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

In the Matter of	)	
	)	
Comprehensive Review of Universal Service Fund Management, Administration, and Oversight	)	WC Docket No. 05-195
	)	
Federal- State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Schools and Libraries Universal Service Support Mechanism	)	CC Docket No. 02-6
	)	
Rural Health Care Support Mechanism	)	WC Docket 02-60
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109
	)	
Changes to the Board of Directors for the National Exchange Carrier Association, Inc.	)	CC Docket No. 97-21

INITIAL COMMENTS OF THE E-RATE SERVICE PROVIDER FORUM (ESPF) ON THE NOTICE OF PROPOSED RULEMAKING AND FURTHER NOTICE OF PROPOSED RULEMAKING (FCC 05-124)

The E-Rate Service Provider Forum (ESPF) submits these Comments in response to the Notice of Proposed Rulemaking (NPRM) released June 14, 2005. The NPRM, FCC 05-124, invites interested parties to file comments regarding a comprehensive review of the Universal Service Fund, including the Schools and Libraries Support Mechanism (commonly known as the "E-rate" program).

The E-Rate Service Provider Forum represents a broad national association of telecommunications, Internet access, and internal connections service providers and E-rate consultants. The Forum was founded early in 2005 as a vehicle to share E-rate information and to represent the interests of E-rate service providers and consultants in the evolution of the program. ESPF members are intimately familiar with the operational details of the E-rate program and are acutely aware of the impact of FCC rules and procedures on the E-rate process as they affect both their customers and their businesses.

A list of ESPF members, who have contributed to and/or concur with these Comments, is provided in Appendix A.

NOTE on the structure of these comments: In order to facilitate the Commission's consideration of these comments, they are structured according to the headings and paragraph numbers as contained in the FCC's Order (FCC 05-124) released on June 14, 2005.

Universal Service Fund Administrator

USF Administrative Structure

Administrative Procedures (NPRM, paragraph 22)

The Commission seeks comment on whether it should codify certain USAC administrative procedures in the Commission's rules. The Commission believes that greater clarity in USAC's rules and procedures will help reduce ministerial errors. The Commission asks that commenters consider whether any proposal for the Commission to codify USAC administrative procedures would facilitate or restrict the ability of the administrator to perform its duties in a flexible and responsive way.

- **Beware of creating more opportunities for applicants or service providers to lose funding.**

ESPF agrees that greater clarity about the requirements of the program would help applicants and service providers avoid the technical mistakes that so often result in denial of funding and the loss to students and library users of the benefits the E-rate promises. The E-rate program is a complex one and the participants in the program are very diverse. As the Commission recognizes, the fund administrator needs flexibility to deal with issues in a way that is consistent with the intent of the program and not to deny funding whenever there is a minor technical, but not substantive, violation of the rules.

- **Provide a clear compilation of all program requirements.**

An applicant or service provider who sets out to comply with the requirements of E-rate has a very difficult, if not impossible, task of identifying all that apply. There are requirements set out in FCC rules. Others are spelled out in FCC orders or appeals decisions or public notices but not codified in the rules. USAC provides guidance on requirements in What's New items on its Web site, but those get buried in archives over time. There are training slides on SLD's Web site and annual letters to the field with guidance. Probably the single best way to improve compliance with program requirements and reduce the high rate of funding denials and reductions we see today would be for the Commission to direct the fund administrator, under the supervision of Commission staff, to compile in one place and in a logical order all the program requirements in effect today. This integrated compilation of all requirements should be posted on the administrator's Web site and be available in printed form from the client service bureau. The compilation would have to be updated as requirements were changed. Once established, snapshots of the compilation should be periodically archived on the administrator's Web site (like previous Eligible Service Lists) so that, in the event of an audit of a prior year, there could be ready access to the appropriate compilation to show what requirements were in place at that time.

- **Do not deny funding requests or invoices for issues not reflected in the compilation.**

Once the comprehensive compilation is available, no applicant or service provider should be denied funding or otherwise penalized unless the administrator can clearly demonstrate that there was a violation of a requirement included in the compilation. Such a step would go a very long way toward reducing the fear that so many participants in the program feel – fear of funding denials up front, denial of invoices after services have been provided, or of commitment adjustments and fund recoveries after discounts or reimbursements have been provided. That would improve the rate of program participation and achievement of the benefits the program was established to produce.

- **Include clear definitions of all requirements in the compilation.**

In addition to a clear list of all the program's requirements, there need to be clear definitions of those requirements. For example, applicants are to have "cost-effective" solutions to their technology needs, but there is no clear definition of that term. Funding requests have been denied as not "cost-effective," but applicants only find out that determination on their requests when they are denied. Program participants must have a clear set of requirements up front so that they can ensure they are in compliance and are not surprised when they receive their funding commitment decision letters or invoices are denied after discount shave been provided.

- **Involve the applicable service provider before denying funding requests for lack of applicant response.**

In order to facilitate timely responses to PIA requests, to help minimize the number of funding requests denied due to lack of a timely response to PIA, and to allow the service provider reasonable notice time to assist the applicant, as applicable and appropriate, we suggest the following:

1. Copy all PIA requests for information to the SPIN listed on the funding request using the e-mail address included in the SPIN database/498 information.

2. If suggestion 1 is not acceptable, require PIA to contact the SPIN listed on the funding request by e-mail in the event that an application is pending denial due to lack of a response from the applicant, allowing seven days for the service provider to attempt to contact the applicant as well. This could be coordinated with PIA's 2nd contact letter to the applicant. Allow the service provider to request an extension if the service provider determines that the applicant is unavailable to respond.

- **Ensure due process to program participants throughout the E-rate program.**

Applicants and service providers have frequently experienced very long delays in decision-making on applications, appeals, and invoices, and then been denied with a dubious or surprising denial reason. Participants are often asked ambiguous questions by PIA and invoice reviewers and then denied based on the answers they provide.

Invoice denials, in particular, come with little or no explanation (e.g., "no response from service provider," "discounts not supported by bills"), and it is virtually impossible to talk to invoicing staff to get an explanation. If one wants to appeal, one must often guess why the invoice team thinks there was no response or why the discount is not supported. Those submitting invoices are generally not told during the review "here is the problem as we see it, so if you can't explain we are going to deny," even on very big invoices. The Commission should direct the administrator to be more forthcoming about the reasons for denials so an informed decision can be made about whether to appeal and the appeal can provide relevant information to the administrator.

