

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Communications Division
Consumer Programs Branch**

**RESOLUTION T-17314
May 26, 2011**

R E S O L U T I O N

Resolution T-17314 Adopting a Policy that First Deducts Federal Communications Commission's Program Support or Discount from the California Teleconnect Fund Service Charges Incurred by Eligible Non-Profit Community Based Organizations and Rural Health Care Providers Before Computing the California Teleconnect Fund Discount

Summary

This resolution adopts a policy that first deducts Federal Communications Commission's (FCC) program support or discount from the total California Teleconnect Fund (CTF) service charges incurred by qualifying rural health care providers (RHCPs) and non-profit community based organizations (CBOs)¹ before computing the 50% CTF discount on the remaining amount. This policy will become effective no later than 60 days from the date of issuance of this resolution.

Background

I. Decision 96-10-066 – Establishment of CTF Program

In its Universal Service decision (D.) 96-10-066, issued October 25, 1996, the Commission established the CTF, which provides California K-12 schools and libraries with a 50 percent discount on selected telecommunications services.² The CTF also provides discounts for

¹ Non-profit CBOs refer to organizations that offer Head Start, pre-kindergarten, adult education, juvenile justice programs, or other FCC-eligible programs that are also CTF-eligible activities.

² These services include measured business service, switched 56, Integrated Services Digital Network (ISDN), T-1, and DS-3 or their functional equivalents. (D.96-10-066, Appendix B, Rule 8.B.)

selected services to non-profit community based organizations (CBOs)³, and municipally owned health care institutions.

II. FCC's Creation of E-rate Program for Schools and Libraries

On May 7, 1997, subsequent to the issuance of D.96-10-066, the FCC established a new discount program for schools and libraries for both interstate and intrastate telecommunications services (also referred to as "E-rate program"), as part of the Telecommunications Act of 1996 and its Universal Service Report and Order (FCC 97-157). The program, which is administered by the Universal Service Administrative Committee (USAC), was designed to provide affordable telecommunications and Internet access services to all eligible schools and libraries, particularly those in rural and economically disadvantaged areas. The schools and libraries discount matrix that the FCC adopted provides discounts ranging from 20 percent to 90 percent. Eligible schools, school districts, and libraries may apply individually or as part of a consortium.

III. Resolution T-16052 – Commission Approval of Schools and Libraries E-rate Discount Matrix.

In Resolution T-16052, issued June 25, 1997, the Commission approved the schools and libraries discount matrix contained in the FCC Report and Order to enable California K-12 schools and libraries to request federally funded discounts for intrastate telecommunications services under the E-rate program. Resolution T-16052 was not intended to modify the CTF nor extend the CTF discounts to services the Commission did not regulate at that time. The CTF discounts will still be available even with the presence of the E-rate program, although schools and libraries are encouraged to determine which discount program offers them the best solution for their telecommunications needs at the best price.

IV. Resolution T-16118 – Adoption of Policy that CTF Applies after Taking into Account the E-rate Discount

In Resolution T-16118, issued February 4, 1998, the Commission adopted modifications to the discount program for schools and libraries under the CTF in order to realign the CTF with the FCC's E-rate discount program. Schools and libraries should be able to obtain cumulative discounts from both the CTF and the E-rate program for the telecommunications services currently covered under the CTF. Specifically, schools and

³ These are non-profit CBOs with 501(c)(3) or 501(d) IRS tax exempt status that offer job training, job placement, educational instructions, health care, or computer technology programs to the public.

libraries should be eligible for 50 percent rate discount from the CTF for a particular telecommunications service after taking into account the discount obtained from the E-rate program.

V. CTF Administrative Letter 10B – Implementation of Actual or Statewide Average E-rate Discount as a Result of Senate Bill 1102 (Statutes of 2004, Chapter 227)

In 2004, Senate Bill 1102 (Statutes of 2004, Chapter 227) added Section 884.5 to the Public Utilities Code. The section, which became operative on January 1, 2006, included the following provision:

- (b) A teleconnect discount shall be applied after applying the E-rate discount. The Commission shall first apply the E-rate discount, regardless of whether the customer has applied for the E-rate discount or has been approved, if the customer, in the determination of the commission meets the eligibility requirements for the E-rate discount.

