

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

In the Matter of)
)
) CC Docket No. 02-6
Schools and Libraries Universal Service)
Support Mechanism)

To: The Commission

COMMENTS OF THE COUNCIL OF THE GREAT CITY SCHOOLS

The Council of the Great City Schools, the coalition of 66 of the nation’s largest central city school districts, requests the consideration of the following comments in response to the Commission’s July 31, 2008 Notice of Proposed Rule Making regarding whether certain services should be designated as eligible for reimbursement under the E-Rate program (FCC 08-173).

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Introduction

The Council of the Great City Schools, the coalition of 66 of the nation's largest central city school districts, is pleased to submit comments to the Commission's July 31, 2008 Notice of Proposed Rule Making (NPRM). The E-Rate program has no greater advocate than the city school systems that enroll the highest number of disadvantaged children, employ the largest number of teachers, and occupy the greatest number of school buildings. Specifically, the Council of the Great City Schools enrolls 32 percent of the nation's African American students, 26 percent of its Latino students, 29 percent of the nation's English language learners, and 24 percent of its poor children. The value of universal service is immeasurable for these students and the inner-city, where the E-Rate can be used to bolster shallow resources and enhance the delivery of modern educational instruction. The availability of technology tools allows urban students to spend more time on tasks related to their education, and E-rate funding has been a primary factor in the ability of districts to provide such an environment.

The Council appreciates the Commission's consideration of additional services that may be included under the E-Rate. While the inclusion of a broad range of services that benefit education on the eligibility list would ideally be welcome, our comments reflect the reality of the current Universal Service Fund (USF) cap, and the historic demand on the limited amount that is available annually. The burden on the E-Rate, particularly the increased amount of reimbursements being funded under Priority One services, has resulted in a diminishing amount of funding available for Priority Two. The fact that certain applicants and service providers are not being funded under Priority Two does not suggest that those costs should be shifted to Priority One. Except in the instances where there is a streamlining benefit or cost-savings to be realized, our comments will recommend that additional services not be made eligible.

Interconnected Voice over IP (iVoIP)

The Council supported the original decision to include iVoIP as an eligible service under E-Rate, and appreciates the subsequent efforts undertaken by the Commission to ensure that iVoIP providers are recognized as providers of basic telecommunications services, and therefore are obligated to contribute to the USF. Since both Internet Access and Telecommunications Services fall under Priority One, we feel there is no harm or differentiation in a Commission determination as to which category iVoIP falls under. We support categorizing iVoIP as an Internet Access service, and applying the Children's Internet Protection Act (CIPA) requirements to E-Rate-funded users.

We concur with the Commission that iVoIP should remain as an eligible service under the E-Rate. As local educational agencies look to replace their existing telephony infrastructure, bring new schools on board, and revitalize and improve district-wide communications, the availability of iVoIP is an attractive option that many school systems are choosing. The prevalence of iVoIP has only become more widespread since the Commission's initial approval, and keeping this option available ensures that applicants have a variety of choices in determining the local service that works best for their district. Most importantly, this option maintains or increases the competition among

service providers to provide the most cost-effective solutions to consumers, allowing districts to leverage greater financial benefits from the static amount of E-Rate funding.

Filtering Software

The Council appreciates the willingness of the Commission to reconsider its position on the ability of applicants to use E-Rate funding for filtering software. We respectfully disagree with the Commission's 2001 interpretation of CIPA, and feel that a review of the legislative text of the statute and the legislative history demonstrates E-Rate funding is not barred from being used for such purposes.

Section 1721(g) of CIPA mentions the two Acts which are permitted to fund the purchase of filtering technology, saying that specific provisions in the Elementary and Secondary Education Act or the Library Services and Technology Act, "may be used for the purchase or acquisition of technology protection measures that are necessary to meet the requirements of this title." However, CIPA does not require that these two provisions be used to fund filtering, and more importantly, the CIPA statute does not specifically prohibit the use of other funding sources, including the USF, from paying for filtering.

Listing what *might* be used to fund filtering costs can not be construed as an explicit statutory exclusion of all other funding sources. The Commission's original interpretation that Congress intended to exclude USF funds from assisting with the costs of filtering is also challenged by the explicit *inclusion* of E-Rate discounts as a possible funding source in the Senate version of the bill. In addition to the clear approval of USF in Senate Report 106-141, the legislative language in H.R. 4577 as approved by the Senate (106th Session of Congress) stated that discounted rates (i.e. the E-Rate), "may be used for the purchase or acquisition of filtering or blocking products necessary to meet the requirements of [CIPA]."

