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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Universal Service Support Distribution Options for Schools, Libraries, and Rural Health Care Providers	)	CC Docket No. 96-45

COMMENTS
OF THE
UNITED STATES TELEPHONE ASSOCIATION

Its Attorneys:

Mary McDermott
Linda Kent
Hance Haney
Keith Townsend

1401 H Street, NW, Suite 600
Washington, D.C. 20554
(202) 326-7248

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SUMMARY

Regarding the distribution of funds, USTA continues to believe that the annual $2.25 billion cap for schools and libraries is sufficient and must be maintained. While a window period or rolling window may be feasible, the Commission should clarify that the first come-first served priority should be triggered by the request for funding. The Commission should ensure that entities within one or even a few states do not receive a disproportionate share of the available funds. There is no need to establish a priority for the first half-year cap of $1 billion. Finally, there is no need to prioritize requests from rural health care providers.

USTA also raises issues related to the E-Rate Implementation Working Group Report. USTA highlights the problems regarding the lack of rules or guidance on the development of consortia and how billing among members should be allocated. Service providers should not be made responsible for verifying or maintaining records regarding the allocation. Application of the discounts should be simple to administer.

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COMMENTS
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UNITED STATES TELEPHONE ASSOCIATION

The United States Telephone Association (USTA) respectfully submits its comments in the above-referenced proceeding. USTA is the principal trade association of the local exchange carrier (LEC) industry. Its members provide over 95 percent of the incumbent LEC-provided access lines in the U.S.

In its September 10, 1997 Public Notice, the Commission asks for comments on four questions it poses regarding the distribution of support to schools, libraries and rural health care providers on a first come-first serve basis. It also asks for comment on the July 31, 1997 "E-Rate Implementation Working Group" proposal regarding a method for allocating support to individual institutions that apply for funds on an aggregated (e.g. statewide or district wide) basis. In its comments, USTA will address both issues.

I. DISTRIBUTION OF SUPPORT.

The Commission asks whether a window period, or a rolling series of window periods, should be established in which all beneficiaries filing within that period would be given equal priority. USTA continues to believe that the annual $2.25 billion cap is sufficient to cover the yearly funding authorization, and believes it is possible that the $250 million trigger point for initiating the rules of priority may not even come into play. However, a methodology in which all applications received within a specified time period or a series of specified time periods would be treated as like priority may be feasible. It should be recognized though that any methodology involving a window or series of windows could still potentially affect some schools and libraries if the rules of priority should become necessary. Presumably, all schools and libraries filing applications within the affected window in which the trigger point is reached would be treated as a class to determine the order of priority among themselves.

The Commission should clarify, however, which contact with the Fund Administrator actually triggers the first come-first serve priority. USTA believes the only appropriate time for determining the first come-first serve order is when the school or library requests funding authorization, not when the school or library submits a service application for posting on the website. The service application request and website posting do not initiate funding, but instead serve as the signal to service providers to begin bidding. When submitting the service application, neither the school, library, the Administrator, nor the potential service providers know the amount of universal service funding which will be required. Further, a school or library submitting a service application may change its mind and elect not to enter into a service contract with any potential provider. It is only after the selection of the winning bidder(s) and subsequent submission of a funding authorization request by the school or library that the administrator can set aside the appropriate amount to be associated with the particular school or library's request for service and determine the appropriate reimbursement for the service provider.

Basing the first come-first serve determination on the time of funding authorization will, in and of itself, facilitate the determination of priority and could reduce the potential for a "gold rush", since the school and library evaluations of service provider bids will vary in length of time. Some schools and libraries will choose to evaluate bids and subsequently select winning service providers immediately after the 28 day waiting period, while others will choose to take more time in their evaluations and selections.

The Commission also seeks comment on the necessity of applying rules of priority to the first $1.0 billion cap. There is no need for the Commission to apply such a mechanism. Funding authority for 1998 is authorized for the entire funding year, so additional funds will be forthcoming within that calendar year up to the $2.25 billion annual cap. Since additional funds will be available within the funding year, to apply a mid-year priority trigger mechanism would have little value, and would create unnecessary administrative problems and complexity.

The Commission asks for comment on whether a mechanism to prioritize requests from rural health care providers is necessary. USTA believes there is no need to develop rules of priority for the $400 million annual cap on universal service funds for rural health care. First, there is no method or even a requirement to distinguish among eligible rural health care providers as to which should receive priority. The Telecommunications Act provides for eligible rural health care providers to receive rates comparable to urban health care providers, rather than to receive discounts as in the case of schools and libraries. The Commission accomplishes this through its formula for calculating the difference between rural and urban rates, if any exists.

