

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

In the Matter of	)	
	)	
Schools and Libraries Universal Support Mechanism, Eligible Services List	)	CC Docket No. 02-6
	)	
A National Broadband Plan For Our Future	)	GN Docket No. 09-51 DA 10-1045
	)	



**INITIAL COMMENTS**

The National Telecommunications Cooperative Association (NTCA)<sup>1</sup> responds to the June 9, 2010 Public Notice (Public Notice)<sup>2</sup> by the Federal Communications Commission (Commission or FCC) seeking comment on the December 2, 2009 ESL Order and FNPRM<sup>3</sup> and the May 20, 2010 E-rate Broadband NPRM.<sup>4</sup> In these rulemaking proceedings, the Commission proposes, among other matters, to eliminate Web hosting from E-rate support. The Commission

<sup>1</sup> NTCA is a premier industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents 585 rural rate-of-return regulated telecommunications providers. All of NTCA's members are full service rural local exchange carriers (LECs) and many of its members provide wireless, cable, Internet, satellite and long distance services to their communities. Each member is a "rural telephone company" as defined in the Communications Act of 1934, as amended (Act). NTCA's members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.

<sup>2</sup> *Wireline Competition Bureau Announces Comment Deadlines on E-Rate Broadband Notice of Proposed Rulemaking, Eligible Services List Further Notice of Proposed Rulemaking, and on E-Rate Draft Eligible Services List for Funding Year 2011*, CC Docket No. 02-6, GN Docket No. 09-51, DA 10-1045, Public Notice (rel. June 9, 2010) (Public Notice).

<sup>3</sup> *Schools and Libraries Universal Support Mechanism, CC Docket No. 02-6, Order and Further Notice of Proposed Rulemaking*, FCC 09-105 (rel. Dec. 2, 2009) (ESL Order and FNPRM).

<sup>4</sup> *Schools and Libraries Universal Service Support Mechanism, A National Broadband Plan For Our Future*, CC Docket No. 02-6, GN Docket No. 09-51, Notice of Proposed Rulemaking, FCC 10-83 (rel. May 20, 2010) (E-rate Broadband NPRM).

also proposes to adopt the Department of Education's definition of "rural" as a means of identifying rural areas for the E-rate rural discount.

The Commission should not remove Web hosting from the E-rate Eligible Services List (ESL), as proposed in the ESL Order and FNPRM, because Web hosting, for schools and libraries, is critical to their core mission and is essential to maintaining contact with students, parents, and school staff. Furthermore, the Commission must examine carefully the funding changes that would result from redefining "rural" in the E-rate Broadband NPRM and provide identified affected parties an opportunity to challenge the new definition before adopting the change. The unintended consequence of redefinition could result in reduced rural support for schools and libraries, without giving the affected schools and libraries a fair chance to challenge the change.

#### **I. WEB HOSTING IS PART OF THE CURRENT E-RATE PROGRAM.**

On December 2, 2009, the FCC released its ESL Order and FNPRM seeking comments on several aspects of the Eligible Services List (ESL) proposed by USAC for FY 2011 E-rate funding. Each year, USAC submits to the Commission its list of services for schools and libraries that are eligible for universal service fund (USF) support under the E-rate program. USAC reported to the Commission on March 10, 2010, that USAC anticipates receiving \$3.92 billion in requests for E-rate funding for FY 2010, down from USAC's estimated demand for 2009 E-rate funding requests of \$3.99 billion.<sup>5</sup> The Commission estimates in its Initial Regulatory Flexibility Analysis to the ESL Order and FNPRM that these rule changes will affect over 105,000 schools and nearly 11,000 libraries.

---

<sup>5</sup> USAC Demand Estimates for Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, USAC ex parte filing (filed Mar. 10, 2010).

This year the Commission proposes several rule clarifications and rule changes, including its conclusion that the ESL should no longer include Web hosting, which the E-rate now funds as a Priority 1 Internet Access service. In general, Web hosting is a vendor service provided by a company that "hosts" a person/company's website on their servers. Typically, the web host has a large warehouse full of very robust servers that hold all of the web files on them. When someone builds a website, the developer creates all of the files (html, css, flash, etc.) and when ready, uploads all of them to the hosting company's servers. Then, a person viewing the site will call up (download) all of the files on that server to their browser to view them. Schools or libraries would be charged for web hosting services based on their capacity and functionality requirements. Smaller sites may require little hosting space and effort, but larger sites, such as a school or library that has a large requirement for handling lots of email, require a lot of dedicated server space with special filters and security and will incur substantial expense for the web hosting services.

Schools and libraries use web hosting to create websites that serve many purposes, including increasing visibility for the school inside and outside its own community and communicating between teachers and parents. Schools use web hosting service to share information between schools within a district, post information about daily schedules and events. These websites also serve as a bulletin board for homework assignments and class projects. Some web hosting services also provide phone and email support, email addresses and FTP accounts, data storage, and data transfer for each account.