Allowing filtering software as an eligible reimbursement under the E-Rate program appears to be intended by Congress, and this eligibility may also help streamline the efforts of applicants and the Administrator. Additional time, effort, and cost has been required to ensure that E-Rate applications were seeking reimbursements for filtering items previously considered ineligible. A new interpretation recognizing the eligibility of filtering may well serve to ease some of the burden associated with the application and funding decisions.

Basic Telephone Service

The Council supports the inclusion of certain services under the classification of basic telephone service – such as T1 lines, and interconnected VoIP and Primary Rate Interface (PRI) trunk lines connecting a Private Branch Exchange (PBX) to the Public Switched Telephone Network (PSTN). Local configurations for basic telephone service often change abruptly, and are not always simple to include in a technology plan. These types of omissions and changes are unintended, but can lead to denials of funding and cause problems for applicants during the audit process.

However, those services which are located on campus locations and are on-site, such as Private Branch Exchange (PBX) and key systems, should remain as Priority Two services and not be reclassified as basic telephone service. Not only would such a reclassification be confusing to applicants, it would also place a greater burden on the program and the dwindling funds for Priority Two services.

Dark Fiber

The Council appreciates the Commission's willingness to reconsider the issue of dark fiber and seek stakeholder comments on the issue. Our organization supports allowing applicants to lease dark fiber networks they will use immediately, and choose the most cost-effective pricing from eligible telecommunications providers. Funding requests for leasing fiber networks should be viewed as a Priority One service, and we feel the long-term cost-savings can ultimately help to reduce the burden placed on the limited E-Rate funding.

Allowing beneficiaries to lease dark fiber and light it themselves typically results in a far more cost-effective and strategic investment than leasing a comparable provisioned (or "lit") circuit from a carrier. By making dark fiber eligible, the "middle man" can be eliminated, and applicants will be able to lease dark fiber directly from the carrier that owns the physical infrastructure. In most cases, the higher costs of provisioned circuits are due to the fact that many telecommunications companies (an incumbent local exchange carrier, or ILEC) lease the same dark fiber from a third-party carrier, inflate the cost, and charge beneficiaries the higher price.

In one example provided to the Council, a district – after a competitive bid – was able to purchase the required bandwidth at 3% of the cost of obtaining a comparable provisioned telecommunications service. The exact cost-effectiveness may vary, but the cost-savings, if allowed by the E-Rate, can be significant. In the past, much of the hesitancy for including dark fiber as an eligible service was expressed by telecommunications companies (i.e. the ILECs), who stand to lose substantial future profit. But allowing applicants to select the most cost-effective solution, rather than shielding any particular industry, must be the ultimate financial goal of the program.

The Council is also sensitive to the argument that limited E-Rate funding should not be burdened with additional costs, particularly for dark fiber services that will not be utilized immediately. While there is long-term cost-effectiveness associated with dark fiber network build-out, the Council is not advocating eligibility for the outright purchase of fiber networks or leased fiber capacity that exceeds the current requirements of the beneficiary. With the strain on the program that exists today, we agree that E-Rate reimbursements should not be paid out to applicants that hope to draw on the benefits at some point in the future. With only a fixed amount of E-Rate funding available each year, our dark fiber recommendations apply only when the utilization of services is immediate.

The rapid growth and increased availability of fiber networks in recent years has the potential to help urban districts develop greater capabilities to offer high-quality and modern instructional services to inner-city students. The exclusion of leased dark fiber from E-Rate eligibility has been a hindrance in these efforts, however, and applicants have been unable to realize the cost savings and instructional benefits that are available. These benefits align well with the educational goals of the E-Rate, and the FCC's mission of providing rapid and efficient communication services at reasonable costs.

Text Messaging

The Council supports making text messaging an eligible service under the E-Rate. As noted in the Commission's NPRM, the Council has previously commented that the exclusion of text messaging as an eligible service is confusing. In the past, the Eligible Services List asserted that services that are not classified as "telecommunications services" are not eligible, and included text messaging in that classification.