In addition, the Commission has already built into its universal service health care methodology a balanced mechanism to allocate funds among eligible health care providers. The Commission's determination of an annual $400 million cap is based on calculating deployment of a telecommunications service up to the value of a 1.544 Mbps capacity to each eligible rural health care provider location. In this regard, USTA again asks the Commission to clarify that total universal service support for a rural health care provider is capped on a per location basis at the amount of support that would be associated with the purchase of a single service with a bandwidth capacity of 1.544 Mbps. In applying this methodology and individual cap, the Commission is allowing equitable distribution of universal service benefits among all eligible rural health care providers. There is no need for creating additional rules of priority.[1]

The Commission requests comment on whether other methods might ensure a broad and fair distribution of funds. Under the current first come-first serve methodology, the possibility exists for one or a few states to quickly withdraw a disproportionate share of the available support for schools and libraries before eligible entities in other states are able to apply. USTA believes that instituting a mechanism to ensure that entities within one or a few states do not receive an extraordinary or disproportionate portion of the available funds, to the detriment of entities in other states, would help ensure equity of universal service support and meet the goals of the Telecommunications Act.

The Commission should consider a methodology based on an allocation of funding authorization as a trigger mechanism. One possible methodology would create a cap on funding

[1]On a related matter, USTA requests that the Commission clarify that existing service contracts with rural health care providers are to be provided universal service benefits.

authorization for all entities collectively within any one state at a pre-designated percentage of the total authorization (e.g., eight percent of the $2.25 billion for 1998). When requests for funding authorization from eligible entities within any state reach or exceed eight percent of the total funding authorization within a calendar year, either the rules of priority could then apply among all entities receiving or requesting funds within that particular state, and/or future requests from entities within that state could be placed "on hold" for prioritization after funding requests from entities in other states are processed. This would leave funding support available for entities from other states without entities in one or a few states draining the available funds before entities in other states are able to apply. However, if available funds remain after a specified annual calendar date selected by the Commission, those entities currently "on hold" could again be eligible to receive funding authorization above the eight percent cap.

II. E-RATE IMPLEMENTATION WORKING GROUP REPORT.

USTA addresses issues associated with the E-Rate Implementation Working Group Report. The Working Group's Report does not define how discounts should work for many applicants. The discount matrix in the Order defines how discounts are determined for individual schools or libraries. Section 54.505 (b)(1) of the rules further defines how multiple schools in school districts are to determine what their consolidated discount should be. However, the rules do not specify how the supplemental discount increments for rural schools are treated if there is a rural and urban mix of schools in an aggregated request for services. In addition, there are no rules for aggregating multiple schools in multiple districts. Section 54.505 (b)(2) further defines how multiple libraries may determine what the appropriate discount is to apply. Again, there are no rules for combining schools and libraries into a consortia. Moreover, the mathematical arrangements for determining discounts for multiple schools and determining discounts for multiple libraries differ so as to prevent any averaged or weighted calculation. That is, discounts for multiple schools are a table look-up based upon population of students. Discounts for multiple libraries are a simple average of the libraries.

The Working Group's Report recognizes some of these problems. The Report also notes that any rules for determining discounts "should strive to ensure" that individual schools and libraries receive the full benefit of the discounts that they are entitled. Such language is also expressed in paragraphs 523 and 524 of the Order. However, the Working Group's proposed methodologies for determining discounts do not address the various combinations of aggregated purchasing as consortia which will occur -- and, thus, leaves unresolved the same mathematical issues for determining the discount under a variety of common arrangements.

To address this problem, the Commission should develop rules which allow for a simple and consistent determination of a discount for the various permutations of applicant types. Certainly the nation's 108,000 schools and 16,000 libraries will be ordering services under the plan in a variety of applicant arrangements. For example, schools may apply for services where the schools' governance authority may be described as any of the following mix of schools: single school; multiple schools, same school district, all urban or rural schools; multiple schools, same school district, mix of urban and rural schools; multiple schools, multiple districts, all urban or rural schools; and, multiple schools, multiple districts, mix of urban and rural schools.

In addition, it will not be uncommon for libraries in the community to seek to share certain services with the school(s) to provide the most economical arrangements. Thus, each of the above school combinations may also partner with these combinations of libraries in aggregated purchases: no library; single library; multiple libraries, single school district; and, multiple libraries, multiple school districts.

Mathematically, this yields 23 distinct combinations for which rules for determination of discounts must apply. It would appear that the Commission rules as currently written can only determine five combinations: single school; multiple schools, same district, all urban or rural schools; single library; multiple libraries, single school district; and, multiple libraries, multiple school districts. The Working Group's Report proposes rules which resolve three additional combinations, all for multiple schools, but complicates matters by proposing three different methods of calculating the discount: population weighting, distribution of networked computers, and simple averages.

