

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

In the Matter of)	
)	
Schools and Libraries Universal Service Support Mechanism)	CC Docket No. 02-6
)	
A National Broadband Plan For Our Future)	GN Docket No. 09-51
)	

**Initial Comments of the Utah Education Network
in response to
E-Rate Broadband Notice of Proposed Rulemaking (FCC 10-83)
Eligible Services List Further Notice of Proposed Rulemaking (FCC 09-105)
and the E-Rate Draft Eligible Services List for Funding Year 2011 (DA 10-1045)**

Introduction

Utah Education Network (UEN), a state network for education, grew out of a University owned statewide microwave system created for distance learning, so successful that it was officially given responsibility as a state agency for providing statewide distance learning and then Internet access for all of education. Decades of problem solving have provided exhaustive experience in building primarily leased networks which span multiple service providers' areas of operation, urban and rural. Our connection to the research communities and the various organizations promoting broadband infrastructure deployment provides us with a unique perspective that we believe can be most instructive for the FCC.

UEN provides comments here for the FCC's consideration related to the following subjects as listed in the Notice of Proposed Rulemaking.

"In sum, this NPRM seeks comment on a package of potential reforms to the E-rate program that could be implemented in funding year 2011 (July 1, 2011 – June 30, 2012). These proposed reforms include:

- streamlining the application and competitive bidding processes for telecommunications and internet access in an effort to further reduce the administrative burden on applicants, while at the same time maintaining appropriate safeguards to mitigate potential waste, fraud, and abuse;
- codifying the requirement developed in Commission precedent that competitive bidding processes be "fair and open" to enhance the Commission's ability to enforce its rules in cases involving waste, fraud and abuse;
- simplifying the way schools calculate their discounts and conforming the E-rate definition of "rural" to the Department of Education's definition;
- supporting 24/7 online learning by eliminating the current rule that requires schools to allocate the cost of wireless Internet access service between funded, in-school use and non-funded uses away from school premises;

- providing greater flexibility to recipients to choose the most cost-effective bandwidth solutions for their connectivity needs by allowing the leasing of low-cost fiber from municipalities and other entities that are not telecommunications carriers;
- expanding the reach of broadband in residential schools that serve populations facing unique challenges, such as Tribal schools or schools for children with physical, cognitive, or behavioral disabilities;
- creating a new, predictable funding mechanism for internal connections so that more schools and libraries have the ability to use the most technologically advanced applications, including video streaming to the classroom, to provide superior learning opportunities;
- indexing the current \$2.25 billion cap on E-rate disbursements to inflation to maintain the purchasing power of the current program and enable continued support for high speed broadband and internal connections in the future; and
- creating a process for schools and libraries to dispose of obsolete equipment without running afoul of the prohibition on reselling equipment and services purchased using E-rate funds. “

Technology Plans

18. We propose to amend section 54.508 of our rules to eliminate E-rate technology plan requirements for priority one applicants that otherwise are subject to state and local technology planning requirements. We seek comment on this proposal. The provision of priority one services (i.e., telecommunications services and Internet access) is fairly straightforward for many applicants and, therefore, a technology plan for these services may represent an unnecessarily complex and burdensome program requirement. According to one commenter, the U.S. Department of Education and most, if not all, states already require technology planning, and therefore our requirement is largely duplicative.

Comment: UEN agrees and supports the proposed elimination of E-rate Technology Planning requirements. UEN believes that the Technology Planning requirement loses all effective meaning in light of the current rate of broadband adoption and the stated desire for ubiquity of broadband services, including Internet access. Planning is already an integral part of school, district, and library operational processes and broadband has more than proven its value to education and the public. To continue to require Technology Plans for E-rate leaves in place a duplicative process that creates barriers for many applicants. Applicants are already required to expend a great deal of time and effort in creating and maintaining their on-going planning documents, which now invariably includes and more often assumes that technology is a component of providing education and library services.

