

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

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Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	
)	

**AT&T PETITION FOR CLARIFICATION OR,
IN THE ALTERNATIVE, WAIVER**

Pursuant to Section 1.429 of the Commission's Rules, 47 C.F.R. § 1.429, AT&T Corp. ("AT&T") petitions for clarification of one aspect of the Commission's *Second Report and Order*, FCC 03-101, released April 30, 2003 ("*Order*"), in this proceeding. In the *Order*, the Commission held that service providers must give recipients of schools and libraries universal service support the choice each funding year either: (1) to pay the non-discounted portion of the cost of services, *i.e.*, the amount of the bill that schools or libraries must pay under the FCC's universal service program, or (2) to pay the full price and then receive reimbursement through the BEAR process for the discounted portion, *i.e.*, the amount of the bill that schools or libraries do not have to pay under that program.¹ Specifically, AT&T requests that the Commission clarify that AT&T's on-line reimbursement process that in effect allows applicants to pay the non-discounted price for service complies with the first option.² Alternatively, to the extent necessary, pursuant to Section 1.3 of the Commission's Rules, 47 C.F.R. § 1.3,

¹ Under the first option, if, for example, a customer has service with a monthly price of \$1,000 and is entitled to a 20% discount, it would have to pay \$800 and \$200 would come from the schools and libraries program. Per the *Order*, the \$800 is referred to as the "non-discounted portion" and the \$200 is the "discounted portion."

² AT&T, of course, also allows applicants to select the BEAR process.

AT&T requests a waiver of the Commission's *Order* ¶¶ 44-47, and Section 54.514(a) of the Commission's rules, 47 C.F.R. § 54.514(a), to allow it to continue its on-line reimbursement process rather than billing the non-discounted amount to customers.³ Grant of this clarification or waiver will not alter the principle or result of applicant choice, but will make clear that AT&T can implement applicant choice in a way that avoids extensive, costly and unnecessary billing systems changes and allows applicants that are served by AT&T to continue to use a system they have found useful.

BACKGROUND

Under the procedures that existed prior to the *Order*, service providers and applicants were advised to work together to determine whether the applicant would “either (1) pay the service provider the full cost of services, and subsequently receive reimbursement from the provider for the discounted portion, after the provider receives reimbursement through the Billed Entity Applicant Reimbursement (BEAR) process, or (2) pay the non-discounted portion of the cost of services, with the service provider seeking reimbursement from the Administrator for the discounted portion.” *Order* ¶ 42.

In the *Order*, the Commission held that “the potential harm to schools and libraries from being required to make full payment up front, if they are not prepared to, justifies giving the applicants the choice of payment method.” *Order* ¶ 47. The Commission observed that, because of the lack of specificity of its rules, service providers could insist that applicants use the BEAR method of paying the upfront costs and later seeking reimbursement. ¶ 43. At the same time, the Commission found that “requiring schools and libraries to pay in full could create serious cash flow problems for

³ See also <http://www.sl.universalservice.org/reference/discountsYr4.asp> from the Universal Service Administrative Company (“USAC”) website.

many schools and libraries and would disproportionately affect the most disadvantaged schools and libraries.” *Order* ¶ 47, *citing Universal Service Order*, 12 FCC Rcd. 8776, 9083, ¶ 586 (1997). The Commission acknowledged “[n]evertheless, that [it] anticipate[s] that applicants and service providers will be able to work together in order to determine which payment method is most suitable.” *Order* ¶ 50.

Several years ago, when AT&T examined how it could implement an option in which the applicant paid only the non-discounted portion of the cost of services, AT&T concluded that it would be unable to bill customers only the non-discounted portion without extensive changes to many legacy billing systems. Development of a billing solution would have been (and continues to be) both cost and time prohibitive for several reasons. First, the set of eligible customers is not resident in one “biller” or billing system, but is spread across nine different billing platforms. Even within each billing platform, the set of eligible customers is a small subset of the total customer base. The requirements are complex: each customer could get a different discount (anywhere from 20%-90%); each customer has a different ceiling or cap in terms of its absolute annual discount dollar amount; and each customer could have a variety of services or working telephone numbers, some of which are eligible for discount and others not. Further, the approved E-Rate discount is at a macro level; but its distribution or implementation could be at a lower account level.⁴ This leads to onerous data gathering and inventory expenses.

