

Proceeding: UNIVERSAL SERVICE Record 1 of 1

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Washington, DC 20544

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FEDERAL COMMUNICATIONS COMMISSION
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IN the Matter of)

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Federal-State Joint Board)

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On Universal Service)

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Collection)
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CC Docket No. 96-45
(Proposed Revision of Maximum
Amounts for Schools and Libraries
Rural Health Care Providers,
Public Notice, DA 9872)

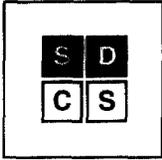
Comments of the San Diego Unified School Districts

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COMMENTS OF THE SAN DIEGO UNIFIED SCHOOL DISTRICT

RE: Comments in Reference to Proposed Revision of Maximum Collection Amounts for Schools and Libraries and Rural Health Care Providers, Public Notice, CC Docket No. 96-45, DA 98-872 (Delivered via Federal Express and separate copy filed via the Internet)

In response to the FCC request for comments released on May 13, 1998, in Public Notice, CC Docket NO. 96-45, DA 98-872, the San Diego Unified School District makes the following comments:

The public notice states that the FCC proposes "...to implement a gradual phase-in of the schools, libraries and rural health care universal service support mechanisms that takes advantage, and reflects the timing, of access charge reductions, will provide substantial support and at the same time will minimize disruption to consumers." The San Diego Unified School District does not support a gradual phase-in of the support mechanisms. A phase in of the program would interfere with the program as established and could jeopardize full funding for eligible services that have already been contracted and paid for. Eligible school applicants should be fully funded during funding year 1998 up to the annual cap of \$2.25 billion, as instituted previously by the FCC. The district supports efforts by the FCC to equitably allocate

the program costs to business and residential consumers, but equity concerns should be addressed without delaying implementation of the E-Rate program.

The Commission also asked for comments regarding the "Commission's decision governing the amount of money collected during the second six months of 1998 for the federal universal service support mechanism." The district supports a decision to collect and spend the amounts necessary to complete the full 1998 funding of schools' applications for eligible, approved and legitimate services, on a "first-come, first-served" basis, up to the annual cap of \$2.25 billion. As a consumer group of the telecommunications industry, the district supports the FCC's efforts to prevent "rate churn" by the telecommunications industry upon their consumers.

The Commissions' notice raises the issue of having the USAC collect only the money required to serve the needs of the demand for services. In doing this, Commission also states that the USAC collect no more than "\$524 million per quarter for the third and fourth quarters of 1998." The district supports a decision to authorize the collecting and spending, during the second six months of 1998, those amounts necessary to complete the full 1998 funding of schools' applications for eligible, approved and legitimate services, on a "first-come, first-served" basis, up to the annual cap of \$2.25 billion. We do not support a lowering of total support levels to \$1.67 billion.

In addition to the Commission's public notice, Commissioner Furchtgott-Roth's statement also dated on May 13, 1998 raised a number of issues that warrant comment by the San Diego Unified School District. Commissioner Furchtgott-Roth's statement suggests a desire to

postpone the schools and libraries program until January 1, 1999. The district strongly opposes any delay in the implementation of this critically important program. The scope and scale of this program for 1998 should not change at this time. This district, also a major ratepayer, will pay tens of thousands of dollars during 1998 in "Universal Service Fund" fees invoiced and collected by telecommunications service providers. Equity issues for "taxpayers" has been addressed throughout the development of the E-Rate program and the FCC has ruled on this issue. It is appropriate to continue to evaluate equity concerns, but to postpone the program to do this is inappropriate.

Commissioner Furchtgott-Roth's statement also requests comments about "the amount of consumer benefit that would ensue by reducing the schools and libraries funding to provide only discounts in telecommunications services." The District strongly opposes providing only discounts for telecommunications services during 1998. The Telecommunications Act (Section 254 (h)) permits discounts for "internal connections" and "Internet access" as well as "telecommunications services." San Diego Unified has filed application for eligible "internal connections" discounts for 1998. These "internal connection" services include portions of construction projects currently in progress. We have been assured of retroactivity to 1/1/98 for approved, eligible services, including internal connections. If internal connections are now, at this late date, and after we have complied with the required competitive bidding requirements, removed from eligibility discounts for 1998, the potential additional cost to this district during 1998 will be several million dollars.

Another question that Commissioner Furchtgott-Roth's statement raises is "Whether ... the Commission has the discretion to prioritize among bona fide applications?" San Diego Unified School District supports prioritization of funding for bona fide applications in accordance with the existing (first come, first-served) rules, including the final \$250 million being allocated to the most disadvantaged schools. The District supports the concept that all schools should be eligible for participation in the E-Rate program, and all benefits should be available to all bona fide applicants not only limited to the "most disadvantaged" schools.