19. We seek comment on whether a separate E-rate mandated technology plan requirement remains useful for larger telecommunications and Internet access service priority one funding requests, even for those applicants that are subject to other state or local requirements.

Comment: UEN does not agree that Technology Planning requirements remain useful for larger applicants/applications. UEN believes that existing planning processes and requirements satisfy the planning needs of larger applicants as well. The very governance of our organization requires that the higher level planning at the state level accounts for realistic needs of our constituents. Current planning by all applicants necessarily accounts for technology needs. The National Broadband Plan's goals provide the basis for assuming again that ubiquity of broadband and Internet access is now a foregone conclusion.

20. We propose to retain the FCC technology plan requirement for all priority two service requests and seek comment on this proposal.

Comment: UEN does not agree with the proposal to retain the Technology Planning requirement for priority two services, considering our recommended revisions to the Eligible Services List. If priority two services can be limited to the basic necessities of implementing, configuring, or provisioning broadband services to the classroom, we feel the need to maintain the planning requirement is effectively eliminated.

Competitive Bidding Process

21. FCC Form 470

We propose to simplify significantly the application process for priority one services, e.g., telecommunications services and Internet access services by adding section 54.510 to our rules. Specifically, we propose to eliminate the requirement that applicants for priority one services file an FCC Form 470 and wait 28 days before signing a contract with their selected service provider, as long as those applicants are subject to public procurement requirements. That is, for priority one services, an applicant that is subject to public procurement requirements would no longer be required to comply with section 54.504(b) of the Commission's rules. Instead, the applicant would initiate the application process for priority one services by filing an FCC Form 471. Applicants for priority one funding would still comply with their state and local procurement laws and processes when entering into E-rate eligible service contracts and with the Commission's requirement that the competitive bidding process be fair and open. We emphasize that compliance with local and state procurement requirements would remain a condition of receiving E-rate funding.

We propose that priority one applicants not subject to state or local bidding requirements – for example, private schools or some charter schools – continue to be required to follow the current E-rate competitive bidding process by posting an FCC Form 470 and waiting 28 days to select a service provider. We believe that this would be less burdensome than requiring those applicants to learn and follow state or local procurement requirements that do not actually apply to them. We also propose that an applicant located in a state that does not have procurement rules in place would still need to follow the Commission's existing Form 470 process to satisfy the E-rate competitive bidding requirement. We seek comment on these proposals

We are deeply concerned about practices that thwart Commission and other public competitive bidding policies and create conditions for waste of funds intended to promote access to telecommunications and information services. As the Commission has observed, competitive bidding is vital to limiting waste and assisting schools and libraries in receiving the best value for their limited funds.

Comment: UEN has considered thoroughly the proposal to eliminate the Form 470 for applicants subject to state and local competitive bidding requirements. At first, the proposal seems like welcome relief from a process that has often led to inappropriate and excessive denials and appeals. We applaud the FCC's desire to simplify the process but after careful consideration we cannot see how this proposal will support that goal.

Requiring applicants and the Administrator to determine whether each applicant is subject to state and local requirements would likely lead to even more burdensome review procedures and leave many applicants themselves confused about whether they should or should not use the Form 470. During our discussions with colleagues in other states about this proposal, we discovered that many states have no competitive biddings requirements. Even in states that have requirements, many individual applicants are not subject to them.

The 470 has also become a useful tool in leveling the field for applicants of all sizes and types and provides an extremely valuable resource for service providers.

UEN believes the Form 470 should be retained for all applicants but greatly simplified. Its usefulness as a device to specify and initiate a competitive bidding process should be maintained while also removing the many "gotchas" that this form has come to generate.

UEN believes that codifying the requirement for a fair and open bidding process will be no more useful in deterring waste and fraud than existing case law. However, we do agree that providing illustrative guidance of the types of conduct that would satisfy or violate the rule would be helpful to applicants and service providers, so long as these determinations are not made part of the administrator's application review process. We strongly believe that case law and beneficiary audits provide ample opportunity for the FCC to both affirm compliance and prosecute those that have violated the open and fair bidding requirement.

