

does not remove or modify in any way the requirement for a technology plan that has been certified as required.

The only portion of this certification that could be called into question under the proposal advanced here is the second part: “The services requested will be used solely for educational purposes.” The purpose of this requirement is to assure that the E-rate program is not being asked to pay for services that are not needed for educational purposes. Although under the proposal advanced here others would be using the services to be funded, those services would be used by others only when they would otherwise be laying fallow (*e.g.*, after school hours and when schools are closed). Implementation of the proposal and grant of the waiver would not increase the amount of services requested by the school and therefore would not lead to additional costs for the E-rate fund. The purpose of this portion of the certification requirement would thus be satisfied, even if its literal language would not be. In these circumstances, grant of a waiver is appropriate.

In fact, the plan advocated here is not only permissible under the Communications Act, but also would promote accomplishment of the goals of the statute and the public interest. In the Conference Report accompanying the Telecommunications Act of 1996, Congress stated:

The ability of K-12 classrooms, libraries and rural health care providers to obtain access to advanced telecommunications services is critical to ensuring that these services are available on a universal basis. The provisions of subsection (h) will help open new worlds of knowledge, learning and education to all Americans—rich and poor, rural and urban. They are intended, for example, to provide the ability to browse library

collections, review the collections of museums, or find new information on the treatment of an illness, to Americans everywhere via schools and libraries. This universal access will assure that no one is barred from benefiting from the power of the Information Age.¹⁵

Congress appeared to envision that, in some circumstances, E-rate support would be necessary to provide all Americans – not just students – access to advanced telecommunications services and information services through schools. This petition is intended to help fulfill this vision.¹⁶

Indeed, Internet connectivity to the world beyond these remote villages is essential if these communities are to participate economically and socially in the 21st century. As the bipartisan Congressionally formed Web-Based Education Commission stated in its recently released report:

The World Wide Web is a tool that empowers society to school the illiterate, bring job training to the unskilled, open a universe of wondrous images and knowledge to all students, and enrich the understanding of the life long learner.

The opportunity is at hand. The power and the promise are here. It is now time to move from promise to practice.¹⁷

¹⁵ H.R. Report 104-458, 104th Cong., 2d Sess. at 132-33 (January 31, 1996) (emphasis added).

¹⁶ Indeed, this proposal is modest in light of the goals of Section 706 of the Telecommunications Act of 1976, which seeks to promote access to information services through advanced telecommunications services (broadband services). This proposal is necessary to facilitate narrowband services in many communities.

¹⁷ Web-Based Education Commission, *The Power of the Internet for Learning*, 1 (Dec. 2000).

The fact that persons who are ineligible to participate in the universal service programs derive an indirect benefit from those programs does not create a legal problem and is not contrary to the public interest. Schools and libraries are permitted to combine their service requirements with the service requirements of others who are ineligible to participate in the universal service support programs so that all of the users may be eligible for volume discounts from the telecommunications provider for which they otherwise would not qualify. The members of the consortium who are not eligible for the universal service discounts benefit by combining their services with those of the schools and libraries, but that benefit is permitted at least in part because it creates no additional cost for the E-rate program and promotes efficiency.¹⁸

Grant of this petition would not only be consistent with the Commission's policies promoting access to information services in general, it would also promote the Commission's goal of expanding access to these services in areas inhabited by Native Americans.¹⁹ The vast majority of the residents of these rural and remote Alaska villages are Native Alaskans. Many more Native Alaskans would have

¹⁸ See 47 C.F.R. § 54.501(d); *Washington DIS Waiver Order* at ¶ 2; *Changes to the Board of Directors of the National Exchange Carrier Association, Inc.; Federal-State Joint Board on Universal Service*, 14 FCC Rcd. 18,756, 18,789 at ¶ 54 (1999).

¹⁹ See, e.g., *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, 15 FCC Rcd. 12,208, 12,211 at ¶ 1 (2000); *Extending Wireless Telecommunications Services to Tribal Lands*, 15 FCC Rcd. 11,794, 11,796 at ¶ 1 (2000).

access to information services if this petition is granted at no additional cost to the E-rate program.

D. Request for Declaratory Ruling

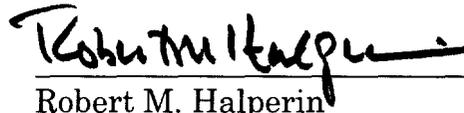
The State requests a declaratory ruling that (1) implementation of the proposal described in this petition does not violate any provision of the Communications Act of 1934, as amended, and (2) implementation of the proposal described in this petition does not violate any Commission rule or regulation with the possible exception of Section 54.504(b)(2)(ii). The State has set forth above the analysis in support of these propositions. The State makes this request to remove uncertainty concerning whether this proposal may be implemented if Section 54.504(b)(2)(ii) is waived.