There are a number of issues raised in the FCC public notice and individual Commissioner statements related to this issue. The San Diego Unified School District urges the Commission to maintain current funding of the program at the \$2.25 billion cap and fully fund bona fide applications as the current regulations stipulate. Our district continues to contract and begin millions of dollars of work that is eligible for the E-Rate discount. The decisions of the commission on funding of the E-Rate program is urgent due to planning concerns for future telecommunications, Internet access and internal connection services.

Proceeding: UNIVERSAL SERVICE Record 1 of 1
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MAY 22 1998

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**Comments From
Rural Policy Research Institute
Rural Telecommunications Panel
May 21, 1998**

**To the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)		
)		
Revision of Maximum)	CC Docket No. 96-45	DA 98-872
Collection Amounts for)		
Schools and Libraries and)		
Rural Health Care Providers,)		
Public Notice)		

To the Common Carrier Bureau:

(An electronic submission is being made as an exact copy of formal comments)

**COMMENTS OF
RUPRI Rural Telecommunications Panel**

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I. Total Collections/Disbursements for Schools and Libraries

In excess of 30,000 applications for discounted communications have been received by the Schools and Libraries Corporation from schools and libraries during the 75-day window. The stated purpose of the application window was to insure that all applications received during the February 1 - April 15, 1998 time period would be treated as if simultaneously received, thereby providing no advantage or penalty to those applicants filing within the window. There were three implications associated with the decision to utilize an application window: (1) the frenetic urgency for schools and libraries to file applications would no longer be imposed; (2) the disadvantage to smaller schools and libraries with fewer staff members available to complete the application process would be ameliorated; and (3) schools and libraries filing within the 75-day window would be assured of funding. While not explicitly stated by the Schools and Libraries Corporation or the Commission, these three factors were implied by the administrators/regulators and were self-evident to the applicants. The huge response of the education and library communities speaks both to the need for discounted telecommunications services, as well as to the good faith response to an application process in which schools/libraries had no knowledge and to an industry mechanism, i.e., a universal service program, in which they had no prior experience. In concept, the library and education communities wanted to believe in the vision espoused by the E-Rate program, but they were initially wary. Why would any small school believe that a distance learning network, heretofore beyond the realm of fiscal reach because of ongoing line lease costs, might now be affordable? That skepticism was slowly but pervasively overcome through a vast, unprecedented response network through which the telecom legislation, Commission regulations, SLC guidelines, and translations of each blanketed the country. Where disbelief had been widespread, a hopeful skepticism emerged; where cynicism had been rampant, optimists rose among the rank and file. It is with this knowledge of the transformation of the education and library communities that the proponents of abandoning, delaying, or limiting the Universal Service Fund for schools and libraries below its \$2.25B cap must justify their position.

The good faith obligations of the legislators of the '96 Telecom Act, of the Commission, and of the SLC should not be minimized or easily dismissed. The schools and libraries of this country have entered into a binding agreement with the administrators and regulators of the E-Rate program. To ignore their obligation at this point or to continue the current political machinations would be an irreparable disservice to those children and communities who could most benefit from affordable advanced telecommunications services.

It is in this light that the Commission should consider:

- (1) holding firm on the \$2.25B cap for the Universal Service Fund for schools and libraries;
- (2) directing the collection of universal service contributions up to the applicant-documented level of demand among schools and libraries filing within the 75-day window;

- (3) increasing the 3rd quarter collection rate to \$524M which is equivalent to the approximated amount by which universal service collection rates can increase without exceeding the reduction in access charge fees;
- (4) considering the likelihood that statistical approximation will overestimate the total dollar demand for discounted rates to schools and libraries, given the unlikelihood that all requested telecommunications services will be carried out or will occur within FY98;
- (5) postponing the determination of 4th Quarter collection rates until the exact dollar demand for E-Rate discounts is determined for 1998; and,
- (6) delaying the reimbursement to school/library telecommunications providers until the 1st Quarter of 1999 in the unlikely event the FY98 actual demand exceeds \$1.67B.

II. Circumstances in Which Prioritization of Applications Received Within the 75-Day Window Would Apply

Only in the event that a significant increase exists in the amount of actual vs. estimated demand for E-Rate funds and/or in the event of a significant decrease in the actual vs. estimated amount of reduction in access charges, should it be necessary to prioritize applications received within the 75-day window. Should either or both of these circumstances apply, it may be appropriate to prioritize bona fide requests filed within the window and to restrict funding of applications on the basis of need. However, every effort should be made to retroactively fund low-priority applications in FY99.

If this measure becomes necessary to *legitimately* avoid an increase in consumer long distance rates, fairness would dictate that the definition of need be extended beyond the use of free/reduced lunch eligibility rates as an approximation of *need*. Automatic approval should exist for all applicants located in a 'high cost' area, as defined by existing telecommunications policy and determined by zip code. For the remainder of the applicants, prioritized approval would be awarded on the basis of percentage of free/reduced lunch eligibility up to the effective dollar limit of collections.

