

CASES 94-C-0095 and 28425

ATTACHMENT A



**A RECOMMENDED PLAN FOR
DISCOUNTING INTRASTATE
TELECOMMUNICATIONS SERVICES
FOR SCHOOLS & LIBRARIES**



Prepared by:

*The New York Committee
for Schools and Libraries
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EXECUTIVE SUMMARY

The federal Telecommunications Act of 1996 (the Act) directs the states to establish discounts on intrastate telecommunications services for schools and libraries. In establishing the process for review of universal service (Cases 94-C-0095 and 28425), the New York State Public Service Commission directed the parties to address "the amount of discount appropriate for educational facilities and libraries, and how the foregone revenues should be compensated." To meet this mandate, and to implement the federal requirements in New York, the presiding Administrative Law Judge, Eleanor Stein, and advisory Department of Public Service staff convened a committee of representatives from the State Education Department, the school and library community, the telecommunications and cable industries, and advocacy groups to collaborate and craft a proposal for an intrastate discount plan. This proposal represents a consensus among these groups, facilitated by Department staff. It will be submitted on March 8, 1997 to the administrative law judge and parties in the case, who may file comments on the proposal by April 1, 1997 and replies by April 11, 1997. Taking these into consideration, the administrative law judge will make recommendations to the Commission. The Commission will determine the final plan.

The proposed discount plan consists of four areas: services eligible, funding requirements, discounts, and fund administration. Regarding eligible services, the committee recommends that all intrastate regulated telecommunications services be eligible for discounts. To fund these discounts, the committee supports instituting an explicit surcharge on each carrier's regulated intrastate telecommunications retail

revenues. This surcharge is to be applied on end user billings. The base price to be discounted would be the lowest of the tariffed rate, a competitively bid rate, or a negotiated rate.

The committee further recommends that the proposed discount structure be divided into two categories: all schools and school libraries outside the "Big 5"¹ areas would qualify for a discount of 60%, while the "Big 5" schools and schools libraries, as well as all eligible libraries and library systems would qualify for a discount of 80%. Fund distribution and management would be provided for by the New York Intrastate Access Settlement Pool.

The committee defines the parameters for the first three years of the plan. The first year fund is estimated at \$60 million, with the revenues to be derived through a 0.75% surcharge on regulated intrastate telecommunications services retail billings. The three year plan increases the fund 20% in year 2 and 20% in year 3 to accommodate estimated growth in expenditures on telecommunications services by schools and libraries. Any surplus funds would be carried over to subsequent years to ensure against any unforeseen demand. In Years 2 and 3, the level of the surcharge would be capped at 1% with no lower limit.

Lastly, the committee recommends establishing an oversight committee to monitor and evaluate the program as well as to recommend changes to the Commission.

¹ The Big 5 areas are: Buffalo, New York City, Syracuse, Rochester, and Yonkers.

INTRODUCTION

The Telecommunications Act of 1996 directs states to develop plans for discounted intrastate services to schools and libraries. Many in the education and library communities regard this requirement as the most visionary of the Act, because they believe that advanced telecommunication services that will enable citizens to participate fully in every aspect of modern life as we enter the next century. The proposal for discounted services described here may enable major changes at every level in our education and library systems: youngsters may achieve greater literacy in the arts and sciences and be better prepared to pursue higher education and enter the world of work; businesses may draw from a more prepared workforce; and all citizens may have greater access to more quality information.

This proposal is the culmination of several months of ground breaking work by the New York Schools and Libraries Committee (the committee) comprising representatives of the school and library community, the telecommunication and cable industries, and consumer advocate organizations. Many of those who contributed to this effort had no prior experience with New York Public Service Commission proceedings and as a result had to learn the regulatory ropes while developing sound public policy recommendations. While the committee participants did not always agree, all shared a commitment to the committee's overall objective and were willing to invest extraordinary resources to fashion a discount plan that is fair, workable, and tailored to the needs of New Yorkers.

The process that led to this proposal began when Department staff engaged in a grassroots information gathering process to determine the needs of the schools and libraries that are intended beneficiaries of the discounts. With the help of

the State Education Department and the New York Library Association, staff conducted eight roundtable discussions around the state in which over 100 school and library administrators participated. These discussions helped sharpen the issues that must be addressed in the discount plan.

During the course of the roundtable discussions, several messages resonated from all quarters. First, there is enormous pent-up demand on the part of our schools, libraries and their constituencies for advanced telecommunications services. Second, any plan must be simple: both the schools and the libraries strongly recommended that the Commission eschew imposing complicated "means" tests and applications procedures on would-be discount recipients, since these would most certainly cripple the ability of the poorest institutions -- already strapped for resources -- to participate fully in any program, however well meaning. Third, the Commission must be guided by principles of fairness and equity; institutions in the rural north country should be treated the same as those in mid-town Manhattan and should not be pitted against each other. Nonetheless, there may be a need to distinguish schools from libraries, because of the different constituencies they serve and the ways they are funded. Libraries do not receive the same level of public support as schools and, unlike schools, libraries are open to people of all ages with every conceivable need.

Further, libraries often pick up where schools leave off by being available to students who rely on the public library for after-school access to the "on-line" world because they have no such access from home. At the same time, school teachers are among the last to have immediate access to telephones. There are schools in this state serving hundreds of students that have only single line telephone service to their administrative offices.

Once the roundtable discussions were concluded, all interested parties were invited to tackle the more focused work of crafting a discount proposal. The committee of approximately 40 members (Appendix C) first met on December 19, 1996. After the initial kick-off meeting, committee members drafted a mission statement (Page 10), and set an aggressive schedule in order to meet Judge Stein's mid March deadline to present the committee's report. As the work progressed, issues requiring more focused discussions, such as the details of how the plan would be administered on a daily basis, were delegated by the full committee to subcommittees. The subcommittee work progressed on a parallel track to that of the full committee.

Throughout the committee discussions, the telecommunications industry reminded the committee that the discount plan is not intended to be, nor could it be, a panacea for an under-funded education system; that all ratepayers will shoulder the burden of paying for the discounts; that there would likely be a backlash if the fund is perceived as being too large, no matter how worthy its purpose; and that the industry will cooperate to make the program a success but must be mindful of the impact of hitting consumers with what amounts to another tax on their telephone bills. The industry brought its larger concern to the table -- its need to be responsive to the changing telecommunications environment -- as it urged participants to act responsibly when calculating the size of the fund and the means by which it would be collected from ratepayers.

Staff assumed a facilitator/advisor role to the committee. It ensured that the committee kept to its schedule, stayed focused on its tasks, had the material necessary to do its work, and gave technical assistance in those areas in which committee members would not likely have expertise, such as

Commission policies and procedures and the status of the FCC's proceeding to implement the Telecommunications Act of 1996. In addition, staff established a page on the Commission's Web site which it updated weekly with minutes of all meetings and a complete listing of committee members.² By doing so, the committee was open to all comers.

NYNEX generously made its video teleconference facilities available for the weekly committee meetings, so that those who wished to participate could do so without extended time away from their homes and offices.

The result of this collaborative effort and hard work is the proposal put forth in this document. It is elegant in its simplicity, while at the same time it addresses the different -- and sometimes competing -- concerns expressed by parties throughout the process. And while the committee did not achieve consensus on every issue, it did on those issues that are most pressing: the size of the fund during the plan's initial three years, the levels of the discounts, and the manner in which the dollars should be collected from ratepayers. If this plan is adopted, there will be no burdensome application process, as institutions eligible for discounts will fall into one of two easily distinguishable categories. Finally, there is a process in place to monitor and analyze the discount plan and make recommendations for changes to accommodate unforeseen events, such as an unanticipated demand on the fund's resources.

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ORGANIZATIONS REPRESENTED ON THE COMMITTEE

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AT&T

Big 5 School Districts

Cable TV & Telecom Association of New York

City University of New York

Citizens Telecom. Co.

Communications Carriers for Latinos, Inc.

Dutchess County BOCES

IBM

Libraries for the Future

MCI

New York City Board of Education

New York Library Association

New York Public Library

NY State Conference of Library Systems

New York State Library

New York State School Board Assoc.

NYC School Library Systems - NYC Schools

NYNEX

NYSERNET

New York State Telephone Association

Public Library System Directors Organization of NY State

Rochester Telephone Corporation

State Education Department

Suffolk County Cooperative Library System

Suffolk County BOCES

Time Warner/LLGM

US Sprint

Winstar Communications

MISSION STATEMENT

The Schools and Libraries committee will propose a plan to foster full, equitable and affordable access to telecommunications services for eligible New York State schools (K-12) and libraries. This plan will be consistent with the requirements of the Telecommunications Act of 1996 and, to the extent possible, will be flexible to meet the changing and various needs of schools and libraries, recognize the changing telecommunications environment, and provide for advances in technology.

