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

In the Matter of	)	GN Docket Nos. 09-47, 09-51, 09-137
	)	
Broadband Needs in Education	)	CC Docket No. 02-6
	)	
	)	WC 05-195
	)	

To: The Commission

COMMENTS OF THE COUNCIL OF THE GREAT CITY SCHOOLS
NPB PUBLIC NOTICE # 15

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 regarding the Commission's November 3, 2009, Public Notice on broadband needs in education, including changes to the E-Rate program. (DA 09-2376).

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 November 3, 2009, Public Notice (Notice). 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 represents approximately 7.2 urban students, including almost 30% of the nation's minority students and English Language Learners, and approximately one-fourth of the nation's children eligible for free and reduced-price lunch. 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.

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Introduction

The Council of the Great City Schools recognizes the efforts of the FCC to address broadband deployment throughout nation. The benefits of broadband in education continue to increase, providing students and schools with access to a growing range of education courses, services, and content-rich material that can heighten the learning experience. The Council's remarks in these comments will focus on the E-Rate program, which during the past decade has provided a much-needed technology boost to cash-strapped urban districts. We appreciate the goals and ambition of the Commission in developing a national broadband plan, but our primary response to this Public Notice is that significant changes should not be made to the E-Rate without a significant increase in the funding cap.

The Council understands the Commission is working towards an approaching February 2010 reporting deadline to Congress, but we feel that more extensive information collection and analysis is called for, in addition to increased funding and an official NPRM, before any changes are made to the E-Rate. The volume of data and statistics, as well as qualitative information, requested in the Public Notice (in significant areas such as digital content and literacy, online learning systems, accountability and reporting systems, data interoperability, communication and video systems, collaboration and community systems) is impossible to collect from school districts by either the comment deadline, or even the reply comment deadline.

In addition to the broadband efforts, the Council also urges the FCC to continue its focus on improving the operations of the E-Rate itself. The program has become an integral part of school districts' functions, and ensuring the E-Rate works efficiently and effectively is vital for districts that rely on timely reimbursements for basic services.

Broadband Deployment

As stated earlier, the Council is unable to collect the variety of information requested by the Commission from dozens of urban school districts during this comment period. However, we would refer the Commission to recent reports from the Council on key performance indicators in operational areas in large urban school districts, including information technology. Data on bandwidth per student, network operating center (NOC) cost per student, wide area network (WAN) availability, and additional measures, as well as the factors influencing the measure, for urban districts is available in the 2008 and 2009 reports titled, "Managing for Results," available on the Council's website (http://www.cgcs.org/publications/Managing_For_Results_1009.pdf and http://www.cgcs.org/Pubs/ManagingResults_1008.pdf).

As we also addressed earlier, lifting the funding cap significantly will be important to utilize the E-Rate program to increase broadband usage. Additionally, urban schools see the current rules for the E-Rate as a major barrier to broadband deployment and usage for schools and libraries. We'll discuss specific rules later in our comments, but urban schools would support changes which allow districts the option to provide broadband access to the wider community in E-Rate supported schools and educational centers. We are eager to begin a discussion that allows

districts to deploy broadband beyond the school walls to those affiliated with district, including students, staff, and families.

E-Rate Modifications

Expanding Access Beyond the School Walls

The Council appreciates the FCC's attention to the issue of providing high-speed technology services throughout the community. As technology, teaching and learning, and classrooms both expand and evolve, school districts have struggled to develop the capacity to provide broadband services outside of the school day and beyond the school walls. In addition, urban districts typically are required to provide education services to students in the greatest number of alternative settings, which can include domestic residences for homebound students, as well as prisons, hospitals, and other institutions.

With additional funding for the E-Rate, urban schools would support extending network access to eligible users outside of the school buildings. Technical solutions are available to ensure CIPA compliance outside of traditional educational settings, but this access is not currently E-Rate compliant. Allowing this wider entry can help meet the goals outlined by the Commission in the notice, and extend broadband networks to students, parents, and family guardians in the home. This wider access would also provide access for itinerant teachers and other professionals that are not tethered to specific schools, but nonetheless are required to provide instructional and other educational services to students regardless of their physical location.