Consequently, on June 1, 2006, CD released Administrative Letter No. 10B to implement the above provision. Specifically, Administrative Letter No. 10B requires that CTF participating carriers must first apply the FCC’s actual E-rate discount or Commission’s statewide average E-rate discount prior to applying the CTF discount on CTF-eligible services subscribed to by qualifying schools and libraries.

Thus, schools and libraries without an actual E-rate may receive a lower CTF discount amount compared to its CTF discount prior to SB 1102, because a statewide average E-rate discount developed by the Commission annually is first applied before applying the CTF discount to CTF-eligible services. The schools and libraries can mitigate this potential result by applying for the E-rate discount. The statewide average E-rate discount, however, is used solely for the purpose of computing the CTF discount and is added back to the bill for the customer to pay to its service provider. To illustrate:

A. School or library with an actual E-rate

| | |
|---|--------------|
| CTF-eligible service charge | \$100 |
| Less actual E-rate subsidized by the FCC (80%) | <u>80</u> |
| Difference | \$ 20 |
| Less CTF Discount (50% applied to the difference) | <u>\$ 10</u> |
| Total Cost to School | \$ 10 |

B. School or library without an actual E-rate

| | |
|---|--------------|
| CTF-eligible service charge | \$100 |
| Less Statewide Average E-rate Discount (70%) ⁴ | <u>70</u> |
| Difference | \$ 30 |
| Less CTF Discount (50% of the difference) | <u>\$ 15</u> |
| Total Cost to School (\$15 + \$ 70) | \$ 85 |

Additional FCC Programs that Impact the CTF Program

I. FCC's E-rate for Head Start and Other Programs

The FCC's E-rate discount also applies to non-traditional K-12 students and facilities, such as those that offer Head Start, pre-kindergarten, adult education, and juvenile justice programs. These programs are defined in detail under the California Department of Education (CDE) website.⁵ In particular, the USAC website lists California facilities that are eligible for funding for offering Head Start programs under the following link:

<http://www.usac.org/sl/applicants/step01/non-traditional-K-12/k-12-eligibility-table.aspx>

Currently, some CTF-eligible CBOs offering Head Start, pre-kindergarten, adult education, or juvenile justice programs are receiving 20 percent to 90 percent E-rate discount from the FCC on their monthly recurring costs for the telecommunications and Internet access services that are also CTF-eligible. However, if the E-rate discount is not accounted for in the determination of their CTF discounts, these CBOs may be receiving combined federal and state discounts that are in excess of their costs.

II. FCC's Rural Health Care Program

The Rural Health Care Program (RCP) of the Universal Service Fund provides reduced rates to eligible RHCPs for telecommunications and Internet access services used for the

⁴ The statewide average E-rate discount is updated annually every July 1st is posted at: <http://www.cpuc.ca.gov/PUC/Telco/Public+Programs/CTF/CTFList.htm>

⁵ Please visit the following CDE website for a detailed description of (1) Head Start program at <http://www.cde.ca.gov/sp/cd/re/chssco.asp>; (2) pre-kindergarten or child development program for both public and private service providers at <http://www.cde.ca.gov/sp/cd/op/cefccdevprograms.asp>; (3) adult education program at <http://www.cde.ca.gov/sp/ae/po/>; and (4) juvenile justice schools at <http://www.cde.ca.gov/sp/eo/jc/>.

provision of health care so they pay no more than their urban counterparts for the same or similar services. The program offers discounts on services such as basic telephone service, Internet access and advanced telecommunications services, which are also CTF-eligible services. Today, due to lack of state mandate, carriers do not first apply the RCP support before applying the CTF discount to CTF-eligible services.

DISCUSSION

I. Applying Federal Discount Prior to the CTF Discount in Compliance with PU Code Section 884.5

Section 884.5 (a) of PU Code applies to **all customers** eligible to receive discounts for telecommunications services under the federal Universal Service E-rate program that also apply for discounts on telecommunications services provided through the CTF program. Specifically, Section 884.5(b) provides that a teleconnect discount shall be applied after applying an E-rate discount independent of whether the customer actually applied for the E-rate discount.

