

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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| In the Matter of |) | File No. EB-04-IH-0342 |
| |) | |
| SBC Communications Inc. |) | Acct. No. 200532080007 |
| |) | |
| |) | FRN No. 0005049150 |

CONSENT DECREE

I. INTRODUCTION

1. The Enforcement Bureau (the “Bureau”) of the Federal Communications Commission (the “Commission” or “FCC”) and SBC Communications Inc. (“SBC”) and its wholly-owned subsidiaries and affiliates, hereby enter into this Consent Decree for the purpose of terminating an Investigation into whether SBC Connecticut complied with universal service support requirements of section 254 of the Communications Act of 1934, as amended (“the Act”),¹ and Part 54 of the Commission’s rules.²

2. For purposes of this Consent Decree, the following definitions shall apply.

- (a) The “Commission” means the Federal Communications Commission and all of its bureaus and offices.
- (b) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
- (c) “SBC” means SBC Communications Inc., and its successors and assigns.
- (d) “SBC Connecticut” means The Southern New England Telephone Company d/b/a SBC Connecticut, a wholly owned subsidiary of SBC.
- (e) “Parties” means SBC and the Bureau.
- (f) “Order” or “Adopting Order” means an order of the FCC adopting the terms of this Consent Decree without change, addition, or modification.
- (g) “Final Order” means an order that is no longer subject to administrative or judicial reconsideration, review, appeal, or stay.
- (h) “Investigation” means the investigation commenced by the Commission in the above-referenced file concerning whether SBC Connecticut violated Part 54 of the Commission’s rules in connection with SBC Connecticut’s receipt of universal service support for New London Public Schools (“NLPS”) projects, which are referenced in SBC’s August 6, 2004

¹ 47 U.S.C. § 254.

² 47 C.F.R. § 54.1 *et. seq.*

and September 13, 2004, responses to Bureau inquiries.³

- (i) “Effective Date” means the date on which the Bureau adopts the Adopting Order.

II. BACKGROUND

3. The “E-Rate” or “Education-Rate” Program is the universal service fund (“USF”) mechanism designed to assist eligible schools and libraries in gaining access to telecommunications and advanced services.⁴ On August 6, 2004, SBC informed the Bureau that, as part of its continuing review of its wholly-owned subsidiaries’ involvement in the E-Rate program, it discovered that SBC Connecticut may have used or received E-Rate funds in a manner inconsistent with the Commission’s rules and orders. More specifically, SBC informed the Bureau that, with respect to the NLPS, SBC Connecticut invoiced the Schools and Libraries Division (“SLD”) of the Universal Service Administrative Company (“USAC”)⁵ in one funding year for services provided in another; that SBC Connecticut invoiced SLD for services it provided to certain schools and other entities for which it had not sought and obtained authorization; and that SBC Connecticut invoiced SLD for services that are not eligible for USF support. SBC Connecticut refunded to SLD the amounts collected in connection with these invoices and withdrew any outstanding invoices.

III. AGREEMENT

4. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement of the Investigation. In express reliance on the covenants and representations contained herein, and to avoid the further expenditure of scarce public resources, the Bureau agrees to terminate the Investigation. In consideration for the termination of the Investigation and in accordance with the terms of this Consent Decree, SBC agrees to the terms, conditions and procedures contained herein.

5. SBC agrees that SBC Connecticut will make a voluntary contribution to the United States Treasury in the amount of five hundred thousand dollars (\$500,000) within ten (10) calendar days from the Effective Date. SBC Connecticut must make this payment by check, wire transfer or money order drawn to the order of the Federal Communications Commission, and the check, wire transfer or money order should refer to “Acct. No. 200532080007” and “FRN No. 0005049150.” If SBC Connecticut makes this payment by check or money order, it must mail the check or money order to: Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois, 60673-7482. Payment by overnight mail may be sent to Bank One/LB 73482, 525 West Monroe, 8th Floor Mailroom, Chicago, IL 60661. Payment by wire transfer may be made to ABA Number 071000013, receiving bank Bank One, and account number 1165259.