The Working Group's Report seems to confuse the rules for determining aggregated discount rates and the rules for allocating bills from the consortia to its member participants. The Commission has determined that the rules for determining discounts will be based on two factors, poverty rates and geography (rural/urban). The Commission has not and should not specifically define how schools' and libraries' governance authorities should determine how to allocate bills among their member participants. In that regard both the Order and the Working Group Report have stressed that applicants should strive to ensure that the benefits of the discounts accrue to the individual schools. Thus, governance authorities should be free to determine how best to accomplish that requirement in negotiations with their member participants. That allocation may be determined on estimated usage, actual usage, percentage of students, percentage of buildings/ classrooms served, percentage of networked computers, percentage of students in poverty, etc. The allocation determination might be different for one service (e.g., a usage-based service) as opposed to another service (e.g., a flat-rated service) dependent on many factors. Those negotiated percentage allocations may also change with each monthly billing, or quarterly or annually depending upon what the schools' and libraries' governance authority might decide.[2]

Moreover, any method chosen by the schools' and libraries' governance authority to allocate billing may or may not result in the allocation of different percentage discounts for each of its member participants. However, the schools' and libraries' governance authority has the discretion to negotiate arrangements which might distribute discounts to schools in much the same manner as the discount tables entitle. An example of this is attached as Table 2.

The Commission should focus on developing rules which provide schools and libraries and the Fund Administrator a single consistent methodology to determinate discounts for any combination of schools, libraries, districts in urban or rural geography. The methodology selected should be verifiable and auditable to prevent gaming. While any rules may require mathematical calculations to weight poverty rates and rural geography, the work papers should be simple to apply, regardless of the complexity of the consortia, and should must allow for schools and libraries to participate together in a consortia. The Working Group Report instead states that several different methods of calculating discounts are possible and that the consortia may adopt whichever method it chooses, even though the calculations may present different

[2]It may be that multiple schools in a single school district will be a common applicant arrangement. It is common that school district budgeting accountability for telecommunications services is not extended to individual schools, but rendered at the district level.

discount rates.

A suggested methodology for rules for combinations of schools would use existing discount matrices and improve upon the weighting factors to encompass rural geography (see attached table). Thus if schools combine as an applicant, regardless of whether they are in single or multiple districts, the appropriate discount from the discount matrix could be weighted by percentage student population of each school. The Commission's discount matrix has already accounted for the poverty rates and the geography.

Similarly, if multiple schools in different districts were aggregating purchases as part of a consortia, weighting of the discounts by population of each school would be appropriate. Again, the Commission's discount matrix has already accounted for the poverty rates and the geography.

Rules to determine library discounts need not change. It is important to note, however, that the Commission decided that the library discounts were determined by the poverty rates and the geography of the school district that the library served. As noted above, it is not clear how to develop discounts for a library participating in a consortia which might include one or more schools. However, if libraries wish to join in a consortia with schools, as multiple library members, they could adopt (or receive) the discount percentage, of the school consortium. Such an example is provided in Table 1. That proposal does not preclude the schools' and libraries' governance authority from negotiating allocation rules which might flow discounts to libraries that are more representative of the schools they serve. (see Table 2).

While this resolves the problem of assigning discounts to consortia of schools and libraries, the potential exists that a library may attempt to join a consortia outside of its school district or community to obtain greater discounts. The Commission may wish to consider an additional requirement that if libraries are joining a consortia with other schools, it should be a consortia which includes either its local school district(s) or, in the event that such school district(s) elect not to participate in a consortia, a consortia within some reasonable geographic range.

Consortia can develop work papers which allocate billing from service providers to individual schools and libraries based on negotiated arrangements which still ensure that individual schools and libraries receive the benefits of their full discounts. Table 2 uses the data from the previous example and presents a sample arrangement of a schools and libraries consortia which allocates billing from a service provider to its members based upon some internally negotiated measure of appropriate usage and provides each school and library with the appropriate discount it is entitled. Such work papers need not be presented to the Fund Administrator for approval, nor to providers for billing. They would be used to determine how a centralized schools' and libraries' governance authority could assign a bill from a provider. The work papers should be verifiable and publicly available. Other methods of determining allocation of the bill are possible based upon the needs and requirements of consortium members.

