



August 10, 2007

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Room TW-A325
Washington, DC 20554

Re: Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6
Comments to Proposed Eligible Services List, Public Notice Released July 27, 2007 (FCC 07-130)

Dear Secretary Dortch:

The State E-rate Coordinators' Alliance (SECA) submits these Comments in accordance with the July 27, 2007 Public Notice (FCC 07-130) which invites interested parties to file comments on the Universal Service Administrative Company's (USAC or Administrator) Proposed Eligible Services List (ESL) for the upcoming E-rate Funding Year 2008. SECA operates without any staff, and accomplishes its work through the resources of its 76 individual members who provide statewide E-rate coordination activities in 43 states and territories. Representatives of SECA typically have daily interactions with E-rate applicants to provide assistance concerning all aspects of the program. SECA provides face-to face E-Rate training for applicants and service providers and serves as intermediaries between the applicant and service provider communities, the Administrator, and the Federal Communications Commission (FCC or Commission). SECA members typically provide more than 1300 hours of E-rate training workshops annually to E-rate applicants and service providers, which does not include the thousands of hours of daily E-rate assistance provided to individual applicants through calls and e-mails.

Further, several members of SECA work for and apply for E-rate on behalf of large, statewide networks and consortia that further Congress' and the FCC's goals of providing universal access to modern telecommunications services to schools and libraries across the nation.

In addition to the roles as State E-rate trainers and coordinators, most SECA members also provide the following services to the program: technology plan approval; applicant verification assistance to the Administrator's Program Integrity Assurance (PIA) Division; verification to the Administrator of applicable state laws confirming eligibility of certain applicant groups; contact of last resort to applicants by the Administrator; and verification point for free/reduced lunch numbers for applicants. Hence, SECA

members are thoroughly familiar with E-Rate regulations, policies and outreach at virtually all levels of the program.

I. Definition of “Basic Telephone Service”

SECA strongly supports the proposed change to treat Centrex service as a basic phone service. As we have commented in previous filings, Centrex service itself has become a hot-button issue for applicants during almost every phase of the E-rate application process. Applicants typically do not explicitly delineate Centrex services on the Form 470 or the Form 471, as most applicants simply classify the service as part of their local phone service. Consequently, because the word “Centrex” has not appeared in the Form 470 application and/or the Item 21 attachment for Form 471, applicants have been denied funding of the service during the invoicing process.

Further, because most applicants are either unaware that their phone service is being provided via Centrex or because they assume that Centrex already is considered a basic phone service, very, very few applicants have specifically itemized this service in their technology plan. Or, if they otherwise were not required to have a technology plan (because the applicants were applying only for E-rate on basic telecommunications services few applicants knew that they had to create a plan just for Centrex service.

SECA is very pleased to support the proposed ESL on this point, and recommends this proposed change be included in the final Eligible Services List. In addition, SECA recommends that this change be effectuated immediately and applied to all pending applications, invoices, technology plan reviews, and appeals of denials.

II. Option of Selecting Either Priority 1 Category of Service

A common reason that funding requests are denied is due to the fact that the applicant selected a certain Priority 1 category of service on the Form 470, but then requested funding under the other category of service on the Form 471. Therefore when the application is being reviewed by PIA, the reviewer cites a 28-day competitive bidding violation because the Form 470 cited did not include the service in the proper category.

We understand the FCC’s requirement that telecommunications services be provided by an eligible telecommunications provider and agree that the proper category of service be selected on the Form 471. But we do not believe it is fair to deny a funding request simply because the applicant listed their T-1 line on the Form 470 under the Internet Access category instead of the Telecommunications category, or because they listed their Internet broadband service under the Telecommunications category by mistake.

To many applicants, there is little distinction between telecommunications services and Internet access and it is often difficult to discern which category to choose. The SLD’s advice, and subsequently State E-

rate Coordinators' advice, to resolve this issue is to list every Priority 1 service in both categories which is just a band-aid to the problem instead of a real solution.

From our discussions with Priority 1 service providers – both large and small – they do not search Form 470s for only one particular category of service. They know that the services they offer are likely to be found in both categories, either on purpose or by mistake. And for those few providers who have only been searching Form 470s in a single category of service, we do not believe it is too much to ask these providers to review both categories of Priority 1 services on Forms 470 in an effort to simplify the 470 filing process and avoid unnecessary competitive bidding denials.

Further, it is becoming increasingly common for telecommunications services and Internet access services to be bundled together under one service offering. For example, the recent addition of cellular data packages including e-mail and internet is eligible, but only if the cellular service is listed on the Telecommunications Service category on the 470 and the data, e-mail and Internet service is listed on the Internet Access category. Then on the Form 471, applicants may bundle all of these services together under the Telecommunications Service category. These bundled packages and the rules governing which portions of the bundle must be requested in which category of service have led to reductions in funding and widespread confusion in the applicant community.