Application Process Streamlining

32. We note that the Commission is currently seeking comment on significantly streamlined FCC Forms 470 and 471 for funding year 2011.

Comment: UEN feels that electronic submission of all required and optional forms will greatly streamline the application process. We encourage the FCC to move to online only submission of forms as quickly as possible. Improvements to the USAC online system should include the ability to access the online forms throughout the year, regardless of application filing window dates. For example, currently the Form 471 is available online only during the filing window. Providing access to the online system to "build" applications prior to the window opening could allow some of the larger applicants to actually submit applications earlier within the filing window. The filing window's intended leveling of the field

for applicants can be maintained while also allowing the administrator to possibly begin application review sooner. In window funding commitments for early filers could help encourage earlier filing by applicants and promote greater use of the online forms by those currently filing on paper.

UEN suggests that only one version of each online form be made available for applicants. The current arrangement, having both an “Interview” and a “Create Form..” version of each form is confusing to applicants, increases our burden in training applicants for multiple types of forms, and leads to confusion on both the part of the applicant and USAC. It must be assumed that two versions of each form is wasteful of the limited funding available for Universal Service, is a burden upon the administrator and is unnecessarily duplicative. We highly recommend that a single online version of each form be made available by the administrator based upon the current formats employed for each of the “Create Form” options.

Discouraging paper filing of applications should greatly improve the application process for the administrator, diverting them from lengthy and error prone data entry duties required of the administrator and conducted on behalf of the few large applicants still relying on submission of paper forms. Disallowing submission of paper forms altogether should free the administrator to more expeditiously begin review and issue funding commitments in a timelier manner for the vast majority of applicants that file online.

Discount Matrix Streamlining

34. Discount calculation

We propose to revise our discount rules so that schools will calculate discounts on supported services by using the average discount rate for the entire school district rather than the weighted average for each school building.

Accordingly, we propose to revise section 54.505(b)(4) of our rules to require applicants to: (1) calculate a single discount percentage rate for the entire school district by dividing the total number of students eligible for the National School Lunch Program by the total number of students in the district; and (2) then compare that single figure against the discount matrix to determine the school district’s discount for priority one and priority two services

We also seek comment on whether there should be a similar requirement for library systems and how this proposed rule would affect consortium applications.

Additionally, it could significantly reduce the amount of information necessary for block 4 of the FCC Form 471 application.

Comment: UEN is a state network and consortium applicant. We applaud the FCC’s proposal to simplify discount calculations by using a single discount for all entities within a school district based upon the ratio of NSLP eligible students to the total number of students in the district. We recommend that this resulting discount apply to all eligible consortium members within the geographic boundaries of a school district. Permitting the application of this single discount to consortium members in this way would

greatly streamline the application process for the generally larger consortium applicants, many of whom are also state networks or state consortia.

We understand that the FCC and the administrator may need to collect building level data details and recommend that the administrator work more closely with state consortia and state networks to obtain and validate this data separate from the Forms 471 Block 4 submitted by consortium applicants. Engaging state consortia and/or state networks in this way would greatly enhance the application review process for the administrator, consortium applicants, and individual applicants. Block 4 data from individual applicants not members of a state consortium or state network should still require data validation during their review processes.

UEN hopes to submit more form specific suggestions pursuant to the current OMB 60-day notice of revisions to FCC Forms 470 and 471. We also intend to submit comments to the Universal Service High Cost Reform proceeding currently under way.

37. Rural Definition

We propose to adopt a new definition of “rural area” for the purpose of determining whether an E-rate applicant qualifies for the rural discount.

In the *2003 Schools and Libraries Third Report and Order*, the Commission sought comment on a new definition of “rural area.” At that time, the Commission commented that a new definition was necessary because ORHP was no longer using the definition adopted by the Commission and had not updated the Goldsmith Modification to the 2000 Census data.

