

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

In the Matter of)	
)	
Petition for Clarification or, in the Alternative, Waiver of Section 54.514(a) of the Commission's Rules by)	
)	
AT&T Corp.)	
)	
Schools and Libraries Universal Service Support Mechanism)	CC Docket No. 02-6

**STATE E-RATE COORDINATORS ALLIANCE
PETITION FOR RECONSIDERATION**

Introduction

The State E-rate Coordinators Alliance (SECA) petitions the Wireline Competition Bureau (Bureau or WCB) of the Federal Communications Commission (FCC or Commission) for reconsideration of the above-captioned Order issued upon delegated authority on March 13, 2007.¹

SECA accomplishes its work through the resources of its individual members (without any Alliance staff) who provide statewide E-rate coordination activities in 43 states and territories. Representatives of SECA typically have daily interactions with E-rate applicants to provide assistance concerning all aspects of the program. SECA provides face-to face E-Rate training for applicants and service providers and serves as intermediaries between the applicant

¹ Petition for Clarification or, in the Alternative, Waiver of Section 54.514(a) of the Commission's Rules by AT&T Corp. , Schools and Libraries Universal Service Support Mechanism, *Order*, DA 07-1272 (Order Released March 13, 2007)("AT&T E-rate Billing Order").Although the Order was released on March 13, 2007, the Public Notice of the release of the Order occurred on March 14, 2007 pursuant to the Daily Digest. *See* http://www.fcc.gov/Daily_Releases/Daily_Digest/2007/dd070314.htm. According to Commission rules, the time period for filing a Petition for Reconsideration is 30 days from the date of Public Notice of the issuance of the Order. 47 C.F.R. §1.106(f); §1.4. Accordingly, the 30 day period expires on April 13, 2007.

and service provider communities, the Administrator, and the Federal Communications Commission (FCC or Commission). SECA members annually provide on an aggregate basis literally thousands of hours of E-rate training workshops to E-rate applicants and service providers. Further, several members of SECA work for and apply for E-rate on behalf of large, statewide networks and consortia that further Congress' and the FCC's goals of providing universal access to modern telecommunications services to schools and libraries across the nation.

In addition to the roles as State E-rate trainers and coordinators, most SECA members also provide the following services to the program: technology plan approval; applicant verification assistance to the Administrator's Program Integrity Assurance (PIA) Division; verification to the Administrator of applicable state laws confirming eligibility of certain applicant groups; contact of last resort to applicants by the Administrator; and verification point for free/reduced lunch numbers for applicants.

Hence, SECA members are thoroughly familiar with E-Rate regulations, policies and outreach at virtually all levels of the program and applicants across the country rely on SECA to communicate comments, concerns and proposals regarding E-rate to the FCC and to the Schools and Libraries Division (SLD). SECA's formal comments filed in this docket on October 18, 2005 explicitly opposed the granting of the AT&T Petition.²

² In addition to filing comments on October 17, 2005, SECA has filed comments in this docket and in the predecessor docket, CC Docket No. 96-45, and has steadfastly advocated that applicants must be given the choice of receiving discounts on bills or filing for reimbursement of the E-rate discounts.

Grounds for Reconsideration

The Wireline Competition Bureau (WCB or Bureau)'s March 13, 2007 Order erroneously found that the AT&T online reimbursement process complies with Commission Rules. The Bureau described the AT&T online billing reimbursement system as follows:

AT&T's system allows customers to request a refund from AT&T in the amount of the discounted portion of the cost of the services before payment of its AT&T bill is due. AT&T explains that, if a customer requests a refund of the discounted portion of the services as soon as it receives its AT&T bill, the customer should receive the refund within 6 to 10 days and in sufficient time to use the funds in addition to its non-discounted portion to pay the full amount of the invoice. Further, AT&T contends that it is working on implementing a universal billing system, which would have the capability of billing the discounted amount, tracking an applicant's support cap, and distinguishing E-rate discounts from AT&T-initiated discounts.

AT&T E-rate Billing Order at ¶3 (footnotes deleted).

Based on this information, the Bureau concluded that:

Specifically, we conclude that, under AT&T's billing process, the applicant is not required to pay more than the non-discounted portion of the requested services to USAC from its own funds because AT&T covers the amount of the discounted portion pending reimbursement from USAC. Thus, the net effect is that the only cash outlay from the applicant's own funds is the amount necessary to pay the non-discounted portion of the services, as required by section 54.523 of the Commission's rules. Further, given the complexity of AT&T's billing systems, we find that this process satisfies the purpose of section 54.514(a), because applicants that cannot pay the service provider's bill upon receipt and must await reimbursement from USAC have an alternative method by which to pay the non-discounted portion.

Id. at ¶4 (footnotes deleted).

