

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

In the Matter of:)
)
Schools and Libraries Universal)
Service Support Mechanism)
)

CC Docket No. 02-06

**COMMENTS ON:
WIRELINE COMPETITION BUREAU SEEKS COMMENT ON A PETITION FILED BY THE STATE E-RATE
COORDINATOR' ALLIANCE SEEKING CLARIFICATION REGARDING THE ELIGIBILITY OF BUNDLED END
USER EQUIPMENT UNDER THE SCHOOLS AND LIBRARIES PROGRAM**

(DA 12-1325, Released August 10, 2012)

Submitted by:
NetDiverse, LLC

September 10, 2012

NetDiverse is a Service Provider. NetDiverse, LLC provides primarily Internet Services and Interconnected VoIP services to clients in the United States.

We submit our comments as follows:

It is clear to NetDiverse, although it seems that it may not be clear to others, that the 2010 Clarification Order uses "cell phones" as an example and that the clarification was NOT specific to only cell phone providers as a subset of the telecommunications industry. It was clear that the order should apply to cell phone companies, ISPs, telecom providers, dark fiber providers, Interconnected VoIP providers or other providers with similar business models providing services in the E-Rate program.

The FCC made it very clear that a service provider MAY offer an iPad or other equipment with the purchase of telecommunications or Internet access services eligible under E-Rate, if such an arrangement IS currently available to the public or a designated class of subscribers. (The FCC stated this a bit differently, but we believe this is a bit more positive way of saying the same thing.) We believe other equipment could include many types of equipment including VoIP telephones, cell phones, wireless data devices, and access points.

However, since there is apparently confusion and question by USAC, applicants and service providers, we agree that further clarification is needed so that applicants are not nervous or concerned that they may lose funding when purchasing from any provider with business models that include discounted or free phones as part of their monthly service.

As background, please understand that some providers include equipment such as cell phones, VoIP phones, data devices, and access points, as marketing tools to entice customers. Other companies, like

NetDiverse, have found that certain devices are easier to maintain and manage on their network. Offering those devices bundled with the services such as Internet Service or Interconnected VoIP actually reduces maintenance and repair expenses enough to offset most of the incremental costs of the hardware. This is why it is standard at NetDiverse for phones to be included with the Interconnected VoIP service. Whether the service is our Basic Service which includes a 1 or 2 line phone, or our Executive level service which includes multiple extensions and a phone with up to 12 lines, the phones are included with the service. Because our service includes standardized high quality phones with the service, we can maintain and ensure the highest quality Interconnected VoIP Service for our clients. We bundle because it makes business sense, not because we just want to market to schools and libraries. Schools and Libraries should be able to take advantage of our exceptional quality due to the service bundles and not be penalized for our bundling.

In addition, because we made this business decision to bundle certain hardware with our service offerings, we no longer allocate costs of the hardware to our business clients as line item pricing. Providing the phones is a cost decision we make which is off-set by lower maintenance costs by keeping standard devices in our network. We would have to step backwards in our product offerings, marketing, billing systems, and accounting systems if we were forced to unbundle our Interconnected VoIP Service Offering.

We agree with SECA that the FCC should further clarify the Clarification Order, but we caution the FCC on SECA's suggested specification for ineligible equipment to be bundled with service and exempted from cost allocation.

Specifically, SECA suggested:

"1) The cost of any end-user equipment provided as part of a bundled service must be considered "ancillary" relative to the cost of the bundle as a whole."

NetDiverse may agree with this suggestion #1, but only if the Bureau provides a specific objective measurement of "ancillary." Such as, "The total cost of an "ancillary" item to a service provider should be less than 20% of the pre-discount contract price (months of contract times monthly price) to an applicant."

"2) The bundled service offering must be deemed a commercially common practice within the industry, not a unique offering of an individual service provider."

NetDiverse disagrees with suggested requirement #2 as it is not practical. What happens if two providers offer similar products? Five? Fifty? Two, but not AT&T? only AT&T? Since the FCC has allowed this type of offering by Cell Phone providers, it is an industry business practice within the telecommunications and Internet space. Offering a phone with VoIP service, or a router with Internet service all seem to be the same practice.

“3) The arrangement must be currently available to the public and not just to a designated class of subscribers.”

Although NetDiverse understands suggested requirement #3 by SECA, we are concerned that since many providers do not offer services to residential clients, or they may have limited footprints, “public” may be too far reaching. However, we believe that it is reasonable to require the offering to be a common offering by the provider to entities that purchase similar services within their service footprint.

“4) The service provider is not permitted to offer a package or packages of equivalent eligible services, without bundled end-user equipment, at a lower price.”

NetDiverse agrees with SECA’s suggested requirement #4 based on the information and arguments we’ve seen to date.

In conclusion, we believe the FCC has been clear on this topic, but since some applicants hesitate to purchase from providers that bundle equipment with their services, we ask that the FCC provide further clarification so applicants can make decisions without the fear of losing funding due to USAC or others interpreting the Clarification Order differently than what seems clear to NetDiverse.

Cordially,

Gary Nieboer
General Manager
NetDiverse, LLC
801-657-5484
gary@netdiverse.com