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January 30, 2001

BY HAND

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Room TW-A325
Washington, DC 20554

Re: In the Matter of Federal-State Joint Board on Universal Service Petition for Waiver for the Utilization of Schools and Libraries Internet Point-of-Presence in Rural Remote Alaska Villages Where No Local or Toll-Free Access Exists, CC Docket No. 96-45 – CORRECTED COPY

Dear Ms. Salas:

Yesterday, January 29, 2001, the State of Alaska filed a "Petition of the State of Alaska for Waiver for the Utilization of Schools and Libraries, Internet Point-of-Presence in Rural Remote Alaska Villages Where No Local Access Exists and Request for Declaratory Ruling" in the above-referenced docket. The copies filed with the Commission omitted an attachment. An original and four copies of a version with the attachment are enclosed for filing with the Commission.

In the event there are any questions concerning this matter, please communicate with the undersigned.

Very truly yours,

Robert M. Halperin

Enclosures

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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OFFICE OF THE SECRETARY

In the Matter of	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
Petition for Waiver for the Utilization of Schools and Libraries Internet Point-of-Presence in Rural Remote Alaska Villages Where No Local or Toll-Free Access Exists	)	

Petition of the State of Alaska for Waiver for the Utilization of Schools and Libraries Internet Point-of-Presence in Rural Remote Alaska Villages Where No Local Access Exists and Request for Declaratory Ruling

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Date: January 29, 2001
Resubmitted January 30, 2001 with attachment

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Summary

Despite the best efforts of local community leaders, telecommunications carriers, and state and federal government, three-quarters of all communities in the State of Alaska – and practically all rural Alaskan communities – lack toll-free, dial-up access to the Internet. The provision of Internet access is made difficult not only by the remoteness and sparse population of these communities, but also by their reliance on expensive and relatively scarce satellite telecommunications resources.

In these communities, the Commission's implementation of the E-rate program adopted by Congress as part of the universal service provisions of the Telecommunications Act of 1996 has provided both the financial and technical means to deliver Internet access to school systems and a relatively few public libraries in rural Alaska. Teachers and students, therefore, can access the Internet during school hours, but they cannot do so when the schools are closed, and others in the community can do so only on a very limited basis (*e.g.*, through public libraries during the relatively few hours they are open).

Through this petition, the State of Alaska seeks the Commission's approval for local school districts (and libraries) to act as an Internet "point of presence" through which residents of the community could access the Internet after school hours. This petition is designed to make more efficient use of telecommunications and Internet access resources that lie fallow for hours or days at a time (when

schools or libraries are closed) in communities that lack toll-free dial-up access to the Internet, without increasing the costs of the E-rate program.

The State believes that this proposal does not violate any provision of the Communications Act of 1934, as amended, and could, at most, violate only one aspect of the Commission's regulations. Therefore, the State asks the Commission to waive Section 54.504(b)(2)(ii) of its Rules to permit the use of the telecommunications services received by rural school districts and libraries pursuant to the E-rate program by others in remote rural Alaskan communities as long as:

(1) the services used by the school district or library are sold by the service provider on the basis of a price that is not usage sensitive (*e.g.*, a dedicated circuit provided at a fixed monthly price);

(2) the use by others in those communities is limited to hours in which the school or library through which the Internet would be accessed is closed (*e.g.*, access to a school's telecommunications services and facilities would be limited to after school hours, holidays, weekends, school vacations, and any other day in which the school is closed); and

(3) no toll-free or local dial-up Internet access is otherwise available in the community.

These conditions assure that the proposed course of action would not increase the costs to the E-rate program in any way, and that the proposal would be implemented only where it is necessary to accomplish the public interest objective of promoting access to information services in rural areas, particularly those in which Native Americans reside.

The State also requests the Commission to declare that no other provision of the statutes or regulations administered by the Commission prevent implementation of this proposal.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
Petition for Waiver for the Utilization of Schools and Libraries Internet Point-of-Presence in Rural Remote Alaska Villages Where No Local or Toll-Free Access Exists	)	

Petition of the State of Alaska
for Waiver for the Utilization of Schools and Libraries
Internet Point-of-Presence in Rural Remote Alaska Villages
Where No Local Access Exists and Request for Declaratory Ruling

Introduction

Pursuant to Section 1.3 of the Commission's rules, the State of Alaska, on behalf of its rural school and library districts, respectfully requests the Commission to waive Section 54.502(b)(2)(ii) of its rules (47 C.F.R. § 54.504(b)(2)(ii)) to permit residents of those communities to obtain dial-up Internet access service for the first time by using services or facilities funded in part by the E-rate. The requested relief would not increase the costs of the E-rate program in any way, but would lead to far more efficient use of telecommunications and Internet access resources that the E-rate has made possible.