The administrator ought to ensure clear communication in all its contacts with applicants and service providers. If it has concerns about whether there has been or will be compliance with FCC rules, it ought to explain those concerns and give the applicant and/or service provider an opportunity to respond. Every effort should be made by the administrator to ensure that service providers and applicants are afforded due process throughout every decision-making stage of the program including decisions on funding requests, invoicing, appeals, recovery of funds, audits, general investigations, etc.

Performance Measures

E-Rate (NPRM, paragraphs 26, 38, and 66)

The Commission seeks comment on suitable outcome, output, and efficiency measures for the E-rate program. The NPRM notes that universal service is an "evolving level of telecommunications services" that includes advanced services[1] and seeks comments on how it can take the evolving level of services into account in adopting performance measures.

The Commission also seeks comments on ways to measure the efficiency and effectiveness of the E-rate program, noting how delays in issuing decisions on applications and other matters can lead to ministerial errors on subsequent applications, complicating auditing, and undermining the Commission's ability to combat waste, fraud, and abuse. The Commission asks whether it should create new deadlines for completing application or appeals reviews.

The Commission asks whether it should require itself to conduct periodic review of the administration and management of the USF.

- **Establish as the goal of the E-rate program access by schools and libraries to an evolving level of telecommunications and advanced services as measured by services available in the mainstream corporate environment.**

ESPF believes that the Commission is focusing on the right goal of the program – access to an evolving level of services. Telecommunications services (and services that provide similar functionality) are evolving rapidly today. Just as the proponents of E-rate in 1996 decried the

[1] 47 U.S.C. § 254(b)(6) and (h)(2).

digital divide, with a primary focus on Internet access, schools and libraries are in danger of falling behind new digital divides as the communications technologies continue to change and improve. ESPF urges the Commission to clearly establish access to evolving technologies as the proper goal of the E-rate program and to measure whether that goal is being achieved by determining on a periodic basis whether the access that schools and libraries in America have to such technologies is comparable to the access to such technologies enjoyed in the mainstream corporate environment. That comparison should take into account technologies that support particularly important applications for schools and libraries, such as distance learning, which can be critical for the quality of education provided in remote locations. Such a measure will ensure that our schools and libraries keep up with the private sector and that the learners they serve will be prepared to move into the private sector and use the tools available in that environment. This measure should replace the simple idea of Internet access as the goal of the program, and would be more appropriate than a simple test of broadband connectivity, since there is so much more that E-rate must accomplish if schools and libraries are to avoid a new digital divide.

Such a measure would provide a new solid direction for the E-rate program. It would also help make clear that the definition of eligible services under the E-rate program must be truly dynamic. If schools and libraries are to keep pace with the corporate environment, they must have access to the powerful new tools available in that environment. For example, as telecommunications services increasingly blend with Internet access to produce new, cheaper ways to communicate, such as voice over Internet protocol (VoIP), the Commission will have to modify the Eligible Services List for E-rate to include those new tools.

- **Direct the fund administrator to prepare annual performance plans and performance reports to improve FCC oversight and enhance overall program performance.**

ESPF believes that new deadlines may not be the answer – will the FCC or USAC issue decisions because the deadline has arrived even if they have not completed their reviews? The FCC has not been doing that under its current rules. The Government Performance and Results Act requires federal agencies to have strategic plans, annual performance plans and to produce annual performance reports indicating how their actual accomplishments compare to their plans. USAC has had annual performance agreements with its support services contractor for the Schools and Libraries program that cover the period July to June. There have been reports at the quarterly Schools and Libraries Committee meetings in July about the performance report. ESPF recommends that the Commission and the fund administrator prepare annual performance plans and make them available for public comment before they are finalized. At the end of the performance period, there should be a performance report made available to the public. This would enable the FCC and program stakeholders to understand the processes and difficulties the administrator faces in issuing timely decisions and enable the FCC to work with the administrator to address causes of delay and improve program performance. It would also give service providers, who often have large amounts of funds involved in the invoicing process, a better set of facts with which to evaluate the business risk and costs associated with participation in the program. It would generally enable the Commission to provide better oversight of the administrator and measure the efficiency and effectiveness of its operations. If there is

consistent failure to meet performance goals, the Commission might decide to replace the administrator.

- **Add staff as necessary to expedite decision-making by the administrator and the FCC.**

The problems caused by delays are severe – to applicants whose plans can suffer serious disruption by delayed funding decisions and to service providers whose funding can become endangered by long delays in invoice processing. To the extent that additional, better trained, less transient staff would enable the administrator to avoid delays and issue timely decisions on funding requests, appeals, invoices, and other requests, ESPF would support the use of additional program funds for administrative expenses to improve performance by hiring the additional staff. As the Government Accountability Office recommended, the FCC should "develop a strategy for reducing the E-rate program's backlog, including assuring that adequate staffing resources are devoted to E-rate appeals."[2]

Program Management (NPRM, paragraph 33)

The Commission seeks comments on whether the E-rate and Rural Health Care distribution processes should more closely track those of the High Cost and Low Income programs. The NPRM suggests that the Commission might change its rules to use a formula to distribute funds directly to schools and libraries according to their size and allow funds to be used in a more flexible way.

- **Changing the E-rate program to a formula basis has disadvantages that would need to be addressed before a final judgment on such a change can be made.**

In its 1997 Report and Order that set forth a plan to satisfy all of the 1996 Act's statutory requirements,[3] the Commission made the following statements:

> We agree with the Joint Board that schools and libraries should have maximum flexibility to purchase the package of services they believe will most effectively meet their communications needs. (para. 425)
>
> Given the varying needs and preferences of different schools and libraries and the relative advantages and disadvantages of different technologies, we agree with the Joint Board that individual school and libraries are in the best position to evaluate the relative costs and benefits of different services and technologies. ... Because we will require schools and libraries to pay a portion of the costs of the services they select, we agree with the Joint Board that, as recognized by most commenters, allowing schools and libraries to choose the services for which they will receive discounts is most likely to maximize the value to them of universal service support and to minimize inefficient uses of services. (para 432)

[2] Government Accountability Office, *Telecommunications: Greater Involvement Needed by FCC in the Management and Oversight of the E-Rate Program*, February 2005, GAO-05-151, page 6.
[3] Federal State Joint Board on Universal Service, FCC, *Report and Order.* CC Docket No. 96-45 (May 8, 1997).

