December 18, 2006

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
455 12th Street, SW, Room TW-A325
Washington, DC 20554

COMMENTS ON E-RATE CENTRAL PETITION FOR CLARIFICATION OR WAIVER OF E-RATE RULES CONCERNING THE DISPOSAL OF EQUIPMENT PURCHASED UNDER THE SCHOOLS AND LIBRARIES UNIVERSAL SERVICE SUPPORT MECHANISM

CC Docket 02-6
DA 06-2371

Dear Ms. Dortch:

The State E-rate Coordinators' Alliance (SECA) submits these comments in response to the Commission's request for comment on E-rate Central's Petition for Clarification of the rules concerning the disposal of E-rate-discounted equipment.

In general, SECA strongly supports the E-rate Central's request for Commission guidance on the process for disposing of antiquated equipment that was originally discounted by E-rate and which no longer has any use. In our meetings with schools from across the country, we see time and time again equipment from 1999 and 2000 that is kept in the basement or warehouse because it can no longer be used, but yet the employees are too afraid to dispose of it for fear of an audit violation.

The only area with which we may take exception to the E-rate Central request relates to points 4 and 5 in their proposed equipment disposal principles. Specifically:

Point 4 states, *"In the event any significant, non de minimis, value (suggested to be $1000 or less) is realized as a result of the disposal process, the applicant should return funds to USAC in proportion to the E-rate support received for the initial purchase."*

SECA understands E-rate Central's attempt to be fair to the Universal Service Fund, but we know of no other technology program, including the federal U.S. Department of Education-sponsored technology funding initiatives, where the disposal of obsolete equipment, even for scrap metal or parts, requires the refund of monies to one of the original sources of funds that were used to purchase the equipment. In many cases, purchase records relating to equipment that was purchased eight or nine years ago (after the five year document retention requirement has expired) may no longer be available, and it may be impossible to ascertain whether the equipment was purchased using E-rate support.
Further, it is unclear how the suggested $1000 de minimis value would be applied: would it apply to the total sale, the FRN, or the individual piece of equipment? Also is the value of the sale the actual sale price of the equipment, or can costs of expenses related to the auction or sale or transfer be subtracted from the actual sale price and thus the true value is realized?

For these reasons, we suggest that this proposed procedure be changed to state that such funds should be returned if required under state or local law and that such state or local law will then define the *de minimus* value threshold.

Moreover, we strongly suspect that the administrative cost of processing any such refunds would far outweigh the value of the funds being returned.

Point 5 states, *"A record of the disposal must be maintained in compliance with the existing E-rate record retention rules."*

SECA again understands the Petitioner's attempt to have a transparent disposal process, but we oppose this proposed procedure for several reasons. First, as we stated above, equipment that is eight or nine years old, or someday will be 15 or 16 years old, has likely no existing documentation that identifies it as E-rate-discounted equipment and therefore complying with this procedure may be overly burdensome and in many cases, nearly impossible.

Second, existing E-rate document retention requirements are for five years from the last date to receive service or from the delivery date of the equipment and, generally speaking, SECA supports those requirements. However, should this proposed principle be implemented, it would essentially set a different timeline for one of the document retention records – a requirement that would be, at a minimum, 10 years, and at a maximum, the entire tenure of the E-rate program itself. We certainly don't believe the Commission wishes to impose a document retention requirement for all antiquated E-rate-discounted equipment for years or decades to come.

For example, if a district disposes of a router eight years after it's installed, are they then required to keep documentation of that disposal for another five years – essentially 13 years from when the equipment was originally installed? SECA believes such a requirement would be overkill and isn't needed to prove that the original equipment was installed and used properly. We also believe that applicants should be bound by the equipment disposal documentation requirements of their state or local statutes or policies.

In closing, SECA greatly appreciates E-rate Central's efforts to obtain clear guidance from the Commission regarding the proper disposal of antiquated E-rate-discounted equipment, as well as the opportunity the Commission has granted us in providing comments on this issue. As previously stated, SECA fully supports the proposed principles, numbers one, two and three, of E-rate Central's original petition.

Respectfully submitted,

Gary Rawson, Chair
State E-rate Coordinators' Alliance (SECA)