Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
International Comparison and Consumer Survey Requirements in the Broadband Data Improvement Act	)	GN Docket No. 09-47
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	
Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act	)	GN Docket No. 09-137
	)	
Schools and Libraries Universal Service Support Mechanism	)	CC Docket No. 02-6
	)	
Comprehensive Review of the Universal Service Fund Management, Administration and Oversight	)	WC Docket No. 05-195

REPLY COMMENTS OF
THE NATIONAL ASSOCIATION OF TELECOMMUNICATIONS OFFICERS AND ADVISORS
ON NBP NOTICE NO. 15

The National Association of Telecommunications Officers and Advisors ("NATOA") respectfully submits these reply comments in response to the Commission's Public Notice, DA 09-2376, released Nov. 3, 2009 (the "Notice"). In its opening comments, NATOA urged the Commission to take five steps to broaden the scope of the E-Rate program in a way that would promote the efficient use of resources to expand broadband deployment throughout local

communities. Although NATOA's proposal goes further than the recommendations of other parties, there is support in the record for key components of the proposal.

I. NATOA'S PROPOSAL WOULD DO THE MOST TO PROMOTE BROADBAND DEPLOYMENT.

Most commenters proposed only modest changes to the existing E-Rate program. While it is understandable that current participants would focus on preserving existing benefits, such an approach will do little to promote broadband deployment. As discussed in NATOA's opening comments, the current program is oriented too much in favor of traditional telecommunications services, and it promotes the inefficient use of resources by discouraging schools and libraries from obtaining broadband services from anchor institution networks. Consequently, NATOA proposed that the Commission take the following five steps to reform the E-Rate program:

1. Give priority to funding broadband services.
2. Make local anchor institution networks that provide broadband services or facilities to schools and libraries eligible for E-Rate funding.
3. Provide support based on the actual cost of extending networks to serve eligible institutions.
4. Relieve local anchor institution networks of the competitive bidding requirement.
5. Raise the $2.25 billion cap.

NATOA's proposal would advance the Commission's goals by encouraging local government entities to develop and expand broadband networks, which can then make services available to a broad range of user groups within their communities, including schools and libraries. Of the proposals put forth in the comments, only NATOA's would substantially increase deployment of fiber optic networks available to schools and libraries in an efficient and cost-effective manner. The proposals of other parties would cause no great harm, but neither would they do much to significantly enhance broadband deployment.

II. THERE IS SUPPORT FOR KEY ELEMENTS OF NATOA'S FIVE-POINT PLAN.

A. There Is Broad Support for Increasing the Funding Cap.

A clear majority of commenters agree with NATOA that the $2.25 billion funding cap should be increased.[1] NATOA disagrees with AT&T's suggestion that the Commission must first determine whether shifting the focus of the E-Rate to broadband will affect demand. The record as a whole demonstrates that the cap needs to be lifted to meet current demand, and various parties have pointed out that the demand for Priority 1 services is already so high that funding for Priority 2 services is already restricted.[2] The program is over 10 years old and the cap has not been adjusted in all that time; if the Commission seeks to use the E-Rate to promote broadband, additional funding will undoubtedly be needed.

B. Commenters Suggested that Priorities Be Revised To Increase Funding for Broadband Over Telecommunications Services.

Several commenters share NATOA's view that altering the current priority structure could be used to make more funding available to meet broadband needs.

The West Virginia Department of Education ("WVDE") proposes an approach similar to NATOA's, in which Priority 1 would be broadband, including Internet access, Priority 2 would be basic telecommunications, Priority 3 E-mail, and Priority 4 internal connections.[3] Although NATOA believes that funding internal connections capable of delivering broadband service is

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[1] *See, e.g.,* EdLiNC Comments at 4; Dell Comments at 2; American Library Association Comments at 4, 10-12; WVDE Comments at 19.

[2] EdLiNC Comments at 3.

[3] WVDE Comments at 16.

more important than funding telecommunications services, NATOA agrees with WVDE that broadband should be the single Priority 1 service.

AT&T states that the E-Rate program should be "retargeted to increase its focus on broadband," and that the Commission should "consider gradually phasing out support for basic legacy, circuit-switched services so that limited resources can be directed to broadband deployment."[4] AT&T proposes that funding be redirected towards a "Facilities Section" designed to fund nonrecurring costs, and a "Recurring Charges Section," for ongoing broadband service. Such an approach would be compatible with NATOA's recommendation that broadband be designated as the only component of Priority 1.

The State E-Rate Coordinators Alliance ("SECA") favors creating a separate "Broadband Fund" for schools and libraries that do not currently have access to broadband at a minimum of 3 Mbps, using roll-over funds from previous funding years.[5] NATOA believes that this approach does not go far enough to promote broadband, but NATOA does concur with SECA's view that the priority system should be altered to direct more funding towards broadband needs.

C. Commenters Recognize that the Efficient Use of Resources Calls for the Sharing of Facilities Among Different Classes of Government Users and Expanding Access to Existing Fiber Optic Facilities.

NATOA's proposal calls for making local anchor institution networks that provide broadband services or facilities to schools and libraries eligible for E-Rate funding. The City of Chicago points out that "[c]urrent rules have significantly inhibited the development of cost-effective, multi-purpose local broadband networks and the use of these networks to support

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[4] AT&T Comments at 4.