Several school districts or libraries in rural and remote areas of the State would like to act as a point of presence for the transport of Internet access in their villages. Under their proposal, which the State supports and hereby advances to the Commission for its consideration, others in the community would be able to dial into a modem connected to the local school or library and use the telecommunications service provided to the school or library for Internet access. This proposal is depicted schematically on Attachment 1. Equipment for managing this dial-through access and associated local services would be the responsibility of the school, library, village or tribal organization, and could be acquired from local telecommunications service providers. This equipment and associated services would not be eligible for any E-rate support. We simply request that the underutilized facilities that the E-rate has made possible be available for use by village residents.

Specifically, the State requests that the Commission waive Section 54.504(b)(2)(ii) to permit the use of the telecommunications services received by rural school districts and libraries pursuant to the E-rate program by others in remote rural Alaskan communities as long as

(1) the services used by the school district or library are sold by the service provider on the basis of a price that is not usage sensitive (*e.g.*, a dedicated circuit provided at a fixed monthly price);

(2) the use by others in those communities is limited to hours in which the school or library through which the Internet would be accessed is closed (*e.g.*, access to a school's telecommunications services and facilities would be limited to after school hours, holidays, weekends, school vacations, and any other day in which the school is closed); and

(3) no toll-free or local dial-up Internet access is otherwise available in the community.

These conditions assure that the proposed course of action would not increase the costs to the E-rate program in any way, and that the proposal would be implemented only where it is necessary to accomplish the public interest objective of promoting access to information services in rural areas, particularly those in which Native Americans reside.

The State does not believe that any statutory or any other regulatory provision, properly interpreted, precludes the use of telecommunications services described in this petition. To remove uncertainty, pursuant to Section 1.2 of the Commission's rules, the State respectfully requests that the Commission issue a declaratory ruling to that effect.

As will be demonstrated below, the relief requested here is limited and is consistent with what Congress envisioned in passing the E-rate program. Indeed, in enacting this program, Congress appeared to recognize that in some areas, providing access to information services to schools and libraries may be the only mechanism for providing access to these services in a remote community.

I. BACKGROUND

Despite the best efforts of telecommunications carriers serving rural Alaska, due to the remoteness, sparse population, and the high costs of providing telecommunications services to them, rural Alaskans do not have the same access to information services as the vast majority of other Americans. According to the State's research, only 82 of the 323 communities of Alaska have any form of local

dial-up or toll-free access to the Internet. Others receive long distance telephone service via satellite uplinks or microwave relays (rather than terrestrial copper or fiber optic lines), which make access to information services far more difficult and costly. Thus, nearly 75% of rural Alaskan communities do not have Internet access via a local dial-up or toll-free connections. For the residents of these communities, nearly all Alaska Natives, accessing the Internet means connecting via a long distance call to an ISP. The reality of this situation is that affordable Internet access does not exist in 75% of Alaskan communities.

Under Section 254(h) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (47 U.S.C. § 254(h)), schools and libraries are entitled to receive certain telecommunications services and other services to access the Internet at discounted rates (the "E-rate"). The Commission's efforts in implementing the E-Rate program have been particularly important in rural areas. In some of these areas, telecommunications providers have deployed new infrastructure to provide these discounted services. Thus, the Commission's implementation of the E-rate program Congress created has provided tremendous opportunities for schools and libraries across the country and in Alaska. In nearly every Alaskan village, schools are connected to the wider world with dedicated Internet access at 56 kbps or greater service.

These schools do not allow community access to this service, and libraries do so only on a very limited basis. There are no public libraries in most of the villages.

The ones that do exist can offer only 10 to 15 hours of service a week and most exist on total annual budgets of $15,000 a year or less.

The services and facilities purchased in part by E-rate funds are not being used to the maximum extent possible and are lying fallow notwithstanding the great need in the communities for Internet access that is otherwise not being satisfied. Looked at as in investment, the E-rate funds used for the provision of information services in rural Alaska are not providing nearly as great a return as they could. This petition is aimed at solving that problem.