In its Second Report and Order[4] the Commission affirmed that schools and libraries "should have maximum flexibility to purchase the package of services they believe will most effectively meet their communications needs[5]". That Report and Order also confirmed that school and library technology plans must be designed to ensure that requests for discounts "are based on the reasonable needs and resources of the applicant."[6]

The current mechanisms and controls allow schools and libraries to make appropriate decisions about the E-rate supported services they seek. A formula may also allow the needed flexibility, but creates some new limitations that must be considered.

Technology advances are continual, but obtaining advanced telecommunications and other E-rate supported services often requires significantly larger purchases in some years than others. This is true for the private sector and government as well as for schools and libraries. Upgrading communications capabilities often entails such uneven expenditures year to year, and experience repeatedly shows that such expenditures are often both necessary and sound. Today, E-rate rules recognize this need and accommodate it by allowing applicants to tailor annual funding requests to actual needs based on sound demand planning while requiring that every eligible applicant bear some of the costs of E-rate supported services. A strict formula approach would not recognize this reality of technology purchases.

A strict formulaic approach might discourage applicants from pursuing initiatives that have uneven expenditures year to year but otherwise would be entirely sound and appropriate – initiatives that include wide-area-networks, initiatives that utilize economies of scale associated with creating consortia and entering into multi-year contracts, and initiatives that use Limited-Service-Offerings to meet custom communications requirements of library systems and school districts.

In addition, the Commission's competitive neutrality policies and its commitment to allowing schools and libraries to make their own marketplace decisions argue against the introduction of a formulaic approach to E-rate funding.

Even if the Commission believed there might be benefits from moving to a formulaic program, the transition to such a program base could be very disruptive to schools and libraries and must be carefully managed. In addition, a formula would not solve many of the practical, procedural issues that must be dealt with under the existing E-rate program design. The issues include:

- Technology planning
- Eligible products and services
- Competitive bidding
- Cost-effectiveness
- Receipt of services, etc.

---

[4] Schools and Libraries Universal Service Support Mechanism, *Second Report and Order.* CC Docket No. 02-6 (April 30, 2003).
[5] Citing, *Universal Service Order,* 12 FCC Rcd 9002, para. 425.
[6] Citing, *Universal Service Order,* 12 FCC Rcd 9078, para. 574; and referencing, *See also* 47 C.F.R. § 54.504(b)(vii).

In addition, a formulaic approach would likely raise a number of new issues, such as:

- Structure (and fairness) of a per student formula to balance the needs of large and small schools
- Developing an equivalent formula for libraries (including questions on the equivalency of students and patrons, and the validation of patron counts)
- Regional cost differences
- Unused funds for applicants not requiring the formulaic amount (and funding shortfalls for applicants needing more)
- New and unforeseen waste, fraud, and abuse opportunities, etc.

Any significant change to the underlying structure of the E-rate program would likely lead to a difficult transition period characterized by applicant and service provider uncertainties, funding delays, and, unfortunately, new types of waste, fraud, and abuse.

Application Process – E-Rate

Application Process (NPRM, paragraphs 37 and 41)

The Commission invites suggestions for streamlining the application process, such as shortening, combining, or eliminating forms, tentatively concluding that it should adopt a streamlined multi-year application for priority 1 services.

- **Retain the Form 470.**

The Form 470 is useful to service providers because it is notification that bids are being sought and it provides contact information. It should be retained.

- **Eliminate the Form 486.**

The Form 486 serves three purposes: notifying the administrator that services have begun to be delivered or will be delivered, certifying compliance with the Children's Internet Protection Act (CIPA), and certifying approval of the technology plan along with an indication of who the approver was.

The Form 486 is a major cause for additional delays in the delivery of discounted services and in payments to service providers after service has been delivered. Service providers generally prod their customers to file the form, but then need to wait for it to be processed before submitting invoices. If the applicant files the Form 486 on paper, it can take a very long time for it to be processed. In addition, service providers sometimes fail to receive the 486 Notification Letter and, as a result, miss an invoicing deadline and have to file for an extension, causing further delay. These delays add to the costs to service providers for participating in the E-rate program. In addition, these delays result in the need to apply discounts to services retroactively, which creates confusion and more difficult reviews at the invoicing stage.

Another issue with the Form 486 is that USAC has imposed deadlines for filing the Form 486 and failure to meet those deadlines can mean a reduction in funding and a refusal to pay for services delivered before the "adjusted service start date." Applicants not infrequently miss these deadlines.

USAC enables applicants to be advised of invoices submitted by service providers for work done on their behalf. It also makes invoice payment information available through the Data Retrieval Tool on its Web site and distributes Quarterly Disbursement Reports to applicants. With these tools in place, we believe the costs of delays in paying service providers for services they have delivered and the risks of losing funding for missing an arbitrary Form 486 deadline outweigh the benefits of the form, and ESPF recommends that it be eliminated. The CIPA certification and certification of technology plan approval could be added to the Form 471 with appropriate modifications (e.g., "I have an approved technology plan or will have approval of my plan by the start of service;" "I will be in compliance with CIPA by the start of service.").

- **Modify the Form 472 (BEAR Form) to make payments directly to applicants and to include an address for mailing the reimbursement.**

If the Commission has the authority to authorize direct payments to schools and libraries as indicated in paragraph 33 of the NPRM, the BEAR Form should be modified to trigger payments directly to the applicants. This would eliminate an unnecessary step in the program (sending the money to service providers for them to pass to applicants), and thereby eliminate the additional cost to service providers for processing these funds, to USAC for overseeing service providers' handling of the funds, and to applicants for coordinating with service providers to receive their money. In addition, it would eliminate one area of potential abuse in the program – service providers delaying or keeping the payments made to them that they have agreed to pass on to the applicant. USAC has had to add an operational function to police the payment of BEAR reimbursements to the appropriate applicants. This change would greatly simplify the process of reimbursing applicants for services they have paid for in full. It would mean more timely payments to them and would reduce the administrative burden on all participants in the E-rate program.

The BEAR Form does not currently have a place to indicate where the payment should be sent. Whether the process is changed to make payments directly to the applicant or not, this should be added to the Form. If payments continue to be made to service providers, this will help them ensure they can get payments to the correct address. If the administrator makes payments directly to the applicants, this will ensure those payments go to the correct address.

