STATE E-RATE COORDINATORS ALLIANCE

Before the Federal Communications Commission
Washington, DC 20554

In the Matters of	:	
	:	
International Comparison And Survey Requirements In The Broadband Data Improvement Act	:	GN Docket No. 09-47
	:	
	:	
	:	
A National Broadband Plan For Our Future	:	GN Docket No. 09-51
	:	
	:	
Inquiry Concerning The Deployment Of Advanced Telecommunications Capability	:	GN Docket No. 09-137
	:	
	:	
To All Americans In A Reasonable And Timely Fashion	:	
	:	
Schools And Libraries Universal Service Support Mechanism	:	CC Docket No. 02-6
	:	
	:	
Comprehensive Review Of The Universal	:	WC Docket No. 05-195
Service Fund Management, Administration, And Oversight	:	
	:	
	:	
Comment Sought On Broadband Needs In Education, Including Changes To E-Rate Program To Improve Broadband Deployment	:	NPB Public Notice # 15

THE STATE E-RATE COORDINATORS ALLIANCE
REPLY COMMENTS - NPB PUBLIC NOTICE #15

I.   INTRODUCTION

The State E-rate Coordinators' Alliance (SECA) submits these Reply Comments in accordance with the FCC's Public Notice released November 3, 2009 (DA 09-2376) seeking comment on various issues related to broadband access in education, as part of the Federal Communications Commission's ("FCC" or "Commission") development of a national broadband plan. These reply comments address various targeted comment areas related to the Schools and Libraries Universal Service Support Program ("E-rate"). SECA wishes to emphasize the following five themes:

II.   THE E-RATE PROGRAM HAS BEEN SUCCESSFUL IN PROVIDING BROADBAND SERVICE TO SCHOOLS AND LIBRARIES. ANY ACTIONS TAKEN SHOULD ENSURE THAT THE PROGRAM IS IMPROVED AND AT THE VERY LEAST NO HARM IS DONE TO THE EXISTING PROGRAM.

SECA repeats its belief that changes to the program should "do no harm" to existing school and library broadband adoption and services. It was encouraging to see that comments, whether from applicants or service providers, were generally favorable about the results of the program to date. Although noting the importance of maximizing broadband availability, we agree with the comments of EdLinc, National School Boards Association, Council of Great City Schools, AASA/AESA, and Alaska Department of Education, to name a few, that E-rate should not be expanded beyond its current beneficiary base of K12 schools and libraries. There simply is not enough money to fund all of the applicants from the current beneficiary base, and expanding the applicant pool would further exacerbate the existing shortfall.

Changes to the Eligible Services List were proposed by a myriad of commenters. These initial comments, however, were submitted prior to the FCC's release of the Order and Further Notice of Proposed Rulemaking and FY 2010 Eligible Services List in CC Docket No. 02-6, FCC 09-105 (Order released December 2, 2009). Many of the proposed changes to the Eligible Services List submitted in this proceeding are better suited to being considered in response to the Further Notice of Proposed

Rulemaking, and SECA will defer its comments regarding eligible services issues to that proceeding, with one exception.

In its initial comments, AT&T proposed to eventually eliminate voice phone services from the list of E-rate eligible services. SECA strongly disagrees with this approach where broadband support would entirely replace voice phone service support because it would cause harm to many applicants that currently receive substantial voice phone line support from E-rate. Some of the voice line services are provided at broadband speeds and eliminating voice services support could actually undermine the FCC's goal of maximizing broadband deployment. Many applicants use the E-rate savings or reimbursements from voice services to invest in technology equipment, services, and content, as well as eligible equipment that is out of their reach because their discount is not high enough to qualify for P2 funding. Further, distinctions such as "voice" service and "data" service may no longer be relevant as technologies continue to evolve and converge.

One area for improvement to the existing program where there is consensus among commenting parties and that we strongly encourage the FCC to implement is community access to school networks during non-school hours. See, e.g., Comments of National School Boards Association at p. 2; State of Alaska Department of Education at p. 71; Funds for Learning at p. 3. Oregon Department of Education at p. 6, Iowa Department of Education at p. 4, Wisconsin Department of Public Instruction, at pp 2-3. This change does not adversely affect the E-rate fund; it does not require a statutory revision; and complies with the current requirements that supported services be used for educational purposes. Indeed, allowing the community use of these services will increase efficiency of the use of those resources and help achieve the FCC's goal of making broadband available to more citizens.