The unique circumstances in Alaska warrant grant of this petition. In most areas of the country, the most pressing Internet access issue is the availability of broadband services. In rural Alaska the needs are far more basic. This proposal is aimed at aiding those living in remote, isolated rural areas of Alaska so that they may achieve Internet access for the first time, even if that access is only on a low-speed dial-up basis, and narrow the digital divide between these areas and other parts of the United States. Grant of this petition is a step forward both in providing that access and in making more efficient use of existing, expensive satellite and microwave networks, without increasing the costs incurred by the universal service E-rate fund.

A. Demographics Of Rural Alaska: Isolated And Underserved

Communities in rural Alaska differ substantially from rural communities in the rest of the United States. Most rural Alaskan communities are far smaller than rural communities elsewhere. Of the 323 communities in Alaska, only three cities

(Anchorage, Juneau, and Fairbanks) are inhabited by more than 10,000 people.[1] There are only 23 communities of between 1,000 and 10,000 people.[2] Thus, almost 300, or 90 percent of, Alaskan communities have fewer than 1,000 people. Eighty-seven communities – over a quarter of the total – have fewer than 100 people. Another 75 communities have a population of between 100 and 250 people.[3] Outside of Anchorage, the population density of Alaska is only about 0.5 person per square mile.[4]

Most Alaskan communities are also far more remote and isolated than rural communities in other states. Most rural communities in Alaska do not have access to the three relatively urban areas of the State (Anchorage, Fairbanks, and Juneau) via road systems (either paved or gravel), and are thus isolated in a way relatively few other Americans are. State-wide, Alaska has only about 13,000 miles of public

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1 "Labor Department Estimates Alaska's 1999 Population," September 21, 1999, Tbl. 3 <http://www.labor.state.ak.us/news/news0013.htm> (visited Dec. 8, 2000) ("Labor Department Estimates"). The U.S. Census Bureau measures the population in some areas that are not part of municipalities. The College Census Designated Place outside of Fairbanks also has more than 10,000 people. *Id.*

2 *Id.*

3 These data were provided by the Alaska Department of Labor and Workforce Development, Division of Administrative Services, Research Analysis.

4 The state-wide population density of Alaska is approximately 1 person per square mile and roughly half of the State's population lives in Anchorage. "Labor Department Estimates Alaska's Population;" <http://sled.alaska.edu/akfaq/aksuper.html#pop> (visited Dec. 8, 2000).

roads, only about 3800 miles of which are paved.[5] Although Alaska is more than twice the size of Texas, its land road mileage is more like that of Vermont.[6] Thus, many Alaskan communities can be accessed only by air or by water. Not only are these forms of transportation generally more expensive than land transportation, they are also frequently impassible because of weather conditions.

Most rural communities in Alaska that have access to a relatively urban area by the road system also have access to relatively modern telecommunications services via fiber optic lines. Costs for these services are proportionately higher than the relatively urban areas of the state, but are for the most part within economic reach of village residents.

Most Alaskan communities, however, are not on such a road system. These "Rural Remote" communities are accessible only by plane or boat. The standard mode of transportation between villages is by small single and twin-engined airplanes and all-terrain vehicles year round, snowmobiles in winter and boats in the summer. The majority of the population lives in village environments in which subsistence hunting and fishing provide the main source of livelihood. Rural Remote Alaska is virtually 100% Alaska Native in ethnic origin. While the

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5 These data were provided by the Alaska Department of Transportation, Office of the Commissioner.

6 <http://sled.alaska.edu/akfaq/aksuper.html> (visited Nov. 13, 1999).

published state unemployment rate is 5.5%,[7] unpublished real rates according to the Alaska Department of Labor-Kotzebue Employment Center, when discouraged workers are factored in, can be as high as 67% in the villages.

Accessibility to everyday amenities others take for granted – affordable and efficient transportation, health care, well-stocked grocery stores, entertainment options, shopping options – does not exist in these remote communities of rural Alaska. The cost of basic services is often double that of the urban areas of Alaska, and can easily be triple that of comparable services in the Lower 48.[8]

Information resources are particularly scarce in these communities. Daily newspaper delivery is non-existent. Broadcast television and radio services are limited; cable television and satellite-delivered television are often expensive and not always available. Bookstores do not exist.

Although the library portion of E-rate program is intended to provide Internet access to the community generally, this solution, too, is not viable in rural Alaska. Most rural Alaskan communities do not have libraries. Indeed, state-wide, only 93 communities have public libraries; more than 200 Alaskan communities do not. And even in those relatively few rural communities with public libraries, resources and hours of operation are extremely limited. Only 65 of the 93

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7 Alaska Department of Labor and Workforce Development News Release: "Alaska Unemployment Edges Upward," Nov. 17, 2000 <http://www.labor.state.ak.us/news/newsol-23.html>.