In addition, schools and libraries discounts are different from other AT&T discounts and modifying these legacy billing systems could create journalization and

⁴ For instance, a School District may apply for universal service support as a single entity, yet each school may have its own AT&T account for service.

tax problems. For example, with AT&T-initiated discounts, the amount billed and booked is the net revenue amount, which also forms the reportable revenue base for tax purposes. By contrast, with the schools and libraries discount, AT&T is receiving the full rate for service from a combination of two different sources: the customer and the Schools and Libraries Division of USAC. AT&T estimates that revamping these legacy billing systems to be able to bill customers the non-discounted amount would cost more than \$3 million. Even if AT&T undertook such an effort for its legacy systems, other problems would still remain because the individual billing platforms do not communicate with one another and thus the billing systems would not be able to determine how much of a customer's annual discount has been applied and how much is still available for disbursement. Accordingly, even if each billing system could bill the non-discounted amount, there would still be issues related to tracking the customer's overall draw down on the its discount cap.

Rather than attempt to require all AT&T-served applicants to use the BEAR process, in order to better serve its E-Rate customers and to provide applicants with a way in effect to pay the non-discounted portion of the cost of services without undertaking these numerous and costly changes to its legacy billing systems, AT&T developed an on-line reimbursement process for schools and libraries support recipients. AT&T's on-line process allows the customer to go to the AT&T E-Rate website that stores the customer's E-Rate data and request a refund from AT&T in the amount of the discount *before* payment of its AT&T bill is due.⁵ If the customer requests an on-line

⁵ See Appendix A for a description of AT&T's on-line reimbursement process. AT&T's E-Rate website address is: www.att.com/erate.

refund as soon as it receives the AT&T bill, the customer should have the refund in hand within 6 to 10 days and in sufficient time to use the money to pay its current AT&T bill.

ARGUMENT

AT&T believes that its on-line reimbursement process complies with the Commission's requirement that customers have the option of paying the non-discounted portion of the cost of services, with the service provider seeking reimbursement for the discount. This is exactly the same result as if the amount of the discount had been printed on the applicant's bill: the applicant is *not* required to pay more than the non-discounted portion from its own funds and the service provider covers the amount of the discount pending reimbursement.

Accordingly, AT&T asks that the Commission clarify that its on-line reimbursement process complies with its obligation as a service provider to provide schools and libraries the option of paying the non-discounted amount, with AT&T having the obligation to thereafter seek reimbursement of the discount from the Administrator. AT&T's program satisfies fully the Commission's concern that an applicant *not* have to pay more than the non-discounted portion because AT&T supplies the applicant with the cash to pay the balance of the bill. The net effect is that the only cash outlay from the applicant's own funds is the amount required to pay the non-discounted portion.

Alternatively, if the Commission declines to clarify that AT&T's process complies with the rules, AT&T asks for a waiver. Section 1.3 of the Commission's rules provides that the Commission may waive its rules for "good cause" shown.⁶ Generally, a waiver is appropriate if "special circumstances warrant deviation from the general rule

⁶ 47 C.F.R. § 1.3.

and such deviation will serve the public interest,”⁷ particularly where, as here, the relief requested would not undermine the policy objective of the rule in question.⁸ Because of the important “safety valve” function that waivers perform, it is well established that the Commission must give requests for waivers a “hard look.”⁹

Over 7,000 customers, representing anywhere from 25,000 to 50,000 schools and libraries, have selected AT&T for service and participate in the E-Rate program.

Although AT&T developed its on-line reimbursement process because it could not implement bill credits in its various legacy billing systems in any cost effective or timely manner, customer response confirms that program recipients are very satisfied with the process. The Suttons Bay Area Public Library wrote *“Your website is very helpful! This program is a paperwork nightmare for librarians. Your company's efforts to make it easier is winning loyal customers!”* (Feb. 2000). Another customer, the Pennsylvania Department of Education stated *“This is such a great idea!!! I hope others follow your lead.”* The Contra Costa County Library asked AT&T to *“Please pass this information along. This web site is the easiest process for reimbursement that I have ever encountered. PacBell should take some serious lessons from AT&T on customer service.”* (April 2001).