However, the rationale behind that specific classification appeared vague, particularly since functionally equivalent services that also transmit alphanumeric messages electronically between users are eligible for E-rate support. Since text messaging is a standard and bundled component of most cellular packages, requiring applicants and service providers to prorate out the value of text messaging for what basically amounts to a no-cost service is an unnecessary burden that can be alleviated by the Commission.

Firewall

The Council would support an updated definition of firewall, and agree that the description of this eligible service should be clarified and amended to avoid future confusion. However, in determining eligibility for E-Rate reimbursement, the Commission must ensure that the primary purpose of any firewall service approved for funding is the firewall itself, and not other functions.

Anti-Virus/Anti-Spam and Scheduling Software

The Council agrees with the current rules on software, which allow only network operating system software and server-based e-mail and voice mail software to be eligible for reimbursement under the E-Rate. While we recognize and have experienced the increased prevalence of threats on equipment at school sites, extending E-Rate funding eligibility down to the desktop will place an additional financial burden on the program, and our districts would rather ensure that funds remain available for Basic Maintenance and other costs, rather than new software purchases.

Telephone Broadcast Messaging

Urban schools, covering large geographic areas and with the most diverse and mobile student populations, understand the benefits of telephone broadcasting systems, and the capabilities it provides to improve communications with parents and the community. Many of the Council's urban school districts currently utilize telephone broadcast messaging systems, or are in the process of selecting one. Despite the fact that the cost of such systems for large school districts can stretch into the millions, member districts within the Council have indicated a willingness to forgo an E-Rate discount for telephone broadcast messaging in order to ensure the USF remains unburdened by this additional new service.

The fact that hundreds of identical and generic letters supporting telephone broadcast messaging have been submitted to the Commission well in advance of the filing deadline demonstrates that authorizing this new service will undoubtedly bring about a flood of new applications and place an enormous burden on the pool of Priority One funding and the Administrator. The orchestration of this filing campaign also shows that private sector companies that offer these services are licking their lips at the possibility of an expanded market for their product, which the Commission itself stated is not a component part of telephone service. Telephone broadcast messaging should remain ineligible.

Wireless Internet Access Applications

The Commission is correct that there are a variety of wireless Internet access applications that can be used for educational purposes, and that meet the definition of integral, immediate, and proximate to the education of students. However, before opening the program up to a growing number of new services that will strain the USF, the Commission should examine the specific issue of wireless access more fully in a thorough and extended discussion.

There are additional questions to be considered beyond whether or not these new services have educational purposes, including the exact nature of the applications and devices, as well as questions of time and location of use. The current definition of "access" restricts usage to specific physical locations, but is fairly general in terms of the educational information students and teachers are accessing. While the program rightly focuses on the specific students and teachers eligible for E-Rate access, school districts and educators know that the location students access educational material from is less relevant than the material itself. The E-Rate program has been enormously successful, and as our educational paradigm continues to modernize and move beyond the traditional classroom walls, these types of examinations are necessary to ensure the program is adjusted and amended in ways that make the USF available to serve the evolving needs of students and schools.

Conclusion

As one of the program's most dedicated stakeholders, and one of the primary beneficiaries that Congress intended, urban schools appreciate the Commission's opportunity to provide input. The E-Rate allows city school districts to benefit from the opportunities of modern telecommunications, and provides a specific amount of funding to help ensure students and schools – regardless of income or location – are afforded equal access to technology, media and the information-rich instructional content that is available today. Increasing availability of high-bandwidth capacity for school districts is certainly a sound investment, as technology services and instructional delivery continue to increase rapidly.

The program requires applicants to be diligent in their technology planning, and prudent in the decisions they make before seeking reimbursements. Member districts in the Council accept this responsibility with regard to funding, and our comments also reflect cautious decision-making regarding eligibility for new services. As guardians of the USF, the Commission should do the same, and be aware that new eligibility decisions have an impact on the program's capacity to provide benefits to disadvantaged students and the schools where they are enrolled. Decisions or changes that impact service eligibility also affect the E-Rate's overall funding support, and should only be made if it will help ensure that modern technology continues to be available to assist the central effort of schools: raising student achievement and meeting high standards for all students.

Respectfully Submitted,

Michael D. Casserly, Executive Director
Council of the Great City Schools

Address:
Council of the Great City Schools
Suite 702
1301 Pennsylvania Avenue, NW
Washington, DC 20004