8 *See* Boucher, "The Cost of Living in Alaska," *Alaska Economic Trends*, 8-9 (June 2000).

communities with public libraries in Alaska have Internet connections. Libraries in small remote villages, usually operated by volunteer staff, are typically open no more than 10 to 15 hours a week.

Residents of these communities are isolated from the public services available to individuals in relatively urban areas where public information centers, bureaus and service agencies abound. Schools, as the largest organization in the village, already serve as the focal point of the community for sports events, meetings, celebrations and even weddings.

B. E-Rate And The Economics Of Internet In Rural Remote Alaskan Communities

The relatively urban communities of Alaska are doing an admirable job of keeping pace with the technological advances of Internet and telecommunications. The cost of these services is affordable due to comparatively large populations of public and private users that help drive the costs down. Local service and access to information services can be provided affordably in these communities. These services can be extended to communities accessible by road systems at a price that may be both reasonably comparable to the price in more urban areas and relatively affordable.

The economics in Rural Remote communities are quite different. Notwithstanding the efforts of local telecommunications service providers to do what they can, telecommunications with the world beyond the local community are limited. With no access to terrestrial lines, communications going outside the village must be transmitted via costly satellite circuits or only slightly less costly

microwave relay circuits. Local exchange carriers or others in some Rural Remote areas where populations exceed 2000 residents have been able to establish Internet service, but they charge often at least twice that of the urban areas. For example, ISP service delivered over dial-up access in Anchorage averages $20 a month. That service in Kotzebue, a regional hub of 3500 people nearly 520 miles northwest, costs $45 a month.

In remote communities in rural Alaska, the prices for telecommunications services needed to access the Internet are far higher. A 56 kbps dedicated circuit in Anchorage costs $115 to $240 per month; that circuit in a Rural Remote community in which it is available costs $2750 per month. A T-1 circuit in Anchorage costs $940 per month; in a Rural Remote village, where available, it costs between $11,000-$13,000 per month. The State continues to be committed to doing what it can to reduce the costs of bandwith in these communities, but until a solution to that problem is found, other steps must be taken to provide residents of these communities with Internet access that is technically possible and economically feasible.

In almost 75% of Alaskan villages, the only Internet service presently available to community members and businesses is dial-up access via a long distance carrier. The least expensive option that can be used for Internet service is an 800 number access that has a surcharge of 10 cents per minute. Costs can be as high as 20 cents a minute. Thus, in addition to an Internet subscription charge of approximately $20 per month, the user also incurs from $6.00 to $12.00 an hour in

long distance charges. For 20 hours a month, those long distance charges could be $240 per month. Even at this cost, the service is not comparable to local access due to vagaries in long distance reception and service. Satellite "hops" introduce error and time delays in transmissions, especially over plain old telephone circuits.

At the same time these communities are deprived of connection to the rest of the world due to the isolation of their villages, one (or sometimes two) institutions in the village have access to the Internet. Alaskan school districts and (in a relatively few communities) libraries are enthusiastic and eager participants in the E-rate program. Alaskan educators were among the early adopters of computer technology for education, and for many years, Alaskan education was recognized as technologically advanced. With the development of the Internet and the waning of stand-alone computer systems, Alaska's education community fell further and further behind national technology standards because of the enormous costs associated with telecommunications in Alaska. Implementation of the E-rate program was eagerly anticipated by educators in remote Alaskan communities who knew that they could now connect their isolated students to the world of information. Over 98% of village schools have dedicated Internet access, often over a 56 kbps connection but occasionally over a T1 connection. State Department of Education and Early Development staff visiting village schools enthusiastically testify to the exciting effects of connectivity on education in these remote communities.

In the meantime, the parents and neighbors of these students are generally excluded from this educational and information revolution. Students also lose use of this connectivity as soon as they leave the school building, and may not use the Internet to do homework or research from home. Village elders, community organizations, tribal councils, all are aware that Internet access is present in the village, but they cannot access it. To them, this is equivalent to showing a thirsty man in the desert a glass of water and not letting him drink.

Rural regions face special challenges when they try to adopt information and communication technology. They lack economies of scale because of their smaller population size, and they generally have a smaller base of human and technological resources upon which to draw. Low population density means telecommunications networks are more costly per user. The line of the digital divide has been drawn even more deeply now in areas with the greatest need for access to the services of the Internet. Start up costs for an ISP in a village are often more than $20,000 plus the monthly cost of a satellite link. The high cost of implementation in these Rural Remote communities has prevented the establishment of ISPs in these very small communities and will continue to do so for the foreseeable future.