However, some carriers do not first apply the E-rate discount prior to applying the CTF discount to those CBOs that are eligible for E-rate. Thus, these CBOs are probably receiving subsidies from both state and federal programs that may exceed their monthly recurring costs for CTF-eligible services.

Therefore, in order to comply with PU Code Section 884.5, leverage the CTF funding, and prevent overpayment of subsidies to CBOs offering qualifying activities eligible for E-rate discount, such as Head Start, pre-kindergarten, adult education, and juvenile justice programs, CD recommends that the Commission reiterate that service providers are to first apply the federal E-rate discount prior to applying the CTF discount. However, in the event that the E-rate eligible CBO does not have an actual E-rate discount, the statewide average E-rate discount will first apply prior to applying the CTF discount on CTF-eligible service charges. To illustrate:

A. CBO offering E-rate and qualifying CTF eligible activities with an actual E-rate

| | |
|---|--------------|
| CTF-eligible service charge | \$100 |
| Less actual E-rate discount (80%) | <u>80</u> |
| Difference | \$ 20 |
| Less CTF discount (50% applied to the difference) | <u>\$ 10</u> |
| Total Cost to CBO | \$ 10 |

B. CBO offering E-rate and CTF qualifying activities without an actual E-rate

| | |
|---|--------------|
| CTF-eligible service charge | \$100 |
| Less Statewide Average Discount (70%) | <u>\$ 70</u> |
| Difference | \$ 30 |
| Less CTF discount (50% applies to the difference) | \$ 15 |
| Total Cost to CBO (\$15 + \$70) | \$ 85 |

II. CTF Discount Policy for Rural Health Care Providers

The RCP of the Universal Service Fund makes discounts available to eligible health care providers for telecommunication services and monthly Internet services charges. The program is intended to ensure that RHCPs pay no more for telecommunications in the provision of health care services than their urban counterparts. While RHCPs apply for these discounts, USAC works in conjunction with service providers to ensure these discounts are passed on to RHCPs program participants.

Currently, there is no Commission order that requires carriers to first apply the FCC's funding support or subsidies before applying the CTF discount to CTF-eligible services subscribed to by eligible rural health care providers. Hence, these entities receive subsidies from both federal and state programs that may cover their telecommunications expense fully or exceed their costs because the FCC funding/subsidy is not taken into account first before calculating the CTF discount. Thus, to resolve the potential overfunding issue and better leverage CTF funding, CD proposes that the Commission prescribe the following policies:

- For RHCP with FCC subsidy – Carriers should first apply the FCC funding/subsidy received by an RHCP before applying the CTF discount on CTF-eligible services.
- For RHCP without FCC subsidy - Carriers should apply the 50 percent CTF discount to the entire CTF-eligible service charges.

CD believes it is appropriate for carriers to apply the 50 percent CTF discount to the entire charges on CTF-eligible services subscribed to by RHCPs that do not receive FCC support because presently, it is infeasible to calculate a statewide average RCP discount similar to schools and libraries' E-rate program given the current complex integration of the different rate/charge elements in the FCC funding discount methodology.

III. All Federal Discounts Must First Apply Prior to Applying the CTF Discount

In the event that other qualifying CTF activities offered by CTF participants become eligible for FCC funding in the future, that funding should be taken into account first before applying the CTF discount. This policy would not only leverage the CTF funding, but also prevent any potential overpayment of subsidies to CTF participants. Additionally, the application of Federal funding discount prior to CTF discount is consistent with PU Code Section 884.5.

Carrier's Implementation of the Policy Set Forth in this Resolution

In order to implement the CTF changes set forth in this resolution, within 30 days from the date of issuance of this resolution, CTF participating carriers that have not detariffed are required to reflect in their tariffs that FCC funding support or subsidy must first apply prior to applying the CTF discount on the charges on CTF-eligible services subscribed to by RHCPs as well as CBOs offering qualifying E-rate and CTF activities, such as Head Start, pre-kindergarten, adult education, or juvenile justice programs. Additionally, carriers that have detariffed are required to reflect such changes in their guidebooks, including Internet posting, within 30 days from the date of issuance of this resolution.