[5] SECA Comments at 20.

educational services."[6] NATOA agrees with this statement entirely. Chicago goes on to say that "[b]y sharing infrastructure across multiple users and purposes – such as transportation, public safety, and health care delivery -- these networks can provide higher quality service to educational institutions while using lesser amounts of E-rate funding."[7] This is the direction the Commission should move in.

Other commenters have reached similar conclusions. For example:

- The South Kitsap School District in Alaska notes that the cost of installing its network could have been reduced if other local agencies, such as the local fire department, had been eligible to participate in the E-Rate program.[8] NATOA does not believe non-educational institutions such as public safety departments should be eligible for discounts in the same way as schools and libraries, but it does believe that local networks that serve eligible institutions should be able to receive funding based on the cost of serving participating schools and libraries.

- Colorado's EAGLE-Net emphasizes the value of demand aggregation programs, citing cases in which municipal, county and other government agencies have been brought together to create economies of scale.[9] This is consistent with the model NATOA has proposed. Local anchor institution networks derive their value precisely from the ability to aggregate demand and reduce the cost of services for all users of the network.

- The Michigan Department of Education states that "[b]y forcing the use of commercial WAN infrastructure we have created a very inefficient system. Consortiums and regionally controlled networks can be efficient. Consideration of more realistic rules on fiber ownership and subsidy need to be addressed."[10]

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[6] Chicago Comments at 28.

[7] *Id.*

[8] South Kitsap School District Comments at 2.

[9] EAGLE-Net Comments at 4. *See also* Ohio Public Library Information Comments at 1-2.

[10] Michigan Department of Education Comments at 6.

A number of commenters propose that dark fiber be made eligible for E-rate support. In some cases, this proposal may be limited to dark fiber provided by a commercial carrier, but in other cases, the commenters have urged that dark fiber owned by other government entities be made available. For instance, the School District of Palm Beach County, Florida, stated that dark fiber available under an interlocal agreement with the government of Palm Beach County should be eligible.[11] Similarly, AASA cites the example of dark fiber controlled by the Colorado Department of Transportation, which could have been used by certain schools.[12] In any event, if dark fiber is to be covered, as many parties recommend, there is no reason fiber built as part of a local anchor institution network should not be eligible.

Finally, even commenters who expressed concern about expanding the E-Rate program's role in promoting broadband deployment acknowledge that publicly-owned networks should be allowed to participate. For example, the San Bernardino County Superintendent of Schools opposes using the E-Rate to fund the national broadband plan, but also notes that allowing fiber infrastructure owned by state and regional educational networks to participate would remove a barrier to deployment – allowing local governments to receive funding for making their fiber networks available to educational institutions would accomplish the same goal.[13]

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[11] Palm Beach County School District Comments at 7.

[12] Comments of the American Association of School Administrators and the Association of Educational Service Agencies ("AASA Comments") at 7.

[13] Comments of San Bernardino County Superintendent of Schools at 2.

III. NATOA JOINS THE CONSENSUS AMONG COMMENTERS REGARDING POTENTIAL NEW USES OF E-RATE FUNDING RAISED IN THE NOTICE.

The Notice specifically raised two proposals that NATOA did not address in its opening comments, but which drew widespread reaction from other commenters. In Question 11(c), the Notice asked whether the program should be modified "to allow for use of broadband facilities at schools by the general community, rather than just school faculty and students." In Question 11(e), the Notice asked whether E-Rate funding should be made available to fund computers, other end user equipment, and training.

The comments reveal a strong consensus in favor of allowing schools to make facilities available to users other than students and teachers after school hours.[14] NATOA joins that consensus: it makes little sense to fund broadband capability at a school and then restrict its use during periods when students and teachers are not using them. Allowing other users to take advantage of facilities already in place will serve the public interest simply by helping to meet existing demand for services, and fuelling adoption broadband generally. NATOA supports the effective use of scarce resources, and this is an excellent example of how to do that. Nevertheless, there are limits to the number of additional groups and individuals that could benefit from making this change, and the benefits, while real, will still be marginal. Allowing schools and libraries to obtain access to local government broadband networks, on the other hand, will promote the extension of broadband capability throughout our communities.

The comments also reveal a strong consensus against allowing E-Rate funding to be used to pay for computers or training.[15] Commenters are concerned that allowing funds to be used for

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[14] *See, e.g.,* AASA Comments at 5; EdLiNC Comments at 5; Chicago Comments at 24; AT&T Comments at 3.

[15] *See, e.g.,* EdLiNC Comments at 2; AT&T Comments at 7; SECA Comments at 16-17.

these items will reduce the funding available for broadband purposes. Again, NATOA wishes to join that consensus; although funding computers and training is undeniably important, and indeed can promote broadband adoption, at this stage the Commission's policy needs to emphasize deployment of broadband facilities.

CONCLUSION

The Commission has the authority to encourage the rapid deployment of broadband networks at the local level, by restructuring the existing E-Rate program in relatively simple and straightforward ways. NATOA urges the Commission to update the program as outlined in its opening comments.

Respectfully submitted,

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