II. REQUEST FOR WAIVER AND DECLARATORY RULING

The Commission's rules may be waived for good cause shown.[9] A rule may be waived where the particular facts make strict compliance inconsistent with the

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[9] 47 C.F.R. § 1.3.

public interest.[10] In addition, in reviewing a request for waiver, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy.[11] As the Commission stated in granting another waiver request related to the E-rate, "[w]aiver is, therefore, appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule."[12]

A. Making Efficient Use Of Existing Resources: A Reasonable Solution

For the reasons set forth above, establishment of local or toll-free dial-up Internet access services by local, regional or national ISPs in many Rural Remote villages is not economically feasible. In addition, satellite communications capacity in these villages is limited, thus making it difficult as a technical matter to construct another circuit connecting these villages to the Internet.

Meanwhile, a telecommunications pipe into almost every Alaska village exists which is underutilized for a great part of the day and year. Allowing Alaska schools and libraries to operate as a point of presence for dial-through Internet access when they are closed would utilize the access already present in the Rural

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10 *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) ("*Northeast Cellular*").

11 *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969), *cert denied*, 409 U.S. 1027 (1972).

12 *Federal State Joint Board on Universal Service,* 15 FCC Rcd. 6046, 6050 at ¶ 8 (2000) (citing *Northeast Cellular*, 897 F.2d at 1166) ("*Washington DIS Waiver Order*").

Remote villages without depriving the E-rate participating institutions of any portion of the telecommunications services funded by the E-rate. During the evening and summer hours when schools are closed or libraries are not available, the waste of this precious resource is not in the public interest.

We propose that Alaska schools and libraries in rural and remote communities be allowed to act as point of presence for the transport of Internet access in these villages. Equipment for managing this dial-through access and associated local services would be the responsibility of the school, library, village or tribal organization, and would not be eligible for any E-rate support. The equipment and services needed in the community to provide this service could be acquired from the incumbent local exchange carrier or others. We simply request that the underused and unused facilities that already exist be available for use by village residents.

Use of the local dial-up POP may very well encourage demand within a village which would allow the development of a locally run or other full-time ISP service available on a local or toll-fee access basis. Once such access became available in a community, the need for the use of the services permitted by this waiver would disappear and the services could be phased out.[13]

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[13] For example, a condition could be attached that a school or library must phase-out its Internet access POP operations within 90 days of the date an alternative toll-free or local access service becomes available in the community at rates that are reasonably comparable to those available in urban areas of the State.

B. The Waiver Is Consistent With the Statute and Would Promote Achievement of Congressional Intent.

In the State's view, there is no statutory provision that prohibits schools and libraries from allowing others in the community to use their facilities funded in part by the E-rate, as long as that use does not increase the amount or level of services purchased by the school or library pursuant to the E-rate program. Section 254(h)(1)(B), which authorizes the E-rate for schools and libraries provides as follows:

> All telecommunications carriers serving a geographic area shall, upon a bona fide request for any of its services that are within the definition of universal service under subsection (c)(3), provide such services to elementary schools, secondary schools, and libraries for educational purposes at rates less than the amounts charged for similar services to other parties. The discount shall be an amount that the Commission, with respect to interstate services, and the States, with respect to intrastate services, determine is appropriate and necessary to ensure affordable access to and use of such services by such entities. A telecommunications carrier providing service under this paragraph shall—
>
> (i) have an amount equal to the amount of the discount treated as an offset to its obligation to contribute to the mechanisms to preserve and advance universal service, or
>
> (ii) notwithstanding the provisions of subsection (e) of this section, receive reimbursement utilizing the support mechanisms to preserve and advance universal service.

Thus, as long as the schools are not requesting more services than they need for educational purposes, nothing in this provision would prohibit the schools from

making those services or facilities available to others in the community after school hours.

Section 254(h)(2) contains provisions under which the Commission promotes access to advanced telecommunications services for schools and libraries. It states:

> The Commission shall establish competitively neutral rules—
>
> (A) to enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for all public and nonprofit elementary and secondary school classrooms, health care providers, and libraries; and
>
> (B) to define the circumstances under which a telecommunications carrier may be required to connect its network to such public institutional telecommunications users.

There is nothing in this section that limits schools from making its facilities available to others after school hours. Indeed, it places on the Commission the obligation to enhance access to advanced services to schools to the extent economically reasonable. There is nothing in the proposal advanced in this petition that would detract from the accomplishment of this objective.