Filtered and CIPA-compliant access can be provided outside of school buildings, and can help the school district and the broader community keep up with both evolving technology and the changing educational landscape. Districts and communities can take advantage of changes such as 4G wireless networks or "schools without walls" if adjustments are made to the E-Rate allowing the benefits of broadband access to be delivered based on affiliation to the school system, rather than a specific location or physical site.

"Educational Purposes"

The Council also appreciates the Commission's inquiry regarding changing the definition of "educational purposes" and the resulting effect on community access to broadband. Currently, the definition of "educational purposes," as outlined in the Commission's 2003 Second Report and Order (FCC 03-101), limits the use of E-Rate-supported networks to activities that, "…are integral, immediate, and proximate to the education of students." We feel that this definition does restrict the benefits of broadband provided by the E-Rate, and that loosening the definition could also provide additional educational benefits for students.

Loosening the definition of "educational purpose" would give districts the opportunity to expand access to the broader community and make provide greater use of E-Rate supported networks, which often remain unutilized outside of the school day. We also feel that there are benefits for students and schools by providing access for adult education, online coursework, parent and community groups, and other activities that offer support to low-income, limited English proficient, unemployed, and other vulnerable populations concentrated in urban areas.

The Council encourages the Commission to make such an adjustment in definition, but also requests that these changes not be made without additional discussion on the burdens, ramifications, and expectations for local school officials. An adjusted definition can be enacted by the Commission, but discretion should be left to individual school districts, as the specific policies and financial implications regarding external use of school property can differ among jurisdictions. While all members of the Council recognize the benefits of opening the school doors and the district's networks outside of the school day, a number of districts do not allow external groups to use school facilities without charging a fee. These policies – which, in some instances, are determined by state and local law when dealing with public property – allows the district to pay for the light, heat, custodial services, and other costs incurred by keeping a building open after classes have ended. Providing network and technology access after-hours would also add more costs onto the district, for items such as supervision and technical support.

A number of our members have indicated they would consider offering after-hours access for free in order to avoid the personnel costs and paperwork they currently incur by pro-rating technology services that fall outside of the existing "educational purposes" definition. In this instance, broadening the definition would help to streamline the E-Rate program for some applicants, and offer a wider community benefit. However, each district must make this determination themselves, and cannot be expected to undertake a practice that costs them financially, or potentially puts them at odds with state or local law. We appreciate the Commission's recognition, though, that the current definition provides no flexibility or option for a wider benefit.

Opening the E-Rate Too Broadly

While the Council supports extending E-Rate benefits beyond the current definitions and locations, the Council does not support widening the applicant pool to include colleges, community colleges, pre-kindergarten, Head Start, or other entities. A district – as the beneficiary intended by Congress and if permitted to grant wider access, as discussed above – should have the authority to develop a workable agreement with external entities in the community. These entities should not have direct access to limited E-Rate support.

The demand for additional E-Rate funding – solely among the eligible K-12 and library community – is demonstrated each year by the gulf that exists between the applications and the funding cap. Additional funding for the E-Rate can somewhat ease this oversubscription for eligible entities and provide the Commission an opportunity to work towards additional goals such as the national broadband plan. But it is likely that even the currently eligible applicants will find that the increased funding falls short of demand. Allowing currently ineligible entities that Congress never intended to support to apply for funds can only worsen the shortfall.

The Council also does not support allowing E-Rate reimbursements to be used for end-user equipment or professional development. There are a number of reasons for our disapproval of this suggestion, including our belief that the E-Rate's creation and existence is focused on access, not physical equipment and personnel training. Additional funding sources can be used to meet these costs, yet the E-Rate's focus on access must remain and should not be diluted. We also ask the Commission to remember that the E-Rate itself was subject to repeated legal

challenges, and that the use of the Universal Service Fund for items not related to the original purpose will likely result in additional claims, accusations, and litigation.