Therefore SECA is requesting that the Commission direct USAC that for the purpose of PIA review, it does not matter which Form 470 category of service is chosen as long as a service is listed in one or the other Priority 1 category. This proposal does *not* affect the requirement that telecommunications services must be provided only by telecommunications common carriers. It will only matter that the service is listed under the proper category on the Form 471, and that telecommunications services are provided by eligible telecommunications providers, consistent with current requirements. To be absolutely clear, SECA is *not* suggesting that the Telecommunications Service and Internet Access categories be combined into one single Priority 1 category of service.

For the purposes of the Final Eligible Services List, we propose to have the introductory portion of the Telecommunications *and* Internet Access sections include the following language: "Although applicants are encouraged to request Priority 1 services in the proper category of service, services filed in either Priority 1 category are acceptable for the purposes of the Form 470." There will be no need to actually change either the Form 470 or the Form 471; only PIA review procedures will need to be amended. And this change can be implemented immediately – even for the FY 2007 applications that are still under review. We also propose deleting the following language in the introductory section of the Telecommunications category: "If Internet access is being requested in the Telecommunications Services category, applicants must indicate that Internet access is being sought when filing FCC Form 470."

SECA believes this minor change will greatly reduce the number of denials due to inadvertent ministerial Form 470 mistakes and would deliver the intended discounts to these affected applicants.

III. Clarification of Web Hosting Eligibility

SECA supports the new proposed language regarding the ineligible features of web hosting services but strongly recommends additional language be included. The proposed language states that funding is limited strictly to provision of web site traffic (bandwidth), provision of disk space for storing applicant provided content, and provision of File Transfer Protocol (FTP) and that software applications, end-user file storage and content editing features are not eligible. We agree these additional features are content-based services which fall outside the purview of basic Internet access and should not be eligible. It is our experience that most independent web hosting companies are application service providers that provide content-based, value added features that far exceed basic web hosting. They are not Internet access providers who are providing disk-space to host the school's website. And as such, only a small portion of their service offering is eligible.

SECA recommends the Commission also include language that was originally included in the FY 2007 Draft Eligible Services List which states, "A cost-effective web hosting service is eligible. Such a service is often included in the cost of basic conduit access to the Internet or, if cost-effective, may be provided at separate cost." This language is important because web hosting companies have marketed service packages to applicants where the ineligible features cost very little, yet the basic web hosting service is very high.

SECA also believes the cost allocation methodology for the ineligible features of web hosting should be clearly addressed and defined. We do not believe that a cost allocation should be based on a straight percentage allocation based on the number of ineligible features, as some have proposed. For example, if a web hosting package included basic web hosting and content editing features, the cost allocation should not be 50%. Rather, a more fair cost allocation would be to look at the total amount of each service offering and use a cost allocation based on the price of the eligible and ineligible features. The cost of the eligible basic web hosting feature would be eligible if it then was deemed cost effective.

We urge the Commission to further address basic web hosting and remove any further ambiguity regarding cost allocation and cost effectiveness.

IV. Defining Internet Access Usage

The draft ESL clarifies that access to distance learning and video conferencing is eligible for funding in the Internet category. SECA questions the appropriateness or need to define what types of services or applications are eligible in the Internet category. We suggest the Commission include in the 2008 ESL the language found in the 2006 ESL (p. 21-22) that said, "Internet Access, regardless of technology

platform, is eligible for discount. Such access may include transport of digital communication using any Internet-based protocols, including encapsulation of data, video, or voice." This language provides much better clarity on how the Internet is used by our schools and avoids making certain uses of the Internet eligible and at the same time potentially denying eligibility of other uses of the Internet (by implication) that may not be explicitly articulated. As the FY 2006 ESL statement declares, IP packets -- regardless of the application -- should be eligible. Deciding what applications or services are eligible, or not eligible, places the FCC in the business of packet discrimination. This approach appears to be fundamentally at odds with the Commission's Policy Statement in *Appropriate Framework for Broadband Access to the Internet over Wireline Facilities*, Docket 02-33, FCC 05-151 (Released September 23, 2005). There, the Commission adopted principles to ensure that broadband IP-services were offered in a neutral manner, which included:

- To encourage broadband deployment and preserve and promote the open and interconnected nature of the public Internet, *consumers are entitled to access the lawful Internet content of their choice.*
- To encourage broadband deployment and preserve and promote the open and interconnected nature of the public Internet, consumers are entitled to run *applications and use services of their choice*, subject to the needs of law enforcement.

Id. at ¶4 (emphasis added). As the Commission itself has acknowledged, IP-based networks are being used for multiple applications. There is no reason why certain applications or uses of an Internet-based network should be eligible for E-rate funding and other such uses not be eligible. All uses of an IP-based network should be eligible for E-rate funding regardless of application. SECA is not, in any manner, advocating for discounts on the actual applications or services, we simply are advocating for discounts on the transport of the IP packets, regardless of the application or service that is contained within those packets.

Respectfully submitted,

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