According to Wikipedia (accessed 6.28.10), web hosting can refer to a simple service or a complex set of services, depending on the user's needs:

A web hosting service is a type of Internet hosting service that allows individuals and organizations to make their own website accessible via the World Wide Web. ... The

scope of hosting services varies widely. The most basic is web page and small-scale file hosting, where files can be uploaded via File Transfer Protocol (FTP) or a Web interface. The files are usually delivered to the Web "as is" or with little processing. ... Personal web site hosting is typically free, advertisement-sponsored, or inexpensive. Business web site hosting often has a higher expense. Single page hosting is generally sufficient only for personal web pages. A complex site calls for a more comprehensive package that provides database support and application development platforms (e.g. PHP, Java, Ruby on Rails, ColdFusion, and ASP.NET). These facilities allow the customers to write or install scripts for applications like forums and content management. For e-commerce, SSL is also highly recommended.

For purposes of E-rate funding, USAC describes in the Schools and Libraries' Eligible Services List for Funding Year 2010 these Web hosting services as eligible for the E-rate discount:

Web Hosting: A web hosting service that provides a means for a school or library to display content on the Internet is eligible. Web hosting may include password protected pages. Domain name registration necessary for the creation of a school or library website is eligible for discount. Funding is limited strictly to the following eligible web hosting functions: 1) provision of web site traffic (bandwidth); 2) provision of disk space for storing applicant provided content; 3) provision of File Transfer Protocol (FTP) transfer or a Web interface to upload files. Some web hosting services may include ineligible features, such as software applications, end-user file storage, and content editing features. Funding will not be provided for such features. Any cost allocation must be based on tangible information that provides a reasonable and appropriate delineation between the eligible and ineligible components.<sup>6</sup>

The FCC now states in the ESL Order and FNPRM that it "does not believe that Web hosting is essential to the educational purposes of schools and libraries" and proposes to drop the service from E-rate funding. In the alternative, the Commission proposes to downgrade Web hosting from a Priority 1 service, as it is currently listed, to a Priority 2 service. Web hosting was added as a Priority 1 Internet access service on the ESL in 2003 either as part of a bundled service offering or as an optional service. The FCC also proposes in the FNPRM to delay the effective date of changes to Web hosting to the funding year following the rule change. The Commission asserts this is an impact-mitigation measure that "will give applicants affected by

---

<sup>6</sup> USAC Schools and Libraries ESL for Funding Year 2010, pp. 8-9.

the removal of web hosting time to find alternative funds for the service.”<sup>7</sup>

---

<sup>7</sup> ESL Order and FNPRM, FR Vol. 75, No. 110, p. 32698 (rel. June 9, 2010).

## **II. THE COMMISSION SHOULD NOT REMOVE WEB HOSTING FROM THE E-RATE ELIGIBLE SERVICES LIST.**

Commissioner Clyburn, in her insightful prepared remarks to the American Library Association on June 26, 2010, in Washington, D.C., stated that, “One of the most successful features of the Universal Service Fund to date has been the E-rate program.”<sup>8</sup> A part of this very successful program, especially in rural areas, has been the Web hosting services for schools and libraries. NTCA contends that the Commission should not eliminate Web hosting from the ESL because schools and libraries, which are already facing crushing budget reductions in these tight economic times, will be forced to either scrap their websites or shift away funds that would otherwise go to pay for books, salaries, utility bills, and other school and library costs. The Commission’s goals for E-rate will be diminished if schools and libraries must face the loss of the E-rate discount. The Commission acknowledged in the FNPRM that “many school districts find Web hosting to be a useful way to post information for parents and the community.”<sup>9</sup>

Rural parents, students, and school staff rely heavily on the school’s and library’s websites for open/closings, assignments, handouts, news updates, forms, policy manuals, staff contact information, directions, and schedules. The loss of this useful service, however, has not been quantified for the record. USAC does not spell out in its annual report how much is spent on Web hosting, separate from other Priority 1 Internet access categories in the E-rate program.<sup>10</sup> Consequently, information is absent from the record about the cost of Web hosting or the anticipated savings to the USF if Web hosting is eliminated from the ESL.

The Commission’s standard for inclusion in the ESL is that the service must be “essential

---

<sup>8</sup> Prepared Remarks of Commissioner Mignon L. Clyburn Before the American Library Association, Washington, D.C., June 26, 2010, p. 2.

<sup>9</sup> ESL Order and FNPRM, FR Vol. 75, No. 110, p. 32694 (rel. June 9, 2010), ¶ 10.

<sup>10</sup> Universal Service Administrative Company (USAC) 2009 Annual Report, p. 47.

to the educational purposes of schools and libraries.”<sup>11</sup> NTCA contends that Web hosting services provide a necessary and essential connection between the schools and libraries and the public. Moreover, removing Web hosting from the ESL will have a disproportional adverse affect on poorer schools that may not have the resources to absorb the additional costs of Web hosting. The Commission’s justification that “funding this service may have an adverse effect on funds available for other already eligible services” is not sufficiently quantified to merit removal of Web hosting from the ESL.<sup>12</sup>

