

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

In the Matter of

Schools and Libraries Universal Service Support Mechanism
WC Docket No. 13-184
CC Docket No. 02-6

**Wireline Competition Bureau Seeks Reply Comment on FY2016 Draft Eligible
Services List for Schools and Libraries Universal Service Program**

(DA 15-615 Released May 21st, 2015)

COMMENTS

Submitted July 6th, 2015

The E-Rate Management Professionals Association, Inc. (E-mpa[®]) is a (501)(c)(6) trade association whose purpose is to promote excellence and ethics in E-rate professional management and consulting through certification, education and professional resources. E-mpa[®] serves as an advocate for the critical role served by E-rate management professionals and consultants. The organization strives to strengthen and support the E-rate program by acting as a self-governing body of E-rate management professionals and consultants. E-mpa[®] provides assurance to stakeholders by maintaining the highest standards, developing and promoting best practices, and requiring ethical conduct for all members.

E-mpa[®] members provide E-Rate Program consultation and management services to program participants. E-mpa's combined client list represents schools and libraries ranging from small rural remote schools and libraries to those in large urban areas. E-mpa[®] is uniquely qualified to provide the applicant's perspective of the current and future Broadband needs of applicants along with a broad depth of understanding of the challenges faced by applicants in applying for support from the E-rate program. This knowledge positions E-mpa[®] to provide real-time insight into the current, and more importantly, the future broadband needs of applicants across the United States.

Introduction

The E-Rate Management Professionals Association is submitting reply comments in response to the request for comments of the Draft Eligible Services List (“ESL”) for FY2016.

The following comments are not representative of each member but are an agreed upon consensus of opinion regarding the matters presented in these comments.

E-mpa Concerns about Duplicative Services

E-mpa is concerned that USAC and the FCC may be taking an overly-rigid approach to the duplicative services rule concerning Internet access services. Recently E-mpa members have received PIA questions questioning the validity of multiple connections to the Internet.

Multiple connections to the Internet have been explicitly allowed by USAC in the past, and USAC has even identified these types of connections as “not duplicative” in past versions of the Eligible Service List. From 2006 through 2014 the language in the Eligible Service List about multiple connections to the internet has been remarkably consistent, every ESL during that time period states: ***“Services that provide necessary bandwidth requirements, such as multiple T-1 lines, when appropriate for the population served and the services to be received are not duplicative¹.”*** Older versions (2006) of the ESL stated that the bandwidth requested should be consistent with the applicant’s technology plan.

In the 2010 Eligible Services List USAC, for the first time added this language about redundant and backup connections: *Failover products or services are not eligible. Any stand-alone products or services that are only utilized when the primary fails are not eligible.*² E-mpa agrees with this standard and we believe it should continue to be FCC policy. Applicants should be aware that if a connection is not necessary to meet its bandwidth requirements, and is only necessary as a failover then that the connection is not eligible for funding.

Allowing multiple connections to the Internet that is appropriate for the applicants’ needs is also consistent with FCC Orders. In the Macomb Order the Commission explicitly recognized that multiple connections to the Internet are allowable, provided they meet the applicant’s needs. The Commission stated: *“We do not find fault with Macomb’s ISD’s request for multiple T3 lines, provided that the services are needed.”*³ As part of the Macomb order, the FCC directed USAC to fund multiple connections to the Internet (albeit at lower pricing that would justify a cost-effective purchase): *“Therefore, we find that in this particular case, Macomb ISD should be*

¹ 2014 Eligible Services List, page 21; 2013 ESL page 22; 2012 ESL page 24; 2011 ESL page 23; 2010 ESL page 23; 2009 ESL page 22; 2008 ESL page 22; 2007 ESL page 20; 2006 ESL page 60

² 2010 ESL, page 23

³ Requests for Review by Macomb Intermediate School District Technology Consortium, FCC 07-64, adopted 4/19/2007, Paragraph 8

entitled to E-rate funding for its Internet connections...⁴” In this instance, the Commission did reduce the amount of funding for the multiple connections to a level that was cost-effective based upon the competitive bidding process for Macomb, but the Commission did not rule that multiple connections were ineligible and in fact ordered USAC to fund those multiple connections.