Task

In the context of the Public Service Commission's universal service proceeding (Case 94-C-0095 and 28425), and consistent with the requirements of the Telecommunications Act of 1996, the Schools and Libraries committee will develop a plan for establishing discounts on intrastate telecommunications services for schools and libraries.

Goals

To achieve this task, the committee shall develop a state plan consistent with the following principles:

- ☐ Encourage universal access to advanced telecommunications services for all schools and libraries.
- ☐ Serve the needs of the schools and libraries equitably and efficiently.
- ☐ Be competitively neutral to providers, both in terms of eligibility for funding and in terms of financial contributions.
- ☐ Consider the financial burden on providers and their customers.
- ☐ Complement the federal discount plan for ease of administration and consistency.
- ☐ Be simple to implement and administer.

THE DISCOUNT PLAN

The discount plan consists of the following sections:

- A. Services eligible
- B. Funding requirements
- C. Level of discounts
- D. Administration.

A. *Services Eligible for Discounts*

The committee recommends that all intrastate telecommunications services regulated by the Commission should be eligible for discounts (Appendix A provides examples of such services). With the exceptions of Internet access and inside wiring (a.k.a. internal connections), the committee's recommendation is consistent with that of Federal-State Joint Board, which recommended that all interstate and intrastate telecommunications services be eligible for discounts.

The committee excludes Internet access from its eligible services list because it recognizes that the Commission can order discounts only on those services that are regulated by the Commission. Therefore, intrastate discounts will not be available for the subscription fee paid to an ISP, but will apply to any regulated telecommunications service, such as 1MB, 56K, T1 and T3, used to access an Internet Service Provider.

Regarding inside wiring, discounts will be available only for regulated inside wiring services. Thus, routers, servers and hubs, which were included under the Joint Board's recommendation, will not be eligible for discounts under New York's plan. At present, only the installation and maintenance of simple twisted pair inside wiring is provided as a regulated service by NYNEX, Frontier and some other LECs. Thus, installation of high capacity wiring, such as category 5 wire, will not be included as a regulated or discounted service.

While the committee supports discounts on any intrastate telecommunications service purchased by a school or library, an issue arose regarding whether the inclusion of some services would have an adverse impact on competition. Specifically, the committee identified: (1) vertical services/"custom calling" features; (2) voice messaging; (3) Centrex; and (4) inside wire as services that are both regulated and unregulated. Some members of the group are concerned that un-regulated telecommunications services with features and functionalities similar to regulated services will not be eligible for discounts, which could put at a competitive disadvantage providers of those un-regulated services. For example, vendors who provide PBX service (an alternative to Centrex) might have a difficult time offering their services to schools and libraries in competition with providers of regulated Centrex service who can offer their services at a discount rate. At this juncture the committee agrees to flag these four services and delegate to the oversight committee the task of evaluating the impact this program has on the competitive marketplace for these four services.

B. Funding

Deriving Fund Revenues

The committee discussed four possible methods of deriving the funds necessary to support the discount plan:

- 1) An explicit surcharge on the end user's bill
- 2) Supplement the fund with fine/penalty monies
- 3) Assess carriers' gross intrastate revenues
- 4) Combination of numbers 1 and 3.

The majority of the committee supports the concept of generating the fund by implementing a surcharge on the intrastate retail revenues of telecommunications carriers regulated by the Commission. This would exclude carrier-to-carrier billing, such as access charges. The committee also agrees that the surcharge should

be competitively neutral and imposed uniformly on each carrier's intrastate end user retail revenues, thereby ensuring that each carrier contributes equitably into the fund. Every carrier that contributes into the fund would be eligible to withdraw from the fund, to the extent it provides services eligible for discounts.

Establishing a Baseline Level of Service

After considerable discussion, the committee agreed that it should not establish a baseline or minimum level of connectivity that it would strive to obtain for each institution. Developing such a benchmark introduces complex micro-management to the program. Nonetheless, the committee believes that the program should be evaluated at various intervals to ensure that the technology-poor institutions are participating and are improving their capacity to provide advanced telecommunications services. If the technology poor institutions and students and/or library users are not benefiting, the program should be modified to ensure these institutions are not neglected.

Determining a Base Price

Competitive Environment

In a competitive environment, where schools and libraries may be able to purchase service from more than one carrier, the base price to be discounted will be the lowest of the tariff rate, a rate achieved through a competitive bidding process, or a negotiated rate.

Non-Competitive Environment

In a non-competitive environment, where there is only one carrier able to provide a specific service, the base price to be discounted will be the lower of the tariff rate or a negotiated rate.

Additionally, competition will be encouraged and methods used to promote competition, such as aggregation, will be accommodated in the administration of the program. In this respect, third parties, such as associations, universities, and other

consortia acting as aggregators, on behalf of K-12 schools and libraries will be eligible to participate in the discount program for those regulated telecommunications services used by those schools and libraries. The details will be worked out by the administrative subcommittee.

Size of the Fund

The fund size was derived through a collaborative process with the parties expressing concern over striking the balance between keeping the fund at a reasonable size with respect to a surcharge on end user bills and establishing a meaningful discount that will promote the necessary level of connectivity for schools and libraries. The final funding recommendations offered here represent a compromise of the parties' initial positions, except for the Rochester Telephone Corp./Frontier dissenting recommendation on the administrative process for the distribution of the fund (see Appendix E). It should be noted that the carriers' support of the fund size is contingent on approval of the surcharge on end user billing. Should the Commission reject the surcharge, the carriers would want to revisit the fund size and associated issues. In general, the committee also endorsed the concept of an end-user surcharge.

The committee recommends a three-year plan as outlined below.

Year 1 \$60 million estimated fund collected from a 0.75% surcharge. Plan to be reviewed monthly to adjust for Year 2.

Year 2 \$72 million maximum collection target using a surcharge that cannot exceed 1%. In addition, any carryover from Year 1 is available to be spent during Year 2. The factors that will determine the surcharge:

- 1) The amount collected in Year 1 as well as the estimated revenue growth, and;

- 2) The discount expenditures in Year 1. These discount expenditures may substantiate lowering or raising the surcharge up to a 1% cap. Review plan monthly to adjust for Year 3.

Year 3 \$86 million maximum collection target using a surcharge that cannot exceed 1%. In addition, any carryover from Years 1 and 2 are available to be spent in Year 3. There are two factors that will determine the surcharge:

- 1) The amount collected in Year 2 as well as the estimated revenue growth, and;
- 2) The discount expenditures in Year 2. These discount expenditures may substantiate lowering or raising the surcharge up to a 1% cap.

The fund size in Year 1 is based on estimated regulated intrastate telecommunications expenditures for K-12 schools and libraries of \$80 million. (1996 estimated expenditures were \$66 million). The application of the recommended discounts will result in a first year fund size of approximately \$60 million. Estimates for Years 2 and 3 reflect a 20% increase per year in telecommunications expenditures. This 20% stimulation is an estimate based on the committee's belief that such increases are likely as schools and libraries take advantage of the discounts to purchase additional telecommunications services. In addition, any surplus after the first or second year will be carried over to the following year to accommodate any unexpected demand. Any shortfall will not be the obligation of the carriers but will be managed through fund administrative measures to be worked out by the administrative subcommittee as it continues its work.

The committee also recommends that the surcharge in Year 1 be set at 0.75%, based on estimated current intrastate retail telecommunications revenues of \$8 billion per year. The committee projects the surcharge level in Years 2 and 3 would be capped at 1%, depending on the growth in total intrastate retail revenues and

whether funds are carried over from the previous year. While the committee recommends a fund size only for the first three years, it believes that funding for subsequent years must be continued to ensure ongoing support for the plan's discounts.

C. Discounts

Criteria

- ☐ Simple to administer
- ☐ Equitable

Considerations

- ☐ Schools outside "Big 5" areas get BOCES technology aid of 36% to 90% of expenses, including telecommunications expenses, depending upon poverty and need factors. Therefore, they are able to recoup more of their telecommunications related expenses through state aid funding formulas.
- ☐ "Big 5" schools (NYC, Rochester, Buffalo, Syracuse, and Yonkers) are generally urban low income schools.
- ☐ Libraries receive minimal state funding and in many cases will depend exclusively on the discount to make purchase of telecommunications services affordable.

