



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

In the Matter of	:	
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Comprehensive Review of Universal Service Fund Management, Administration and Oversight	:	WC Docket No. 05-195
	:	
Federal-State Joint Board on Universal Service	:	CC Docket No. 96-45
	:	
Schools and Libraries Universal Service Support Mechanism	:	CC Docket No. 02-6
	:	
	:	
Rural Health Care Support Mechanism	:	WC Docket No. 02-60
	:	
Lifeline and Link-Up	:	WC Docket No. 03-109
	:	
Changes to the Board of Directors for the National Exchange Carrier Association, Inc.	:	CC Docket No. 97-21
	:	

**REPLY COMMENTS OF THE
STATE E-RATE COORDINATORS ALLIANCE
TO COMMENTS IN RESPONSE TO
THE NOTICE OF PROPOSED RULEMAKING
AND
FURTHER NOTICE OF PROPOSED RULEMAKING**

I. INTRODUCTION

The State E-rate Coordinators Alliance (“SECA”) respectfully submits these Reply Comments in the above referenced proceedings in which SECA focuses on three areas of critical concern. SECA members are comprised of state-level E-rate coordinators in 43 states and/or territories. Members have always been and continue to be the primary providers of E-rate school district and school level applicant training nationwide. In these reply comments, SECA members represent the interests of school district and school applicant community, both urban and rural, from both large and small states/territories.

At the current time, SECA members are devoted to their primary duties to assist school district/schools in successful completion of their E-rate applications inside the funding window. Given that the Eligible Services List (“ESL”) was issued by the Federal Communications Commission (“FCC” or “Commission”) on November 22, 2005 pursuant to Public Notice FCC 05-197, and that the funding window for the July 1, 2006-June 30, 2007, funding window “opened” on December 6, 2005, SECA members are currently actively involved in E-rate Form 470 and 471 applicant training sessions, as well as responding to on-going questions from applicants. In addition, several SECA members themselves complete state or regional consortia applications on behalf of the school districts, schools and libraries in their state. In short, the deadline for filing these Reply Comments occurs in the midst of the FCC Form 471 filing window for the upcoming funding year. These limited reply comments, therefore, are not and should not be perceived as the only issues with which SECA is concerned or interested. With these demands on their time, SECA members have marshaled their resources to prepare reply comments on three critically important issues and will submit more comprehensive reply comments, via the *ex parte* process, after the close of the filing window.

II. PROGRAM ADMINISTRATION

Overall, SECA members noted the general agreement from virtually all commenting parties concerning the benefit of the E-rate program to the nation's schools and libraries. Comments affirmed that the goals of the E-rate program are being realized in providing access to advanced telecommunications services. (*See* Alaska Department of Education and State Library Comments at 10; American Library Association Comments at 2; Education and Library Networks Coalition Comments at 2; Council of Chief State School Officers Comments at 1). Yet despite the success of the program, SECA concurs with the numerous parties' observations that the program has experienced implementation flaws and requires modifications.

A. USAC Should Continue to Serve as the USF Permanent Administrator

SECA affirms its recommendation contained in Initial Comments that the Universal Service Administrative Company ("USAC") should continue to serve as the USF permanent administrator, a position taken by several other parties (American Library Association Comments at 31; Alexicon Telecommunications Consulting Comments at 3; Council of Great City Schools Comments at 3; Kellogg and Sovereign Consulting, LLC, Comments at 2). Numerous parties provided justification that while the current Administrator has not performed perfectly and that modifications are needed, the stability of keeping the current Administrator is justified and outweighs any possible benefits of switching administrators. SECA disagrees with Sprint Nextel that establishing a competitive bid process for the fund administrator will benefit the operation of the program administration (*See* Sprint Nextel Comments at 3). A competitive bid process will inject further uncertainty and possible transition issues regarding the administration of the program, and will undermine any current stability derived from the continuity offered by virtue of having the same administrator in place from year to year. In fact,

in its Initial Comments, USAC re-affirmed its efforts by stating, “USAC has demonstrated a strong commitment to customer service, education and communication.” (*See* USAC Comments at 32). SECA agrees that USAC has sought to fulfill the goals of the program in a responsible and dedicated manner, although there is room and need for improvement.