- **Clarify whether there are any requirements with respect to filing the Form 500.**

USAC's auditors are noting when applicants do not file Forms 500 to reduce their funding commitments in cases where they will not use all the original commitment. First, we would note that applicants have not been advised of such a requirement, although we agree it is a good practice. ESPF recommends that the Commission clarify whether there is a requirement to file a Form 500, and, if so, under what circumstances. In order to facilitate filing of this form, the administrator ought to make it available for on-line filing as are many other E-rate forms.

- **Modify the Form 473 to permit updates of service provider contact information.**

Currently, service providers must file the Form 473 (Service Provider Annual Certification Form) annually and, if they have updates to contact information previously provided on the Form 498, they must submit a revised Form 498. We believe that many service providers do not think to submit revised Forms 498 when they have changes in contact information. It would be easier for service providers and, we think, would ensure that applicants and USAC would have more accurate service provider contact information, if the updates could be provided on the Form 473.

- **Direct the administrator to make all program forms available for on-line filing.**

USAC's capacity for on-line applications and documents is one of the best things it has done in administering the program. ESPF encourages additional efforts in this area. USAC's plan to mail out Personal Identification Numbers (PINs) will support more on-line filing. We believe a significant amount of USAC, applicant and vendor time is spent processing, tracking and waiting on the processing on paper submissions. Elimination of such submissions could dramatically increase availability of the administrator's staff to work on key backlog areas. In addition, on-line applications automatically pass minimum processing requirements resulting in fewer denials for clerical errors. Specifically, we suggest the Commission consider the following:

1. Eliminate formalized mailing of paper 471 Receipt Acknowledgement Letters and require applicants to use the on-line 471 tools to review their applications. .
2. Establish a requirement for all Form 471s to be filed on-line by a date certain – perhaps for Funding Year 2008.
3. If the Form 486 is kept, require on-line submission and eliminate the 486 Notification Letter; instead applicants and service providers could use the Data Retrieval Tool on the administrator's Web site.
4. Develop an on-line Form 472 (BEAR Form) with vendor and applicant on-line PIN capability.
5. Set a goal to eliminate all paper submissions to the administrator by a date certain.
6. If unable to eliminate paper submissions, indicate that paper submissions will be processed after all electronic submissions.

- **Adopt a 3-year application process for priority 1 services.**

ESPF agrees with the Commission that it should adopt a streamlined, multi-year application process for priority 1 services. ESPF recommends a three-year process, which would coincide with the three-year technology planning process used by many applicants. For the first year, the application process would be similar to the current process. Applicants would post a Form 470, wait 28 days, select a service provider, and submit a Form 471 with Item 21 attachments as they do today. The administrator would review the application for compliance with program requirements generally as it does today. If the first-year application is funded, the applicant would be able to provide simple updates each year and the administrator would not review them unless there were some reason to be concerned. Applicants would be able to continue receiving services from the selected service provider for the three-year period even if the services were provided as tariff or under a month-to-month arrangement. Funding would be assured unless

some issue were identified that had not been examined in the first-year review. If new rules or procedures were adopted after approval of the first-year application, they would not be applied to the three years' worth of funding commitments, but would apply in the fourth year when the request would undergo a full review again. To accommodate minor changes in services or rates, applicants could increase the funding level by up to 10 percent each year without review. The simple update form would permit the applicant to make any adjustments necessary in prediscount costs, services to be provided, discounts, and entities served.

Service substitutions and SPIN changes would be permitted during the three-year period under the same rules as today.

This approach would greatly reduce the burden on applicants and service providers from participation in the E-rate program and would substantially reduce the review burden on the administrator, which should lead to more timely decisions. We expect that it would also increase program participation as applicants and service providers would have some assurance of continued funding over a three-year period and not have to answer the question, "What if we are denied funding next year?" In addition, the certainty as to the term would allow service providers to offer and applicants to commit to beneficial long term pricing arrangements based on this term, which are commonly available even under tariff.

Competitive Bidding (paragraphs 40 and 90)

The Commission seeks comments on modifying its current rules requiring competitive bidding. It seeks comments on the process for establishing and administering the eligible services list and on the pilot on-line eligible products list that USAC established pursuant to a Commission order. It asks whether the Good Samaritan E-rate program policy is an efficient method of disbursing funds.

- **Rely on state/local competitive bidding requirements; do not add new complexity to the program.**

The Commission wisely established the E-rate program on the base of state and local procurement requirements. The additional requirements it imposed were fairly minimal and ensure that, in the case of applicants who are not subject to those requirements, there is still the requirement to give public notice to potential bidders. ESPF would be concerned that, if the Commission changed its requirements, it might add more complexity to the program, which would further discourage participation, or it might do away with the public notice requirement where that is not imposed by other regulations applicable to applicants. The one change we would recommend is to permit applicants to choose providers of priority 1 services under tariff or month-to-month arrangements for a three-year period, rather than for a one-year period as required today. This is discussed above under the heading "Adopt a 3-year application process for priority 1 services."

- **Establish a task force of program participants to periodically review the Eligible Services List and recommend ways to simplify it.**

The definition of eligible services is one of the most confusing aspects of the E-rate program. USAC and the FCC have had difficulty over the years in determining what is eligible as demonstrated by dramatic changes in the Eligible Services List – in both directions. The Commission should have as a goal a more transparent framework for what is eligible for E-rate discounts. ESPF recommends that the Commission or the administrator establish a task force with a broad range of program participants representing both applicants and service providers to periodically review the Eligible Services List and recommend a revamping to produce a simpler and more easily understood set of principles about what is eligible and what is not. The task force should be established in time to provide recommendations before next year's development of a draft Eligible Services List for Funding Year 2007. The extent to which the Commission has referred to the recommendations of USAC's Task Force on Prevention of Waste, Fraud and Abuse in subsequent rulemakings demonstrates the value of a task force with a broad base of program participants.

- **Clarify that anti-virus protection and filtering are eligible.**

In recent years, the Commission has recognized that access to the Internet is not enough; that access must be protected so that effective use can be made of the Internet. In 2003, for example, firewall service was added as an eligible service with the comment, "A firewall service may be funded as a part of Internet access because a firewall is necessary to ensure continued operation of the network." Similarly, anti-virus software for Internet access and incoming e-mail is also necessary to ensure continued operation of the network. Filtering is essential (as the United States Congress recognized by passing the Children's Internet Protection Act), especially on computers with Internet access in K-12 schools and in libraries where minors are often the ones browsing the Internet and using e-mail. The FCC should extend the precedent it set in 2003 with firewall service and conclude that anti-virus protection and filtering are eligible for E-rate discount.