Recommended Discount Formula

Schools & school libraries (non "Big 5" areas)	= 60%
"Big 5" schools/libraries & all public libraries	= 30%

D. ADMINISTRATIVE

Fund Administrator

The committee recommends that the New York Intrastate Access Settlement Pool administer the fund.

Library Eligibility

Section 254(h)(4) of the Telecommunications Act of 1996 limits eligibility to those libraries that are eligible to participate in State-based plans for funds under the Library Services and Technology Act (LSTA) of 1996. The administrative subcommittee interpreted this to include:

Public

Academic

Research (not part of a higher education institution and resources available to the public for scholarly purposes and not otherwise available)

Private (member of a Library System and not for-profit)

Library Systems (74 Headquarters)

Although not included within LSTA definition, the committee agreed that the New York State Library should be included on this list. Requiring further clarification is the status of not-for-profit foundation libraries.

School Eligibility

All K-12 non-profit schools with an endowment of under \$50 million are eligible. The specific definition of the schools is contained in paragraphs (14) and (25), respectively, of section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

Certification Process

SED will identify to the fund administrator those schools and libraries eligible for discounts and the level of discounts to which those institutions are eligible.

Program Monitoring and Evaluation

The Committee recognized that the Public Service Commission has overall responsibility for the program, and to assist this effort, an oversight committee will monitor and evaluate the program.

Two subcommittees are to work with the oversight committee: 1) Fund Administration (to monitor the fund administrator and other administrative details), and 2) Schools and Libraries Program Review (can be subdivided, if necessary).

It is recommended that membership of the subcommittees be: voluntary, self-selected, and reflective of the oversight committee membership. In particular, carriers and non-carriers should be represented on both subcommittees, and representatives should represent their constituents.

Membership

The oversight committee will be composed of the following stakeholder groups. Memberships could be rotated.

PSC Staff

SED Staff

Education (6 representatives)

- New York City
- "Big 5" minus NYC
- BOCES
- Non-public
- Public School System (non "Big 5" and non BOCES)
- Higher Education

Libraries (5 representatives)

- NYLA
- SED Division of Library Development
- School Libraries
- Academic/Special School Library Systems
- Public Libraries/Library Systems

Telecommunications Carriers (6 representatives)

- Local Exchange Carriers (2)
- CLECS
- Long Distance Carriers
- Cable TV Providers
- Cellular

The oversight committee may seek involvement from various interest groups not represented on the committee, such as parents, teachers, students, etc.

Oversight Committee Responsibilities

The responsibilities of the oversight committee are generally defined below. In addition, the committee recommends that the Administrative Subcommittee continue to meet with Department staff and members of the Access Pool to refine these responsibilities within the scope of the program.

- ☛ Monitor and advise (i.e. non-binding recommendations) on disputes that may arise between schools/libraries and carriers over eligibility, discount rates, and program procedures. This role will in no way supersede the Commission's dispute resolution process. Rather, it may help to avoid complaints where straightforward clarification may be all that is called for.
- ☛ Review fund administrator's summary reports and other related data requested by oversight committee.
- ☛ Evaluate and propose annual adjustments to the level of funds and service demands.
- ☛ Analyze participation and propose administrative and public information initiatives to encourage broadest possible participation.
- ☛ Review and advise on certification process.

- ☐ Review and advise on level of prices for schools & libraries, including comparability between urban and rural rates.
- ☐ Evaluate discounted services in order to determine if eligible institutions are taking advantage of advanced telecommunications and information service. Evaluation may be used to develop possible maintenance of effort provisions.
- ☐ Work with Commission staff to determine effect of the program on competition.
- ☐ Review, compare, and coordinate summary report results with stated program outcomes of existing federal and state education/research programs.
- ☐ Administrative procedures will ensure that the application of discounts does not preclude schools and libraries from changing carriers.

Elements of Fund Administration under Capped Scenario

The operative principle is to minimize first come/first serve implications and maximize equity. Actions to be taken to minimize the first come/first served effect are:

- ☐ Statistical Analysis/Administration Actions: Quarterly reports, including status of fund; projected withdrawals; forecasts, etc.
- ☐ Periodic notification to Commission of fund status.
- ☐ Permit any unspent monies to be carried over from year to year.

- Develop plan in advance to respond to situation where discount expenditures are projected to exceed available funds in given year.

Maintenance of Effort

There will be no "maintenance of effort" requirement that will call for schools and libraries to use funds saved through the discounts for specific, limited purposes. Instead, the oversight committee will be given responsibility to determine and, if necessary, make recommendations on level of effort. The overarching principle is to ensure that discounts are being used to encourage use of advanced telecommunications and information services.

Administrative Subcommittee meeting Schedule

The Administrative Subcommittee will continue to meet once every three weeks to continue refinement of administrative procedures.

PROFILE OF NEW YORK'S SCHOOLS AND LIBRARIES

Schools

Public Schools (K-12)

School Sites	4,016
Students	2.7 million

Non-Public Schools (K-12)

School Sites	2,155
Students	0.5 million

Totals

School Sites	6,171
Students	3.2 million

"Big 5" schools: NYC, Buffalo, Rochester, Syracuse, & Yonkers

1.4 million students

Remainder of the state

1.8 million students

Libraries

Public	741
Public (including branches)	1,180
School libraries - Public	3,881
School libraries - Non-public	1,864

Total Public & School	6,925
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It should be noted that libraries often obtain their telecommunications services through the various associations and interconnected systems that exist in New York state.

EXAMPLES OF CURRENT SERVICES ELIGIBLE FOR DISCOUNTS

Telecommunications Services

- ☐ 1 MB
 - installation (non-recurring charge)
 - usage
 - monthly access fee
- ☐ Vertical services/"custom calling" features
- ☐ Leased Lines (56K to T3)
 - mileage charges
 - usage (per minute)
 - installation
- ☐ ISDN (basic & primary rate)
- ☐ Inside wire
 - maintenance (where provided by LEC)
 - installation
- ☐ Video services
 - such as multi-channel video
- ☐ ADSL
- ☐ ATM and Frame Relay
- ☐ Internet access
 - Connection to ISP (only loop, local & toll usage), Not including any ISP charges.
- ☐ Intrastate toll services
- ☐ Voice messaging
- ☐ WATS/Toll-free service
- ☐ Centrex
- ☐ WAN/LAN connections (leased/tariffed facilities)
- ☐ Wireless
 - access
 - internal connections (leased facilities)

Examples of Services Not Discounted (not regulated by PSC)

- ☐ Inside wire (non-LEC provided)
 - installation
 - purchase
 - maintenance

- ☐ Inside wire (other than twisted pair)

- ☐ Modems

- ☐ Routers/servers/hubs

- ☐ Fiber optics
 - LAN connections (non-leased facilities)
 - Dark fiber

- ☐ Wireless
 - internal connections (non-leased facilities)

- ☐ Internet access
 - ISP fee

- ☐ Direct Broadcast Satellite (DBS)

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TELECOMMUNICATIONS ACT OF 1996

The Telecommunications Act of 1996 provides the authority and mandate for establishing a discount on telecommunications for schools and libraries. Specifically, Section 254(b)(6) states that:

Elementary and secondary schools and classrooms, health care providers, and libraries should have access to advanced telecommunications services as described in subsection (h)

In addition, Section 254(h)(1)(B) requires that:

All telecommunications carriers serving a geographical area shall, upon a bonafide request for any of its services that are within the definition of universal service under section (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. The discount shall be an amount that the Commission, with respect to interstate services, and the state with respect to intrastate services, determine is appropriate and necessary to ensure affordable access to and use of such services by such entities. A telecommunications carrier providing service under this paragraph shall--

(i) have an amount equal to the amount of the discount treated as an offset to its obligation to contribute to the mechanisms to preserve and advance universal service, or

(ii) notwithstanding the provisions of subsection (e) of this section, receive reimbursement utilizing the support mechanisms to preserve and advance universal service.

**Additional Comments
on the
Recommended Plan For
Discounting Intrastate Telecommunications
Services for Schools and Libraries by:**

Rochester Telephone Corp. (RTC)
Frontier Communications of Ausable Valley, Inc. (FC of AVT)
Frontier Communication of New York, Inc. (FC of NY)
Frontier Communications of Seneca-Gorham, Inc. (FC of SGT)
Frontier Communications of Sylvan Lake, Inc. (FC of SLT)

RTC, FC of AVT, FC of NY, FC of SGT and FC of SYL (hereafter referred to as Frontier), have compromised their initial positions with regard to the funding recommendations with the exception of the administrative process for the distribution of the funds. In the spirit of compromise, in lieu of a direct discount program, RTC and Frontier propose an indirect discount program. Rochester and Frontier would be willing to be a conduit for funding in the proposed amount indicated in the report, provided that the fund is administered by and distributed to the institutions that would directly benefit from the discount program, with no further carrier responsibility. The telecommunications providers would implement the designated surcharges and pass along the billable revenues less uncollectibles to the fund administrator. The fund administrator would then disburse the funds as determined by the oversight and administrative subcommittees. The schools and libraries would be allowed a greater amount of flexibility regarding the level of discount and which institutions would be recipients of the funds. This type of collection process by the carriers has been successful in the past, as demonstrated by the implementation of the E911 program as established by the state legislature in July 1989.