SECA takes issue with USAC’s assessment that its costs of administering the programs are “extremely low” (*ibid* at 34), because USAC’s cost comparison focused on administrative costs incurred by other governmental and non-governmental agencies. USAC’s analysis fails to consider the substantial administrative costs absorbed by states in sponsoring the participation and activities of SECA members who perform the primary role of training applicants and answering applicant inquiries and sending regular updates and reminders to applicants to insure that they are aware of upcoming E-rate deadlines and other regulatory compliance requirements. The primary training of applicants is performed by SECA members. It must be noted that the states receive no funding from the program or from any federal appropriation for all the work they do to assist their applicants. The E-rate program is unique in that there is no other federal program that benefits schools and libraries and which depends so heavily on the state education agencies without providing any funding for administrative support to the states.

While cost-effectiveness of administering the universal service programs (including E-rate) is certainly an important goal, SECA would prefer that adequate USAC staff would be assigned to process applications, SPIN changes and extension requests on a timely basis – particularly the backlog of E-rate funding year 2005 applications, as at least one other party suggested (*See* Orin Heend and Sara Fitzgerald Comments at 14), ***even if it means that there are less funds available to be committed and distributed to applicants.*** After all, given the amount of funding that remains uncommitted or undistributed from year to year due to a variety of

factors including the long delays in issuing funding commitments, USAC needs to insure it has sufficient personnel resources to complete its work on a more timely basis so that the amounts of funds that remain uncommitted from year to year diminishes as USAC achieves greater efficiencies in performing its work on a more timely basis.

B. The FCC Must Dedicate More Resources and Establish a Streamlined Process for Making Prompt Policy Decisions and Providing More Timely Policy Advice to the USF Administrator

Just as it appears that USAC does not have adequate resources to administer the E-rate program in a timely manner, so too it seems that the Commission has the same problem. SECA continues to advocate for a more streamlined decision-making process at the FCC so that policy decisions do not become bogged down. The late release of the ESL for funding year 2006 (released via the November 22, 2005 Public Notice) exemplifies the difficulty created when decisions from the FCC are delayed, a difficulty noted by other parties (*See* General Communication, Inc. Comments at 27; NASTD Comments at 5). Applicants could not confidently file FCC Form 470 and release any E-rate related Requests for Proposals without knowing the final status of E-rate eligible services. The lack of FCC resources and timeliness aimed at resolving unanswered E-rate policy issues was noted in other comments as well (*See* Kellogg and Sovereign Consulting, LLC, Comments at 2; Greg Weisiger Comments at 7; Missouri Research and Education Network Comments at 6; Orin Heend and Sara Fitzgerald Comments at 14). While it is unknown whether the slow policy response from the FCC is entirely a resource problem, SECA concurs with those comments that encourage closer communications between the Commission and USAC in order to provide guidance to USAC.

In its initial comments, SECA advocated that an advisory panel representing the applicant and service provider communities should be created to provide policy input to the FCC, to

USAC and to the SLD. Given the number of comments that recommended improved communication between the FCC and USAC, we are even more firmly committed to the idea that such an advisory committee of stakeholders is necessary. SECA agrees with comments from the American Association of School Administrators and the Association of Educational Service Agencies and other parties that such an advisory panel should be created (*See AASA/AESA Comments at 3; Los Angeles Unified School District Comments at 22; Wisconsin Department of Public Instruction Comments at 3*).

We also agree with the comments such as those of SBC Communications that prior to new rules and policies being adopted by the FCC, additional dialogue must occur between the FCC and the Administrator *as well as affected parties* (Emphasis added; *See SBC Comments at 5*). Sprint Nextel also reinforced the fact that there needs to be more public vetting of forms and processes before they are released (*See Sprint Nextel Comments at 6*).

Finally, at this time SECA takes issue with a suggestion submitted by Qwest that the Commission should work with Congress to migrate Universal Service programs to other federal agencies (*See Qwest Comments at 10*). The transition and uncertainty arising from such a major shift, as well as lost institutional expertise and knowledge, far outweigh any perceived benefit.

