

September 30, 2003

Luly Massaro, Clerk
Public Utilities Commission
89 Jefferson Blvd.
Warwick, RI 02889

Re: Docket No. 3545: Proposed Rules Regarding The Telecommunications Education
Access Fund.

Dear Ms. Massaro:

This letter reflects the comments of RNK, Inc. d/b/a RNK Telecom (“RNK”), a Rhode Island facilities based competitive local exchange carrier, regarding the proposed Rules and Regulations Governing the Rhode Island Telecommunications Access Fund (“Educational Access Fund”) and responses to questions posed by Senior Legal Counsel to carriers during the public hearing in a letter dated September 17, 2003 (“Hearing”). For administrative ease, RNK has combined its comments and responses into one letter.

A. Part III, Section 1: RNK proposes that the Commission make changes to the wording of this Section to clarify exactly what subscribers will be assessed and make the Section more consistent with other provisions of the proposed rules.

1. The Commission should insert the word “active” before the words “residential and business telephone access line...” in Part III, Section 1 of the Proposed Rules. This will prevent a carrier from being assessed a fee for a line that is not in service. For example, a reasonable reading of the current rules could place carriers in the position where they are paying the assessment on lines that have no customers or usage (i.e. a carrier requests and receives a 1000 block of numbers but only assigns a portion of these to customers and even before assignment, has a period of time (6 months) under numbering rules to assign those numbers to customers. Must the carrier pay the assessment for the unassigned numbers?). The Commission must ensure that the fee is based on active circuits only.
2. The Commission should insert the word “subscriber” after the words “residential and business.” Inserting “subscriber” will make the Section more harmonious with Part III, Section 3 where the proposed rules require the “subscriber” to pay the assessment instead of the carrier.¹ The Commission should also insert the words “local exchange Service” before the newly inserted “subscriber” in order to place greater emphasis on precisely what type of residential and business “subscriber” the assessment will be applied to.²

B. Definition of Telecommunications Services Provider: RNK supports using language from the definition section of the Rhode Island E-911 Funding Statute, R.I.G.L. §39-21.1-3(11) (“E-911 Statute”), as a proxy for the intent of the General Assembly. Further, RNK proposes, for the sake of clarity and administrative ease, applying the same assessment standards found in the E-911.

¹ Inserting the word “subscriber” would also address the issue noted above in Section A, 1 by RNK.

² This would also harmonize the definitions with the E-911 Statute, R.I.G.L. § 39-21.1-3, as proposed by the Commission’s Senior Legal Counsel at the Public Hearing on September 17, 2003.

1. In the Absence of Express Direction from the General Assembly the Commission Has the Authority and Duty to Clarify Statute: 39-1-61(c) provides the Commission with the ability to establish “by rule or regulation, an appropriate funding mechanism” to fund the access program. The General Assembly has given the Commission no guidance in defining the relevant parties and their relationships, and, as such, the Commission is free to adopt definitions not inconsistent with the statute. It is reasonable, relying on this broad statutory mandate, for the Commission to adopt clear and concise language from a similar statutory mandate in order to provide guidance for carriers and the citizens of Rhode Island regarding precisely which individuals or entities will be responsible for funding the program.
2. The Statutes Serve Similar Goals: The Educational Access Fund and E-911 statutes serve similar public goals and, as such, it stands to reason that both should require a similar basis from which to assess the fees. Both statutes are intended to provide the citizens of Rhode Island with access to vital services beneficial to the public welfare. In the E-911 statute, the General Assembly provided the Commission with detailed definitions that are absent in the Educational Access Fund. There is no reason why the Commission should not adopt portions of the E-911 statute in discharging its responsibilities regarding this important public necessity.
3. The Commission Should Limit the Assessment to Local Exchange Service Subscribers: RNK supports the oral comments of Verizon’s Counsel at the Hearing on September 17, 2003 regarding assessing the Educational Access Fund surcharge to local exchange customer bills and not long distance customer bills. By assessing the fee to those who receive local exchange service bills the Commission will be reaching the broadest and most identifiable segment of the public who consume telecommunications services. Adopting this methodology, consistent with the E-911 Statute and the Education Funding Statute, the Commission will provide much needed guidance and clarity to carriers regarding on whom they should be assessing the fee. Local exchange carriers already assess the E-911 surcharge to Rhode Island customers, and using similar definitions and assessment criteria for the Educational Access Fund would make the assessment process less problematic for carriers and consumers alike. Finally, it will ensure that customers are not assessed twice simply for making the competitive choice to have two different service providers for long distance and local service.

C. Part III, Section 4: RNK supports the use of a line item charge on customer bills reading “Schools and Library Fund.” This allows customers to easily identify the fact that carriers are not assessing bogus fees to them and also helps consumers to understand where such funds are earmarked. The proposed description is also no different from other separate line items currently found on customer bills.³ However, should the Commission determine this language to be unsatisfactory, RNK proposes the Commission consider utilizing “Educational Access Fund” as an alternative line item. This language conveys the spirit of the legislation while providing consumers with the information they need to assess the veracity of charges appearing on their bills.

³ Rhode Island customer bills have several different identifiable line items appearing on them. For example, a local service invoice in Rhode Island might have federal Universal Service Charge, Telecommunications excise tax, RI sales tax, and RI E-911 line items appearing on the bill. The addition of the proposed line item would be consistent with these currently itemized fees and assessments.