- **Eliminate the requirement that the percent of ineligibles not be increased in a service substitution.**

In its decision on a request for guidance by USAC with respect to a service change sought by the Los Angeles Unified School District, the then-Common Carrier Bureau affirmed a number of requirements that USAC had been applying in its review of requests for service substitutions.[7] One of those requirements was that the substitution not result in an increase in the percentage of ineligible services or functions. That particular requirement was not at issue in the request from Los Angeles. Over time, that requirement has proven to be unnecessarily limiting and of no benefit. When USAC approves a service substitution, it reduces the commitment as appropriate to the cost of the eligible components of the substituted service, so if the substituted product or service had a higher percentage of ineligibles, that would be taken into account in adjusting the funding commitment. With a very dynamic marketplace, the optimum substitution for

[7] In the Matter of Request for Guidance by Universal Service Administrator Concerning the Request of Los Angeles Unified School District, Los Angeles, California (DA 01-387), released February 14, 2001.

equipment or services originally planned for installation may well have different components than the original and the percentage of ineligibles may easily be higher. The Commission eliminated one other requirement that it had affirmed in the Los Angeles Unified decision in the Third Report and Order, where it said it would permit applicants to substitute an eligible service with a higher pre-discount price, but would provide support based on the lower, original price, rather than the higher price for the substituted service. The Commission found that this change would maximize flexibility for schools and libraries to meet their needs effectively and efficiently, without additional cost to the E-rate program.[8] That same logic applies to the requirement that the percentage of ineligibles be no higher, and we urge the Commission to delete the requirement.

- **Expand pilot on-line eligible products list to include services, do not perform repetitive reviews of products or services unless specific concerns arise, and maintain a central repository for PIA for information on service providers products and services to avoid duplicative questioning of applicants and resultant delays.**

The pilot on-line eligible products list has proven to be a useful innovation in the E-rate program and we applaud the Commission for directing its development. It makes the process simpler for applicants, who can go to the list and verify that specific products are eligible before they apply. That is the kind of up-front clarification for applicants and service providers about the program's requirements that we urge be applied across the board. We encourage the Commission to direct the administrator to expand the list to services. There are many services eligible for discount so this could be a major expansion of the list, but USAC has been building the list in a logical, orderly way and we would expect that to continue.

We have observed that, after a product is posted on the on-line list, USAC's Program Integrity Assurance (PIA) reviewers will question applicants about the product and the cost allocation that may have been used. We understand that PIA reviewers may need to inquire about the use to which equipment is being put. However, we would urge that the administrator perform appropriate reviews about product eligibility (and appropriate cost allocation, if necessary) before a product or service is posted and then that additional reviews of those issues not be initiated unless the administrator determines that information provided by the service provider in the process of getting the product or service posted was not complete or fully accurate. That will provide the kind of assurance that applicants need to be able to rely on the list.

As service providers, we have seen our customers repeatedly get asked the *same exact* questions and for the *same exact* supporting documentation from PIA. Many times it is the same PIA reviewer asking those same questions. If that information on the products or services a service provider offers, their eligibility and cost allocation, etc. was all in one place, a PIA reviewer could avoid going to the applicant for additional documentation and subsequently delaying the approval process. The PIA team should have access to standard documents and information regarding a particular vendor that would help them conduct their reviews more expeditiously.

[8] Third Report and Order and Second Further Notice of Proposed Rulemaking (FCC 03-323), released December 23, 2003, paragraph 42.

- **Eliminate the Good Samaritan process and make BEAR payments directly to applicants.**

If the Commission has authority to make payments directly to schools and libraries as indicated in paragraph 33 of the NPRM and noted above, ESPF recommends that all BEAR payments be made directly to applicants. That would eliminate the need for a Good Samaritan process. If that change cannot be made, we recommend that the current restriction that only telecommunications providers may serve as Good Samaritans be eliminated and that the Commission permit any active E-rate service provider to fulfill this role. Many times, telecommunications providers cannot play this role as they have no system in place to manage funds related to products they do not sell or for entities who are not their customers.

Service Providers and Consultants (NPRM, paragraph 43)

The Commission seeks comments on whether it should establish certain criteria, such as quality standards or standards of conduct, for participating service providers and consultants.

- **Leave development of standards of conduct to the service provider and consultant communities.**

ESPF believes that standards of conduct and recognition of such standards by both service providers and consultants would be beneficial to the E-rate program and would deter waste, fraud, and abuse. But we do not believe the FCC should engage in further rulemaking in this area. We believe these would be best if developed by the service provider and consultant communities as "best practices." [9] Such standards would provide valuable guidance for service providers and consultants, and also for applicants as they select consultants and service providers.

We suggest that standards of conduct for service providers might address the following:

- Periodic training on E-rate rules and procedures by management, marketing, financial, and legal personnel.
- Vendor-neutral involvement in applicant technology planning activities.
- Prohibitions on involvement in applicant procurement processes that would tend to limit bidding or lead to collusive practices.
- Pricing practices aligned with the FCC's Universal Service Order, which requires that carriers offer services to eligible schools and libraries at prices no higher than the lowest price they charge to similarly situated non-residential customers for similar services,[10] with exclusions for reasonable surcharges to cover the costs of participating in the E-rate program, such as late payment of invoices, record retention requirements, and the risk of

[9] Several large service providers have developed and publicized extensive E-rate compliance programs. These programs, while undoubtedly broader than would be recommended for smaller service providers, might provide a model for a more general standard of conduct.

[10] Report and Order In the Matter of Federal-State Joint Board on Universal Service (FCC 97-157), released May 8, 1997, paragraph 484.

being denied funding or of a post-commitment determination that a request was approved in error and funds must be returned.

- Provision of project and product documentation to support applicant application and PIA review.
- Timely processing on non-discounted applicant BEARs and reimbursement payments.
- Attention to service provider administrative procedures including updated contact information, annual Form 473 filings, and SPIN and FCC RN management.

We suggest that standards of conduct for consultants might address the following:

- Periodic training on E-rate rules and procedures for all applicant contacts.
- Vendor-neutral involvement in all applicant procurement activities
- Applicant rights to all to forms filed on its behalf and all supporting documentation.
- Disclosure to its applicant clients of any financial relationships a consultant has with service providers providing E-rate services.