This is a particular problem for the nation's vocational-technical schools whose missions include providing workforce training and retraining. Although this training is focused on students in high school,

the current economy has made it necessary for vocational-technical schools to take on the additional responsibility of providing evening retraining for certain adults. Although the E-rate program is designed for K-12 education, we believe that adults who are in need should be able to benefit from the evening services provided by the vocational-technical schools during the worst economic downturn since the Great Depression and where there is absolutely no E-rate financial impact.

In addition, we believe that since the entire national adult population can use the E-rate-funded services in a public library, a tiny number of adults who use E-rate funded services after school hours also should be permitted under E-rate rules. We do not believe this seemingly contradictory approach which currently prohibits adults from using schools' E-rate funded services during non-school hours – but allows them to use E-rate funded services at public libraries -- is what the lawmakers had in mind when they created this program.

Further, this modification would simplify the application process because applicants no longer would have to engage in the tedious process of cost allocating the proportionate use of services associated with community use of networks. This cost allocation process has been a big deterrent and obstacle to community access to school networks. Many applicants interpret the FCC rules to prohibit community use of networks under any circumstances. Other applicants interpret the rules to allow for this access but that support for the costs associated with the community access must be excluded from the E-rate funding application. In either case, the current prohibition has served as a financial deterrent to K12 applicants willingly opening up their networks to community usage after hours. This is a problem that the FCC can and should promptly rectify.

III.   DESPITE THE OVERALL SUCCESSES OF THE E-RATE PROGRAM, THE APPLICATION AND REVIEW PROCESS NEED TO BE SIMPLIFIED.

Numerous commenting parties representing both applicants and service providers offered a myriad of suggestions to simplify the E-rate program. Importantly, as E-rate Central noted in its Reply Comments, consortia are an effective means of aggregating demand and facilitating the deployment and availability of broadband, yet the E-rate program contains numerous disincentives that are obstacles to successful consortia participation in E-rate. Letters of agency, form 479s, and delays in funding are just a few of these barriers. For smaller size applicants, the program requirements are so daunting that they decide not to apply at all, because the financial benefits are outweighed by the time commitment and risks of non-compliance findings of ministerial requirement during attestation audits. SECA shares all of these concerns, especially about consortia applications.

SECA has frequently made informal and formal suggestions for improving the E-rate program, from the big picture 10,000 feet in the sky level to the more mundane, online forms submission and processing. Such big picture suggestions include eliminating the form 486 altogether by collecting the information from that form on the form 471; modifying the form 470 to combine telecommunications and Internet access service into one category to make it easier for applicants and service providers alike to procure these services; relying more extensively on state competitive bidding requirements to satisfy the E-rate competitive bidding requirements; streamlining the online application and PIA review process so as to more easily refer back to informational materials that applicants submitted and obtained approved for in prior years, thereby reducing redundant reviews and information requests; coordinating the competitive bid requirements with state bidding requirements; and modifying the way in which Priority 2 funding is allocated so that more applicants have access to this funding. Rather than repeat all of these proposals here, SECA cites to these filed documents as follows:

Ex Parte in CC Docket No. 02-6, 05-195 dated 9/10/2008,
http://fjallfoss.fcc.gov/ecfs/document/view?id=6520066512;

Further Comments on the Administrative Procedures of the Universal Service Administrative Company Schools and Libraries Program dated 3/3/2008, CC Docket No. 02-6, http://fjallfoss.fcc.gov/ecfs/document/view?id=6519861965;

Further Comments on the Administrative Procedures of the Universal Service Administrative Company Schools and Libraries Program dated 11/8/2007, CC Docket No. 02-6, http://fjallfoss.fcc.gov/ecfs/document/view?id=6519861965;

Comments on Audit Resolution Plan, dated 1/5/05, CC Docket No. 02-6, http://fjallfoss.fcc.gov/ecfs/document/view?id=6516886858

Comments on Forms Revisions, dated 3/21/2005, CC Docket No. 02-6,

http://fjallfoss.fcc.gov/ecfs/document/view?id=6517496839

Comments on Comprehensive Review of Universal Service Fund Management, Administration and Oversight, WC Docket No. 05-195, CC Docket No. 02-6, 10/17/2005, http://fjallfoss.fcc.gov/ecfs/document/view?id=6517496839

Replay Comments on Comprehensive Review of Universal Service Fund Management, Administration and Oversight, WC Docket No. 05-195, CC Docket No. 02-6, 10/17/2005, http://fjallfoss.fcc.gov/ecfs/document/view?id=6518190585

And, specifically, SECA incorporates by reference its Ex Parte Comments filed in CC Docket No. 02-6 and WC Docket No. 05-195 dated September 10, 2008.