If the FCC makes the assumption that **any** secondary connection to the Internet serving the same population and same location as the first connection are duplicative and thus not eligible (regardless of the bandwidth needs of the applicant) those assumptions can lead to illogical decisions from USAC. Take a hypothetical need for an incremental increase in bandwidth for an applicant. Assume an applicant has 300 Mbps of Internet access under a multi-year contract and will need a total of 500 Mbps for the next year. If the applicant awards a contract to the most cost effective bidder for a 200 Mbps connection to supplement their existing 300 Mbps connection and that winning service provider is a different company than the provider of the 300 Mbps connection, USAC would make the incorrect assumption that funding for one of the connections is duplicative and thus must be denied.

E-MPA also supports the position taken by the NYCDOE in its January 2014 Request for Review and again in its comments on the FY 2015 ESL. In the NYCDOE case the Internet access was in no way duplicative because the multiple Internet connections never served the same location at the same time. Instead network traffic is routed to the least congested circuit. The policies of the FCC should not incent schools and libraries to make network design decisions that may not be consistent with the school or libraries goals. A school or library should be able to employ “Ring” network architecture instead of “Star” network architecture if it is a cost-effective means of delivering reliable network connectivity to the eligible entities.

We urge the FCC and USAC to provide clear guidance in the 2016 Eligible Services List concerning multiple funding requests for Internet access provided in the three bullet points below:

1. Redundant and failover connections to the Internet are not eligible and will not be funded.
2. Multiple connections to the Internet serving the same location are eligible if they are actively in use during the funding year and are based upon the needs of the applicant.
3. Clarify that the E-rate program will explicitly support ring, rather than star, WAN architectures for new or upgraded networks if such a solution is cost effective.

Comments Concerning Voice Funding

The following comments are in response to the Wireline Competition Bureau's request for comments on the 2016 Proposed Eligible Services List for the schools and libraries universal

⁴ Ibid, Para. 9

support mechanism. These comments specifically address Category One Voice Services. Voice Services are important to the operation of schools and libraries and continued success of educating our nation's children. These services should not be phased down nor should they be eliminated from the program for the following reasons:

1) Continuation of Reliable Communications in Schools and Libraries Impacting Safety of Students

As stated on the FCC's website, "the Telecommunications Act of 1996 expanded the traditional goal of universal service to include increased access to both telecommunications and advanced services – such as high-speed Internet – for all consumers at just, reasonable and affordable rates. The Act established principles for universal service that specifically focused on increasing access to evolving services for consumers living in rural and insular areas, and for consumers with low-incomes." It is important to maintain this solid principle of bringing voice services at reasonable costs to all schools and libraries, and especially the rural student population. It is a common problem in these schools to lose their connection to internet access, so voice services, both land lines and cellular, serve as the connection to the world beyond the school in case of emergencies. One Technology Director from a district located in a rural area made the following comment: "Funding voice services, especially if they are tied to E911 services becomes very important. [A] District like ours in a rural area may lose that service if we lose funding for voice services." Another rural district Technology Director observed that if faced with a choice, due to budget constraints, between voice services and internet access, he would drop internet access to fund voice because of safety concerns. Reinstating the funding for these basic services needed to maintain safety in our nations' schools is of paramount importance, and most certainly in light of the available funding to cover both Category One and Category Two services for 2015.

2) Honoring Past Commitments to Schools, Libraries, and Service Providers

The Universal Service Fund is paid for by contributions from providers of telecommunications based on an assessment on their interstate and international end-user revenues. Examples of entities that contribute to the Fund are telecommunications carriers, including wireline and wireless companies, and interconnected Voice over Internet Protocol (VoIP) providers, including cable companies that provide voice services. Additionally it is important not forget each consumer that pays their monthly bills with "Universal Service Fees" included. As users of these services, we all contribute to the USF, as do our schools and libraries.

Since the E-Rate program's inception voice services have been funded. Each applicant has grown dependent upon receiving those funds to help pay their bills. Most applicants share the feeling that the rug has been pulled out from under them. It seems by eliminating voice services from the eligible services list, the trust level between the FCC and stake holders will

be eroded. This is an unintentional consequence of phasing out voice services, an issue which was not anticipated or welcomed by many stakeholders.

