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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

May 22, 1998

VIA HAND DELIVERY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: CC Docket No. 96-45

Dear Ms. Salas:

Please find enclosed an original and five copies of the Comments of the Education and Library Networks Coalition. We are also including an electronic version on diskette. The diskette version is in WordPerfect 5.x for Windows format.

If you have any questions or comments, please feel free to call.

Very truly yours,

Miller & Van Eaton, P.L.L.C.

By Matthew C. Ames

Enclosures
G:\client\Universal-7496\01-Gen\LTR- FCC filing comments (Secretary).doc

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Before the
FEDERAL COMMUNICATIONS COMMISSION
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of	)	
Federal-State Joint Board On Universal Service	)	CC Docket No. 96-45 (Proposed Revision of Maximum Collection Amounts for Schools and Libraries and Rural Health Care Providers, Public Notice, DA 98-782)

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COMMENTS OF THE
EDUCATION AND LIBRARY NETWORKS COALITION

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May 22, 1998

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COMMENTS OF THE
EDUCATION AND LIBRARY NETWORKS COALITION

Introduction

The Education and Library Networks Coalition ("EDLINC")[1] submits these Comments in response to the Commission's Public Notice (the "Notice") requesting comments on the proposed revision of 1998 collection amounts for universal service support mechanisms for schools and libraries. EDLINC urges the Commission to take all steps possible to ensure maximum funding for schools and libraries for the 1998 calendar year.

I. SECTION 254 DOES NOT PERMIT THE COMMISSION TO HOLD DISCOUNTS FOR SCHOOLS AND LIBRARIES HOSTAGE TO ACCESS CHARGE REFORM.

Access charge reform has nothing to do with the school and library discounts required by Section 254(h) of the Communications Act. The Commission cannot lawfully make educational

[1] The members of EDLINC are listed in the attached Appendix.

discounts dependent on access change reform. The Commission is required by law to establish a discount mechanism, and that mechanism must be adequate to meet the Congressional goal of providing all schools and libraries with affordable access to advanced telecommunications and information services. Section 254(h) does not authorize the Commission to link funding for the discounts to access charges.

Nor does Section 254(h) permit the Commission to limit the effectiveness of the discounts to suit the complaints of telecommunications providers. Nevertheless, even though there is broad public support for extending the benefits of advanced telecommunications to all schools and libraries, funding for this important initiative has become entwined in what should be an entirely separate dispute. Congress's goal is being subverted by inside-the-Beltway politics.

Many parties have been led astray and have lost sight of the real issues. For example, the Consumer Federation of America and Consumers Union have asked the Commission to stop collecting revenues for the school and library support mechanisms. *See* Letter to Chairman Kennard, May 21, 1998. Yet their letter does not oppose the discounts -- it is concerned with access charge reform. We appreciate the desire of consumer groups to protect subscriber rates. We also appreciate the difficulty of the access charge issue. But Section 254(h) gave the Commission a job to do, and the Commission will fail in that job if it continues to allow itself to be distracted by unrelated issues.

Thus, it appears that the Commission erred when it first linked the school and library funding level to reductions in access charges. The Commission should not compound the error by continuing down this path. The maximum amounts that may be collected and spent should be uncoupled from access charges. Indeed, continuing to link universal service funding to access

charges is likely to distort the proper resolution of the access charge issues, just as it is now distorting the school and library discounts.

We believe that the public supports the provision of a broad range of services – including Internet access and internal connections – to schools and libraries. The public is well-informed on this matter, convinced of its importance, and aware that there will be some cost. Rather than obscure the issues in a way that serves the interests of a few and impedes the public interest and Congressional intent, the Commission should address each on its merits.

II. THE COMMISSION SHOULD FUND THE SCHOOL AND LIBRARY DISCOUNTS AT THE HIGHEST LEVEL POSSIBLE, BECAUSE DEMAND ALREADY EXCEEDS THE PROPOSED FUNDING LEVEL, AND SCHOOLS AND LIBRARIES HAVE ACTED IN RELIANCE ON THE COMMISSION'S RULES.