C. USAC Should be Subject to Periodic Performance Reviews

SECA's initial comments provided specific information that should be provided by USAC in order to gauge progress on performance. While not offering as exhaustive a list as did SECA, General Communication, Inc. comments were generally in agreement with SECA by stating that the FCC should track both the average number of days USAC requires to process applications and the total number of applications that remain pending after the school/funding year has begun (*See General Communication, Inc. Comments at 27*). The National Exchange

Carriers Association (“NECA”) recommends that a customer satisfaction survey be administered as one way to measure Administrator performance (*See* NECA Comments at 23). While SECA applauds this additional customer perception measure of USAC performance, it should be used in addition to more objective performance data.

D. The E-Rate Program Requirements Should be Centrally Organized and Maintained

SECA has long urged the Commission and USAC to establish a “one-stop shop” where all E-rate program policies and administrative procedures are located. These policies and procedures must be written in plain English for lay public, not solely for telecommunications attorneys. In addition, SECA has also advocated that the procedures manual long reputed to be in use by Program Integrity Assurance (“PIA”) be disclosed so applicants know the procedures by which their funding applications are being scrutinized. SECA agrees with AASA/AESA that advice to applicants should be readily and accurately given and not left as a mystery (*See* AASA/AESA Comments at 4). Applicants and service providers alike identified that a single, cohesive repository of rules and procedures should be publicly available. (*See* Verizon Comments at 19; Arkansas E-Rate Work Group Comments at 5; Dobson Cellular, Inc. and American Cellular Corporation Comments at 7; E-Rate Service Provider Forum Comments at 2; Hispanic Information and Telecommunications Network, Inc. Comments at 2; On-Tech Consulting, Inc. Comments at 3).

III. SECA DOES NOT SUPPORT A FORMULAIC “ONE SIZE FITS ALL” APPROACH FOR E-RATE.

As noted in its Initial Comments, SECA does not support a formulaic approach to the disbursement of E-rate funds. Conceptually while such an approach may sound attractive, its development, implementation and administration are fraught with complications and many “unknowns.” In reviewing the Initial Comments, it is clear that most commenters share our

concerns from a variety of perspectives. (*See, e.g.*, American Association of School Administrators and Association of Educational Service Agencies at 8; California Department of Education at 9; Chicago Public Schools at 12). For example, there are concerns that developing a formulaic approach may fail to adequately address the needs of schools in rural areas (Arkansas E-Rate Work Group at 7). Another concern is that this approach will make it difficult to ensure that E-rate funds are used for eligible services and it might possibly undermine efforts to deter waste, fraud and abuse in the program (International Society for Technology in Education and the Consortium for School Networking at 14).

When the E-rate program was first established, the economies of scale and sharing of resources made available through consortia were prominently considered and encouraged. In response, many state government networking departments and other regional consortia entities submit consortium applications which often include hundreds of schools and libraries. It is difficult to envision how these types of applications will fit into a formula-based funding model (Missouri Research and Education Network at 15) or if it will even be possible for such state or regional networks to apply for funding.

Rather than moving to a formulaic approach, we believe that major, substantive improvements to the administration of the program can be and should be made within the context of the current funding formula. (Wisconsin Department of Public Instruction at 5; American Library Association at 32). SECA believes that the recommended substantive changes fully described in its Initial Comments will be more beneficial and efficient, and less disruptive and divisive when compared to moving to a wholly different funding distribution model.

It must be noted that even in several instances where commenters have expressed some support for a formulaic approach, they still have concerns about a number of issues including

how to restrict funding to communications-related services and the various services as specified in the 1996 Telecommunications Act (SBC at 3; Verizon at 11).

In conclusion, SECA's consensus position is that it is preferable to have the Commission initiate fundamental and substantive reform of the E-rate program without moving to a possibly disruptive and arbitrary funding formula distribution model.¹ We believe most commenters share our position on this issue.