3) Schools and Libraries Budgets are Dependent upon Voice Services Discounts to Sustain Broadband and Category 2

It is important to note that schools and libraries across the country have counted upon voice discounts to maintain and sustain technologies, such as equipment and broadband expansion for students. These discounts have served the students by allowing additional funds for network build outs and deploying broadband. The voice services portion of the E-rate program has been working well; it enhances the opportunity for broadband expansion to happen in all schools and libraries. Due to the phase-down of voice, schools and libraries are already dropping from the program. In one scenario, a very small school, with less than \$1500 in C1 program discounts, will no longer be applying for E-Rate, even though past discounts were very important to their technology budget. The \$9200 in C2 funds won't begin to wire and support broadband for this school. Participating in the program without the discounts for voice services creates a difficult burden for them and certainly is no longer cost effective. This is an example of another unintentional consequence of eliminating voice services through a phase out which is only in its first year.

4) Added Complexity, Confusion and Work Load for Schools, Libraries, Service Providers and USAC

Regarding the cost allocation of ISDN services:

"In the *Second E-rate Modernization Order*, the Commission clarified its cost allocation requirements for circuits that carry both voice and data services. The full cost of circuits dedicated solely to voice service, including PRIs, SIP trunks, and VoIP provider circuits are subject to the voice services phase down, while the costs for bundled voice and data services provided over a single circuit, must be cost allocated. Because Integrated Services Digital Network (ISDN) is typically provisioned as a voice service, and the Bureau has referred to ISDN synonymously with PRI circuits in the ESL, the proposed ESL adds ISDN to the list of eligible voice services. However, for applicants that may be receiving ISDN as bundled voice and data service, ISDN also remains listed in the ESL as an eligible digital transmission service so that a cost allocation can be sought for the data portion of the service that is not subject to the voice phase down. We seek comment on this proposed clarification.⁵"

So now you have a single service that you have to somehow split and create two separate FRNs for a single line item on an invoice. In the past, that single line item could be included in one FRN with all of the other services on that same invoice; hence the workload for that single line item has just doubled. Furthermore, who determines the portions of the ISDN that is used for

⁵ See Public Notice DA 15-615

voice and data: the applicant, the service provider, or USAC? And what is the proper way to cost-allocate? What one person considers a reasonable cost-allocation may not be considered reasonable by another. These decisions are extremely subjective and difficult to make, and yet clear guidance is lacking.

Cost allocation for voice services circuit capacity in the situation stated above becomes mind boggling for applicants. Imagine the indirect costs and additional work load for applicants, service providers and USAC to appropriately determine the cost allocation, not to mention the frustration, delayed funding and appeals. This is another unintended consequence of phasing out voice services per the E-rate Modernization Order. All stake holders are held accountable for accuracy, but cost allocation for voice services and circuit capacity will be a cause for many unintended mistakes. Much of this complexity could be eliminated by simply allowing the eligibility of voice services to be included in the 2016 eligible services list and totally eliminating the phase down.

5) 2015 Funding Demand Matches the Funding Cap

If the FCC is not willing to reinstate voice services as completely eligible services, we urge the Commission to freeze the phase out at the current 20% level. Given the fact that 2015 funding demand matches the \$3.9 billion in funding available, E-mpa believes a freeze at the 20% reduction is appropriate at this time.

For all of the reasons listed above, which is certainly not an exhaustive list, EMPA appeals to the FCC to eliminate the voice phase down. The complexity of the applications and the loss of voice services may mean that fewer schools will apply for E-Rate, and the first schools to opt out are going to be the very small, rural schools.

Conclusion

We appreciate the opportunity to submit comments in this proceeding and thank the Commission staff for the hours they have dedicated to modernizing E-rate which will allow the program to continue with increased effectiveness in meeting the Commission's goals for this program that has been so valuable in connecting students and library patrons across the U.S. for over 18 years.

Respectfully submitted,

E-Rate Management Professionals Association



Melinda A. Van Patten, President