Allowing Dark Fiber Provides Long-Term Cost-Savings

The Council does not think the Commission should support the purchase of fiber networks, but we continue to support allowing applicants to lease dark fiber networks, 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 that making this cost eligible for reimbursement can provide long-term savings that will ultimately help to reduce the burden placed on 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.

The exact cost-effectiveness of such a change 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, and ensuring that limited funds provide the greatest benefit, must be the ultimate financial goal of the program.

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, and the broadband access the Commission is seeking. 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 current charge for deploying broadband.

As we have expressed repeatedly, however, the Council feels that E-Rate funding should not be burdened with additional costs, and is certainly not seeking E-Rate support for dark fiber services that will not be utilized immediately. There is long-term cost-effectiveness associated with dark fiber network build-out, but we are not advocating eligibility for the outright purchase of fiber networks or leased fiber capacity that exceeds the current requirements of the beneficiary. With the financial strain on the program, E-Rate reimbursements should not be paid out to applicants that hope to draw on the benefits at some point in the future: our dark fiber recommendations apply only when the utilization of services is immediate.

E-Rate Disbursement

Disruptions and Harm Will Result from Changing E-Rate Funding

The Council of the Great City Schools appreciates the Commission's careful deliberations on ways to maximize deployment of broadband. We strongly object, however, to any changes, adjustments, new priorities or recalculations that remove the program's emphasis on funding sites based on poverty and substituting or including additional factors. The E-Rate program helps the nation's schools – in all locations – to provide telecommunications and internet access, and the majority of E-Rate funding each year is spent for these types of recurring services under Priority 1. Discounts have been available for these services, including broadband, for applicants at all poverty levels. A change that reduces the support available for the essential services that existing applicants have come to rely on would create a significant disruption, and would represent a major and unnecessary shift in the operations, focus, and intent of the program.

Creating a new priority level or targeting funding to specific levels of connectivity could not only harm existing applicants, it also creates a situation where the program no longer focuses on the poverty level of applicants, but other factors. There is equity in the current E-Rate funding system, which provides appropriate discounts targeted to need, based on poverty and geographic location. The E-Rate should not be seen as a funding solution for all schools. The E-Rate was intended to provide reimbursements for specific and constantly-changing technology projects in schools that serve the highest percentages of poor children. It is correctly skewed towards the poorest buildings, and is not designed for all schools, because it is trying to balance out the funding inequities which already exist in our nation's poorest communities.

A change which may prioritize schools with lower or even average levels of students eligible for free and reduced-price lunch is not an approach the federal government should take. These schools cannot truly be classified as economically disadvantaged, and denoting them as having equal or higher need for reimbursements than poorer schools conceals the greater resources that these applicants, by definition, already possess. Removing the priority for the nation's absolute poorest schools, as suggested in the Notice, will have a negative financial impact on these entities, and the result will be an E-Rate program that no longer recognizes or addresses the additional challenges that applicants at the highest level of poverty face in providing a high-quality education.

After requesting and reviewing comments on numerous NPRMs during the first decade of the E-Rate, the Commission has repeatedly decided to retain the focus of the E-Rate program on the nation's poorest school and libraries. The Commission has extended the reimbursement benefits through adjustments to the annual eligibility guidelines, such as the two-in-five rule on internal connections and limiting equipment transfer, rather than changes to the discount matrix or funding priority for the poorest schools. In the current economic climate, historic state and local budget cuts have been devastating and left high poverty districts with diminished resources. The existing E-Rate funding matrix, and specifically the 90% discount and priority for the nation's poorest schools, remains a vital resource.