IV. THE TECHNOLOGY PLAN REQUIREMENTS FOR E-RATE SHOULD NOT BE SEPARATE FROM THE REQUIREMENTS PRESCRIBED IN OTHER FEDERAL PROGRAMS

Independent of the E-rate program, the technology planning process is very important to schools and libraries. SECA appreciates that the FCC is promoting and requiring technology planning. Unfortunately, the FCC is using the technology planning process inappropriately for fiscal accountability even though there are more accurate, authoritative, and timely methods for ensuring that applicants budget for sufficient resources. Using the technology plan as an official budget document, which it is not, is a flawed process and cannot provide the financial accountability that the E-rate program seeks to confirm of applicants. Using the technology plan for purposes for which it was never intended inserts unnecessary requirements and timing restrictions into an already difficult process.

SECA agrees with the position of the West Virginia Department of Education, Office of Technology and Information Systems when it says:

In the matter of technology plan requirements, the E-rate technology planning process timelines do not sync with county school district planning and budgeting cycles. The WVDE proposes that rather than using the technology plan as verification that applicants have budgets to cover their portion of discounted bills and verification that sufficient resources are in place to take

¹ Differing views from individual SECA members will be expressed in individual state comments.

advantage of the requested telecommunications services that the Commission should rely on certifications on the Form 471 for this verification. Existing federal technology planning requirements such as the technology planning requirements of the EETT program should be accepted for this program.

(West Virginia Department of Education Initial Comments at 6). Using the technology plan as verification that applicants will in fact be able to and plan to pay for the undiscounted portion of their bills ignores not only the timing of the budget process, but also who has the authority to make promises about what will be in the budget when it finally is approved. Like state and federal budgets, applicants' budgets may not be approved by governing bodies until well into the E-rate funding year.

Technology plan budgets are usually "ball park figures" and composed by a committee of teachers, administrators, parents, community members, and others. The committee does not have budget authority. They have authority to propose but not to approve. Technology plan budgets tend to keep some realism in the process and prevent technology plans from becoming wish-lists. While administrators may tell the committee to cut the budget in the short-term, they probably will not worry as much about the long term, knowing that much can change over the life of the technology plan, and that final decisions will be made later. When a school board approves a technology plan, they know that the fiscal decisions implicit within a plan will be made later. While technology plan approvers require budgets, there is no requirement that those budgets be followed.

The real decisions to fund technology expenditures are usually made in the annual budget process. Administrators and governing boards look at the plan, look at what money is available, and make decisions. This process is often started before Form 471 application window, but is almost never done by the end of the filing window. Applicants do make other fiscal

commitments in this time frame (e.g. loan payments, long-term contracts, etc.). The Form 471 asks for certification that the undiscounted portion of e-rate services is one of those things that will not be cut from the final budget. This cannot be guaranteed by a technology plan budget; it can be by an authorized administrator.

Almost all of the commenters on this issue had similar views and concerns about the involvement of the FCC in the technology planning process. For example:

American Library Association: “Simply stated, it is our position that the Commission should not be involved in shaping the process of technology planning on the local, regional or state level.” (American Library Association Initial Comments at 12).

Arkansas E-rate Work Group: “AEWG believes that if a technology plan is accepted by the U.S. Department of Education (USDoe) or the U.S. Institute for Museum and Library Services (IMLS), it should also be acceptable for the E-rate program. ...AEWG suggests that although technology plans should provide for sufficient resources, compliance should be certified on the Form 471 rather than the long-range educational technology plan. This compliance could be as simple as a check box stating that the applicant has a technology plan.” (Arkansas E-rate Work Group Initial Comments at 8).

Chicago Public Schools: “Another area in which the Commission can significantly improve the E-rate process is in the realm of technology planning. In particular, the current schedule for technology planning is extremely difficult. USAC’s scheduling and requirements for technology plans were seemingly made with little consultation with the states or familiarity with the processes that underlie meaningful technology planning.” (Chicago Public Schools Initial Comments at 19).

Florida Public Service Commission and the Florida Department of State, State Library and Archives of Florida: “In accordance with these state-level technology initiatives, the Order states that, where plans have been approved for other purposes, those plans will be accepted without the need for further independent approval. The Order states, ‘Furthermore, plans that have been approved for other purposes, e.g., for participation in federal or state programs such as ‘Goals 2000’ and the Technology Literacy Challenge, will be accepted without need for further independent approval.’ Accepting approved technology plans promotes the intent of Congress and avoids duplicative efforts of applicants participating in Federal programs.” (Florida Initial Comments at 9-10).

