

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

In the Matter of)

Schools and Libraries Universal Service)

CC Docket No. 02-6

**COMMENTS OF THE
MAINE PUBLIC UTILITIES COMMISSION**

The Maine Public Utilities Commission (MPUC) submits the following comments in response to the Notice of Proposed Rulemaking (NPRM) released by the Federal Communications Commission's (FCC or Commission) on January 25, 2002, in the above-captioned docket. The Maine Department of Education and Maine's State Library also support these comments.

I. GENERAL COMMENTS

In Section II, the MPUC provides comments on some of the specific issues raised by the FCC's NPRM. Before providing these responses, we take this opportunity to ask the Commission to consider a number of broader topics. The NPRM states that the Commission seeks ideas from the public that further the goals of improving program operation, ensuring benefits are distributed in a fair and equitable manner and improving oversight of the program ¶¶ 3-4. We ask the Commission to consider the following issues in making any rule changes.

A. Increase Opportunities for Administration at the State Level

The Commission should consider creating an opportunity for states to apply for waivers to allow a state to administer funds that would otherwise be obtained by schools and libraries on an "individual" basis. For example, in Maine, the State's Department of Education and Maine State Library provide the means for libraries and schools to obtain Internet access and other advanced services, such as asynchronous transfer mode two-way video (ATM), through contracts entered into by the State. The contracts have been awarded pursuant to state bidding and purchasing procedures. Maine is also providing wireless networks, training, inside wiring and computers in all middle schools. These technologies are consistent with our State technology plans. Maine also administers its own state-funded "E-Rate" program with no full-time staff and spends almost no money administering the program. These dollars go to our schools and libraries and as a result we have become one of the most wired states in the country for relatively little money. We believe that if at least a portion of Federal E-Rate were available on a block grant basis to state's meeting certain criteria, Maine would be able to further its statewide objectives at no greater cost to E-Rate.

The FCC could establish criteria for a state to meet before allowing the state to disburse E-Rate funds. These might include, for example, requiring that any state purchase be consistent with a state's technology plan and be disbursed on a needs-based formula.

B. Create Greater Transparency As to What Services Are Being Funded

It is impossible to provide extensive guidance to the Commission on the fairness of the distribution of funds without sufficient information about precisely what services are being funded. The broad categories of internal connections, Internet and telecommunications tell us little about what is being accomplished with this funding. We ask that the FCC require USAC to make more detailed information available about services that are being obtained and at what cost and discount level. This will allow a level of examination that furthers the goal of preventing waste and fraud and also allows a determination of the equity of distribution of funds.

C. Create Priorities For Funding Consistent With the Statute's Intent

Section 254(h)(2) of the 1996 Telecommunications Act specifies that the FCC establish competitively neutral rules to enhance access to advanced telecommunication and information services (emphasis added). Although it is not entirely clear how the funds are being spent (see I.B. above), it appears that a majority of the funding may be going toward plain old telephone service (POTs) and other widely deployed technologies. Greater flexibility needs to be given so schools and libraries can be innovative, as well as receive support for standard offerings such as POTs.

The Commission should eliminate the "hard" cut-off (87% in Year 4) for internal connections. States like Maine, where the overall level of income is relatively low, but where both high and low income populations are widely

dispersed rather than concentrated in homogeneous income groupings, are unfairly disadvantaged where funds for internal connections are limited to small areas of extreme poverty (notwithstanding the likely existence of more affluent communities in the same jurisdiction and the probability that the state as a whole is better off). A sliding scale applicable to schools and libraries in, for example, the 50% and above discount level, would be a fairer and more equitable way to distribute funds for internal connections. If the funding for internal connections continues to be so limited, the MPUC agrees with the suggestion that a school or library only be eligible for internal connections discounts once every three years (§ 40).

D. Provide Discounts for Any Mandates

Federal E-Rate discounts should be available for any mandates associated with acceptance of Federal E-Rate Funds. If requirements such as CIPA requirements remain in effect, discounts should be provided to fund these requirements.

II. SPECIFIC COMMENTS

A. Consortia (§§ 30-32)

The Commission seeks comments on whether changes to consortia rules might achieve a greater consistency of fairness in its approach to the participation of consortia in the program.

Maine filed a consortia application for the first time in Year 4. Virtually all of Maine's 1100 public school and libraries are members of the

consortia and have designated the Maine State Library to act as their agent in applying for Federal E-Rate. Maine's State E-Rate will supplement Federal payments to ensure all of Maine's schools and libraries remain connected to the Internet. Such an application with one vendor for telecommunication services and one for Internet service should present virtually no approval problems. However, our application remains under review 15 months after it was submitted. The majority of all of Maine's Federal E-Rate funding is tied up in this one application. The apparent policy at USAC of leaving consolidated applications to the end of the process is contrary to the policy it should adopt: consortia application should be encouraged and given priority review. Under the current practice, Maine's schools and libraries would have been better served by filing 1100 individual applications rather than one consortia application, a result that would be in no one's interest.

B. Choice of Payment Method (¶¶ 33-36)

Currently funds, go to the eligible service provider rather than to an individual school or library. According to the NPRM, it is left to the school or library and the vendor to work out whether the vendor will provide a discounted bill, with the vendor then seeking reimbursements from the Administrator for the discounted portion, or whether the school or library will pay the entire amount and then seek reimbursement through the Billed Entity Applicant Reimbursement (BEAR) process. If the BEAR process is used, the Administrator reimburses the vendor the entire amount and the vendor then reimburses the school or library for its discount. The Commission should require vendors who choose to participate

in this program to provide a discounted bill. Many schools and libraries in Maine simply cannot afford to pay out of pocket for the months that pass between the time they obtain service, receive E-Rate approval and eventually are reimbursed by their vendor through the BEAR process. Even better, where discounts are not provided immediately by the vendors, would be direct payment to the schools and libraries; the Commission should consider whether it would be possible to do so consistent with current law.

C. Unused Funds (¶¶ 69 & 70)

Any unused funds should be rolled over for use in the following years. This should be in excess of the \$2.25 billion cap rather than subsumed with the cap. Schools and libraries should not be penalized when discounts that are awarded go “unclaimed,” regardless of the reason. Given that the need clearly exceeds the \$2.25 billion available annually, the fairest process would be to allow any unclaimed discounts to be made available in the following years. The fact that so much money goes unclaimed each year underscores the need for changes in the E-Rate application process and argues for delegation to states where the state can demonstrate a functional program.

III. CONCLUSION

In addition to the program changes described in Section II. above, we ask the Commission to consider allowing states greater authority over how funds will be spent to benefit our State. With appropriate criteria and safeguards in place, we believe this would encourage technological advancements in our schools and libraries and reduce administrative costs.

Respectfully submitted,

MAINE PUBLIC UTILITIES COMMISSION

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