6. SBC agrees that within thirty (30) days from the Effective Date, and to ensure SBC’s wholly-owned subsidiaries’ future compliance with the Commission’s rules governing the E-Rate

³ Letters from Christopher Heimann, General Attorney, SBC Telecommunications, Inc., to David Janas, Special Counsel, Investigations & Hearings Division, Enforcement Bureau, Federal Communications Commission, dated August 6, 2004 and September 13, 2004.

⁴ See Part 54, Subpart F, of the Commission’s rules, 47 C.F.R. § 54.500 *et seq.*

⁵ The Commission has designated USAC to administer universal service support under Commission direction and oversight. 47 C.F.R. § 54.701.

program, SBC will institute a Compliance Plan. That plan will include, at a minimum, the following components:

A. Compliance Training Program. SBC shall establish and maintain an E-rate compliance training program for its wholly-owned subsidiaries' employees responsible for sales, account management, and project management relating to E-Rate contracts and services.⁶ This program will include at least the following elements:

- i. SBC shall maintain a training package regarding E-Rate program requirements for its wholly-owned subsidiaries' employees responsible for sales, account management, and project management relating to E-Rate contracts and services. This package shall cover the following subject matter areas: eligible services, competitive bidding, the application process, service provider roles and responsibilities, discounts, the prohibition against free services, service substitutions and equipment transfers, billing SLD for services, and document retention requirements. The training package shall also include a section on the potential ramifications of failing to comply with the E-Rate rules, and a section reminding employees that they are responsible for knowing their obligations under the SBC Code of Business Conduct, which requires employees to comply with all applicable legal and regulatory requirements. The training package shall also remind employees that they are responsible for maintaining the highest level of honesty and integrity, and notifying management if they learn of or suspect that any employee has engaged in any illegal or unethical business conduct related to the E-Rate program.
- ii. SBC shall provide E-Rate training sessions, at least annually, utilizing the foregoing training package for its wholly-owned subsidiaries' employees responsible for sales, account management, and project management relating to E-Rate contracts and services. SBC also will provide the training package to new employees of its wholly-owned subsidiaries that are responsible for sales, account management, and project management functions relating to E-Rate contracts and services within 45 days of being assigned such responsibilities.
- iii. SBC shall update and enhance the foregoing training package regarding the E-Rate rules as appropriate and necessary to reflect the current FCC rules.

B. Regional E-Rate Coordinators. SBC shall cause each of its regional business sales organizations to designate and maintain an employee to act as the E-Rate subject matter expert for that organization. The Regional E-Rate Coordinators shall be responsible for answering day-to-day E-Rate questions posed by employees in their business units and bringing potential violations of the E-Rate rules to the attention of the SBC Legal Department.

⁶ Under this provision, SBC will not be required to provide E-Rate compliance training to employees whose responsibilities do not include any decision making regarding E-Rate contracts and services, and whose involvement in E-Rate projects is limited to performing non-E-Rate specific job functions.

C. E-Rate Oversight Team. SBC shall establish and maintain an E-Rate Oversight Team to provide training and act as a resource for SBC's business units regarding the rules and requirements of the E-Rate Program. The E-Rate Oversight Team shall include representatives of SBC's Regulatory Planning and Policy Group, Regulatory Compliance Group, and Legal Department. The E-Rate Oversight Team will:

- i. act as the central point of contact for documentation and dissemination of E-Rate Program requirements throughout the company;
- ii. monitor changes in the federal E-Rate rules and regulations and ensure that those changes are documented and disseminated appropriately;
- iii. develop and coordinate dissemination of E-Rate training materials;
- iv. serve as a centralized resource for resolving questions and problems relating to SBC's compliance with applicable E-Rate Program rules and regulations; and
- v. work with SBC's Regional E-Rate Coordinators to ensure consistent implementation of the E-Rate rules and regulations across the company.