Finally, within 60 days from the date of issuance of this resolution, CTF participating carriers should apply any FCC support or discount prior to applying the discount on CTF-eligible services subscribed to by eligible CBOs and RHCPs.

CONCLUSION

In light of the above discussion, CD believes that its recommendation to apply any federal subsidy prior to applying the CTF discount on CTF-eligible services subscribed to by CTF participants, particularly by CBOs and RHCPs is appropriate and reasonable. Therefore, CD respectfully requests that the Commission adopts this policy.

Comments on Draft Resolution

In compliance with PU Code § 311(g), a notice letter was emailed on April 5, 2011, informing all parties in R.95-01-020/I95-01-021 and R.06-05-028, CTF participating carriers, and member of the CTF Administrative Committee of the availability of the draft resolution for public comments at the Commission website at <http://www.cpuc.ca.gov/static/documents/index.htm>. This letter also informed parties that

the final conformed resolution adopted by the Commission will be posted and will be available at this same website.

Findings of Fact:

1. Decision (D.)96-10-066, issued October 25, 1996, established the California Teleconnect Fund (CTF) that provides 50% discount on selected telecommunications services to qualifying K-12 schools and libraries. The CTF also provides discounts for selected services for non-profit community based organizations and municipally owned health care institutions.
2. On May 7, 1997, the Federal Communications Commission (FCC) established a new discount program for schools and libraries for both interstate and intrastate telecommunications services, referred to as "E-rate program" as part of the Telecommunications Act of 1996 and its Universal Service Report and Order (FCC 97-157).
3. The FCC's E-rate program, which is administered by the Universal Service Administrative Committee (USAC), was designed to provide 20 percent to 90 percent discount on telecommunications and Internet access services to all eligible schools and libraries, particularly those in rural and economically disadvantaged areas.
4. In Resolution T-16052, issued June 25, 1997, the Commission approved the schools and libraries discount matrix contained in the FCC Report and Order 97-157 to enable California K-12 schools and libraries to request federally funded discounts for intrastate telecommunications.
5. In Resolution T-16118, issued February 4, 1998, the Commission adopted modifications to the discount program for schools and libraries under the CTF in order to realign the CTF with the FCC discount program for schools and libraries.
6. Resolution T-16118 provides that schools and libraries should be eligible for 50 percent rate discount from the CTF for a particular telecommunications service after taking into account the discount obtained from the E-rate program.
7. Administrative Letter 10B, dated June 1, 2006, was released pursuant to SB 1102 (Statutes of 2004, Chapter 277), to require that carriers must first apply the actual or statewide average E-rate discount prior to applying the CTF discount on CTF-eligible services subscribed to by schools and libraries.

8. The FCC's USAC website lists California facilities that are eligible for funding for offering Head Start programs at: <http://www.usac.org/sl/applicants/step01/non-traditional-K-12/k-12-eligibility-table.aspx>.
9. The Rural Health Care Program of the FCC's Universal Service Fund provides reduced rates to eligible rural health care providers (RHCPs) for telecommunications and Internet access services so they pay no more than their urban counterparts for the same or similar services.
10. Senate Bill (SB) 1102 (Statutes of 2004, Chapter 227) added Section 884.5 to the Public Utilities (PU) Code, and became operative on January 1, 2006.
11. PU Code Section 884.5(a) applies to all customers eligible to receive discounts for telecommunications services under the federal Universal E-rate program that also apply for discounts on telecommunications services provided through the CTF program.
12. PU Section 884.5(b) provides that a Teleconnect discount shall be applied after applying an E-rate discount independent of whether the customer actually applied for the E-rate discount.
13. The statewide average E-rate discount that was developed and updated annually by the Commission every July 1st applies to schools and libraries, as well as CBOs that offer Head Start, pre-kindergarten, adult education, or juvenile justice programs that do not have an actual E-rate.
14. The statewide average E-rate discount is used solely for the purpose of computing the CTF discount and is added back to the bill for the customer to pay to its service provider.
15. Some CBOs offering Head Start, pre-kindergarten, adult education, or juvenile justice programs as well as RHCPs are probably receiving federal and state funding that may exceed their monthly recurring costs for CTF-eligible services.
16. CTF participating carriers should first take into account the FCC funding/subsidies received by CBOs as well as RHCPs before applying the CTF discount on CTF-eligible service charges to resolve the potential overfunding issue and better leverage CTF funding.

