

July 2, 2004

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW, Room TWB-204  
Washington, DC 20554

**Re: Notice of Ex Parte - Schools and Libraries Universal Service Support Mechanism,  
Docket 02-6**

Dear Ms. Dortch:

On June 29 and June 30, 2004, representatives from the State E-rate Coordinators' Alliance (SECA), listed below, met with several Commissioners, their staff, and Bureau staff, also listed below.

**SECA Representatives:**

Della Matthis, Alaska  
Wayne Shimizu, California  
Gary Rawson, Mississippi  
Win Himsworth, New York  
Becky Rains, Arkansas  
Pam Pfitzenmaier, Iowa, and  
Julie Tritt Schell, Pennsylvania

**Met with the following individuals at the Commission:**

Commissioner Coppes and Jennifer Rosenworcel from his office  
Commissioner Abernathy and Matt Brill from her office  
Dan Gonzolas from Commissioner Martin's office  
Commissioner Adelstein and Scott Bergmann from his office  
Chris Berdinelli from Chairman Powell's office, and  
Bill Maher, Narda Jones, Richard Lerner and Jennifer Schneider from the Wireline Competition Bureau.

The purpose of the meetings was to discuss the following issues:

Discount Matrix

SECA members expressed the need to lower the maximum discount for internal connections from 90% to 70%, particularly in light of the recent high profile cases of fraud and program abuses involving internal connections. Members stressed that such a change should be made by the Commission in the next 60 days in order for it to be implemented for the 2005-2006 E-rate Funding Year (Year 8) that has an application cycle beginning in September 2004.

Recovery of Funds

Several issues relating to future recovery of funds were raised:

- 1) The Office of Inspector General's Audit of E-rate criticized the program for not being able to recover funds from applicants that had broken SLD policies as opposed to FCC rules. SECA members expressed their concerns with the Commission simply codifying a list of SLD policies and procedures without a full comment period. Many policies that may be codified and therefore serve as reasons to recover funding from applicants may have unintended consequences that USAC and the Commission had not considered. One clear example is service substitutions that were valid, but never formally submitted in writing of the SLD.

- 2) SECA members expressed concerns that the Commission may decide to recover funds when an auditor finds that an application was approved by the SLD in error. There should be a hold-harmless of applicants for SLD-mistakes; otherwise, when will an applicant ever be able to trust that their funding commitment letter is an actual commitment. In these cases, there should be no recovery of funds after services have begun.
- 3) SECA members strongly urged the Commission to think carefully before enacting a rule that requires the recovery of funds when applicant mistakes are made. E-rate is a complex program with rules, policies and procedures changing from year to year, and SECA believes it would be highly unfair to recover funds when an applicant has made an honest mistake as opposed to committing an act of fraud on the program.

#### Complexities of Program

SECA members expressed to the Commission the growing complexity of the program. The Commission should be constantly mindful in their pursuit to eliminate fraud and abuse that the vast majority of program beneficiaries are honest applicants. These honest applicants will be adversely impacted by more well-meaning rules, policies, forms, and procedures. In fact, in many states, applicants are dropping out of the program due to the sheer number of hours required to keep up with the forms, deadline, rules, and requests.

#### Audits

SECA members became fully aware that there are going to be a myriad of audits coming in the near future. They encouraged the Commission to consider being proactive in addition to punitive. Meaning, they should put more staff at the front-end, pre-commitment stage of the program. The responsibilities of this additional staff should be providing more applicant and service provider outreach, providing written guidance, reaching timely decisions on pending issues, and deciding on pending appeals that affect future decisions and applications.

#### Persistent Delays

SECA members expressed their concerns at the length of time it takes for appeal decisions and general guidance to come from the Commission. Such delays impede USAC's ability to provide guidance to applicants, and cause great hardship for the applicant community as appeals languish for up to 2 years.

#### Technology Plans

During the meeting with Bureau staff, SECA members expressed that the current SLD policies regarding technology plans are out of sync with the real world. For example, no state now requires education technology plans to include such services as voice mail, Centrex, and caller ID, yet this is what the SLD is now requiring of applicants if those services are included on a Form 470 or 471. New SLD policy also was recently created which said that technology plans approved for Title II, Part 2 of No Child Left Behind, are not automatically approved for E-rate. In order to ensure their districts were compliant with the new SLD policies, many states quickly established a technology plan amendment process for applicants to submit a list of E-rate requested services so they would be compliant with the new SLD policy. SECA members strongly encouraged the Commission to return to a sensible policy of technology planning that is left to State Departments of Education professionals.

One electronic copy of this Notice is being submitted to the Secretary of the FCC in accordance with Section 1.1206 of the Commission's rules.

Respectfully submitted,

Gary Rawson  
Chair  
State E-rate Coordinators' Alliance