D. E-Rate Oversight Team Subcommittees. The E-Rate Oversight Team shall establish and maintain inter-disciplinary E-Rate subcommittees, which will be charged with the following responsibilities:

- i. Program Requirements Subcommittee: Outlining E-Rate Program requirements and mapping each to the appropriate organizations and business functions.
- ii. Training Subcommittee: Developing and delivering E-Rate training and updating training material, as needed, to reflect program changes.
- iii. Marketing and Communications Subcommittee: Maintaining the SBC customer and employee E-Rate websites to serve as repositories for E-Rate reference materials.
- iv. Billing and Collections/IT/Invoicing/Accounting Subcommittee: Developing consistent methods of operations for SLD invoicing, tracking and monitoring SLD receivables, account reconciliation, and collections.
- v. Process Standardization Subcommittee: Developing consistent methods and procedures for sales, customer invoicing, SLD escalations, document retention and other issues that might arise.

E. SLD Principal Point of Contact. SBC shall designate an employee with appropriate background and experience in E-Rate matters to act as SBC's principal point of contact with the SLD for questions relating to interpretation of the E-Rate rules, requests for extensions of E-Rate deadlines, and appeals of adverse decisions by SLD. SBC will instruct employees with E-Rate responsibilities that they should route such questions to SBC's principal point of contact with the SLD.

F. Termination. The provisions of this Paragraph 6 shall remain in effect for two (2) years from the Effective Date.

7. The Bureau agrees that, in the absence of new evidence relating to incidents that were not the subject of the Investigation, the Bureau will not use the facts developed in the Investigation, or the existence of this Consent Decree, to institute, on its own motion, any new proceedings, formal or informal, or to take any actions on its own motion against SBC concerning the matters that were the subject of the Investigation. The Bureau also agrees that, in the absence of such new evidence, it will not use the facts developed in the Investigation to institute on its own motion any proceeding, formal or informal, or take any action against SBC with respect to its basic qualifications, including its character qualifications, to be a Commission licensee.

8. Nothing in this Consent Decree shall prevent the Commission or its delegated authority from adjudicating any formal complaint that may be filed pursuant to section 208 of the Act, and to take any action in response to such formal complaint. Except as expressly provided in this Consent Decree, nothing herein shall prevent the Commission or its delegated authority from investigating SBC's compliance with the Act, the Commission's rules, or this Consent Decree.

9. SBC waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or otherwise to challenge or contest the validity of this Consent Decree and the Adopting Order, provided the Bureau issues an Adopting Order without change, addition, or modification.

10. SBC's decision to enter into this Consent Decree is expressly contingent upon issuance of an Order that is consistent with this Consent Decree, and which adopts the Consent Decree without change, addition, or modification.

11. In the event that this Consent Decree is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

12. If either party (or the United States on behalf of the Commission), brings a judicial action to enforce the terms of the Adopting Order, neither SBC nor the Bureau shall contest the validity of this Consent Decree or the Adopting Order, and SBC will waive any statutory right to a trial *de novo*.

13. The parties agree that this Consent Decree is for settlement purposes only and that it does not constitute an admission, denial, adjudication on the merits, or a factual or legal determination regarding any compliance or noncompliance with the requirements of section 254 of the Act or Part 54 of the Commission's rules.

14. Any violation of this Consent Decree or the Adopting Order will constitute a separate violation of a Commission order, entitling the Commission or its delegated authority to exercise any rights and remedies attendant to the enforcement of a Commission order.

15. The Parties agree that if any provision of this Consent Decree conflicts with any subsequent rule or order adopted by the Commission (except an order specifically intended to revise the terms of this Consent Decree to which SBC Connecticut does not consent) that provision will be superseded by such Commission rule or order.

16. This Consent Decree may be signed in counterparts.

FEDERAL COMMUNICATIONS COMMISSION
ENFORCEMENT BUREAU

By: _____
David H. Solomon
Chief, Enforcement Bureau

SBC Communications Inc.

By: _____
James C. Smith
Senior Vice President - FCC
SBC Telecommunications, Inc.