USF Disbursements (paragraph 60)

The Commission seeks suggestions for improving the disbursement process, specifically whether it should establish deadlines or performance targets to ensure that beneficiaries get the support for which they qualify in a timely manner.

- **Decisions on whether to pay invoices should be based on rules and should not preempt the Commission's guidance in the Fourth Report and Order that, if there is a basis for a funds recovery, it should be directed at the party that violated FCC rules.**

The Commission should ensure that the administrator is basing any decisions to deny invoice payments on violations of FCC rules. Service providers have seen denials based on review procedures that were not supported by FCC rules. For example, USAC denied a number of invoice payments because the applicant had not paid its share of the bill within 90 days, although the Commission only made a presumption that the applicant should pay within 90 days and that presumption may be rebutted.

In the Order on Reconsideration and Fourth Report and Order, the Commission agreed with petitioners that recovery of improperly disbursed funds should be "directed at whichever party or parties has committed the statutory or rule violation."[11] However, if, during review of a Service Provider Invoice (Form 474), USAC's invoice review team discovers a rule violation for which the applicant is responsible, it will deny payment of the invoice. In this case, the service provider has already provided the service and is denied payment of funds it is due. USAC's practice shifts the burden of a rule violation to the innocent service provider in contravention of the Fourth Report and Order.

[11] Order on Reconsideration and Fourth Report and Order (FCC 04-181), released on July 30, 2004, paragraph 1.

- **Speed up payment of E-rate invoices through performance targets that recognize that service providers cannot afford excessive delays in payment of properly submitted invoices. Add and improve staff if necessary.**

ESPF recognizes the administrator's responsibility to ensure payments are proper before authorizing them. However, USAC has at times built up very large backlogs of invoices with thousands of requests and hundreds of millions of dollars pending payment for more than 90 days, sometimes for years. That costs service providers millions of dollars in interest charges. Recent progress in reducing the backlog shows that management attention to the issue can make a difference. Performance targets built into the annual performance agreement proposed above would force that management attention and would give the Commission proper oversight of the administrator's performance. The standard for payment should be well below 90 days – generally within 30 days, as is standard business practice. If it is necessary to ensure timely invoice payment, ESPF would support a modest increase in administrative expenses to add, train, and retain review staff.

- **Ensure the invoice review team has easy access to the documentation that was provided during application review and refers to that rather than reaching out and requesting that documentation again. Ensure the invoice team does not duplicate reviews done during application review unless there is specific justification.**

Service providers frequently are asked during invoice review to provide documents that were provided (and presumably reviewed) during the application review process. This wastes time and delays payments. The invoice team should have access to and should review documents provided to the PIA team before reaching out to the service provider for the documents during invoice review. During some invoice reviews, the reviews seem to cover ground already covered in application review, for example, whether the services requested on the Form 471 were eligible. Unless the administrator has specific reason to question the original review, it should not repeat the reviews done during application review.

- **Provide an on-line report on the status of pending E-rate invoices.**

USAC has recently added more detail to its on-line Application Status tool. It should add an Invoice Status tool with enough detail to help service providers and applicants understand where their invoice is in the review process.

Independent Audits

E-Rate Beneficiary Audits (paragraphs 71 though 75)

The Commission seeks comments on whether it should institute a targeted independent audit requirement to further safeguard the E-rate program against potential misconduct and whether the current structure of E-rate audits is appropriate to the program. The NPRM asks whether USAC and the Commission should recover improperly disbursed funds.

- **Do not initiate a costly expansion of E-rate beneficiary audits until the Commission assesses the effectiveness of USAC's site visit program.**

USAC has been conducting beneficiary audits for four years at great expense to the USF and to the applicants selected for audits and their service providers. And, as the NPRM notes, identified recoveries are a very small percentage of the dollars audited. It also appears that very few instances of intentional fraud (as distinguished from ministerial errors) have been identified through random audits.

USAC initiated a program of 1,000 beneficiary site visits early this year and has been providing quarterly reports on the results. The sense of members of ESPF is that the site visits are as effective as the audits in impressing on applicants and service providers the importance of complying with program rules and of documenting that compliance, and the program of site visits is more effective overall than the program of audits because it reaches so many more program participants. We also believe that true incidents of intentional fraud may be as easily found on a site visit as in a much more costly audit. Judging from the periodic reports on the SLD Web site, the site visits have identified serious issues such as non-delivery of invoiced services and services purportedly delivered to schools that were closed.

We believe that the Commission should assess the effectiveness of the site visit program in achieving its goal of protecting the program against misconduct, including waste, fraud, and abuse before making a decision to impose new audit requirements on E-rate beneficiaries.

- **Provide notification to service providers prior to audits or site visits and provide them with notice of potential negative findings and an opportunity to rebut.**

Service providers are not given notice before audits or site visits that may investigate service or products they have provided. Service providers have a very strong interest in such audits and site visits since they are frequently asked for assistance in producing records necessary to conduct the review and may be targeted for repayment of funds if a rule violation is found. They should be notified before an audit or site visit is conducted, and their rights and responsibilities during the audit should be clarified. They may be able to provide information that will help avoid mistaken conclusions by the auditor or site visitor. If the auditors or site visitors identify a potential issue with a product or service or invoice provided by a service provider, that service provider should be notified of the potential issue simultaneously with the applicant, should be given the same due process rights as any entity being audited, and should be provided the opportunity to produce documentation to resolve the issue.

Recovery of Funds (paragraph 89)

The Commission seeks comments on whether additional rules or criteria are necessary to ensure a fair, transparent fund recovery process for all USF mechanisms, whether funds should be recovered for ministerial or clerical errors, whether the amount of funds to be recovered should be limited to the difference between what the beneficiary is legitimately allowed under the statute and FCC rules and the total amount of funds disbursed to the beneficiary or service

provider, whether the Commission should adopt a rule providing for an administrative hearing before issuance of a letter seeking recovery of funds.

- **Recover improperly disbursed funds but only after a disbursement has been clearly demonstrated to have been inconsistent with clearly publicized FCC rules and only after the party believed to be at fault has had an opportunity at an administrative hearing to rebut the charge.**

In many instances, service providers have received commitment adjustment letters or letters seeking recovery of improperly disbursed funds with no prior warning that the SLD believes there is a serious rule violation. Recovery of funds is a very serious matter. If a funding request is denied, the harm is that the applicant and service provider generally cannot proceed with a project that will enhance the learning environment for students or library users. It is an opportunity lost for that year, but the applicant can pursue the project in a future year.