The FCC's premise for granting this Petition, that applicants are *not* required to pay more than the non-discounted portion of services pending AT&T's receipt of reimbursement of the discounted portion from USAC, is wrong. Applicants remain financially obligated to pay the entire amount of the billed charges by the due date, including the discounted and non-discounted portions, regardless of when the applicant receives the reimbursement check from AT&T.

Applicants are required to request reimbursement of the discounted portion from AT&T as soon as the applicant receives the AT&T bill. Then according to AT&T, 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.” This commitment is an empty one for the following reasons.

First, AT&T contends that applicants will receive their reimbursement check within 6 to 10 days from the date of submitting the reimbursement request to AT&T. In order for an applicant to receive a payment within the 10 days that AT&T suggested, AT&T would have to mail the payment to the applicant within five *calendar* days of receiving the request. Nowhere has AT&T made this commitment or identified what its current processing time is for E-rate reimbursement requests submitted to the AT&T online system, nor does the Company identify what happens if USAC delays payment of AT&T’s Service Provider Invoices. Will the reimbursement checks not be mailed?

Second, there is no assurance that the applicant will be able to actually use the funds received from the AT&T reimbursement check to pay the AT&T bill. Even if AT&T mails the check on a timely basis, there is no time allowed for the applicant to deposit the check and for the check to clear so that the funds can actually be applied toward paying the AT&T bill.

Third, AT&T failed to indicate how long an applicant has from the bill date to the payment due date. Without knowing what the actual payment interval is, from the date that the bill is mailed to the date that payment must be received, (which may vary depending on the service and the corporate entity under AT&T’s umbrella that issues the bill), it is impossible to evaluate whether the alternative reimbursement process will truly work in the manner described. The record is incomplete on these important details. Consequently, AT&T’s assertion, that an

applicant *should* have enough time to receive the reimbursement to pay for the billed charges, is completely unverified.

Further, the applicable rule, 47 C.F.R. §54.515(a) states that applicants shall be permitted to “choose the method of payment for the discounted services from those methods approved by the Administrator.” In the Fifth Report and Order at Docket No. 02-6, FCC 03-101, in which this rule was promulgated, the FCC made clear that the two choices currently approved for receiving discounts included the BEAR method, under which the Applicant pays 100% of billed charges and files for reimbursement of the discount amount from the SLD, or the discounted bill method, under which applicants “pay the non-discounted portion of the cost of services, with the service provider seeking reimbursement from the Administrator for the discounted portion.”³

The FCC specifically noted the financial constraints that applicants may suffer if a discounted billing option was not made available:

In addition, we find that providing applicants with the right to choose which payment method to use will help to ensure that all schools and libraries have affordable access to telecommunications and Internet access services. The Commission previously noted in the Universal Service Order that “requiring schools and libraries to pay in full could create serious cash flow problems for many schools and libraries and would disproportionately affect the most disadvantaged schools and libraries.” The comments in the present record have confirmed that many applicants cannot afford to make the upfront payments that the BEAR method requires. In light of the record before us, we conclude that the potential harm to schools and libraries from being required to make full payment upfront, if they are not prepared to, justifies giving applicants the choice of payment method.

Id. at ¶47 (footnotes deleted).

The AT&T reimbursement process does *not* mitigate these concerns, because applicants still have the financial obligation to pay 100% of the AT&T billed charges on or before the payment due date, regardless of whether the applicant has received the reimbursement for the

³ Schools and Libraries Universal Service Mechanism, *Second Report and Order and Further Notice of Proposed Rulemaking*, CC Docket No. 02-6, FCC 03-101 (released April 30, 2003) at ¶42.

discount portion from AT&T. Applicants also continue to be burdened with the responsibility of applying each month for the reimbursement of the discounted portion of the bill. The AT&T process simply replaces one form (FCC Form 472 Billed Entity Reimbursement Form) with another required form (the AT&T reimbursement form). The Commission correctly placed the burden of discounted billing on the vendor and not on the applicant, and by approving the AT&T alternative reimbursement process the burden has been lifted from AT&T and placed on the applicant.

The WCB also incorrectly stated that they have no record of any applicant complaint concerning the AT&T reimbursement system. SECA articulated its objection in its October 17, 2005 Comments filed in this docket, as follows:

Further, AT&T's formal request to allow the Company to use a modified reimbursement process as a replacement for discounted billing should be denied. If service providers are permitted to use a substitution for discounted billing, none would ever take the steps necessary to finally provide discounted bills as the Commission intended in its original Order. The Commission cited up-front cash layout as a major reason to permit applicants to choose discounted billing. But another important and equally compelling reason for providing applicants with discounted bills, that the Commission did not mention, is that the applicants will be relieved from completing yet another form to receive their discounts. Applicants already are required to submit at least three forms to the SLD in order to apply for E-rate discounts, with the BEAR form being the fourth. By permitting vendors to not discount bills, the Commission is in no way helping applicants with streamlining the application process. Therefore, we urge the Commission to expedite its issuance of an Order denying AT&T's petition, and impose penalties for companies that refuse to offer discounted billing. Without such a formal denial of the petition, AT&T and other providers will continue to refuse to provide discounted bills while this petition is pending.