Moreover, it would be particularly disruptive to require AT&T now to modify its nine legacy billing systems in time for the 2004 funding year. AT&T is working on implementing a “Universal Biller,” which would be a single billing platform for all of

⁷ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); see also *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), cert. denied, 409 U.S. 1027 (1972).

⁸ *WAIT Radio*, 418 F.2d at 1157.

⁹ *Id.*

business services, that would have the capability of billing the discounted amount, tracking the customer's support cap, and distinguishing schools and libraries discounts from AT&T-initiated ones. Realistically, however, fruition of this project when all AT&T business services are moved to the Universal Service biller is several years away. Requiring AT&T to alter its legacy systems now, when it will then do so again, creates needless expense – especially when AT&T has an alternative mechanism in place that achieves precisely the result the Commission seeks.

Accordingly, AT&T requests that even if the Commission finds that AT&T process does not comply with the letter of its requirements, it should grant AT&T a waiver for good cause. Specifically, AT&T's on-line reimbursement process fulfills the Commission's policy objective of avoiding hardship on applicants that cannot pay the service provider's bill and await reimbursement through the BEAR process. As noted above, under AT&T's on-line procedures, the applicant will *not* have to pay anything more than the non-discounted portion from its own funds, as it will receive the refund amount from AT&T to pay the remainder of the bill.

CONCLUSION

For the foregoing reasons, the Commission should clarify that AT&T's on-line reimbursement process complies with the Commission's rules or, to the extent, necessary grant AT&T a waiver to allow it to rely on this process to fulfill its obligation to provide schools and libraries applicants the option of electing to pay the non-discounted amount.

Respectfully submitted,

AT&T CORP.

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July 21, 2003

The following is an excerpt from:

***E-Rate News for the Week of 3/19- 3/23/01, prepared by E-Rate Central
Sponsored by the New York State Education Department***

“(2) AT&T Online Reimbursement Process

Last fall we reported on an innovative E-rate reimbursement process introduced by AT&T that would permit customers to fill out an online AT&T Reimbursement Form (“ARF”) and receive discount checks within two weeks. The normal BEAR reimbursement process, by way of comparison, typically requires at least two months.

We have since had an opportunity to use the ARF system and have found that it does indeed accelerate the discount reimbursement process. The system works as follows:

- (a) Applicants can register on the ARF system at <http://www.att.com/erate/arf.html> using their Billed Entity Number and a PIN supplied by AT&T. Applicants without a valid PIN can request one via e-mail (RM-ATTERATE@ems.att.com). Once in the system, the PIN can be changed.
- (b) Registration also requires a funding request number (“FRN”) from the applicant's Funding Commitment Decisions Letter (“FCDL”). The system can handle multiple FRNs. By entering one FRN, the system will bring up all related AT&T FRNs (*e.g.*, one for AT&T long distance and one for AT&T cellular).
- (c) During registration, the applicant is prompted to provide a name and address for check mailing purposes. The form also includes space to designate an E-rate contact but, in our experience, this name is not referenced when checks are mailed.
- (d) For each FRN, the applicant can list one or more associated AT&T account numbers.
- (e) To actually apply for reimbursements, the applicant completes a simple online form. For each account, there are three required entries: the beginning and ending dates of bills covered, and the total amount eligible for discounts. It is the applicant's responsibility to determine whether all, or only a portion, of the bill is eligible for discounts (*e.g.*, service charges for ineligible cellular users should be excluded).
- (f) Once information is entered for all FRNs and accounts, the information is submitted. A summary sheet and confirmation number are provided. In our case, the checks (one per FRN) were mailed nine days later.
- (g) Reimbursements can be requested throughout the year at the applicant's convenience.
- (h) AT&T's ARF system is an easy alternative to the BEAR process. Applicant's should recognize, however, that for a given funding year and FRN, both cannot be used. If you've already filed a BEAR for PY3, you can't use ARF for the rest of the year (and *vice versa*).”