If the RTC and Frontier administrative process, coupled with the remaining elements of the discount program described in the report are not adopted in its entirety, RTC and Frontier reserve the right to withdraw their support of this proposal.

SCHOOLS AND LIBRARIES INTRASTATE TELECOMMUNICATIONS SERVICES FUND



Operational Procedures

and

Oversight Committee

Manual*

DATE: May 16, 1997

**BY: New York Committee for
Schools and Libraries**

*The terms and conditions in this document are subject to change to comply with state and federal proceedings on universal service.

I. FOREWORD

The federal Telecommunications Act of 1996 (the Act) directs the states to establish discounts on intrastate telecommunications services for schools and libraries. In establishing the process for review of universal service (Cases 94-C-0095 and 28425), the New York State Public Service Commission directed the parties to address "the amount of discount appropriate for educational facilities and libraries, and how the foregone revenues should be compensated."

To meet this mandate, and to implement the federal requirements in New York, an Administrative Law Judge and advisory Department of Public Service staff convened a committee of representatives from the State Education Department (SED), the school and library communities, the telecommunications and cable industries, and advocacy groups to collaborate and craft *A Recommended Plan For Discounting Intrastate Telecommunications Services for Schools and Libraries*. In this report, the Committee has recommended a Schools and Libraries Intrastate Telecommunications Services Fund (SLITSF) to be established as the mechanism to ensure the proper funding for the schools and libraries discount program. The Committee additionally recommended that the New York Intrastate Access Settlement Pool serve as the fund administrator (Administrator). Authority for the establishment of the SLITSF and the general guidelines for its operation and administration would be provided as part of the regulatory procedures promulgated by the Commission.

An Oversight Committee will be established to advise, monitor, and evaluate the School and Library Discount Program. This Committee will be composed of representatives from schools and libraries, the telecommunications industry, and staff from the PSC and SED.

The Fund Administration Advisory Subcommittee will oversee the SLITSF Operations in accordance with established procedures and policies as set forth in this SLITSF Operational Procedures Manual (Manual). The Manual is intended to comply with the Commission's order in this proceeding.

The Manual will only be modified by the Oversight Committee. Any proposed changes affecting the method of the SLITSF funding or distribution would be submitted to the Commission for approval.

II. ORGANIZATION

A. REGULATORY OVERSIGHT

The Commission shall have regulatory oversight of the Schools and Libraries Intrastate Telecommunications Services Fund. The Manual as developed by the New York Committee for Schools and Libraries, will be submitted to the Commission Staff ("Staff" always refers PSC staff) for approval and will not be substantively modified without the prior approval of the Commission. The Commission Staff will ultimately ensure that the SLITSF is achieving the goal of providing adequate funding of the School and Library Discount Program.

The Staff will be assigned to participate in the proceedings of the Oversight committee and, on behalf of the Committee, will act as the liaison with the Commission. The Staff shall have access to review all detailed revenue and cost data collected from each SLITSF Participant. The Staff shall assure that all proprietary company information that it reviews will be kept confidential. The Staff shall provide assistance to the Administrator in obtaining data and funding from the SLITSF Participants, when such assistance is requested.

B. ADVISORY COMMITTEES

OVERSIGHT COMMITTEE

An Oversight Committee will be established to advise, monitor, and evaluate the School and Library Discount Program. The Oversight Committee will select a Chair, a Vice-Chair, and

Secretary for one-year terms. Terms of service will be staggered so the Vice-Chair will succeed the Chair. Selections of Vice-Chair will be held annually. Representatives to Committee will be self-selected by the organizations they represent. Organizational representation is permanent, but it is expected that individual representatives will serve, at a minimum, annual terms.

The Oversight Committee will be formally established no later than thirty (30) days following the issuance of the Order of the Commission.

The Oversight Committee will make all recommendations and file reports to the Staff, specifically the Director, Communications Division, or the appropriate designee.

Responsibilities of the Oversight Committee include, but are not limited to:

- Monitor and advise (non-binding recommendations) to the Commission and constituents of the Oversight Committee on disputes that may arise between schools/libraries and carriers over eligibility, discount rates, and program procedures. This role will in no way supersede the Commission's dispute resolution process. Rather, it may help to avoid complaints where straightforward clarification may be all that is called for.
- Review and make recommendations regarding fund administrator's summary reports and other specific data requests.
- Evaluate and propose annual adjustments to level of funds and service demands consistent with the Order of the Commission.
- Analyze level of participation and propose administrative and public information initiatives to encourage broadest possible participation.

- Oversee school and library certification process and, if necessary, mediate disputes over institutional eligibility.
- Evaluate program's success in terms of providing schools and libraries with full, equitable, and affordable access to advanced telecommunications services.
- Evaluate level of services in order to determine whether schools and libraries are taking advantage of advanced telecommunications and information services.
- Review the impact of program on the competitive marketplace for: vertical services/"custom calling" features: voice Messaging; Centrex/PBX; and inside wiring.
- Review, compare, and coordinate summary report results with stated program outcomes of existing federal and state education/research programs.
- Review administrative procedures to ensure that the application of discounts is not inhibiting schools and libraries from changing carriers.
- Evaluate administrative procedures as they relate to the eligibility of third parties such as colleges, universities, municipalities, or associations acting as aggregators on behalf of schools and libraries to participate in the discount program.
- Oversee general management of the SLITSF and shall ensure that SLITSF related orders and resolutions of the Fund Administration Subcommittee are implemented.
- The full Oversight Committee, in consultation with the Fund Administration Subcommittee and the Administrator, has authority to make recommendations to request the Commission to adjust the level of the SLITSF and the SAS surcharge. In addition, the Oversight Committee will have authority to make recommendations to the

Commission on the discount rate structure and other possible "extraordinary" actions, when necessary.

- The full Oversight Committee, in consultation with the Fund Administration Subcommittee and the Administrator, will be responsible for notifying schools, libraries, and participating carriers of the possibility of fund shortfalls before and during program operation, if necessary.

The Oversight Committee shall be made up of 18 members representing the following SLITSF Participants. Staff will participate in all meetings on a consultative basis and will not vote.

- Interexchange Carrier (IXC)
- Large Incumbent Local Exchange Company (ILEC)
- Other Incumbent Local Exchange Company
- Competitive Local Exchange Company
- Cellular/Personal Communications System (PCS)
- Cable TV Provider
- New York City Board of Education
- "Big 5" (non- NYC) School Boards of Education
- BOCES
- Non-Public school
- Public school (non-BOCES and non "Big 5)
- Higher education institution
- Public library/library system
- School library/library system
- Academic/special library/library system
- New York Library Association
- SED Division of Library Development
- SED

The Oversight Committee will appoint and delegate authority, as described in section IIB, to two subcommittees: the Fund Administration Subcommittee and the Program Review Subcommittee. Membership on the Subcommittees should be voluntary, self-selected, and reflective of Oversight Committee membership. In particular, carriers and non-carriers should be represented on both subcommittees. The Chair of the Oversight Committee will serve as a member of the Fund Administration Subcommittee and the Vice Chair will serve as member of The Program Review Committee. The Secretary to the Oversight Committee will serve as an ex-officio member of both subcommittees.

FUND ADMINISTRATION SUBCOMMITTEE

The Oversight Committee will appoint a Fund Administration (FA) Subcommittee to oversee the operations of the SLITSF in compliance with the Commission Order and the approved Manual.

The Rules for Governance of the FA Subcommittee are as follows:

1. The FA Subcommittee shall be composed of no more than seven members representing the constituent makeup of the Oversight Committee. A majority of the membership will come from telecommunications companies; four will be selected from the companies and the remaining three will represent schools and libraries.
2. Each SLITSF Participant is responsible for selecting its own representative(s) to serve on the FA Subcommittee. The selection process may be conducted by each segment's own industry trade organization or through collaborative process by Participant members. The FA Subcommittee shall be in place within 30 days from the establishment of the Oversight Committee.