17. The application of FCC support prior to applying the CTF discount on CTF-eligible service charges would not only leverage the CTF funding, but also prevent any potential overpayment of subsidies to CTF participants.
18. CTF participating carriers should apply the 50 percent CTF discount on the entire charges on CTF-eligible services subscribed to by RHCPs that do not receive FCC support.
19. CD believes it is appropriate for carriers to apply the 50 percent CTF discount to the entire CTF-eligible services subscribed to by RHCPs that do not receive FCC funding because presently, it is infeasible to calculate a statewide average RCP discount similar to schools and libraries' E-rate program given the current complex integration of the different rate/charge elements in the FCC funding discount methodology.
20. CD's recommendation to apply any federal subsidy application prior to applying the CTF discount on CTF-eligible services subscribed to by CTF participants is appropriate and reasonable.
21. Within 30 days from the date of issuance of this resolution, CTF participating carriers that have not detariffed should revise their tariffs to reflect that FCC funding support or subsidy must first apply prior to applying the CTF discount on CTF-eligible services subscribed to by CBOs and RHCPs.
22. Within 30 days from the date of issuance of this resolution, CTF participating carriers that have detariffed should reflect on their guidebooks, including Internet posting, that FCC funding support or subsidy must first apply prior to applying the CTF discount on CTF-eligible services subscribed to by CBOs and RHCPs.
23. Within 60 days from the date of issuance of this resolution, CTF participating carriers should apply any FCC support or discount prior to applying the discount on CTF-eligible services subscribed to by CBOs and RHCPs.
24. In the event that other qualifying activities offered by CTF participants become eligible for FCC funding in the future, that funding should be taken into account first before applying the CTF discount.
25. The application of FCC subsidy prior to applying the CTF discount to CTF-eligible services subscribed to by RHCPs and CBOs offering qualifying E-rate and CTF activities, such as Head Start, pre-Kindergarten, adult education, or juvenile justice programs

should become effective no later than 60 days from the date of issuance of this resolution.

IT IS ORDERED THAT:

1. Federal funding or subsidy given to California Teleconnect Fund (CTF) participants for their CTF-eligible services shall first be taken into account prior to applying the CTF discount.
2. CTF participating carriers shall first apply the actual federal E-rate discount prior to applying the CTF discount to Community based organizations (CBOs) that offer Head Start, pre-Kindergarten, adult education, or juvenile justice programs and with an actual E-rate discount.
3. CTF participating carriers shall first apply the statewide average E-rate discount developed and updated annually by the Commission effective July 1st prior to applying the CTF discount if the CBO does not have an actual E-rate.
4. CTF participating carriers shall first apply any FCC support or discount prior to applying the CTF discount to CTF-eligible services subscribed to by RHCPs.
5. CTF participating carriers shall apply the 50 percent discount on the entire charges on CTF-eligible services subscribed to by RHCPs that do not receive any FCC support.
6. Within 30 days from the date of issuance of this resolution, CTF participating carriers that have not detariffed shall reflect in their tariffs that FCC funding or subsidy shall first apply prior to applying the CTF discount on CTF-eligible services subscribed to by CBOs and RHCPs.
7. Within 30 days from the date of issuance of this resolution, CTF participating carriers that have detariffed are required to reflect on their guidebooks, including Internet posting, that FCC funding or subsidy shall first be applied prior to applying the CTF discount on CTF-eligible services subscribed to by CBOs and RHCPs.
8. Within 60 days from the date of issuance of this resolution, CTF participating carriers shall apply any FCC support or discount prior to applying the CTF discount on CTF-eligible services subscribed to by eligible CBOs and RHCPs.

9. In the event that other qualifying activities offered by CTF participants become eligible for FCC funding in the future, that funding shall first be applied prior to applying the CTF discount on CTF-eligible services.