Footnote: ORHP subsequently updated the Goldsmith Modification to the 2000 Census data, and has also developed the Rural Urban Commuting Area (RUCA) code system for designating rural areas eligible for rural health grants.

We now propose that, for E-rate purposes, 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. We propose that any school or library that is within a territory that is classified as “town-distant,” “town-remote,” “rural-distant,” or “rural-remote” by an NCES urban-centric locale code will be considered rural for purposes of calculating its E-rate discount level. We propose revising section 54.505(b)(3) and 54.5 of our rules to reflect this approach

First, it is reasonable for the E-rate program, which benefits schools and libraries, to use the Department of Education’s definition because it is specifically targeted to schools. By contrast, the current ORHP definition defines rural areas for rural health grant purposes only. Second, commenters have noted that the urban-centric locale codes pinpoint more precisely whether a school is located in a rural area. Rather than determining whether the school’s county or census tract is located in a rural area under the ORHP definition, the urban-centric locale codes determine whether a particular address is rural based on its proximity to metropolitan areas and on population size and density. The locale codes can be more specific because they are based solely on settlement patterns and are not constrained by political or

geographic boundaries such as census tracts. Third, one of the reasons proffered by the Commission for selecting its original definition of “rural area” – that it was less burdensome to schools and libraries and that the information was readily available to the public – applies to the new definition as well. In particular, it should be administratively straightforward for a school to discover its categorization, because the Department of Education’s website has the coding system broken down by state, and the information is readily available. We seek comment on this proposal.

Comment: UEN’s experience with the Department of Education’s NCES database has shown that this data not only inaccurately reflects “rural-ness”, it is also not a reliable source for current data. For example, in Utah a new large urban school district was created in 2008 and is still not reported in the NCES data.

Additionally, we have compared the outcomes when using the proposed method of determining whether a school, district, or library is rural to the existing method, using the updated Goldsmith Modification to the 2000 census data. In Utah, at least four of our distinctly rural districts (counties) would be inaccurately deemed urban by NCES. Though these districts may be considered urban by those living within the urban confines of the communities they serve, changing the designation of these distant population centers does not account for the high cost of backhaul for state networks such as ours; our state network being responsible for providing broadband connectivity and the aggregated Internet access provided to these distant connections. In fact these counties that would be designated urban by the proposed NCES standards are designated as “frontier” counties by both the U.S. Department of Agriculture and the U.S. Department of Health.

We disagree with the proposal to use the DOE’s NCES locale codes and strongly recommend that the current method be retained and that the Goldsmith Modifications be kept up to date. For instance, the 2010 census data should be applied as soon as it becomes available.

45. Wireless Services Outside of School

We propose to adopt the National Broadband Plan recommendation to provide full E-rate support for wireless Internet access service used with a portable learning devices that are used off premises

We note that that the requirements of the Children’s Internet Protection Act and the Protecting Children in the 21st Century Act still would apply to services being used off-premises, that services obtained through discounts from the E-rate program will be used solely for educational purposes, and what other safeguards, if any, we should consider imposing to mitigate against the risk of non-educational use at home that is not directly supervised by the recipient of funding

We seek comment on whether providing E-rate funds for wireless Internet access to portable devices in offsite locations would result in increased demand for wireless connectivity in the E-rate program, and if so, how that would affect other requests for E-rate funding, given the overall annual funding cap

According to one 2008 survey, more than 27 percent of school districts were implementing in at least one grade or on pilot basis some form of one-on-one computing program with Internet connected

wireless devices for use in the classroom and at home. We seek comment on how funding for wireless connectivity might increase over the next several years if we were to adopt this rule. If commenters believe that this rule change would limit the ability of eligible users to obtain other services, we seek comment on whether the Commission should limit wireless Internet access for mobile devices on a trial basis by, for example, capping the number of monthly service contracts per school district or some other method of allocating funding. We seek comment on whether we should implement this proposal on an interim basis for funding year 2011 and subsequently evaluate how to implement a permanent rule based on that experience.