Service providers to a consortia should not be required to verify and maintain records regarding the allocation of costs of shared facilities. As is shown with the above example, the method of allocation of shared facilities is primarily a function of the schools' and libraries' governance unit resulting from its negotiations with its members on some measure of allocable usage of the shared facility. The provider may not be involved in these negotiations. Thus, the service provider record keeping requirements of consortia billing allocation as specified in Section 54.601 (b)(4) are unnecessary and should be eliminated to allow for maximum flexibility on the part of consortia to develop allocation formulae.

For each application for funding support from a consortia, a single discount percentage could apply. A single bill from a single provider could receive a single, unique discount for all services provided. Service providers will issue bills for services directly to a schools' and libraries' governance unit with the appropriate discount applied. For those services that can be directly attributed to individual schools or libraries, the discount level for that school or library should be directly applied to that service only if the school or library is considered the governance authority and bills are rendered to it. Otherwise, that school or library is part of a larger governance unit and the district or consortia should prepare an application for funding based upon the composite of schools and libraries requesting services. The burden of ensuring that each school or library receives the benefit of the discount is the responsibility of the schools' and libraries' governance authority.

The Working Group's Report instead suggests that a single application for funding support might include several different discounts for services which are directly allocable to multiple schools and libraries and also include discounts for services which are shared or common to multiple schools, for which cost allocation must be determined. This process overly complicates the requirements of the Fund Administrator and taxes the billing requirements of service providers. Each request for funding for services from a service provider should be entitled to its unique discount. The schools' and libraries' governance authority, upon approval, is required to devise a method of allocation that ensures that discounts are allocated to schools and libraries as they are entitled.[3]

The Working Group's method of calculating discounts is dependent upon data which is not commonly known by the Fund Administrator and can be subject to changes which can alter discount percentages as often as monthly. The Working Group's Report suggests that discounts can be determined by any rational cost-allocation method including such items as distribution of networked computers or other formulae. As explained above, the Working Group is confusing determination of discounts with allocation of bills to member participants.

Selecting any rational "cost-allocation" method to determine discounts means that data may be used which is not commonly known to the Fund Administrator. This will make it difficult for the Administrator to verify the data. Moreover, the Working Group's Report suggests that if differences in actual and projected distributions in services occurs, the applicants may file amended funding requests to receive greater discounts. Such flexibility will only encourage gaming to maximize discounts for the consortia.

Discount rates for consortia should only be changed upon annual recertification to the Fund Administrator. As expressed above, the discount rates that are calculated for a consortia might change frequently for a variety of reasons. Members may be added or subtracted from a consortia on a regular basis. Percentages of children participating in the free and reduced lunch

[3]For example, assume that the consortia in the previous example wishes to order a single hub for the consortia and 13 routers, one for each school and library. The consortia would receive a 65% discount on its total purchases and would devise a method of allocation which attributed the correct discounts to each school or library for its unique router and determined some shared assignment of costs for the hub. In the alternative, each school or library may have submitted its own request for funding support for the router and the consortia submitted the request for the hub. Both methods correctly allocate discounts to the respective schools and libraries.

program are altered by schools annually but are not usually counted in time for the July 1 annual cycle for reapplication for service discounts.

The process for administering discounts should be kept simple. Consortia should not be allowed to reapply monthly, or even several times over the course of a year, for discount changes on all services. Once a consortia has received approval for funding support, the discount rate should be applicable for the remainder of the funding year until such time as the schools and libraries must reapply for annual approval of discounts.

If the Commission does not accept this recommendation, the limitation on discount rate changes should, at a minimum, occur no more than once per quarter. Consortia would still have the flexibility to allocate bills from service providers to their members based on their own negotiated criteria.

Any averaging of discount rates should be simple for service providers to apply. The Working Group's Report suggests that the calculation of discount averages should be rounded up or down to the nearest five percent. Discount rate averages should be simplified by rounding to whole numbers. Discount rates which attempt to define a degree of precision to a fraction of one percent will be more difficult for service providers to implement within legacy billing systems and will be more susceptible to error.

III. CONCLUSION.

USTA's comments provide suggestion designed to alleviate concerns regarding the administration of the funds for schools, libraries and rural health care and to provide some muchneeded clarity. USTA urges the Commission to consider these recommendations as it continues its efforts to implement these provisions of the new universal service funding mechanism.

Respectfully submitted,

UNITED STATES TELEPHONE ASSOCIATION

By: Linda Kent

Its Attorneys:

Mary McDermott
Linda Kent
Hance Haney
Keith Townsend

1401 H Street, NW, Suite 600
Washington, D.C. 20554
(202) 326-7248

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TABLE 1

EXAMPLE OF DISCOUNT CALCULATIONS FOR MULTIPLE SCHOOLS, LIBRARIES

This example assigns a *single specific* and consistent discount rate to various combinations of schools and libraries. It does not allocate bills to school, library members based on their unique individual discount rates. That process is displayed on Table 2.

