

**Before the Federal Communications Commission
Washington, DC 20554**

In the Matter of:)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism – Second Further)	
Notice of Proposed Rulemaking)	

REPLY COMMENTS SUBMITTED BY THE

**ALASKA DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT
And ALASKA STATE LIBRARY
IN RESPONSE TO THE
THIRD REPORT AND ORDER AND SECOND FURTHER NOTICE OF
PROPOSED RULEMAKING
RELEASED December 23, 2003**

The State of Alaska Department of Education and Early Development and the Alaska State Library (EED) submit these reply comments in response to those submitted to the Second Notice of Proposed Rulemaking (FCC 02-6) released on December 23, 2003. In this Notice, the Federal Communications Commission (the Commission) sought public input on certain rules and operational procedures of the Schools and Libraries Universal Service Fund. Comments were submitted on behalf of EED on March 10, 2004. EED is happy to submit these further comments in reply to those filed during the previous period. In these comments, we will address issues raised by individual respondents as well as those introduced by the Commission.

NEW RULES AND THE TIMING OF THEIR APPLICATION

In many filed comments, a theme evolved regarding the implementation of rules either announced in the Third Report and Order or contemplated in the Second Further Notice of Proposed Rulemaking. Many commenters asked that the commission consider the effect of untimely rule changes on the applicants and service providers who participate in

the program. In particular, EED finds itself in heartfelt agreement with On-Tech in asking that all rules and program changes be adopted and released at least 10 months before the start of a program year. We add the request that rule changes not be enforced retroactively. It is not only disconcerting, but unfair, to expect applicants to have made decisions in concert with rules which were not promulgated when the original requests were made. United Utilities, Inc., a small telecommunications provider serving Bush Alaska, makes the point that the contracts with their applicants were entered into on the reasonable assumption that support would continue at the current discount level for the life of the contract. To drop the discount rate in the middle of such contracts is patently unfair and will bring hardship not just to the applicant, but to service providers as well.

A case in point is the impact of the new “two-out-of-five” rule on those applicants who entered into multi-year leasing contracts for Priority 2 equipment in earlier years. As Funds for Learning, LLC, points out, while making provision for multi-year maintenance contracts under the new rule, there is no safe haven for applicants who *lease* software licenses necessary to manage their telecommunications networks. The Commission and the Administrator need to very quickly promulgate procedures which will allow applicants to maintain the integrity of their systems even while not allowing them to continually purchase specific hardware for the same location or purpose.

Comments made by the American Library Association in regards to the definition of Basic Phone Service would seem apropos at this time. In the Third Order, the definition was tweaked with the addition of cell phones to the POTs mix. In this modern day, it is

hard to argue that voice mail is not a basic service and therefore should go into the basic category , either for individuals or organizations. Also, it would be a very small organization that could not use, and actually does not need, the advances that a Centrex or similar service adds to their phone use. EED urges a complete reconsideration of that most ground-level definition, Basic Phone Service.

TECHNOLOGY PLANS

Of the 17 commenters who replied directly to the questions asked by the Commission on technology planning, 13 directly answered “Yes” to the question on more directly aligning planning requirements with the US Department of Education requirements. Many of them eloquently asked that the Administrator of the program remove the “nuts and bolts and screws and widgets” requirements from the technology plan and allow it to revert to its original intended use, i.e., planning the integration of technology into the teaching and learning processes of education. Three commenters specifically asked that if the Administrator needs a concise list of equipment and services with their budgetary references and educational purposes, it should be laid out as a new form to be turned in with one or the other current SLD forms; otherwise, it will merely confuse and frustrate applicants who are aware that the inclusion of such minuscule detail in an educational planning document is really an exercise that create hoops through which they must subsequently jump before getting funded. The Ohio SchoolNet Commission in particular stated that “School district Technology Plans should not be reduced to annual purchase lists of E-Rate eligible goods and services.” EED can only say amen.

RURAL DEFINITION

In our original comments, EED confessed that the multiplicity of esoteric definitions available made it extremely difficult to reach a decision on a new definition of rurality. We certainly were aware that being a state that serves as the poster child of “ruralness” made the issue extremely important to us. We appreciate the opportunity to study the comments made by others and found three elements that we can agree upon fully.

First, both Verizon and the National Telecommunications Cooperative Association listed 4 requirements for whatever definition is decided upon: (1) it should be consistent from year to year; (2) it should allow applicants to easily determine their position in the listings; (3) it should accurately define rural areas and applicants that most need E-Rate support; and (4) it should be administratively simple. In reading through the other comments, we found a definition that we feel meets these criteria.

Secondly, both the Rural School and Community Trust and the American Association of School Administrators & Association of Educational Service Agencies recommend the use of the US Johnson Locale Codes from the National Center for Education Statistics (NCES) of the US Department of Education. As the largest by far of the constituent groups, public schools are already assigned a designation of either urban or rural by this agency. They are accustomed to dealing with NCES codes, making it easy for them to know their designations. Since the assignment is at the school level, districts which have

both urban and rural buildings are fairly treated. For libraries and private schools, the NCES codes can be searched by ZIP code and the resulting school designation could be used for those entities not in the data base.

Finally, a suggestion by the Wisconsin Department of Public Instruction addresses the “administratively simple” requirement. Using NCES codes, SLD should add the Urban/Rural designation to its database of entity information. There is already a field in the entry form for the SLD Billed Entity Search that is labeled NCES District Number. The addition of a U/R designation to that field should not be overly burdensome, considering the time which is now being spent by both Administrator and applicants in verifying such information.

THE USE OF SURVEYS

A compilation of responses to the questions regarding the use of surveys to determine eligibility numbers and thus discount levels shows that there is no commenter support for lowering the number of required responses for a survey. Although this suggestion was probably conceived as a way to ameliorate two problems, that of applicant complaints that the process is too difficult and that of applicant misuse of statistics used to determine discounts., EED does not feel that lowering the required response rate will help with either problem.

Instead, and in concurrence with the suggestion made in the Rural Definition section that national information already gathered will simplify the program for everyone, EED

reasserts that census data or some other reliably collected data, separate from E-Rate or the National School Lunch Program, will be more equitable for all applicants and will certainly ease the workload of the Administrator. The current practice of verifying EVERY number, both enrollment and eligibility, listed on nearly 40,000 applications is mind boggling to say the least. And when those numbers are not available in an electronic or paper listing format, the time required to contact and receiver verification is mind numbing. As the Illinois State Board of Education states, use of this type of data would also answer the persistent request of the library community that discounts be figured on the basis of their own communities served, not on the basis of large and often distant school districts.

In conclusion, EED once again thanks the Commission for the opportunity to put our thoughts before you. We want very much for this program, which has done so much for our state's education and library communities, to grow and prosper. We would be pleased to be of assistance to you in these or any other matters.

Respectfully submitted,

Roger Sampson, Commissioner

Alaska Department of Education and Early Development