Comment: UEN agrees that the future of broadband for education necessarily includes anytime, anywhere broadband Internet access by students and educators. We feel that the greatest potential for improvements and reform in public education lies within this concept. However, we are deeply concerned about the impact of immediately funding this sort of initiative from within the E-rate program. We believe that this proposal cannot be effectively addressed in this NPRM alone.

As recently discussed during a Low Income pilot workshop, and as proposed here, we agree that several short term pilot programs should be identified, the metrics that produce the best educational outcomes clearly defined, and funding for the pilots provided outside of the annual E-rate funding cap, perhaps being conducted in conjunction with DOE's "Race to the Top". If it is then determined that support should be provided for wireless Internet access at home or anywhere by students, perhaps a more appropriate funding source such as the Low Income program should be considered. Additionally, funding the pilot programs outside of E-rate could alleviate some concern surrounding the more complex issue of filtering, CIPA, and Protecting Children in the 21st Century Act. Pilots could easily include the adult learners in the home and lead to greatly expanded digital literacy for the nation's adult population still lagging in broadband adoption.

Yet another reason to consider funding of such services outside of the E-rate program is the onerous oversight processes and procedures that would be necessary for the administrator to ensure the use of these services are limited to educational use only. The prospect of this type of oversight activity by the administrator is frankly, frightening.

52. Expanded Access to Low-Cost Fiber

We seek comment on permitting recipients to receive support for the lease of fiber, even if unlit, from third parties that are not telecommunications carriers, such as municipalities and other community or anchor institutions, to allow schools and libraries more flexibility to select the most cost-effective broadband solutions. Dark fiber was conditionally eligible for E-rate discounts prior to Funding Year 2004.

Fiber networks are used by both the public sector and governmental agencies for broadband Internet access today. A number of commenters in the record of the National Broadband Plan asserted that dark fiber may be a more cost-effective option for applicants – and therefore the program – in many instances. Several commenters expressed support for giving recipients more flexibility to use dark fiber as part of their broadband solutions. In order to provide greater flexibility to E-rate participants to

reduce their overall cost of broadband and increase their bandwidth, we now propose to make leased dark fiber from any source eligible for funding as a priority one service.

We propose to add leased dark fiber to the ESL, pursuant to section 254(h)(2)(A) of the Act. We propose to add leased fiber with the same conditions as when it was on the ESL previously. That is, applicants would be able to lease fiber capacity that does not include modulating electronics, as long as they provide the electronics. In addition, the leased fiber must be used immediately. Under such an approach, applicants would, for instance, be able to lease dark fiber that may be owned by state, regional or local governmental entities, when that is the most cost-effective solution to their connectivity needs. We also seek comment on any other operational issues that may arise with the addition of leased fiber, such as dark fiber, to the ESL.

Comment: UEN strongly agrees with the proposal to reinstate eligibility of leased dark fiber, lit or unlit, from any provider, for E-rate discounts. In order to ensure that this does not provide disincentives for carriers we suggest that a certification be required, much as is currently the case for on-premise priority one equipment, that makes available any excess fiber capacity to Local Exchange Carriers and competitive providers of telecommunications and Internet access services. If viable, this could greatly enhance the ability of incumbents to maintain profitability while fostering greater competition amongst broadband providers. This could also provide incumbents with resources not otherwise available to them for improving the reliability of advanced voice and broadband services for public safety and national security. This could also help overcome the vagaries of competitive access to “bundled” or “unbundled” network elements that are now under the exclusive control of incumbents. Schools, libraries, consumers, and the general public would benefit greatly from this enriched broadband environment.

55. Expanding Access for Residential Schools that Serve Unique Populations

We propose to revise our rules to allow schools with residential areas on their grounds to receive E-rate funding for priority one and priority two services in those residential areas in circumstances where the students do not have access to comparable schooling or training if they were to reside at home.

We seek comment on whether the use of priority one and priority two services at a dormitory on a school campus could be considered integral, immediate, and proximate to the education of students, and thus, considered to be used for educational purposes, when the school is serving students with medical needs, cognitive, or behavioral disabilities, or who have no option but to live at school due to challenging terrain or their home’s distance from a school.