Six different discount scenarios are presented on this chart:
1.) Individual School discounts are column f
2.) Schools aggregate to district level; weighted discounts are in Column H
3.) 3 School Districts combine into consortia; consortia discount is column J
4.) Individual Library discounts match school districts in Column H
5.) Library Districts join school consortia; apply discounts from column J
6.) Library Districts may wish to combine as library consortium exclusively;
In that case, discount % is 60% (average of 45% and 75%)

Note: The chart is used only to determine discounts. Allocation of billing is determined by governance authority according to *rules of the consortium.*

A	B	C	D	E	F	G	H	I	J
	No. Students	Free/Red Lunch Studnts	% Free/Red Lunch Studnts	Geography	School Discount %	Student % of District	District Discount %	Student % of Consortium	Consortium Discount %
District 1	800	300	37.5%	Mix			57.6%=60%		
School A	100	15	15.0%	Urban	40%	12.0%	4.8%	2.5%	1.0%
School B	300	100	33.3%	Rural	60%	38.0%	22.8%	7.5%	4.5%
School C	400	185	46.3%	Urban	60%	50.0%	30.0%	10.0%	6.0%
District 2	1800	1200	67.0%	Urban			85.6%=85%		
School D	1000	800	80.0%	Urban	90%	55.6%	50.0%	25.0%	22.5%
School E	800	400	50.0%	Urban	80%	44.4%	35.6%	20.0%	16.0%
District 3	1400	150	10.7%	Mix			45.7%=45%		
School F	700	55	7.9%	Urban	40%	50.0%	20.0%	17.5%	7.0%
School G	300	15	5.0%	Urban	40%	21.4%	8.6%	7.5%	3.0%
School H	400	80	20.0%	Rural	60%	28.6%	17.1%	10.0%	6.0%
Tot 3 Districts	4000	1650	41.3%						66.0%=65%
Libr Dist A	(Serves School Districts 1 and 2)						72.5%=75%		66.0%=65%
Branch 1							(avg of 60%		
Branch 2							and 85%)		
Branch 3									
Libr Dist B	(Serves School District 3)						45.7%=45%		66.0%=65%
Branch 4									
Branch 5									

Table 2

EXAMPLE OF WEIGHTED BILLING ALLOCATION BASED ON INDIVIDUAL SCHOOL/LIBRARY DISCOUNTS
SAMPLE WORKPAPERS

This example displays one method by which a consortium may allocate a bill from a service provider to its members based upon some negotiated allocation of the bill. Simultaneously the methodology assigns to each member its unique discount rate which it is entitled.

Assume the previous consortium orders a service from a provider for which it receives a bill of $1000/month.

1.) The consortium negotiates some method of allocation of the bill based on estimated usage, per cent networked computers, etc.
2.) A weighted discount is determined by multiplying the negotiated allocation percentage times the payment balance percentage
3.) Each school, library determines what portion their weighted discount is of the total consortium's weighted discount.
This number becomes the weighted percentage to be applied to the provider's bill. It thus employs some measure of usage, and the appropriate discount for the individual school, libraray
4.) Determine monthly billing by multipling the weighted percentage times the monthly bill

A	B	C	D	E	F	G
	Negotiated Allocation Percentage	Discount Percentage	Payment Balance Percentage	Weighted Dscnt Contrbtn (Col B * Col D)	Weighted Percentage (Col E / Col E Tot)	Monthly Billing
District 1						
School A	3.0%	40%	60%	1.8	4.6%	$46
School B	7.0%	60%	40%	2.8	7.1%	$71
School C	9.0%	60%	40%	3.6	9.2%	$92
District 2						
School D	15.0%	90%	10%	1.5	3.8%	$38
School E	10.0%	80%	20%	2	5.1%	$51
District 3						
School F	20.0%	40%	60%	12	30.6%	$306
School G	7.0%	40%	60%	4.2	10.7%	$107
School H	9.0%	60%	40%	3.6	9.2%	$92
Libr Dist A						
Branch 1	6.0%	75%	25%	1.5	3.8%	$38
Branch 2	2.0%	75%	25%	0.5	1.3%	$13
Branch 3	3.0%	75%	25%	0.75	1.9%	$19
Libr Dist B						
Branch 4	8.0%	45%	55%	4.4	11.2%	$112
Branch 5	1.0%	45%	55%	0.55	1.4%	$14
Total All	100.0%			39.20		$1,000.00