Three reasons support this expanded definition of need:

- (1) Sole reliance on free and reduced lunch eligibility, as noted in previous filings, unfairly undercounts students in many small, rural districts because of the stigmatization associated with the program, especially at the junior and senior high levels.
- (2) The ability to pay for or afford telecommunications services is only half of the issue. It can be argued that any school whose pre-discount cost of service is

markedly higher AND whose ability to pay is low should receive priority over a school/library whose pre-discount cost of service is lower, but who has an equal ability to pay.

- (3) Basing approval of school/library applications on their 'rural' designation rather than on their 'high cost' status unnecessarily pits urban against rural. The issue should not be one of metro or non-metro location, per se, but rather a reflection of the relative total price after discount. Clearly, a school in a high cost area receiving a 50% discount may pay as much as two to three times the discounted amount paid by a school located in a low-cost area having an equivalent free/reduced lunch eligibility rate.

III. The Applicability of Weighing Provider Collections Against Reductions in Access Fees

It can be presumed, given a deregulated long distance telecommunications arena, that all providers will attempt to maximize their profits by whatever means is available to them. They are likely to be neither compelled by promotion of the 'common good' nor deterred by self-regulation of profit. This is the realism of competition. It therefore follows that to expect contributors to the Universal Service Fund to voluntarily reduce their profits while the option exists to pass the cost of universal service contributions on to consumers is neither likely nor plausible. The Commission has recommended that for FY98 the total amount of universal service collections--and therefore E-Rate disbursements--be set at an amount which would not increase the total access and universal service payments paid by long distance carriers. This amount is judged to be \$1.673B based on collection of \$300M, \$325M, \$524M, and \$524M for each quarter of 1998, respectively.

While there is no *a priori* reason to equate the amount which should be paid by long distance carriers into the Universal Service Fund for schools and libraries with reductions in access charges, it is nevertheless both convenient and logical to assume that if there is no increase required in the total amount of contributions on the part of long distance carriers, it is therefore a misrepresentation to consumers to ask that the contributions be passed on to consumers. The position of Commissioner Furchtgott-Roth raises both regulatory and policy confusion in that it both legitimizes an escalation in long distance carrier profits while no net increase in carrier contribution is required *and* it presumes to add fuel to the fire of consumer 'rate churn' by advocating immediate reductions in long distance bills before the entire demand for universal service funds is known. Furchtgott-Roth upholds the right of carriers to increase profits, upholds the rights of consumers for decreased long distance rates, but ignores the good-faith agreement entered into between the Commission and U.S. schools and libraries.

IV. Additional Comments as Requested by Commissioner Furchtgott-Roth

- The size of the school and library fund, i.e., cap, should remain at \$2.25B as previously determined.

- All long distance carriers, including wireless and others who do not pay access charges, should continue to be required to contribute equally to the Universal Service Fund. The fact that wireless (and other) carriers have received no benefits from the reduction in access charges has no bearing on the decision that *all* providers contribute to the fund.
- Postponement of the schools and libraries program until January, 1999, would be in no one's best interest, with the exception of the long distance carriers. It would be a denigration of the compact between Congress, the Commission, and the school and library communities.
- Preservation or reworking of the High Cost Fund has no bearing on the issue at hand. Should it be subsequently necessary to equitably adjust collective contributions to all universal service mechanisms, such adjustment should be based on fact rather than speculation. Until a negotiated basis for cost is settled among non-rural carriers *and* later by rural carriers--whether by proxy model or other method--it is impossible to determine the aggregate size of the collective universal service program.
- Consumer benefit will occur first and foremost by Commission policy which does not protect the profits of long distance carriers at the expense of all consumers, including schools, libraries, rural health care providers, and the constituents they serve.
- The issue of whether to deny or de-prioritize the discounted coverage of inside wiring should not be addressed at this late date. Regardless of the opinions -- pro and con -- and its ultimate placement in or outside the designation of 'telecommunication services', ample prior opportunity existed to rescind this coverage. But to do so at this point would be both premature, pending any litigation, and a breach of faith with the public school students and library patrons in the country.
- Much of the criticism of the E-Rate program, as espoused by Commissioner Furchtgott-Roth, appears to ignore the reality that a substantial portion of the \$2.02B in approximate FY98 demand does not represent an ongoing demand for universal service funds. In addition to the obvious one-time cost of inside wiring--although it is realized that others schools and libraries may subsequently apply--there is a significant, but presently uncalculated, amount of other one-time costs associated with initiation of most telecommunications services.
- Finally, the Commission should seek to resolve internal disagreements within the confines of existing methods and policies, sparing end-users, e.g., schools and libraries, from needless regulatory confusion.