Comment: As stated in the National Broadband Plan the goal of anywhere, anytime broadband Internet access seems to render meaningless the need for cost allocation of this type of residential access. We clarify however, that we believe support should be limited in these situations to residential access only where the residential facility is contained either directly on or immediately adjacent to the eligible school’s campus. Additional, separate connections to these facilities would likely lead to waste.

59. Targeting Support for Broadband Services

We seek comment on whether there are specific telecommunications services, Internet access services, or priority two services on the current ESL that should receive a lower priority in E-rate funding so that we can target funding toward higher bandwidth connectivity. For example, should dial-up Internet access continue to be funded as a priority one service or instead, should greater priority be given to applicants seeking support for broadband services? Similarly, should we give a higher priority to advanced telecommunications and broadband services, rather than voice telecommunications services?

Comment: UEN is very encouraged by the proposal to give greater priority to broadband services however, with so many in our state that receive E-rate support only for basic telecommunications services, we must propose that this re-prioritization be done over a period of time that would allow the eligible entities in our state and across the nation time to plan, procure, and transition their basic telecommunications to more advanced voice services that are delivered via broadband. We propose that this transition timeline be adopted and spelled out in the Eligible Services List each year until these basic services are no longer relevant, perhaps over a three to five year period. The cost-effectiveness and other benefits of these advanced services would eventually be realized while avoiding the shock to those still needing support for these basic services. The neediest of our applicants in Utah are now quite dependent upon support for these basic services.

IV. EXPANDING THE REACH OF BROADBAND TO THE CLASSROOM

69. Predictable Internal Connections Funding for More Schools and Libraries

One option would be to allocate funding for internal connections based on a per student cap per school district, to which the applicant's discount rate would be applied. Under this option, libraries would be eligible to receive the same amount of funding as the public school districts within which they are located.

To ensure that a predictable amount of funding is available for internal connections, we could set aside a defined amount of funding before funding is allocated to telecommunications and internet access, current priority one services.

Another option would be to eliminate support for basic maintenance for internal connections, or, in the alternative, to cap the amount available for basic maintenance. We seek comment on whether and, if so, how we could phase in any of these proposals on a trial basis to examine the distributional impacts of such rule changes. In what funding year should any of these options be implemented? Commenters should provide specific proposals on the timing and staging of specific reforms. We further describe these options below and seek comment.

71. Capped Amount

To create a more predictable funding mechanism for priority two services, we seek comment on establishing a flat per student cap per school district for each funding year, with the applicant's discount rate applied after the cap is determined. For example, if the cap were set at \$15 per student, a school district that has 100,000 students would have a cap of \$1.5 million in internal connections funding

Are there any alternatives that would increase predictability of priority two funding while meeting the goal of ensuring internal connections funding to more schools and libraries?

74. Set Aside for Internal Connections

75. Threshold for Priority Two Funding

We encourage parties to submit factual analyses of the distributional impact of alternative thresholds into the record.

76. Revised Discount Matrix

77. Eliminate the 2-in-5 Rule

79. Application by School District

80. Eliminate funding for basic maintenance for internal connections

Comment: UEN does not support any revisions to the discount matrix for priority one services. This funding has become a necessity for our state network and any potential reductions to this funding we must strongly oppose.

UEN agrees with and applauds the goal of providing more predictable priority two funding to more applicants however, we strongly disagree with the proposals to fund priority two services using a per student cap, a set aside, or by establishing a fixed threshold for Internal Connections funding. In discussion of the subject with our colleagues from other states we have come to appreciate the “rotating bands” method of priority two funding as described further below.

We agree that the 2-in-5 rule has not produced the anticipated result and that it has in fact eliminated the possibility of priority two funding altogether for consortium applicants unwilling to jeopardize their member’s priority two requests when seeking funding for the shared types of priority two services prevalent at the state or regional level. Eliminating 2-in-5 will remove this impediment and we strongly support this proposal.