There are many ways to make regulatory changes to the current program to improve its efficiency and accessibility to all K12 and library beneficiaries without having to resort to legislative changes. SECA encourages the FCC to consider these regulatory changes first.

III.   THE E-RATE FUND HAS REMAINED CAPPED AT $2.25 BILLION WITHOUT ANY ADJUSTMENT FOR INFLATION OR ALLOWING FOR SUPPRESSED DEMAND FOR PRIORITY TWO FUNDS.

There were a number of responses to the issue of raising the cap of $2.25B that were, for the most part, in agreement. SECA joins those voices in favor of increasing the annual funding amount above the $2.25 billion. Specifically, we agree with Funds for Learning in that the very least that could

happen is a cost of living adjustment to account for inflation. But COLA alone will not satisfy the demands

put on the fund since thousands of the "under 80%" discount applicants do not even bother to file for

priority two funding.   We agree with the State of Alaska's comment that the funding cap "will need to be

between 4.5B and 5.0B annually if we are to afford all applicants the broadband connectivity that the

Commission desires and keep available Priority 2 funding for applicants." Also, we agree with

commenting parties that recommend that there be an permanent exemption to the Anti-deficiency Act for

universal service support mechanisms including E-rate, to insure that the funding can continue to flow

seamlessly.

IV.   PRIORITY TWO ELIGIBLE SERVICES SHOULD BE MADE AVAILABLE TO MORE APPLICANTS.

With the exception of Year 2, funding requests for Priority 2 have exceeded the funds available.

Comments reflected the fact that entities just below the P2 funding thresholds are in need of support.

SECA agrees with AASA/AESA in that "we would be willing to address ways to prevent the same 90

percent discount schools from continually going for priority two discounts at the expense of other poor

districts." SECA believes that only good can come from the more reasoned approach that applicants

have "more skin in the game." Applicants would take planning and procurement much more seriously

and stay faithful to the spirit and letter of the law.

SECA strongly believes that adjusting the discount matrix for P2 services for a maximum discount

of 75% is the best approach for making broadband funds available to more schools and libraries. See our

Initial Comments, November 24, 2009 at pages 20-26. We strongly encourage the Commission to

consider adopting this proposal.

V.   COLLABORATION BETWEEN E-RATE AND OTHER USF PROGRAMS SHOULD BE EXAMINED TO DETERMINE HOW ALL PROGRMAMS SUPPORT THE BROADBAND CHALLENGE, WITHOUT DIMINISHING THE FOCUS OF E-RATE.

SECA agrees with the sentiments expressed by the National School Boards Association and State of Alaska which suggested that E-rate could be coordinated with other funding sources to facilitate broadband deployment. Specifically, the E-rate model, which allows customers to determine their bandwidth needs and competitively bid the broadband services that they need, has been successful in matching customer demand with broadband deployment – in those instances where K12 and library customers have been able to access E-rate funding (subject to the limitations of the funding cap and restrictions on availability of P2 funds).   This customer-driven approach allows for the deployment of broadband to be targeted to where there is demand. A similar approach is being utilized in the Rural Health Care Support Mechanism. We believe that this customer driven approach allows for better targeting of support to the deployment of broadband where it is needed, rather than relying on the approach of the High Cost Fund where the support is disbursed to carriers and it is up to the carriers to decide when and where to upgrade their facilities to be broadband capable.

V.   CONCLUSION

SECA requests the FCC to accept the recommendations contained herein as the FCC proceeds to develop the National Broadband Plan.

Respectfully Submitted by:

/s/ Gary Rawson
Gary Rawson, Chair
State E-rate Coordinators' Alliance
Mississippi Department for Information Technology Services
301 North Lamar Street, Suite 508
Jackson, Mississippi 39201
601-359-2613
rawson@its.state.ms.us

December 11, 2009