

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DIVISION OF PUBLIC UTILITIES AND CARRIERS

RULES AND REGULATIONS GOVERNING THE RHODE ISLAND
TELECOMMUNICATIONS EDUCATION ACCESS FUND

Date of Public Notice: March 4, 2005

Date of Public Hearing: April 11, 2005

Effective Date: May 9, 2005

PART I INTRODUCTION

Pursuant to R.I.G.L. § 39-1-61, establishing the Rhode Island Telecommunications Education Access Fund, the Division of Public Utilities and Carriers, pursuant to the mandate contained in Section 39-1-61(d)-(e), hereby promulgates these rules to effectuate the Act of the Rhode Island General Assembly.

PART II DEFINITIONS

SECTION 1. “Department of Education” means the Rhode Island Department of Elementary and Secondary Education.

SECTION 2. “Division” means the Rhode Island Division of Public Utilities and Carriers.

SECTION 3. “Telecommunications Education Access Fund” means the programs and funding made available to qualified libraries and schools to assist in paying the costs of acquiring, installing and using telecommunications technologies to access the internet.

SECTION 4. “Qualified library” means a public library as defined in the Library Services and Technology Act, Public Law No. 104-208, section 211 et seq., 110 Stat 3009 (1996) and must be eligible for assistance from a state library administrative agency under that Act. Only libraries, which have budgets, that are completely separate from any schools (including, but not limited to, elementary and secondary, colleges and universities), shall be eligible to receive support. Libraries operating as a for-profit business shall not be eligible for support.

SECTION 5. “Qualified school” means a public or private school that is eligible for the federal Universal Service (E-Rate) support and meets the definition of “elementary school” or “secondary school” in the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. § 8801). Schools operating as a for-profit business or with endowments exceeding fifty million dollars (\$50,000,000) are not eligible for support.

SECTION 6. “Telecommunications,” for purposes of this program, means the transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received.

SECTION 7. “Telecommunications services provider” means any person, party or entity which provides local telecommunications services.

SECTION 8. “Telecommunications service” means the offering of telecommunications for a fee directly to the public, or to such class of users as to be effectively available directly to the public, regardless of the facilities used.

PART III ASSESSMENT

SECTION 1. Pursuant to R.I.G.L. § 39-1-61(d)(1), a surcharge, in an amount determined by the General Assembly, is to be assessed upon each residence and business telephone access line or trunk in the state, including PBX trunks and centrex equivalent trunks and each service line or trunk, and upon each user interface number or extension number or similarly identifiable line, trunk, or path to or from a digital network.

SECTION 2. Pursuant to R.I.G.L. § 39-1-61(d)(1), the surcharge listed in Part III, Section 1 of these Rules shall not be assessed on state, local and quasi-governmental agencies. For purposes of this Section, state, local and quasi-governmental agencies shall

mean those state departments and agencies and those city and town offices listed in the Rhode Island Government Owner's Manual as published annually by the Rhode Island Secretary of State's Office. The State and quasi-governmental agencies shall be those listed in the section "Rhode Island State Departments and Agencies." The local agencies shall be those departments listed in the section "Rhode Island City and Town Officials."

SECTION 3. Pursuant to R.I.G.L. § 39-1-61(d)(1), commencing January 1, 2004, the surcharge shall be billed by each telecommunications services provider to its retail end users and shall be payable to the telecommunications services provider by the subscriber of the telecommunications services.

SECTION 4. The surcharge shall appear on subscriber bills as "Schools and Library Fund."

SECTION 5. Commencing March 15, 2004, and continuing on the fifteenth calendar day of each month, each telecommunications services provider shall transfer to the Telecommunications Education Access Fund of the Rhode Island Division of Public Utilities and Carriers, the amount collected from its subscribers through the Telecommunications Education Access Fund surcharge during for the month ending forty-five (45) days prior to the month of transfer. Such transfers shall be directed to the Telecommunications Education Access Fund Restricted Receipt Account, Care of Division Clerk, 89 Jefferson Boulevard, Warwick, Rhode Island 02888. The deposits shall then be forwarded to the Assistant to the Chief Accountant of the Division of Public Utilities and Carriers for recordation and deposit into the Telecommunications Education Access Fund Restricted Receipt Account.

SECTION 6. In the event that the General Assembly changes the amount of the surcharge, each telecommunications services provider shall commence billing the new surcharge amount no later than 90 days after the effective date of the General Assembly's act instituting such change.

PART IV ADMINISTRATION

SECTION 1. The Department of Education shall file draft request(s) for proposals ("RFP(s)") for products and services to serve the internet access needs of schools and libraries with the Division for its review to ensure competitive neutrality at least forty-five (45) days prior to its issuance. The Division will review the draft RFP(s) to ensure competitive neutrality.

SECTION 2. The Department of Education shall select the winning bidder in accordance with the RFP(s) approved by the Division. A losing bidder may file an appeal with the Division.

SECTION 3. The Department of Education shall endeavor to obtain all available E-Rate matching funds and is encouraged to seek matching funds from all local, state, and federal public or private entities.

SECTION 4. The Department of Education shall approve disbursements of funds from the Telecommunications Education Access Fund in accordance with the terms of the successful bid(s) to the annual RFP(s) to provide products and services that best serve the internet access needs of schools and libraries.

SECTION 5. The Division will transfer funds from the Telecommunications Education Access Fund at the request of the Department of Education. The Department of Education shall submit an accounting to the Division indicating the identity of the

payee and the dollar amount of the invoices for which the Department of Education is responsible under the statute together with a letter affirming that it is spending the funds from the Telecommunications Education Access Fund in accordance with the requirements of R.I.G.L. § 39-1-61. The Department of Education shall file an accounting of all disbursements from the Telecommunications Education Access Fund with the Division once annually for its review to ensure that the Department of Education's decisions do not favor any competitor.

SECTION 6. The Division shall not transfer funds from the Telecommunications Education Access Fund in excess of the amount accrued in the account at the time the request is made by the Department of Education.

SECTION 7. The Department of Education shall follow all requirements of the federal Universal Service E-Rate program in evaluating bids and selecting products and services.

PART V ELIGIBILITY

SECTION 1. All Qualified Schools and Qualified Libraries shall be eligible for support from the Telecommunications Education Access Fund.