The Notice asks whether the Universal Service Administrative Company should collect only as much money as is required by demand (but not to exceed $524 million for each of the third and fourth quarters of 1998) and whether the Schools and Libraries Corporation should be directed to disburse no more than $1.67 billion for all of 1998. The answer to both question is unequivocally "No."

In Federal-State Joint Board on Universal Service, CC Docket 96-45, *Report and Order*, 12 FCC Rcd 8716 (1997) (the "Universal Service Order"), following the recommendations of the Joint Board, the Commission established an initial funding level of $2.25 billion. Known demand for 1998 is already at $2.02 billion and may go higher. *See* Letter from Ira Fishman to Chairman Kennard, May 7, 1998.) This demonstrates the accuracy of the Commission's original estimate, yet the Notice proposes limiting 1998 funding to $1.67 billion. In other words, the Notice would leave unmet, known funding needs of $400 million or more.

These needs are not trivial. The importance of weaving all schools and libraries into the new telecommunications network represented by the Internet has been stated and restated, not just in Section 254(h), but in the legislative history, in the Joint Board Recommendations, and in the Universal Service Order. We are past debating the need for extending universal service to schools and libraries: it is national policy and statutory law. But we wish to remind the Commission of why it has become policy and law. The school and library community is enormous: This nation's nearly 16,000 public library facilities are visited by three-quarters of children and two-thirds of adults. The more than 100,000 public and private schools serve over 50 million children. A sector of society this large must have access to the same tools and communication methods as the rest of the nation. The graduated schedule of discounts meets the important social goal of leveling the educational playing field for America's next generation.

Some observers and parties to this proceeding have belittled the importance of the discount program, claiming that it is not necessary, that it will not be taken advantage of, or that it is an enormous white elephant.[2] Schools and libraries have shown that these arguments are false, eagerly seizing on the opportunity to establish modern connections to the outside world. Over 30,000 applications were received within the initial 75-day window and more applications have come in since then, even though the application process is far from simple. As noted above, funding requests exceed $2 billion. These applications come from all parts of the country and from rural as well as urban areas. Communities across the country have already invested

[2] Support for internal connections has come under particular attack, even though it is essential if the goals of Section 254(h) are to be met. The statutory reference to classrooms also makes it clear that Congress contemplated providing discounts for this service. Inside wiring support is especially important for low-income libraries and schools that would not otherwise be able to afford an adequate telecommunications infrastructure.

substantial time and resources to provide the complementary computing and training resources to needed to qualify for the discounts and in applying for the discounts.

Indeed, schools and libraries have placed faith in the Commission and relied heavily on the ultimate fairness of the process. The application process imposes substantial burdens on schools and libraries in terms of staff time and the ancillary training and equipment requirements. Schools and libraries have made contractual commitments, issued bonds and gone to extensive coordination efforts to make the most of the Commission's rules. Now the Commission is suggesting that funding will be cut back, and is raising the prospect of even more cuts later.

The Commission must keep faith. It must fund the discounts at the maximum level and resist further attempts to weaken its rules.

The Telecommunications Act of 1996 promised a wide range of benefits to an equally broad group of constituencies. Telecommunications companies are already benefiting from the Act in numerous ways: telecommunications consumers, including libraries, schools, and the communities they serve, were also promised numerous benefits, but so far they have seen few of them. We believe that the Commission should deliver on the promise Congress made in Section 254(h), without further restrictions. Indeed, other than to float the law, the Commission has no choice.

III. THE COMMISSION SHOULD NOT EVADE THE STATUTORY MANDATE BY INDIRECTLY LOWERING THE $2.25 BILLION FUNDING CAP.

The Notice states that the Commission is not seeking comment on revising the annual caps established by the Universal Service Order. The level permitted by the cap is the minimum justified by the record. We welcome this decision, but wish to point out that continued *ad hoc* adjustments to the funding level may have the same ultimate effect as a formal change in the

caps. At every stage in this proceeding the amount of funding has been reduced. The Joint Board recommended an annual cap of $2.25 billion, with unspent funds to roll over to subsequent years. The Commission's Order adopted the same $2.25 billion cap but limited the amount of the roll-over to half of any unspent funds. The Universal Service Order also restricted the amount of funding for the first half of 1998 to $1 billion. In December 1997, the Third Reconsideration Order further reduced the amount to be collected during the first half of 1998 to $625 million.[3] And now we are faced with a further reduction to $1.67 billion for the entire year. None of these reductions has been based on the cost of meeting the needs of schools and libraries. All have been responses to extraneous considerations.