Miami-Dade County Public Schools: “In accordance with these state-level technology initiatives, the Order states that where plans have been approved for other purposes, those plans will be accepted without the need for further independent approval. M-DCPS believes that accepting technology plans prepared for other purposes promotes the intent of Congress and avoids duplicative efforts of applicants participating in Federal programs.” (Miami-Dade County Public Schools Initial Comments at 16-17)(footnote omitted).

Northeast Iowa Library Service Area: “As stated above, the consortia does not support the requirement of a technology plan for Priority 1 services. For Priority 2 technologies in libraries, state library agencies (state Department of Education for schools) should be the final arbiter of technology plans. Very rarely should any additional follow-up be allowed for e-rate purposes. Currently the SLD tries to use the technology plan to assure that applicants will pay the undiscounted portion of bills and that they have the resources in place to use e-rate discounted services. This is an abysmal failure. By e-rate rules, a three year plan must be developed almost four years prior to its expiration date. Honest planners know that no one can “call” the state of technology a year from now let alone four years in the future. The consortium believes that the addition of the Item 25 certification on the Form 471 has already provided a better way to assure this information.” (Northeast Iowa Library Service Area Initial Comments at 7).

South Carolina K12 School Technology Initiative Partnership: “Compliance to state and local, procurement law, budgetary processes and technology planning should be the responsibility of the state and should be so delegated. Laws and ordinances are in place or could be implemented, to ensure compliance to the requirements of USAC. Certifications should be adequate on the part of state and local government to satisfy desk audit review by USAC as opposed to exchanging bulky copies of documents and meeting artificial deadlines established by the FCC that serve no useful purpose.” (South Carolina K12 School Technology Initiative Partnership Initial Comments at 2).

Wisconsin Department of Public Instruction: “As stated above, the department does not support the requirement of a technology plan for Priority 1 services. For Priority 2, the department supports SECA’s comments on harmonizing technology plans with other federal agencies. We believe that if a technology plan is accepted by the US Department of Education (USDoE) that its acceptance should suffice for other federal programs. ... Currently the SLD tries to use the technology plan to assure that applicants will pay the undiscounted portion of bills and that they have the resources in place to use E-rate discounted services. ... The department believes that addition of the Item 25 certification on the Form 471 has already provided a better way to obtain this information. Specific information about funding and resources is now certified every year by an authorized person on Item 25 of the Form 471. In any streamlined Priority 2 application process, there need be merely a check box

that states the applicant has a technology plan.” (Wisconsin Department of Public Instruction Initial Comments at 9).

SECA also shares the concern of Chicago Public Schools that the E-rate technology planning requirements are having a deleterious effect on the original purpose of technology planning. The Chicago Public Schools comment that:

... [W]e believe it is worth noting that, in recent years, the technology plan has been expanded to meet a variety of requirements imposed by the SLD. As such, these technology plans have essentially lost their original value as a document for strategic planning for using technology to improve education. We believe that the Commission should revisit the requirements of the technology plan in light of the original intent of technology plans, and consider whether the current requirements of the technology plan are truly necessary.

(Chicago Public Schools Initial Comments at 19).

SECA agrees with the need for technology planning and concurs with National Head Start Association who commented that “...the requirement to plan, develop, and implement a technology plan as a condition for receiving the E-rate discount would provide a critical incentive ... to acquire an adequate telecommunications infrastructure to serve their children and staff.” (National Head Start Association Initial Comments at 3). SECA, however, does not believe that technology plans should be used as an accountability mechanism within E-rate. Existing state and federal technology planning requirements, such as the technology planning requirements of the EETT program, should be accepted for this program without modification.

V. CONCLUSION

SECA respectfully requests that the Commission adopt an Order consistent with the recommendations set forth in its Initial Comments submitted on October 18, 2005 and these Reply Comments.

Respectfully submitted,

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