Lowering the Discount Matrix or Disbursing Funds Through the States

The Council also does not support lowering the discount matrix and requiring applicants to increase the share of funding they are required to invest to leverage E-Rate reimbursements. We have opposed a reduction of support in the past, and would find the proposal even more harmful, due to the unprecedented decline in revenue currently facing school districts. It should also be noted that requiring greater financial participation from fiscally-strapped schools and libraries would ironically serve to expand the market, if not the profit margin itself, that private companies derive from the program. Under any reduction of the discount matrix, the amount of E-Rate reimbursements would remain the same, but the additional funds that the poorest schools, districts, and libraries will have to find to access discounts will be increased, and will be delivered directly to private companies.

The Council would also urge the Commission to dismiss any comments that suggest the conversion of the E-Rate into a state block grant program. The administration of the program by USAC should be maintained, and while continued improvements in the program are necessary, the responsibility for distributing funds should remain with them and not with the states. The state block grant proposal, offered repeatedly since the E-Rate's inception, would further exacerbate the problem of the neediest schools and districts not receiving adequate support. The Council argues, and research has repeatedly shown, that federal programs operated through the state provide insufficient assistance to poor, urban, and rural schools, the very recipients that universal service is intended to support.

E-Rate Funding

Services to Promote Long-term Cost-Savings and Effective Functioning

As the Commission considers a change in the available services related to broadband access, the Council continues to support the shift of funding for Basic Maintenance costs under Priority 1, or at least before funding Priority 2. This adjustment has been proposed in the past, and would allow the E-Rate to prioritize both cost-savings and preventative behavior with limited funds. The delivery of technology services is a constantly evolving project, and supporting and prioritizing the Maintenance aspect of the program is vital to ensure that infrastructure is sustained, and the long-term benefits of the E-Rate's investment are not ignored.

This change will also help with the ongoing operational problems that occur at the district level as a result of delayed reimbursements. Currently, Maintenance reimbursements are funded under Priority 2, often leaving districts either unfunded or unable to perform this important upkeep until later in the funding year. The Commission should also direct USAC to determine the circumstances in which the SLD can allow dedicated maintenance and monitoring services as eligible for E-Rate support. The current rules currently do not allow applicants to utilize cost-effective monitoring contracts to determine if a site or device is functioning correctly, yet does allow a continuous accrual of costly payments for "one-and-done" technician visits.

The Commission's broadband effort could be further supported by lifting restrictions on specific services that support broadband. In addition, if a higher E-Rate funding level was enacted, the Council would support allowing network management tools, anti-virus/intrusion detection and

packet shaping software to be eligible for reimbursement. These costs are necessary to run and maintain an effective broadband network, but are not currently allowed for reimbursement.

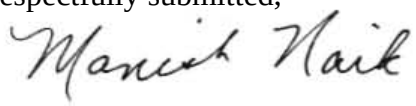
Finally, we urge the Commission not to prohibit currently eligible items as part of the efforts to make increased funds available for broadband. School districts have worked diligently within the existing E-Rate rules and the list of eligible services to create technology plans and sign multi-year contracts with vendors. Removing the eligible services that have been incorporated into district operations would undermine the efforts they have put in over many years.

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 technology, and provides a specific amount of funding to help urban students and schools afford access to technology, media and the information-rich instructional content that is available today. Increasing broadband deployment throughout the nation is an important ambition, and we are ready to assist the Commission in reaching this goal.

As expressed throughout these comments on the Public Notice, however, the ability of urban schools to assist the long-term broadband efforts are limited by the current funding strictures on the E-Rate program, and our own responsibilities. In schools across the nation, the *No Child Left Behind* Act ensures that progress will only be measured by a school or district's ability to improve student achievement. In urban school districts, the availability of technology tools allow 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 E-rate has allowed greater equity of technology access in urban areas that face daily inequities, and the result is an increased opportunity to raise the achievement of inner-city children. In terms of education goals for students, teachers, administrators, parents, and the public, this is the only bottom line.

Respectfully submitted,



Manish Naik, Manager of Legislative Services
Council of the Great City Schools

Address:
Council of the Great City Schools
1301 Pennsylvania Avenue, NW
Suite 702
Washington, DC 20004
(202) 393-2427 (phone)