### **III. THE COMMISSION SEEKS TO REDEFINE “RURAL” FOR E-RATE.**

As part of the E-Rate Broadband NPRM, the Commission proposes to change its E-rate funding definition of “rural” from a definition formed by the U.S. Department of Health and Human Services (DHHS) and adopted by the Commission in 1997 to the Department of Education’s definition of rural. Under the DHHS definition, an area is rural if it is not located in a county within a Metropolitan Statistica Area (MSA), as defined by the U.S. Office of Management and Budget, or if it is specifically identified as rural in the Goldsmith Modification to Census data.<sup>13</sup>

The Commission seeks comment on its intended change, which the FCC suggests in appropriate because the DHHS definition has not been updated to reflect the 2000 Census. The FCC states that, under the new definition, “an area will be considered rural based on the methodology and locale codes used by the U.S. Department of Education’s National Center for Education Statistics (NCES), also known as urban-centric locale codes.”<sup>14</sup> This new definition will reclassify schools and libraries as rural if the school or library is “within a territory that is

---

<sup>11</sup> ESL Order and FNPRM, ¶ 27.

<sup>12</sup> *Ibid.*

<sup>13</sup> E-Rate Broadband NPRM, ¶ 38.

<sup>14</sup> *Id.* ¶ 39.

classified as “town-distant,” “town-remote,” “rural-distant,” or “rural-remote” by an NCES urban-centric locale code.”<sup>15</sup>

**IV. THE COMMISSION SHOULD PAUSE AND REFLECT BEFORE ADOPTING A NEW DEFINITION FOR “RURAL” TO AVOID UNINTENTIONALLY REMOVING RURAL E-RATE SUPPORT.**

The Commission appears to rely on administrative expediency, rather than impact data, as the primary justification for changing the definition of “rural” upon which schools and libraries have depended since 1997. Consequently, the Commission should delay adopting and implementing any new funding definition until it reviews a detailed analysis of the financial impacts that such a change will make. Furthermore, the Commission should advise the list of the affected current e-rate recipients prior to implementing any rule changes so they have a fair chance to seek waivers or otherwise contest the loss of e-rate funding due to redefinition. The NPRM itself does not refer to the necessary detailed studies that would support a change or would show whether, for example, that fewer rural schools and libraries in Montana or Nebraska would be eligible for any E-rate funding because those schools and libraries no longer qualify as “rural” areas.

Rural school children should not be deprived of adequate school support due to an administrative decision that did not consider the real-world implications. Therefore, the Commission should not adopt a new E-rate funding definition of “rural” until and unless it has reviewed a complete analysis of the financial impacts of redefinition and permitted affected current e-rate recipients an opportunity to seek a waiver or otherwise contest the loss of e-rate funding.

---

<sup>15</sup> *Ibid.*

**V. CONCLUSION.**

For these reasons, the Commission should not remove Web hosting from the E-rate Eligible Services List, nor should the Commission adopt a new definition of “rural” without first reviewing a detailed analysis of the financial impacts, and considering waivers and challenges that will occur due to the redefinition.

Respectfully submitted,



By: /s/ Daniel Mitchell  
Daniel Mitchell  
Vice President, Legal and Industry

By: /s/ Karlen Reed  
Karlen Reed  
Senior Regulatory Counsel

*Its Attorneys*

4121 Wilson Boulevard, 10<sup>th</sup> Floor  
Arlington, VA 22203  
(703) 351-2000

July 9, 2010

**CERTIFICATE OF SERVICE**

I, Adrienne L. Rolls, certify that a copy of the foregoing Comments of the National Telecommunications Cooperative Association in CC Docket No. 02-6 and GN Docket No. 09-51, DA 10-1045, was served on this 9th day of July 2010 by first-class, United States mail, postage prepaid, or via electronic mail to the following persons:

Julius Genachowski, Chairman  
Federal Communications Commission  
445 12th Street, SW, Room 8-B201  
Washington, D.C. 20554  
[Julius.Genachowski@fcc.gov](mailto:Julius.Genachowski@fcc.gov)

Commissioner Michael J. Copps  
Federal Communications Commission  
445 12th Street, SW, Room 8-B115  
Washington, D.C. 20554  
[Michael.Copps@fcc.gov](mailto:Michael.Copps@fcc.gov)

Commissioner Robert M. McDowell  
Federal Communications Commission  
445 12th Street, SW, Room 8-C302  
Washington, D.C. 20554  
[Robert.McDowell@fcc.gov](mailto:Robert.McDowell@fcc.gov)

Commissioner Mignon Clyburn  
Federal Communications Commission  
445 12th Street, SW, Room 8-A302  
Washington, D.C. 20554  
[Mignon.Clyburn@fcc.gov](mailto:Mignon.Clyburn@fcc.gov)

Commissioner Meredith Attwell Baker  
Federal Communications Commission  
445 12th Street, SW, Room 8-A204  
Washington, D.C. 20554  
[Meredith.Baker@fcc.gov](mailto:Meredith.Baker@fcc.gov)

Best Copy and Printing, Inc.  
Federal Communications Commission  
445 12th Street, SW, Room CY-B402  
Washington, D.C. 20554  
[fcc@bcpiweb.com](mailto:fcc@bcpiweb.com)

/s/ Adrienne L. Rolls  
Adrienne L. Rolls