed changes will have a significant impact on small entities such as schools and libraries. Here, the proposed change in funding priority will cause some applicants to lose millions of dollars of funding they would have received prior to the change in rules. It is reasonable for applicants and other interested parties to assume that the Commission will provide at least several months' notice of such changes. It would be unfair to change the allocation rules at this point.

Moreover, implementing the proposed changes for Funding Year 4 will likely lead to some of the same problems that the Commission is trying to avoid by adopting the proposed changes in funding priority. In Qwest's experience, applicants often spread network installation or upgrades over more than one funding year, because of the need to budget their own funds that are required to complete the project. For such cases, implementing the proposed changes in

funding priority will likely preclude the completion of a useful system of internal connections,² and prevent the applicant from taking advantage of the work performed in earlier funding years. While the Commission should consider all reasonable alternatives for prioritizing funding requests in future years, such changes should be implemented no earlier than Funding Year 5.

II. THE COMMISSION SHOULD ADOPT THE EXTENSIONS PROPOSED IN THE FURTHER NOTICE FOR IMPLEMENTATION OF NON-RECURRING SERVICES

In the *Further Notice*, the Commission proposes two changes to its rules relating to the implementation of non-recurring services. First, the Commission proposes to allow schools and libraries to implement non-recurring services by September 30, following the close of the funding year. Second, the Commission proposes to extend the deadline to September 30 of the following year for applicants that meet certain conditions. The Commission's experience in the initial funding years has shown that both of these proposals will serve the public interest.

As noted by the Commission, the current June 30 deadline has been extended to September 30 in each of the first three funding years. Qwest agrees that a permanent rule change extending the deadline to September 30 will allow more certainty for schools and libraries, as well as the Administrator. In addition this rule change will allow service providers, such as Qwest, to undertake installation of cabling and equipment in the summer months without disrupting classrooms or requiring such work on evenings and weekends, which can result in higher labor costs and delays.

The proposal to allow certain qualified applicants until September 30 of the following year to complete implementation of non-recurring services is also in the public interest. Each of the situations mentioned in the *Further Notice* would warrant such an extension because they are

² See *Further Notice* ¶ 7.

beyond the applicant's control.³ Among those conditions, the *Further Notice* lists situations where an applicant's service provider was unable to complete implementation for reasons beyond the service provider's control.⁴ The Commission should clarify that such events include labor walk-outs, natural disasters, manufacturer delays, and the need for construction in the service provider's network in order to provide the requested services.⁵ With regard to the last item, such construction may include building circuits to the school or library or the addition of special equipment in the central office serving the customer, each of which may take a number of months to complete, particularly in geographically remote areas.

III. CONCLUSION

For all of the above reasons, the Commission should apply the current priority rules for Funding Year 4, and adopt the proposed extensions of implementation deadlines for non-recurring services.

Respectfully submitted,
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³ *Further Notice* ¶ 14.

⁴ *Id.*

⁵ *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Order*, DA 00-2444 ¶ 9, rel. Nov. 1, 2000; *In the Matter of Request for Waiver of the September 30, 2000 Deadline for the Implementation of Non-recurring Services by Baldwin County Board of Education Bay Minette, Alabama*; *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Order*, DA 01-747 ¶ 6, rel. Mar. 27, 2001.

CERTIFICATE OF SERVICE

I, Richard Grozier, do hereby certify that I have caused the foregoing **COMMENTS OF QWEST CORPORATION** to be 1) filed with the FCC via its Electronic Comment Filing System, 2) served, via hand delivery on the parties listed on the attached service list.

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