Consequently, while we recognize the Commission's continuing commitment to the school and library discounts, we urge the Commission to resist pressure for further reductions. If it does not, this problem will continue to dog the Commission's heels and the calls for lowering the funding level will continue unabated into 1999 and beyond. The $2.25 billion cap is the cap, and funds should be available up to the cap. Anything less is an evasion.

IV. FULL FUNDING OF SCHOOL AND LIBRARY DISCOUNTS IS THE BEST MEANS OF PROTECTING THE LEVEL OF SUPPORT AVAILABLE TO THE MOST ECONOMICALLY DISADVANTAGED SCHOOLS AND LIBRARIES.

The Notice reiterates Chairman Kennard's statement that the most economically disadvantaged schools and libraries must receive adequate support. The simplest, fairest way of achieving that goal is to ensure that funding up to the $2.25 billion cap is available. Revising the Commission's rules to reallocate funds, change the discount matrix, or establish a new trigger mechanism is not feasible at this late date. Schools and libraries have already gone to enormous

[3] Federal-State Joint Board on Universal Service, CC Docket 96-45, *Third Order on Reconsideration*, 12 FCC Rcd. 2280 (1997) ("Third Reconsideration Order"). One of the

efforts to comply with the existing rules and anything that alters the resulting expectations would itself be unfair. Furthermore, exploration of such options would merely invite opponents of the discount mechanisms to work further mischief. The Commission worked very hard to develop a workable and equitable approach in the Universal Service Order, and this effort must not be compromised or delayed. A student passes through each school grade but once, and further delay can have only the effect of denying those students the full educational benefit of that grade.

Finally, the concern expressed by the Notice would seem to apply only to this year. Unless the Commission anticipates continuing to ignore its rules by establishing *ad hoc* caps (as discussed in point III above), we would expect that full funding of $2.25 billion would be available next year. If so, the Commission's current rules properly provide a mechanism to ensure that the most economically disadvantaged schools and libraries receive adequate support. We also note that the Schools and Libraries Corporation, EDLINC, state agencies, and others have all made extensive efforts, targeted at the most disadvantaged schools and library districts, to ensure that those entities have the knowledge and resources needed to apply for discounts. Again, additional measures are not needed, if the Commission is prepared to enforce its existing scheme.

Conclusion

We urge the Commission to discharge its statutory obligations by fully funding the schools and library discounts in 1998 and beyond, as originally envisioned in the Universal Service Order. Congress has made the policy decision. The Commission need not, and may not lawfully, revisit that decision. The funding level set in the Order is fully justified by the record

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justifications for this decision was that demand appeared unlikely to reach that level. Third Reconsideration Order at ¶ 4. This judgment was clearly mistaken.

therein. The Commission should not allow itself to be distracted from its clear duty by collateral issues.

Respectfully submitted,

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May 22, 1998

Appendix: The Members of EdLiNC

Alliance for Community Media
American Association for Adult and Continuing Education
American Association of Educational Service Agencies
American Association of School Administrators
American Library Association
American Psychological Association
Association for Education Communications and Technology
Association for Supervision and Curriculum Development
Association for the Advancement of Computing in Education
Center for Media Education
Consortium for School Networking
Council for American Private Education
Council of Chief State School Officers
Education Legislative Services, Inc.
Educational Testing Service
Federation of Behavioral Psychological and Cognitive Sciences
Global Village Schools Institute
International Society for Telecommunications in Education
Lutheran Church -- Missouri Synod
International Telecomputing Consortium
National Association of Counties
National Association of Elementary School Principals
National Association of Independent Schools
National Association of Secondary School Principals
National Association of State Boards of Education
National Association of Student Financial Aid Administrators
National Catholic Educational Association
National Education Association
National Education Knowledge Industry Association
National Grange
National Rural Education Association
National Rural Electric Cooperative Association
National School Boards Association
Organizations Concerned about Rural Education
People for the American Way Action Fund
United States Catholic Conference
United States Distance Learning Association