After funding commitment, the applicant and service provider proceed with the project confident that the application has been reviewed and that USAC has found the request to be in compliance with program rules. The service provider expects that USAC will reimburse the discounted share of the cost of the project. If there is a post-commitment determination that the commitment was made in error, the harm is much greater than a pre-commitment denial since funds have been expended in good faith and there may be few options to pay back such funds. The budgets of schools and libraries are well-known to be very tight – there is no reserve to cover the costs of a project undertaken after a funding commitment is issued. Service providers generally do not have extra cash available to pay back discounts provided by USAC as the work progressed.

Given that reality, the Commission should ensure, as suggested above, that there is a clear compilation of all the requirements associated with the program and should not seek recovery of any funds not clearly established to have been paid in violation of an FCC rule included in those clearly stated requirements. If only a portion of a disbursement is in violation of FCC rules, only that portion should be recovered. If a funding request would have been denied pre-commitment based on the 30% rule[12] and that is only discovered after a commitment letter is issued, the commitment should be adjusted only to reduce funds associated with ineligible services without regard to the 30% rule. If a recovery is necessary, it should be calculated on the commitment as adjusted without regard to the 30% rule. Recoveries should not be sought for failure to comply with "administrative procedures;" such serious actions should only result from violations of FCC rules. Further, whichever party the administrator believes to be at fault (or both parties if the administrator will seek recovery from both) should have an opportunity in an administrative hearing, before any formal adjustment or recovery letter is issued, to be advised of the administrator's concerns and to present evidence to address those concerns. That would avoid instances where letters are issued based on misinformation and there is a lengthy process to resolve the matter through the USAC and FCC appeals processes, while, all the while, the applicant or service provider or both are concerned about the consequences of not resolving the matter satisfactorily.

[12] 47 CFR § 54.504(c)(1)

- **Determination of a *de minimis* amount below which recovery is not sought should consider the costs to applicants and service providers as well as to USAC and the FCC.**

In the Fifth Report and Order, the Commission directed USAC not to seek recovery of *de minimis* amounts and directed USAC to provide Commission staff sufficient information regarding the administrative costs of seeking recovery of improperly disbursed funds so that a *de minimis* amount could be determined.[13] ESPF urges the Commission to consider the administrative costs that are borne by applicants and service providers, as well as USAC and the FCC, in setting the *de minimis* amount. Even if the recovery attempt is ultimately shown to be inappropriate, there are costs to the applicant and/or the service provider to prepare appeals that should be factored into the total administrative costs that recovery efforts entail.

Measures to Deter Waste, Fraud, and Abuse (paragraphs 90 and 91)

The Commission seeks comment on whether a ceiling on the total amount of funding that an applicant can request would be an effective measure of deterring waste, fraud, and abuse. The Commission also seeks comment on whether it should adopt specific rules governing higher scrutiny for previous rule violators and what requirements, if any, it should apply to the administrator's conduct of heightened review of E-rate program participants.

- **Do not impose funding caps.**

The 1966 Act provides that the Commission "shall establish competitively neutral rules 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."[14] Funding caps interfere with the marketplace and are inconsistent with this mandate.

In every sector (private, government, nonprofit, schools and libraries), leaders emerge who use new technologies to achieve results. In the private sector technology services are used to achieve a competitive advantage; in government to serve the public better; in nonprofits to serve constituencies; in schools and libraries to achieve better educational and research outcomes; and in all sectors to become more effective and efficient. With planning obligations, public accountability, bidding / procurement policies, and cost-sharing controls integrated into the E-rate program, there is no place for a funding-cap barrier that would work to limit advanced telecommunications initiatives in the schools and libraries sector. It is already true that advanced services tend to come to schools and libraries long after they have become staples in the corporate sector. The Commission should not adopt a cap because it would discourage school and library leaders who take intelligent and planned risks that are appropriate counterparts to the same order of risks that are generally associated with leading corporations. Emerging communications services are almost always more expensive than those that become available after technologies mature. Our schools and libraries should not have to wait at the end of the

[13] Fifth Report and Order (FCC 04-190), released August 13, 2004, paragraph 35.
[14] 47 U.S.C. § 254(h)(2)

technology line – not when sound planning and the marketplace should encourage leaders to make sound, and sometimes costly decisions.

To extend the reach of the E-rate support, the Commission has adopted the two-in-five-year rule for Priority 2 services.[15] The Commission saw the benefits of that new rule as making support available to more applicants on a regular basis and preventing wasteful and abusive practices. Before new measures are considered to stretch E-rate support to cover a larger universe of applicants, some time should be allowed to test the impact of this new approach. If a time comes when the Commission decides that E-rate funds need to reach additional applicants, approaches other than funding caps on applicants should be considered.

- **Set a high threshold for heightened scrutiny and advise affected applicants and service providers that it will be applied and provide them an opportunity to satisfy the administrator that they are in compliance with all applicable rules.**

ESPF believes that heightened scrutiny has been applied to individual applicants and service providers by USAC for a number of years but generally with no notice to applicants or service providers and no opportunity for them to resolve USAC's concerns. In some cases, it appears that USAC's concern may be about the applicant, but USAC takes no action on invoices submitted by the service provider. If service providers knew what was happening, they might choose to charge their customers or at least warn them that they may have to pay. With no notice, service providers continue to provide discounted services, putting themselves at further risk, when, with proper information, they could make better business decisions. In more recent years, USAC has provided notice to a number of applicants of concerns it has about their participation in the program and given them an opportunity to present their case to USAC. It is essential that all program participants be provided due process to know of concerns and help resolve them. Often heightened scrutiny has led to many years of delays in decision-making. That can have dramatic, adverse effects on applicants and service providers. If USAC ultimately satisfies its concerns and issues funding commitments or, worse, denies funding and that decision is later reversed on appeal, tremendous and potentially irreparable damage may have been done to service providers whose reputations were wrongly tarnished by the process. Given the seriousness of its impacts, ESPF urges the Commission to ensure that heightened scrutiny is only applied when there is clear reason to be concerned that substantive rules are being violated. It should not be applied in the case of ministerial errors. The Commission should also ensure that the administrator advises affected applicants and service providers who will be subjected to heightened scrutiny and explains the basis of its concerns. Applicants and service providers must then be given an opportunity to respond to those concerns.