III. CONCLUSION

It is not the intent of this request to create any additional cost burden on the E-rate program, but to allow the use of an already existing service during periods of time in which it is otherwise unused or underutilized. Grant of this waiver and declaratory ruling request would allow the residents of Rural Remote Alaska communities where no local dial-up Internet service exists to be connected to the rest of the Nation and the world and would promote the universal service objectives of both Congress and the Commission.

Respectfully submitted,

THE STATE OF ALASKA

A handwritten signature in black ink, appearing to read "Robert M. Halperin", is written over a horizontal line.

Robert M. Halperin
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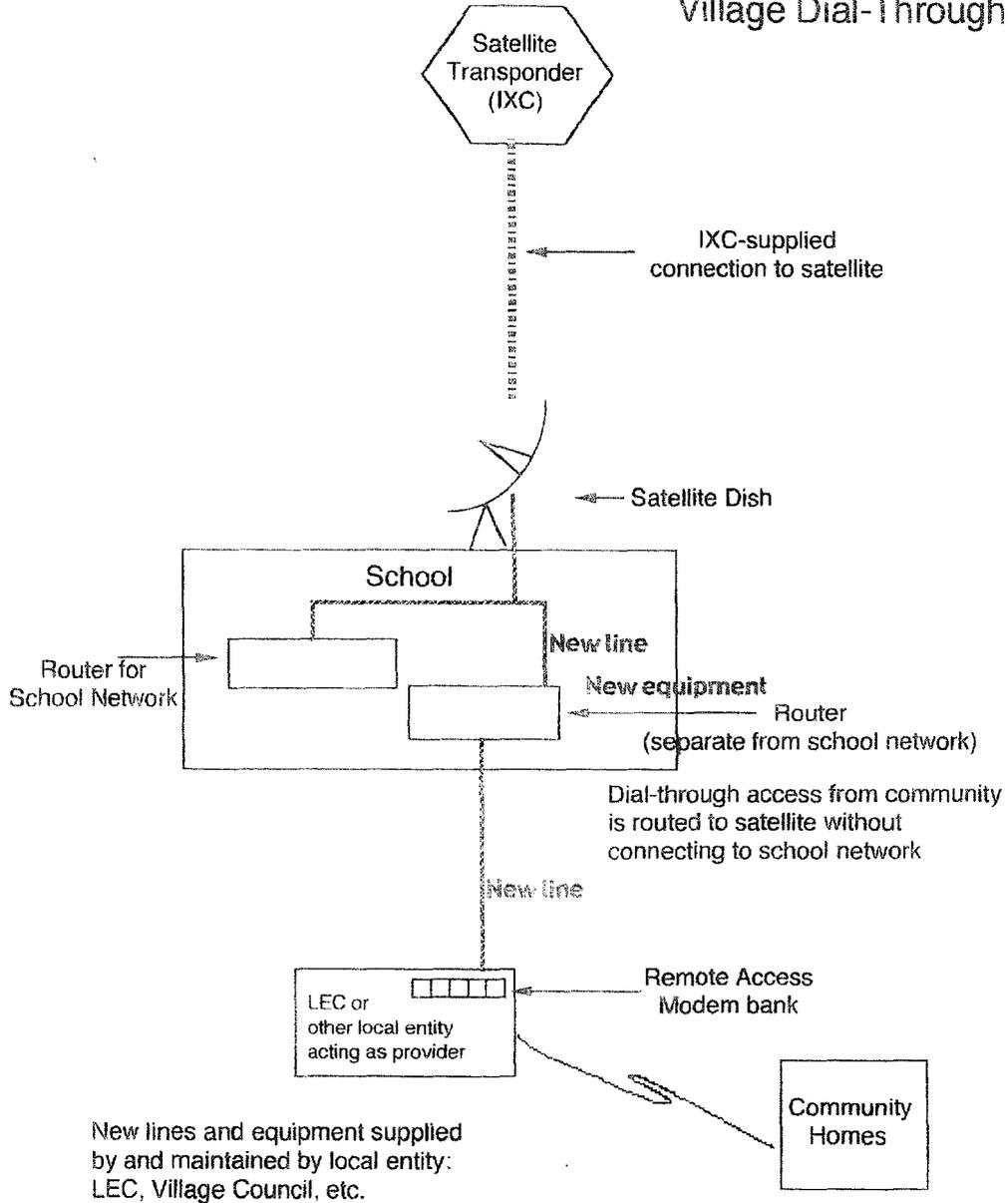
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Date: January 29, 2001

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Sample Internet Connection for Village Dial-Through



CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of January, 2001, a copy of the foregoing Corrected Copy of the 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 with attachment was served by hand on the following:

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