3. Any SLITSF Participant member is represented on the FA Subcommittee by the individual selected to represent the segment to which the SLITSF Participant belongs.
4. The term of service for FA Subcommittee members is two years. Should a FA Subcommittee member resign before completing the full term of service, the Participant with the vacated seat shall select a replacement FA Subcommittee member to serve the balance of the term.
5. Selection of the FA Subcommittee officials will be held annually. The Subcommittee will select one Chair, one Vice-Chair, one Secretary and such other officers as deemed necessary. Terms of Chair and Vice-Chair will be staggered so Vice-Chair can succeed Chair.
6. During the absence or disability of the Chair, the Vice-Chair shall have all the powers and functions of the Chair. The Vice-Chair shall perform such duties as the Oversight Committee shall prescribe.
7. A majority of the voting members of the FA Subcommittee shall constitute a quorum for the transaction of business or of any specified item of business. Teleconferencing is permissible.
8. The vote of the majority of the FA Subcommittee members present at the time of the vote, if a quorum is present at such time, shall be the act of the FA Subcommittee. Each FA Subcommittee member present shall have one vote.
9. The FA Subcommittee will meet regularly, either Monthly or Quarterly as it shall determine. to review the routine SLITSF operations with the first meeting to be held no later than 30 days following the establishment of the Oversight Committee. The meeting

of the FA Subcommittee may be conducted either in person or via conference call, according to directions of the Chair.

10. The members of the FA Subcommittee shall be reimbursed for travel and other out of pocket expenses associated with attending FA Subcommittee meetings. Expenses for which a member seeks reimbursement must be deemed reasonable and customary and shall be accompanied by the appropriate supporting documentation (e.g. receipts, vouchers, etc). The Administrator shall include those expenses as part of the normal SLITSF expense reports.
11. Special meetings of the FA Subcommittee may be called upon the request of any FA Subcommittee member or the Administrator. Notice of the meeting shall be distributed to all members at least ten days but no more than fifty days before the scheduled date of such meeting. Such notice shall state the date, time, place and purpose of the meeting and by whom it was called.
12. Any SLITSF Participant or FA Subcommittee member may appeal any decision of the Oversight Committee to the Commission.
13. The Administrator will provide all SLITSF related operational and expense reports to the FA Subcommittee on a routine basis.

Responsibilities for FA Subcommittee

1. Oversee the operations of the SLITSF in compliance with the Commission Order and the approved Manual.
2. Oversight responsibilities of Subcommittee shall be limited to SLITSF operations only, and shall not extend to any operations of the Administrator.

3. Review and approve any suggested modifications, additions or deletions to the Manual. Any recommended changes are then to be referred to the Oversight Committee for final disposition. Changes to the Manual that significantly alter the method of funding or distribution of SLITSF, however, will require prior approval of the Commission. All changes shall be forwarded to Staff for informational purposes.

PROGRAM REVIEW SUBCOMMITTEE

The Oversight Committee will also appoint a Program Review (PR) Subcommittee to evaluate program performance in terms of the educational impact of the discount program..

The Rules for Governance of the PR Subcommittee are as follows:

1. The PR Subcommittee shall be composed of no more than eleven members representing the constituent makeup of the Oversight Committee. Due to the nature of the Subcommittee's work, at least seven of the members should be representatives of the schools and libraries and SED staff.
2. Each SLITSF Participant is responsible for selecting its own representative(s) to serve on the PR Subcommittee. The selection process may be conducted by each Participant's own industry trade organization or through collaborative process by segment members. The Subcommittee shall be in place within 30 days from the establishment of the Oversight Committee.
3. Any SLITSF Participant member is represented on the PR Subcommittee by the individual selected to represent the segment to which the SLITSF Participant belongs.

4. The term of service for PR Subcommittee members is two years. Should a PR Subcommittee member resign before completing the full term of service, the Participant with the vacated seat shall select a replacement PR Subcommittee member to serve the balance of the term.
5. Selection of the PR Subcommittee officials will be held annually. The Subcommittee will select one Chair, one Vice-Chair, one Secretary and such other officers as deemed necessary. Terms of Chair and Vice-Chair will be staggered so Vice-Chair can succeed Chair.
6. During the absence or disability of the Chair, the Vice-Chair shall have all the powers and functions of the Chair. The Vice-Chair shall perform such duties as the Oversight Committee shall prescribe.
7. A majority of the members of the PR Subcommittee shall constitute a quorum for the transaction of business or of any specified item of business.
8. The vote of the majority of the PR Subcommittee members present at the time of the vote, if a quorum is present at such time, shall be the act of the PR Subcommittee. Each PR Subcommittee member present shall have one vote.
9. The PR Subcommittee will meet quarterly in the first year, with the first meeting to be held no later than 30 days following the establishment of the Oversight Committee, and semi-annually in succeeding years of the program.
10. The members of the PR Subcommittee shall be reimbursed for travel and other out of pocket expenses associated with attending PR Subcommittee meetings. Expenses for which a member seeks reimbursement must be deemed reasonable and customary and shall be accompanied by the appropriate supporting documentation (e.g. receipts).

vouchers, etc). The Administrator shall include those expenses as part of the normal SLITSF expense reports.

Responsibilities for PR Subcommittee

1. Determine how many schools and libraries are taking advantage of discount program.
2. Ensure that discount program is coordinated with other state and federal technology programs such as Technology Literacy Program and Electronic Doorway Library Services Program. The PR Subcommittee should encourage all technology programs to include the discounts in their planning.
3. Oversee and evaluate new applications development in terms of their consistency with curriculum standards and assessment system.
4. Monitor the extent to which all instructional planning in the use of technology is consistent with school improvement needs of students.
5. Review availability and effectiveness of professional development programs in terms of their support of instructional and research programs using technology. Both pre- and in-service programs for teachers and librarians should be considered.
6. Determine the number and extent of collaborative relationships among K-12, libraries, colleges, universities, museums, government agencies. The Subcommittee should encourage and assist institutions to make these collaborative arrangements to develop new applications and professional development programs. Changes to discount program administrative structure should be made accordingly to facilitate these arrangements.

7. Review the reinvestment of savings from discounts to determine if they are being applied to the purchase of more advanced telecommunications services, hardware, telecommunications infrastructure, professional development programs, content development, access to advanced information services, and sharing of resources between and among schools and libraries.
8. Within six months of establishment of Committee, develop series of "deliverables" or outcomes for annual evaluation and report of discount programs. Possible deliverables could include: documented learning experiences employing the use of technology across the curricula for research and communications; measurable student outcomes resulting from the use of technology; empirical verification of increased access to telecommunications and information resources by students and citizens; whether more information resources such as databases are available to public; etc.
9. Determine extent to which school libraries are included in planning for, and implementation of, discount program.
10. Determine effects of geographic location, poverty, and high telecommunications costs on the ability of institutions to benefit from the program to the extent they desire.
11. Ensure that institutions are aware of discount program through existing communications channels and other public information means developed and recommended by the Oversight Committee.
12. Provide semi-annual program performance reports to the Oversight Committee and, when appropriate, make recommendations on program changes to the Oversight Committee and the Staff. Copies of all reports and recommendations must go to the Commissioner of Education.

C. SCHOOLS AND LIBRARIES INTRASTATE TELECOMMUNICATIONS SERVICES FUND

1. GENERAL

The Administrator will administer the SLITSF as prescribed by the Commission and directed by the FA Subcommittee, under authority by the Oversight Committee. The operational procedures for the administration of the SLITSF shall be approved by the FA Subcommittee and submitted to the Staff for final authorization.

The Administrator shall advise the FA Subcommittee and Oversight Committee and notify the Commission of any regulated telecommunications carrier that refuses to participate.

2. INTEREXCHANGE OF DATA

The mechanics involved with administering the SLITSF require that telecommunications companies make information available to the Administrator that may be considered proprietary. However sensitive, the exchange of certain data is essential, and as such the Administrator for its part shall use commercially reasonable efforts to maintain the confidentiality of all information it receives from the companies.

Each SLITSF Participant is required to complete all appropriate data requests and submit the responses in a timely manner to the Administrator. Each telecommunications company will provide the Administrator with one company contact who shall be responsible for all communications.

3. GUIDELINES FOR PUBLISHING AND AVAILABILITY OF DATA

The New York Committee for Schools and Libraries recommends that the level of detail to be published is on a "need-to-know" basis only. This guideline is intended to protect the proprietary nature of individual company data. Whereas detailed cost and revenue data must be used by the Administrator to calculate SLITSF settlements, the FA Subcommittee shall have access only to the aggregate data to oversee the management of the fund. Therefore, the monthly reports provided by the Administrator to the FA Subcommittee will be an aggregate of SLITSF revenue and cost data.