Other Actions to Reduce Waste, Fraud, and Abuse (paragraphs 97 and 98)

The Commission seeks comment on whether it should inform schools and libraries when a contractor is under investigation. It asks whether as part of its registration process it should require contractors to waive any right to confidentiality they may have during an investigation and whether the Commission or USAC should draft a list of best and worst practices to assist

[15] Third Report and Order and Second Further Notice of Proposed Rulemaking (FCC 03-323), released December 23, 2003, paragraph 12.

beneficiaries in reducing fraud. The Commission seeks comment on whether it should broaden the scope of its debarment rules to encompass entities that have been found guilty of civil and criminal violations beyond those associated with the universal service programs or entities that have been shown to have engaged in a clear pattern of abuse of our rules. The Commission seeks suggestion for what sanctions it should have available to it other than suspension and debarment.

- **Conduct rulemaking to broaden the scope of debarment rules and to identify additional sanctions the FCC should adopt to protect against waste, fraud, and abuse.**

ESPF concurs with the Commission's tentative conclusion that it should establish more aggressive sanctions and debarment procedures and disclosures. We believe that this is important enough for the Commission to conduct a separate rulemaking on the topic, setting out any additional thoughts and principles that the Commission has on this subject so that comments can be more focused and helpful. We do believe that the procedures for debarment and sanction should include the option of administrative hearings for those potentially subject to such measures to make their case before a final decision is reached. Unless a clear definition can be developed through a rulemaking process, "a clear pattern of abuse" of FCC rules sounds like a very subjective rationale for debarment.

- **Do not publicize the names of those under investigation or require waiver of the right to confidentiality to participate in the USF.**

Investigations are just that – they are undertaken to determine whether wrongdoing has occurred. It is unfair to publicize that a party is under investigation until a determination of wrongdoing has been reached or until formal charges will be pursued in court. For that reason, it would not be fair to require service providers to waive their rights to confidentiality in the event of an investigation to participate in the USF.

- **Do publish lists of best and worst practices to help applicants protect themselves from predatory contractors.**

There are patterns of predatory behavior; we have seen some of them in press reports about abuse of the E-rate program. The FCC or the administrator should develop a list of such practices (and of the good practices that are not associated with such abuse) and ensure they are widely available to the applicant community. It appears that many of the abusive practices are targeted at smaller schools that have less time to keep up with E-rate requirements and may be less apt to be linked into networks where they would learn about such practices. Therefore, publicizing such practices will need to mean more than simply posting them on the USAC Web site.

Other Issues

- **Direct the administrator to correct mistakes on the Form 471 to increase requests as well as to decrease them.**

The NPRM notes that USAC has implemented controls for the Schools and Libraries support mechanism to ensure application validity and prevent inaccurate data entry. One of the measures USAC has adopted to ensure accurate data entry is the issuance of a Receipt Acknowledgement Letter (RAL) after a Form 471 is successfully data entered. Applicants may then mark up the RAL and return it to USAC to correct any errors that may have been made by the applicant or by USAC. One of the allowable corrections is to reduce funding requests when they were erroneously entered. A number of applicants have made errors in the other direction – they have mistakenly entered a number much lower than they intended. In these cases, the Item 21 attachment supports a higher request. In fairness to applicants, we recommend that the Commission direct the administrator to permit funding request corrections in either direction. If the applicant requests an increase, the increase would have to be supported by documentation the applicant had submitted to USAC within the filing window. So as not to cause extended delay in development of the demand estimate, we do not recommend that these corrections be tied to the RAL process since that can be extensive as the administrator completes data entry of paper Forms 471 and paper certifications. Instead, we recommend that applicants be given a period of about four weeks after the window close to review their Forms 471 and provide any corrections to USAC.

- **Support a permanent exemption for the USF from the Antideficiency Act.**

The Commission determined in 2004 that the Funding Commitment Decision Letters that USAC issues to E-rate applicants and service providers were "obligations" in the federal budgetary sense and that the Antideficiency Act (ADA) applied, that is, that these obligations must be covered by cash. The effect of those decisions was to halt issuance of Commitment Letters for several months last year while USAC accumulated the cash to cover new Letters that were ready to be issued. Congress passed and the President signed legislation in December 2004 that waived applicability of the ADA to the USF through December 2005. Congress is currently considering legislation to provide a permanent exemption. We urge the Commission to support enactment of such legislation to avoid unnecessary and disruptive delays in issuing Funding Commitment Decision Letters.

There was discussion last year of a pre-commitment notification letter that might be issued after review of an application was completed but before there was cash to cover an actual commitment. ESPF wants to ensure that the Commission does not view this as an alternative to a further ADA waiver. While such a notification letter would be a good indication that funding would be forthcoming in the future, it would generally not be sufficient to proceed with installation of products or delivery of services in cases where the applicant could not afford them without E-rate support. Until the Commitment Letter is issued, we would expect that applicants would not order the commencement of service and service providers would not begin providing discounts. In fact, many service providers today refuse to begin discounts until the Commitment

Letter is issued, the applicant files a Form 486, and the service provider receives a Form 486 Notification Letter.

RESPECTFULLY SUBMITTED ON BEHALF OF THE E-RATE SERVICE PROVIDER FORUM BY:

10/18/05

Winston E. Himsworth
Director, E-Rate Central

COMMENTS OF THE E-RATE SERVICE PROVIDER FORUM (ESPF)
ON THE NOTICE OF PROPOSED RULEMAKING AND
FURTHER NOTICE OF PROPOSED RULEMAKING (FCC 05-124)

APPENDIX A

A list of ESPF members, who have contributed to and/or concur with these Comments:

ESPF Members
Education Networks of America, Inc.
Valor Telecom
Kellogg & Sovereign
Conterra Ultra Broadband, LLC
Infinity Communications & Consulting, Inc.
IBM Corporation
Sunesys – InfraSource
Juniper Networks
ConXts Technology Solutions
Novell, Inc.
fms Technologies
Exobit Networks Inc
United Utilities - Alaska
MTM Technologies
Thomas Communications
Nevesem Inc.
Isee Communications LLC
eChalk
Rauland-Borg Corporation
SBC Communications

ESPF Members Submitting Separate Comments
Qwest Corp.

Associate Members
The Origin Group
UNICOM Technology Group, Inc.