We also agree that priority two applications by school districts supports a more thoughtful implementation of priority two services by those traditionally responsible for managing technology budgets and projects. We enthusiastically support this proposal.

We also strongly agree with the proposal to eliminate funding for basic maintenance of internal connections. The data included in the NPRM and our own experience with applicants seeking this support has shown that funding this category of service has led to significant waste of program funds for services that may or may never be delivered. This category should be eliminated for funding year 2011.

UEN supports a more granular discount matrix for priority two services and the establishment of a mechanism that would allow the administrator to “rotate” funding of the discount bands in subsequent

years to lower and lower discounts, pushing priority two funding “down” to entities whom have never been able to benefit from it. Each year priority two funding for all applicants would pick up where it left off in the previous year. Current procedures for extending implementation and invoicing deadlines would allow recipients to use their more reliable priority two funding throughout any time period needed. If the FCC desires the distribution of priority two funding to all applicants at every discount level, the rotation should continue until even the lowest bands have been funded, starting the process over again for the most needy once all bands have been funded. If the FCC desires only to increase priority two funding to more (not all) entities, then it is a simple matter of fixing the cutoff for priority two at whatever band is deemed appropriate, e.g. 20%, 30%, or even 40% NSLP.

Using existing demand for priority two, it is anticipated that even when funding all bands during the rotation, all priority two requests could likely be funded in five to six years, sooner if a cutoff is established for those in the lower discount bands. Of course, with predictable priority two funding, more eligible entities will likely apply. Setting the cutoff for priority two at some level above the lowest discount band and limiting reimbursements to 70% in the top two discount bands (now 80% and 90%), regardless of the discount would greatly reduce the waste that is encouraged by the current methodology. Setting or perhaps manipulating the cutoff at the low end of the discount matrix could assuage fears of very large wealthy applicants taking unfair advantage of the program at the expense of more needy applicants.

An example of a revised priority two discount matrix follows:

Proposed revisions to Priority Two Discount Matrix	
Percent eligible for NSLP	Discount %
<1% through 19%	10%
20% through 29%	20%
30% through 39%	30%
40% through 49%	40%
50% through 59%	50%
60% through 69%	60%
70% through 79%	70%
80% through 89%	70%
90% through 100%	70%

84. Indexing the Annual Funding Cap to Inflation

We propose to amend section 54.507 of our rules to index the E-rate program funding cap to the rate of inflation, on a prospective basis, so that the program maintains its current purchasing power in 2010 dollars.

Comment: UEN agrees that the Cap must be adjusted upwards to limit the ever widening gap between requests and disbursements. Annual demand has consistently exceeded the cap by a factor of 2, or nearly so. The suggested inflation adjustment of \$676 million, raising the cap the \$2.93 billion should be implemented for funding year 2011. The additional proposals and recommendations made during this comment period are expected to alleviate some of the demand pressure, e.g. eliminating Basic Maintenance and Web Hosting. Additional relief may be realized as a result from the applicant's ability to lease fiber from any provider as well, leading to increased cost-effectiveness for all broadband services.

V. Creating a Process to Dispose of Obsolete Equipment

89. We propose to amend section 54.513 of our rules establishing how participants in the E-rate program may dispose of obsolete equipment purchased with E-rate discounts. We also propose revising an FCC form to report such equipment disposals to USAC.

Comment: UEN agrees with and supports the proposed methods for disposing of obsolete equipment. We believe that five years of useful life provides a sufficient benchmark for implementation of this rule change.

We agree that a formal declaration by an authorized body or official of equipment surplus and disposal should be required and documentation maintained under the current five-year document retention rule. We believe the five year period should begin with equipment installation and a de minimus initial value should be established. For equipment that costs \$1,000 or less, surplus documentation should be all that is required of applicants. For trade-in of equipment that exceeds \$1,000 value applied toward the purchase of new equipment, the trade and the value of the trade-in should be reported to USAC via the Form 500 in all cases.