The Administrator shall make all SLITSF data request and/or settlement information available only to the Commission and to the auditors to perform an annual audit of the SLITSF. The Administrator will send a detailed monthly report to the PSC Staff. The Administrator will not provide any SLITSF data, aggregate or otherwise, to any other person except as noted above, without the consent of the company(ies) whose data is requested.

4. RETENTION OF RECORDS

The Administrator shall maintain the records it receives from the SLITSF Participants for a period of not less than six years. The records are to be securely stored so as to protect the confidentiality of any and all proprietary data. See "Interexchange of Data" above.

All records and data are to be provided by the Administrator to the Commission and FCC when requested.

5. CERTIFICATION PROCESS

SED will identify to the Administrator and the telecommunications carriers those schools and libraries eligible for discounts and the level of discounts to which those institutions are eligible.

This notification should occur as soon as possible, but no later than thirty days after the issuance of the Order. An annual update, or more frequently if necessary, of eligible institutions will be provided by SED.

6. SERVICES ELIGIBLE FOR DISCOUNTS ("All regulated intrastate telecommunications services")

Examples of Telecommunications Services:

- 1 Message Business (MB)
 - installation (non-recurring charge)
 - usage
 - monthly access fee
- Vertical services/"custom calling" features
- Leased Lines (56K to T3)
 - monthly recurring
 - non-recurring
 - usage
- Integrated Services Digital Network (ISDN) -- basic & primary rate
- Inside wire (where provided by Local Exchange Carrier)
 - maintenance
 - installation
- Video services
 - such as multi-channel video

Asynchronous Digital Subscriber Line (ADSL)

- Asynchronous Transfer Mode (ATM) and Frame Relay
- Internet access
 - Connection to Information Service Provider (ISP) - only loop, local & toll usage
 - Not including any ISP charges

- Intrastate toll services
- Voice messaging
- Wide Area Telephone Service (WATS)/Toll-free service
- Centrex
- WAN/LAN connections (leased/tariffed facilities)
- Wireless
 - access
 - internal connections (leased facilities)

III. REVENUE REPORTING

A. SLITSF REVENUE ASSESSMENT

SLITSF Participants shall assess the SLITSF Surcharge on all regulated retail end-user revenues. The charge shall be an explicit item on customer bills. The SLITSF Surcharge shall be known as the Services Accessibility Surcharge (SAS). Each SLITSF Participant shall report the total assessable SAS revenues, regardless of the amount billed or collected. The amount reported may be reduced only by the historic percentage of uncollectible experienced by the SLITSF Participant.

Companies whose assessable revenues are less than \$10,000 annually shall not bill or remit the SLITSF Surcharge. When the annualized revenue exceeds \$10,000, the company shall file appropriate tariffs to start billing and remitting SLITSF Surcharge revenues. This dollar threshold is designed to reduce excessive administrative expense involved in collection efforts for minimal revenue.

SLITSF Participants whose assessable revenues are between \$10,000 and \$25,000 annually shall remit assessments on a quarterly basis. All other Participants shall submit their assessable revenues monthly.

The Administrator shall file or aid in the filing of necessary tariffs for the SAS. All telecommunications carriers that wish to concur in this tariff shall be able to do so.

B. REPORTING REQUIREMENTS

SLITSF Participants shall provide all requested SLITSF Revenue and Cost data reports on a monthly basis or as otherwise authorized by the Administrator. The Administrator shall distribute a reporting schedule for all data requests. All data request report forms shall be developed by the Administrator and distributed to all SLITSF Participants. The SLITSF Participants shall submit the completed data request forms via the method (E-Mail, Fax or Mail) as approved by the Administrator.

SLITSF shall be implemented 60 - 90 days subsequent to the issuance of the Public Service Commission Order.

During the first month of implementation, Carriers shall bill surcharge on bills mailed on or after the 1st of that month.

Carriers shall remit the first month surcharge revenues to the fund Administrator on the first day of the second month.

Carriers shall begin issuing discounts on bills mailed on or after the first day of the second month. In effect, discounts issued to schools and libraries will lag the surcharge bill by a month.

On the first day of the third month, carriers shall report second month revenues and costs (including, but not limited to, discounts) to the Fund Administrator.

By the tenth (10th) day of the third month the Fund Administrator shall net the reported SAS revenues and costs and issue invoices for amounts due and/or settlement checks to carriers.

IV. TARGETED PROGRAM COSTS

The SLITSF is designed to provide funding to all SLITSF Participants for all Commission-approved costs incurred in the provisioning of the School and Library Discount Program. Any SLITSF Participant that recovers such costs under this plan is considered to be a "SLITSF Recipient", regardless of whether such SLITSF Participant has a positive or negative cash flow with the SLITSF.

V. ADMINISTRATIVE OPERATIONS AND PROCEDURES

A. PROCESSING

1. The Administrator shall maintain schedules for SLITSF Participant reporting (See also Section III. B). In order to assure adequate processing time, monthly data reports are due to the Administrator no later than the first day of the following month. If necessary, the Administrator will contact SLITSF Participants' representatives when data is delinquent. Such contact may include telephone, E-Mail and/or a fax notification.
2. The Administrator shall develop and distribute standardized reporting forms for Monthly Data Requests, Annual True-Ups and any additional data requests as may be deemed necessary. [To be created.]
3. The Administrator shall review preliminary data furnished by all SLITSF Participants for reasonableness and question any irregularities. However, the Administrator may not refuse to accept reasonable data furnished by any SLITSF Participants for preliminary SLITSF Settlement.

4. The Administrator shall determine the SLITSF Settlement on a monthly basis and issue invoices accordingly to all SLITSF Participants. For SLITSF Participants with annual assessable revenues between \$10,000 and \$25,000, the SLITSF Settlement will be on a quarterly basis. For companies with less than \$10,000 see Section III. A. above.
5. In order to issue timely invoices, the Administrator may be required to estimate financial data for any SLITSF Participant that is delinquent in reporting. Should an estimate need to be used, the Administrator shall use the previous months data. The delinquent SLITSF Participant shall be notified as part of the billing invoice when an estimated amount has been used. The delinquent SLITSF Participant is required to accept the estimated financial data for SLITSF Settlement purposes, as they will have the opportunity to correct the data with subsequent reports (either monthly or annually).
6. In general, the SLITSF Settlements will be true-up on an annual basis. For the first year of operation only, the SLITSF True-Up shall be performed semi-annually.

The SLITSF Participants shall report the final annual SLITSF Revenue and SLITSF Cost to the Administrator. When submitting the annual report, SLITSF Participants shall adjust their estimated uncollectible amounts to reflect the actual experience. The Administrator shall true-up the annual settlement figures and apply any over-recovery to the SAS rate development for the following year.

7. The Administrator shall advise the FA Subcommittee of any significant changes in operations (i.e., SAS Revenue, SLITSF Cost, etc.), including circumstances when costs submitted exceeds forecasted revenues.
8. The Administrator shall review requests for SLITSF Settlement adjustments to determine if adjustment is warranted.

9. Each month, the Administrator shall provide monthly SLITSF summary data to the FA Subcommittee and the Staff.
10. No later than three months after close of fiscal year, the Administrator shall provide the SLITSF Settlement report for the prior calendar year to the Commission. The Administrator shall first provide this annual SLITSF Settlement report to the FA Subcommittee for review and approval.
11. The Administrator will have access to all data underlying the reported SAS Revenues and Costs submitted for recovery. The Administrator, when necessary, will perform onsite review of the Participant's SLITSF Revenues and Costs to ensure compliance with SLITSF procedures.

B. BILLING AND COLLECTION

1. The Administrator shall issue monthly invoices to all SLITSF Participants on the tenth day of each month. (See also section IIIB.)
2. Payments due to the SLITSF are "Payable Upon Receipt" and should be received from SLITSF Contributors within ten business days following receipt. Amounts greater than \$1,000 shall be issued in the form of a direct wire deposit to the specified SLITSF bank account established by the Administrator. Payments received after the due date (ten business days) will be assessed late payment charges.
3. Late payments are subject to late payment penalties. The penalty factor shall be the lesser of:

- a. The highest interest rate (in decimal value) which may be levied by law for commercial transactions for the number of days from the first date to and including the last date of the period involved, or
 - b. 0.00059 per day for the number of days from the first date to and including the last date of the period involved.
4. The Administrator shall take all necessary steps to contact a SLITSF Contributor if a payment is delinquent. Such contact may be made by telephone, E-Mail and/or a fax notice being sent to the SLITSF Participant representative.
 5. The Administrator shall inform the FA Subcommittee when a SLITSF Participant is excessively delinquent in remitting payments to the SLITSF.