Initial Comments of the State E-rate Coordinators Alliance in Response to the Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, WC 05-195, CC Docket No. 96-45, CC Docket No. 02-6, WC Docket No. 02-60, WC Docket No. 03-109, CC Docket No. 97-21 (October 18, 2005); *see*

http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6518170572.

Nowhere does the *AT&T E-rate Billing Order* address the additional administrative burden upon applicants to file *monthly* requests for reimbursement with AT&T in order for applicants to receive the monthly discount amount to use to pay their AT&T bill.

AT&T's claim that it would be financially costly, and require an investment of \$3 million to upgrade its billing systems to accommodate the automated provision of discounted bills to E-rate customers, is not a legitimate factor warranting approval of the Petition. First, in the Second Report and Order quoted above, the FCC already found that the financial hardship to E-rate applicants of not being provided discounted bills outweighs the financial costs that service providers may incur to provision discounted bills. Second, the investment is a modest amount for a company as financially sizeable as AT&T. Based on its 2003 revenues, AT&T was ranked 40th in the Fortune 500 ranking of the nation's top companies. *See e.g.*, http://www.usatoday.com/money/companies/2004-03-22-fortune-500-list_x.htm.

Moreover, AT&T has received E-rate discount payments from USAC for FY 2003 funding commitments alone (the approximate time frame in which AT&T averred that it would cost \$3 million to upgrade its billing systems) in excess of \$20 million.⁴ Clearly AT&T's receipt of E-rate disbursements for the 10 years that the E-rate program has been in existence, far exceeds the one-time cost that the Company claims it would incur to retrofit its billing systems to provide discounted bills. The amount of this investment certainly is justified and not an unreasonable magnitude when evaluated in this context, and definitely does not warrant granting relief to the Company. Further, since the FCC requirement of the discounted billing option was imposed, nearly all other companies – both large and small and nearly all with cash flow less

⁴ The \$20 million amount was computed by summing the disbursement amounts made to AT&T under its various SPINs from the SLD's publicly available data base. The specific SPINs include: 143005617, 143001192, 143000073, 143001113, 143004253, 143004201, 143004252, 143004251, 143004204, 143004203, 143000092, 143000067, 143011140, and 143016461.

than AT&T – have found the funds, desire, and manpower to implement discounted billing. These companies chose to comply with the requirement imposed in the Second Report and Order and did not restrict applicants from receiving this important benefit.

The blanket grant of this Petition, *after* the AT&T/BellSouth and the AT&T/SBC mergers were approved, raises the very real concern that the new merged AT&T will seek to impose this reimbursement platform on the E-rate customers of the former BellSouth and former SBC. This result would perpetuate a terrible injustice on the BellSouth and SBC E-rate customers, in light of the fact that both of these companies have already implemented and are providing discounted bills to customers. AT&T should use the billing platforms that these Companies instituted – in full compliance with the Second Report and Order in CC Docket No. 20-6 – and provide discounted bills to *all* of the customers served by the newly merged AT&T.

Because AT&T failed to identify the specific Service Provider Identification Numbers (SPINs) included in the Petition, the *AT&T E-rate Billing Order* does not specify which SPINs are governed by the Order. While SECA prefers and encourages the FCC to rescind its approval of the AT&T Petition, at the very least, the FCC must make clear that the only SPINs that may be used for this alternative billing reimbursement procedure are the SPINs for which AT&T had implemented the alternative billing procedure as of the July 21, 2003 filing date of the Petition. The Company must be required to provide traditional discounted bills for all of its other SPINs, including the SPINs acquired through subsequent mergers.

Finally, SECA is quite concerned that if the FCC does not rescind approval of the AT&T Petition, it may be a short time before other vendors -- not related to AT&T -- decide they, too, no longer must provide discounted bills.

Conclusion

The FCC should rescind its approval of the AT&T Petition, and should direct AT&T to implement discounted bills in a manner that does not require applicants to file any reimbursement form with the Company. Alternatively, the FCC should make clear that AT&T must refrain from imposing late payment charges or from taking any action which would adversely affect any E-rate customer's credit rating, in the event that the E-rate customer does not remit payment of the discounted portion of the monthly billed charges. The FCC should also make clear that the relief granted to AT&T pertains only to the SPINs for which AT&T had implemented its alternative reimbursement process as of July 21, 2003.

Respectfully submitted,

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