The Form 500 should also be made available online.

Further discussion and proposals

Public/Higher Ed Resources

In Utah, we are distinguished by being the state with the lowest per pupil spending in the nation while maintaining one of the highest levels of high school graduation¹ and college attendance. Utah also has the largest percentage of children in the United States per capita, the highest birth rate per capita, and the lowest state taxable property base (21%) due to the huge percentage of federal land within our state. One reason we are able to do so much with so little is our recognition that educational resources inherent in higher education and research data often derived from higher education, are equally valuable to a large percentage of public education students and teachers. When supported by appropriate legislation, for example requiring fee waivers from higher ed institutions for high school advanced placement students, allowing them to satisfy core public ed curriculum requirements while simultaneously receiving post-secondary credit for instruction, demonstrates that sharing of educational resources can greatly reduce the cost of a world class education. This sharing of resources has been the

¹ Utah State Office of Education data: Cohort Graduation Rate study reveals a consistent combined graduation rate of 88% for the last three years.

basis for several distance learning initiatives over the years and has enabled UEN to most efficiently deliver broadband Internet to nearly every educational entity in the state. Inherent in this sharing of services among the K-20 community is an immense savings in cost for broadband networks and Internet access. This is merely one factor that led the PEW Center on the States to give Utah an A⁻², one of only three states to receive this distinction for overall performance of state government.

The sharing of resources inherent in the configuration of our state's broadband infrastructure has naturally led to a hierarchical network whereby network traffic from school districts, libraries, and charter schools is typically aggregated at higher education institutions situated within or nearest to the communities served.

The Utah State Constitution³ provides that "The public education system shall include all public elementary and secondary schools and such other schools and programs as the Legislature may designate." This ability for the state legislature to designate educational responsibilities to any educational entity in the state has led to institutionalized sharing of resources and the dramatic efficiencies we've been able to attain. Nearly every higher education institution and facility in our state provides some amount of core public education curriculum to public education students. We hope that this model of broadband networking and resource sharing can prove instructive for the Commission and other states' broadband initiatives.

We respectfully request where educational resources and broadband services are shared in this manner amongst higher education, public education, and libraries, managed by an overarching state network entity such as UEN that higher education institutions should be eligible for E-rate support of broadband services not otherwise supported. Interconnection via broadband of public education entities and libraries to the state network should be eligible for E-rate without cost allocation and the individual institutions providing these services should be eligible to receive direct support for these types of broadband connections.

Unified Community Anchor Networks (UCAN)

UEN also coordinates broadband infrastructure deployments among the Utah Telehealth Network, state and local governments, and public safety including law enforcement.

We are extremely encouraged by the FCC's broadband plan and the future developments suggested in the plan's stated goals. We are especially encouraged by the potential Unified Community Anchor Network (UCAN) initiative that is cited in the plan and will attempt here to provide some relevance of that initiative to this E-rate NPRM.

UEN has since inception been fulfilling the described role of a UCAN entity; consolidating procurement and buying power, coordinating and providing network management, providing network engineering, planning, and design resources, providing filtering, and security resources, negotiating among the various users groups and global providers to create network "border" policies, assisting local, state, and federal law enforcement agencies, and national security interests, etc., etc.. We fully support the idea of designating a UCAN entity for each state or region and believe this initiative could lead to the type and level of efficiencies we've been able to achieve.

We hope to submit more detailed comments related to this subject pursuant to the Universal Service

² <http://www.pewcenteronthestates.org/uploadedFiles/Overall%20Performance.pdf>

³ Utah State Constitution, Article X, Sections 1 and 2

High Cost Reform rulemaking proceeding currently under way.

Summary

We greatly appreciate the opportunity to submit comments to the FCC for this NPRM. We are extremely encouraged by the overall direction that the FCC is taking with regard to broadband for all Americans and the transparency of these processes. We hope that we may continue to be a part of this process and look forward to the results expected from the upcoming FCC orders.

Respectfully,

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