

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 ) CC Docket No. 02-6
Support Mechanism )

ORDER

Adopted: March 13, 2007

Released: March 13, 2007

By the Acting Deputy Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, we grant the petition of AT&T Corp. (AT&T) for clarification or, in the alternative, waiver of section 54.514(a) of the Commission's rules, which states that service providers must allow the billed entity to choose the method of payment for the discounted services. Specifically, AT&T requests the Commission to clarify that AT&T's on-line reimbursement process complies with section 54.514(a) of the Commission's rules or, in the alternative, waive this rule as it applies to AT&T's reimbursement process. As explained below, we find that AT&T's on-line reimbursement process complies with the Commission's rules.

II. BACKGROUND

2. Under the schools and libraries universal service support mechanism (also known as the E-rate program), eligible schools, libraries, and consortia that include eligible schools and libraries may apply for discounts for eligible telecommunications services, Internet access, and internal connection

1 AT&T Petition for Clarification or, in the Alternative, Waiver, CC Docket No. 02-6, filed July 21, 2003 (AT&T Petition); 47 C.F.R. § 54. 5414(a). Section 1.429 of the Commission's rules provides that any person may petition for reconsideration of a final action in a proceeding conducted under this subpart. 47 C.F.R. § 1.429. Section 1.3 of the Commission's rules allows the Commission to waive any provision of its rules for good cause. 47 C.F.R. § 1.3.

2 AT&T Petition at 1-2.

3 Because we grant AT&T's petition for clarification, we do not address its request, in the alternative, for a waiver of section 54.514(a) of the Commission's rules. AT&T Petition at 1; 47 C.F.R. § 54.514(a); Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202, 9217-18, paras. 44-47 (2003) (School and Libraries Second Report and Order).

services.<sup>4</sup> Eligible schools, libraries, and consortia must pay the non-discount portion of services or products purchased with universal service discounts.<sup>5</sup> In 2003, in the *Schools and Libraries Second Report and Order*, the Commission adopted section 54.514(a), which requires service providers to allow the applicant (billed entity) to choose the method of payment for the discounted services.<sup>6</sup> In adopting this rule, the Commission stated that “providing applicants with the right to choose which payment method to use will help ensure that all schools and libraries have affordable access to telecommunications and Internet access services,” including the most disadvantaged schools and libraries, which would most likely be unable to pay in full.<sup>7</sup> Accordingly, schools and libraries may choose two payment methods to use to secure reimbursement from USAC for services rendered: (1) the FCC Form 472, Billed Entity Application for Reimbursement (BEAR) Form, or (2) the FCC Form 474, Service Provider Invoice (SPI) form.<sup>8</sup> If the applicant pays the full cost of the services, then the applicant must submit a BEAR form to secure reimbursement from USAC. If the applicant pays only the reduced cost of the services directly to the service provider, then the service provider must file a SPI form with USAC to receive its reimbursement. Regardless of which method the applicant chooses, USAC remits the E-rate support payments to the service provider who in turn reimburses the applicant.<sup>9</sup>

3. *AT&T’s Petition.* In July 2003, after the Commission released the *Schools and Libraries Second Report and Order*, AT&T filed a petition for clarification with the Commission.<sup>10</sup> In its petition, AT&T explains that, given the complexity of its many existing legacy billing systems, it determined that it would be both cost and time prohibitive to develop a billing process that would bill customers only the non-discounted portion.<sup>11</sup> AT&T estimates that changes to its pre-existing billing process to bill customers the non-discounted portion would cost more than \$3 million.<sup>12</sup> Thus, rather than attempting to require all applicants served by AT&T to use the BEAR process, and in order to provide applicants with a way to pay the non-discounted portion of the cost of services without undertaking numerous and costly changes to its existing billing systems, AT&T developed an on-line reimbursement process for schools and libraries receiving E-rate support. 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.<sup>13</sup> 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.<sup>14</sup> 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.<sup>15</sup>

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<sup>4</sup> 47 C.F.R. §§ 54.501-54.503.

<sup>5</sup> 47 C.F.R. § 54.523.

<sup>6</sup> *School and Libraries Second Report and Order*, 18 FCC Rcd at 9216-29, paras. 42-51; 47 C.F.R. § 54.514(a).

<sup>7</sup> *Id.* at 9218, para. 47.

<sup>8</sup> *Id.* at 9202, 9217-19, paras. 44-50. *See also* USAC website, Step 11: Invoice USAC, <http://www.usac.org/sl/applicants/step11/> (retrieved Mar. 5, 2007).

<sup>9</sup> *See Schools and Libraries Second Report and Order*, 18 FCC Rcd at 9217, para. 42.

<sup>10</sup> AT&T Petition at 1.

<sup>11</sup> *Id.* at 3-4.

<sup>12</sup> *Id.* at 4.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* at 4-5.

<sup>15</sup> *Id.* at 6-7.

### III. DISCUSSION

4. We grant AT&T's petition for clarification of section 54.514(a) of the Commission's rules, and we find that AT&T's on-line reimbursement process complies with the Commission's rules.<sup>16</sup> 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.<sup>17</sup> 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.<sup>18</sup> 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.<sup>19</sup>

### III. ORDERING CLAUSES

5. ACCORDINGLY, IT IS ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and pursuant to authority delegated in sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Petition for Clarification or, in the Alternative, Waiver filed by AT&T Corp. IS GRANTED.

6. IT IS FURTHER ORDERED that, pursuant to authority delegated under sections 0.91, 0.291 and 1.102 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.102, this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Renée R. Crittendon  
Acting Deputy Chief  
Wireline Competition Bureau

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<sup>16</sup> 47 C.F.R. § 54.514(a).

<sup>17</sup> See AT&T Petition at 5.

<sup>18</sup> See *id.*; 47 C.F.R. § 54.523.

<sup>19</sup> 47 C.F.R. § 54.514(a). We note that AT&T has been continuously using this system since it filed its Petition in 2003, and we do not have record of any applicant complaint.