Section 254(h)(3) also does not prohibit schools from making their E-rate funded services available to others in the community after school hours. It provides that

> Telecommunications services and network capacity provided to a public institutional telecommunications user under this subsection may not be sold, resold, or otherwise transferred by such user in consideration for money or any other thing of value.

Under the proposal set forth here, schools would not be selling, reselling or transferring services to others for consideration of any kind. To the contrary,

schools would merely be sharing facilities with others during hours when they are not being used by the schools.[14]

The only other conceivably relevant statutory provision is Section 254(h)(4), which addresses the users who are eligible to purchase services at preferential rates under the E-rate. It provides:

> No entity listed in this subsection shall be entitled to preferential rates or treatment as required by this subsection, if such entity operates as a for-profit business, is a school described in paragraph (5)(A) with an endowment of more than $50,000,000, or is a library or library consortium not eligible for assistance from a State library administrative agency under the Library Services and Technology Act.

The plan set forth here does not violate this section either. This section merely carves out of the definition of schools and libraries that are eligible for E-rate support some schools and libraries (*e.g.* for-profit schools) that otherwise might be eligible.

C. Waiver of Section 54.504(b)(2)(ii) Is In the Public Interest.

The only regulatory provision which the State believes may conflict with the plan advanced here is Section 54.504(b)(2)(ii), and waiver of that provision is in the public interest. Waiver of this rule would also be appropriate given considerations of hardship, equity, or more effective implementation of overall policy.

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14 The Commission has long recognized the difference between resale and shared use. *See, e.g.*, *Resale and Shared Use of Common Services and Facilities*, 60 F.C.C.2d 261, 265 (1976) (distinguishing shared use which "does not constitute the offering of a service by one entity to others for a profit" from resale in the context of common carrier regulation), *amended on reconsideration*, 62 F.C.C.2d 588 (1977), *aff'd sub nom.*, *AT&T v. FCC*, 572 (continued...)

Section 54.504 addresses requirements applicable to requests for service under the E-rate program. Subsection (b) sets forth requirements for posing of FCC Form 470, which is entitled "Schools and Libraries Universal Service Description of Services Requested and Certification." Subsection (b)(1) requires the school or library applicant to provide information which interested service providers would need to know to submit a bid to provide the requested services. This information includes data on the school's or library's current and planned computer equipment, internal connections, computer software used for communications purposes, experience and training of relevant personnel, maintenance contracts, and electrical capacity.

Subsection (b)(2) requires the person submitting the request on behalf of the school or library to certify to seven specific points. It provides as follows:

> FCC Form 470 shall be signed by the person authorized to order telecommunications and other supported services for the eligible school, library, or consortium and shall include that person's certification under oath that:
>
> (i) The school or library is an eligible entity under Section 254(h)(4) and 254(h)(5) of the Act and the rules adopted under this subpart;
>
> (ii) The services requested will be used solely for educational purposes;
>
> (iii) The services will not be sold, resold, or transferred in consideration for money or any other thing of value;

(...continued)

F.2d 17 (2d Cir. 1987), *cert. denied*, 439 U.S. 875 (1978). The proposal here is similar to shared use and in no way represents resale.

(iv) If the services are being purchased as part of an aggregated purchase with other entities, the request identifies all co-purchasers and the services or portion of the services being purchased by the school or library;

(v) All of the necessary funding in the current funding year has been budgeted and approved to pay for the "non-discount" portion of requested connections and services as well as any necessary hardware or software, and to undertake the necessary staff training required to use the services effectively;

(vi) The school, library, or consortium including those entities has complied with all applicable state and local procurement processes; and

(vii) The school, library or consortium including those entities has a technology plan that has been certified by its state, the Administrator, or an independent entity approved by the Commission.

Subsections (i) and (iii) through (vii) are not implicated by the proposal advanced here. The applicant would be an eligible school. The services to be acquired would not be sold, resold or transferred for any consideration. If the services to be purchased are part of an aggregated purchase with other entities, the request would identify all co-purchasers and the services or portion of the services purchased by the school. (This section is not implicated by the proposal advanced here because the schools would be the only entity purchasing service and the services to be purchased would not be increased to reflect the service requirements of others.) The proposal here does not diminish in any way a school's need for budgeted and approved funding for its portion of the cost of the requested connections and services and other costs. It also does not diminish the need for compliance with applicable state or local procurement processes. And, the proposal