C. DISBURSEMENTS

1. The Administrator shall plan to disburse SLITSF funds to SLITSF Recipients on the tenth day of each month. (See also section IIIB.)
2. If necessary, the Administrator will use the SLITSF Reserve to ensure timely disbursement of SLITSF payments in the event that a SLITSF Contributor's payment is delinquent. The Administrator shall first notify the FA before committing any Reserve transactions.
3. In the event that the SLITSF Reserve is insufficient to cover delinquent payments from an individual company, disbursements to that company shall be reduced by the amount delinquent.

4. Each month a SLITSF settlement report will be processed. This report is for the internal use of the Administrator and the Staff only. Individual SLITSF Participants will only receive their own SLITSF fund data.
5. In the event of a shortfall in any given year, the Administrator shall report such shortfall to the Oversight Committee for a recommended action and shall implement only such action as directed by the Oversight Committee.

D. OTHER PROCEDURES

1. The Administrator shall maintain a database of all SLITSF Participants, their company contacts/ representatives and their addresses, facsimile, phone numbers, and e-mail addresses.
2. The Administrator shall (a) inform the FA Subcommittee when a new company becomes a SLITSF Participant, (b) indoctrinate the new SLITSF Participants concerning their requirements and obligations to the SLITSF, and (c) review the new SLITSF Participant's initial data request responses to assure compliance with the prescribed procedures and that the responses are reasonable and acceptable.
3. The Administrator shall inform the FA Subcommittee when SLITSF reporting data is not received from SLITSF Participants in accordance with the SLITSF Participant reporting schedule.
4. The Administrator shall furnish any data to the Staff upon request. The Administrator shall inform the SLITSF Participant of such requests except where the data being submitted to Staff is required on a routine basis (e.g., monthly SLITSF Settlements).

5. The Administrator shall summarize forecasted SLITSF data submitted by SLITSF Participants and provide to the FA Subcommittee the estimated annual and monthly settlement information.
6. When a SLITSF Participant requests interpretation of SLITSF procedures the Administrator shall make a recommendation. Any SLITSF Participant which disagrees with the recommendation of the Administrator may refer the matter to the FA Subcommittee for further clarification. If still not satisfied, the SLITSF Participant can take the matter to the Oversight Committee and, eventually, to the Staff.
7. Approval shall be obtained from the SLITSF Participant before providing its settlement data to any other individual, company or industry related organization, with the exception of the Commission and/or Staff.
8. Any mergers and acquisitions that may affect the funding of the SLITSF shall be reported to the Administrator. The SLITSF Participants involved in a merger/acquisition will be responsible for coordinating the dissemination of appropriate data including the appropriate company contact/representative for ongoing SLITSF operations.

E. APPLICATION OF ADMINISTRATIVE FEES

1. Upon completion of the SLITSF funding mechanism planning, the Administrator shall develop a forecasted budget for the administration of the SLITSF on a cost basis only.
2. The expenses incurred for the administration of SLITSF shall be included with other SLITSF Costs in the development of the SAS. These expenses shall include both direct (e.g., direct labor, meetings, bank fees, audits, materials, telephone charges, etc.) and indirect (e.g., labor, rents, wages, miscellaneous office supplies, telephone charges, etc.) allocation of SLITSF administrative expenses as determined by the Administrator.

3. The Administrator shall maintain a record of direct and allocated costs incurred in administering the SLITSF on a monthly basis. A report pertaining to those expenses will be submitted to the FA Subcommittee.

F. ACCOUNTING

1. The Administrator shall maintain a separate bank account for the SLITSF. The Administrator shall process the receipt and disbursement of SLITSF transactions in unique accounts so as to maintain a readily trackable record of the SLITSF operation. An annual audit will be performed for SLITSF accounts.
2. A summary of the monthly SLITSF cash flow shall be provided to the FA Subcommittee. Included with the summary will be a report providing delinquencies of SLITSF payments.

G. COMPETITIVE BIDDING

Schools and libraries shall comply with the existing provisions and procedures of the general Municipal Law requiring competitive bids and contracts. In addition, schools and libraries can take advantage of the general Municipal Law that allows schools and libraries to purchase equipment and services through the competitively bid contracts of the state Office of General Services.

H. POSSIBLE TIME LINE FOR IMPLEMENTATION OF STATE PLAN

PCS Order: Issued on July 1, 1997

9/1/97 Implement SLITSF
 Begin billing surcharge on all appropriate bills issued on or after 9/1/97

10/1/97 Remit September surcharge revenues to the Administrator using forms submitted to the companies. This is the only month the carriers shall remit revenues along with the reporting forms. In subsequent months, carriers shall be billed by the Administrator.

Begin issuing discounts to the schools and libraries for telephone company bills rendered on or after 10/1/97

11/1/97 Report October surcharge revenues and costs (discounts) to the Administrator

11/10/97 Administrator calculates settlements and issues billing invoices and/or settlement checks for net of revenue and costs for October, 1997 data.

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Office of Administrative Hearings
Department of Public Service

CASES 94-C-0095 and 28425

ATTACHMENT B

ATTACHMENT B

ACTIVE PARTIES' COMMENTS
ON THE COMMITTEE PLAN

ALLTEL

- 1) Schools and libraries should submit their full telecommunication bills to the fund administrator to obtain their reimbursed discount, and the LECs should not have to modify their billing systems to accommodate the discount. There should be limited administrative involvement by the LECs.
- 2) All costs for education, outreach and public relations should come out of the fund. Start up and administrative costs such as implementation should be recovered by the carrier from the fund.
- 3) Only telecommunications costs associated with education should be discounted by the plan. Any telecommunications used for administrative applications should be excluded from the discount.

Archdiocese of New York City

- 1) A second seat should be established on the Oversight Committee for nonpublic schools so that its representation is proportional to public school systems.
- 2) The rural nonpublic schools should be eligible for a higher percent discount as they receive no state aid funding.
- 3) Implementation should begin by September 1, 1997.
- 4) Never turn down funds for a school or library because the fund has a shortfall.
- 5) There should not be any "maintenance of effort" program for schools or libraries.

AT&T

Comments

- 1) The size of the fund may be overstated and its estimate is imprecise.
- 2) Universal service funds should be generated through explicit support mechanisms and the Commission should adopt the recommendation to establish a surcharge on the end user's intrastate telephone bill.

- 3) The surcharge should only apply to wireless customers when originating a mobile to land call.
- 4) The New York State Access Pool is a good choice as the administrator or the fund.
- 5) AT&T supports the RTC proposal of implementing the discount between the fund administrator and the schools and libraries.
- 6) There should be an application process that assures that an institution will be using the discounted services for the stated purposes of the discount plan. This application should include an implementation plan.
- 7) The spending cap is necessary and should be extended to a per institution cap.
- 8) The Commission should limit the permissible range of consortia eligible to receive discount prices to curtail the potential for abuse.

Reply Comments

- 1) Since the Joint Board recommended support to both intrastate and interstate services, there is no need for a supplemental state funding plan at this time.
- 2) Services purchased at a discount by schools and libraries should be for educational purposes only and not include administrative activities.
- 3) AT&T agrees with CPB in asking that any state plan sunset after three years.
- 4) Either all CMRS providers, or no CMRS providers should be required to contribute to the fund.

Bell Atlantic NYNEX Mobile, Inc.

BANM submits the same arguments it filed in the TAF proceeding, that the commercial mobile radio service carriers should not be required to impose a surcharge to fund TAF.

Brooklyn Public Library

The Commission should refine the definition of base price to set it at a rate that adjusts the base price to make it comparable to a national average of other RBOC rates, and to make it equal to the cost of the lowest costing equivalent service in the state.

Cable Television & Telecommunications Association of New York

- 1) The state program should be consistent with the federal plan.
- 2) The state program should support Internet services.
- 3) State law allows support of cable modem service and other access services.
- 4) The plan must discount all providers of a service or not discount any providers of that service. Examples wherein the plan discounts only a portion of the providers are: cable modem service (not discounted) as a component of the internet access services marketplace which discounts ISDN access, and regulated (discounted) vs nonregulated (not discounted) inside wire.
- 5) The state and federal programs should be coordinated - specifically the state should time its commencement to coincide with the start of the federal plan, and it must communicate to the schools and libraries the relationship between the plans.

Communications Careers for Latinos

- 1) It is critical that a public relations outreach plan be put in place prior to executing the discount plan and the carriers should bear the costs as they benefit from increased revenues.
- 2) Random audits could be used by the oversight committee to safeguard the integrity of the system.
- 3) The Parent Teachers Association should be included as members of the Oversight Committee.
- 4) NYNEX, IBM, and Time Warner should demonstrate a commitment to serve the technology-poor undeserved institutions if this program is going to advance services to help educate African-Americans and Hispanic Americans.

Consumer Protection Board

- 1) The recommended plan does not reflect the input of representatives from consumers who would fund the discount program.
- 2) The discount structure should not be greater than that needed to ensure affordable service and thus, should include an explicit means test.

- 3) The subsidy should be reduced pending a demonstration that additional ratepayer support is required to guarantee affordable access.
- 4) The program should sunset after three years subject to a new proceeding.
- 5) Prohibit resale of discounted services and require applicants to obtain competitive bids for discounted services.
- 6) Applicants should certify that they have all the necessary equipment and resources to make full use of discounted telecommunication services and that the Commission should conduct random audits to assure that the program is consistent with public interest.
- 7) The surcharge on customer bills must be explicit and not combined with any other surcharge. Additionally, there should be appropriate customer notification in the form of a bill insert explaining the surcharge to consumers.
- 8) Clarify the role of the Oversight Committee and if it has a policy role, the membership should be changed to reflect a balance of the interests between the recipients and the ratepayer.

Consumer Protection Board Reply Comments

- 1) There is no evidence to suggest that there is a need for the carriers to recover Implementation costs. The additional revenue stimulus of \$38 million in the first three years should more than pay for any reasonable billing modification requirements.
- 2) Competitively neutrality requires that all revenue derived from retail intrastate wireless telecommunications services be subject to a surcharge.
- 2) The maximum surcharge should be .50% of total intrastate revenues pending further support information.
- 3) Assure that the plan is competitively neutral by discounting all inside wire or no inside wire.
- 4) Supports NYSTA's call for an audit after the first year and further calls for strong rules to ensure that the funds are being used efficiently.

Empire Association of Long Distance Telephone Companies, Inc.

- 1) To establish state discounts before the interstate discounts have been established by the FCC is premature.
- 2) The Commission's proposal represents an unwise exercise of the power of taxation and the appropriation of tax monies and would be particularly burdensome to business customers.
- 3) The level of the discount is excessive, particularly in light of minimal cost support, and the discount levels are discriminatory.

MCI

- 1) The plan should not create competitive disadvantages as only regulated services are eligible for discounts. This will give LECs competitive advantages over suppliers of similar services e.g. inside wire, voice mail. MCI recommends that any service that is the functional equivalent of an eligible regulated service should qualify for the discount - thus encouraging, rather than eliminating, competition.
- 2) Competitive bids should be required prior to obtaining a discount.
- 3) The discounts should apply only to education related services. School administrative costs should not be eligible for discounts.

Nassau-Suffolk School Boards

- 1) Examine the concept of discounting internal connections such as servers, routers, hubs, and inside wire.
- 2) When evaluating the program special attention should be given to determine if the program should be modified to provide further aid to the high tax, low wealth school districts in the non-Big Five areas.____

New York State School Boards Association

- 1) It is premature to cap the size of the fund.
- 2) The rural school discount should be higher as the BOCES aid formula is a frequent target for revision.
- 3) There should be a school board representative on the Oversight Committee.
- 4) The Oversight Committee should not be allowed to impose any maintenance of effort requirement on schools.

NYNEX

It is imperative that the Commission not take action on the plan until it is consistent with the federal approach.

NYSERNET

- 1) The Oversight Committee should be responsible for monitoring, evaluating, and reporting the impact of the discount program to the Commission. NYSERNET favors strengthening the role of this committee to assure that the program functions effectively.
- 2) NYSERNET disagrees with RTC's dissenting comments that propose shifting the administration of the discount application process from the carrier billing systems to the fund administrator. The RTC proposal does not provide more flexibility, but rather, it is more inefficient and expensive.
- 3) Service providers should not have to be reimbursed for the expense of modifying their billing systems since the service providers are not providing these services at a reduced cost and they will be increasing their sales of services as a result of this program.

New York State Telephone Association

- 1) NYSTA has serious concerns about the discount percentage and the size of the fund. It believes that the fund size should be in the \$40- 50 million range and that the appropriate discounts should be in the 20%-30% range.
- 2) The surcharge should be collected one month prior to discounting services and the telecommunications provider should not be responsible for any shortfalls.
- 3) The cost of carrier billing modification requirements should be recoverable from the fund.
- 4) An outside audit of the plan's activities should be performed after the first year of operation to assure that the plan is operating properly. The report could be used by the Commission to adjust the plan.
- 5) The plan does not, and should not, provide for costs associated with the training of personnel, building modifications and other support functions that will be necessary to make the overall program work. For these

support functions it will be necessary to find other funding sources.

Reply Comments

LECs should be allowed to recover implementation costs.

Rochester Telephone Corporation

- 1) Fund revenues should be derived from an explicit surcharge on end users' bills for regulated intrastate telecommunications services.
- 2) The carriers should not be required to administer the discounts through carrier billing systems. The problems with carrier's administrating the discounts are: school & library bills are often part of a larger institutional bill; three separate rate structures are required, that is, the standard, the 60% discount and the 80% discount.
- 3) Since the goal of the Fund is the provision of advanced telecommunications services to students, teachers and library patrons, discounts should not be granted for "back office" administrative services. Providing across-the-board discounts may only achieve a shift of responsibility from property taxes, which are closely watched by local citizens, to telecommunications taxes that are far less susceptible to local monitoring and cost control.
- 4) A procedure must be established to handle a Fund shortfall. One alternative would be to reduce the discount levels if a shortfall looms. Another would be to halt discounts in event of shortfall. Finally, the surcharge contributions could begin a month or two before any discounts are granted.
- 5) In the event that the Commission orders the carriers to implement the discounts, the carriers' administrative costs associated with these discounts, especially initially, should be recoverable from the Fund.
- 6) A lower percentage discount may be appropriate and both the percent of the discount and the size of the fund deserve further attention.
- 7) As nothing similar to this Plan is in place, the Commission should establish a checkpoint at the end of the first year of the program, and, at that time, solicit the views of all interested parties as to how the program should be changed.

Reply Comments

- 1) Implementation costs should be reimbursed to the LECs.
- 2) There should be a one year checkpoint for the Commission to review the plan - not after three years.
- 3) RTC agrees with CPB that resale should specifically be prohibited.
- 4) RTC takes exception to the Brooklyn Public Libraries proposal for discounting the lowest comparable rate.
- 5) RTC disagrees with the Archdiocese's recommended policy of never turning down a school or library because a fund shortfall.

State Education Department Reply Comments

- 1) The fund size is realistic and based on empirical data.
- 2) It would be inefficient for the schools and libraries to redeem their discount from the Access Pool, as opposed to the carriers modifying their billing systems to apply the discount.
- 3) The program start date should not be delayed.
- 4) Complaints about the taxation aspect of the program should go to Congress and it is counterproductive to criticize the state plan on this issue.

Suffolk BOCES Reply Comments

- 1) Generally supports the plan and opposes changes suggested by parties.
- 2) Carriers should be reimbursed by the fund administrator for the discounts and use their billing systems to bill a discounted rate.
- 3) Carrier implementation costs should not be recovered by the fund.
- 4) All common carrier telecommunications costs should qualify for the discount and "administrative" costs should not be excluded.
- 5) The discount and surcharge levels are reasonable.
- 6) Resale of discounted services must be permitted to consortia associated with schools and libraries, e.g. BOCES.

7) The three year sunset clause would be a major problem for the program and the competitive bidding proposals are unnecessary and burdensome.

Time Warner Communications Holdings, Inc.

Time Warner Communications Holdings, Inc. is concerned that the level of funding identified in the Plan is inflated due to the Committee's reliance on "best guess" estimates of future telecommunications expenditures by schools and libraries. Time Warner suggests that the Committee implement a reality check by comparing the estimates in the Plan with those derived from an analysis of more readily available data on business usage.

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ATTACHMENT C

SCHOOLS AND LIBRARIES DISCOUNT MATRIX		DISCOUNT LEVEL	
HOW DISADVANTAGED?		urban discount (%)	rural discount (%)
% of students eligible for national school lunch program ¹³⁵⁹	(estimated % of US schools in category)		
< 1	3	20	25
1-19	31	40	50
20-34	19	50	60
35-49	15	60	70
50-74	16	80	80
75-100	16	90	90