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Federal Communications Commission
445 12th Street SW
Washington, DC 20554

September 15, 2014

In the Matter of:

Modernizing the E-Rate Program for Schools And Libraries Public Notice	))	WC Docket No. 13-184

Comments of AASA: The School Superintendents Association

<u>Introduction</u>: On behalf of *AASA: The School Superintendents Association*, representing more than 10,000 public school superintendents I submit these comments in response to the FCC's Public Notice (PN): Modernizing the E-Rate Program for Schools and Libraries. We applaud the FCC's continued focus on modernizing the schools and libraries (E-Rate) program and welcome the opportunity to provide feedback.

AASA has actively advocated for the E-Rate program since its inception in the Telecommunications Act of 1996. Our organization is focused on ensuring the program continues to successfully pursue its mission of accelerating the deployment of advanced telecommunications and information services in schools and libraries. We have been engaged in each rulemaking related to the program, and have long supported efforts to modernize and strengthen the E-Rate program.

<u>AASA Response to July Order</u>: Earlier this summer, the FCC made programmatic changes to the E-Rate program. Focused on modernizing the program, the changes look to direct E-Rate resources to broadband. Among other changes, the order renamed Priority One and Two 'Category' One and Two and eliminated discounts for legacy services, including all voice and webhosting services. The final product of July order is a mixed bag, with elements AASA outright supports—including ensuring all Category One applications are funded before funds are available for Category Two and the provision of additional (though not permanent) funding for the E-Rate program—as well as elements that give us pause, including continued emphasis on per-pupil funding within Category Two and calculating the poverty discount at the district (rather than school) level. One of the biggest strengths of the final July order is that it tackles—head on—the E-Rate programs funding needs.

<u>Comments</u>: AASA strongly supports a permanent increase in the E-Rate program's annual funding level**.** The core component of AASA's position on E-Rate modernization is that any effort must be two pronged. It must include both programmatic restructuring—such as streamlined application, incentivizing consortia applications, and multi-year applications—and a permanent increase in the program's funding cap. Quite simply, an infusion of funding without programmatic restructuring is a poor investment, and programmatic restructuring without permanent, adequate funding sets the program on a path towards instability and failure. Our comments for both the Summer 2013 NPRM[1] and Spring 2014 NPRM[2] reflected this priority, and

[1] See AASA/AESA Joint Filing, Aug 27, 2013 http://aasa.org/uploadedFiles/Policy_and_Advocacy/files/AASA%20E-Rate%20NPRM%20Comments%20081613.pdf

called on the FCC to raise the E-Rate funding cap. AASA was deeply concerned when E-Rate modernization efforts decoupled programmatic changes from the funding conversation, and applauded the FCC's action to reinstate the funding conversation, which we comment on here. It is imperative the FCC acknowledge the significant programmatic changes already made to the E-Rate program and use this Public Notice as an opportunity to ensure that the already-adopted changes have adequate funding to carry them and the historically successful E-Rate program forward.

We reiterate a sentiment from our Spring 2014 filing: each question asked in that PN, as well as this one, would be readily addressed with a permanent infusion of funding to the E-Rate program. In its 2010 NPRM, the FCC itself recognized the inadequacy of the current E-Rate funding level, writing that 'Demand for funding far exceeds available funding every year.' And 'In future years…it is likely that requests for telecommunications and internet access services will exceed the cap, with the result that no funding for internal connections will be available for any applicants.' USAC itself has released data that highlight the gap between demand and available funding: In FY2013, demand for Priority One and Two were $2.7 billion and $2.3 billion, respectively, for a total just over $4.9 billion[3], roughly equal to the Priority One and Two demand of $2.6 billion and $2.2 billion in FY2014, for a 2014 total of $4.8 billion. For each of those years, demand more than doubled the available funding, reported by USAC to be $2.4 billion in both FY2013 and FY2014[4].

Digging deeper in to that data, the demand for raising the E-Rate cap was crystallized in Funding Year 2013, when the E-Rate program provided zero support to applicants for Priority Two (internal connections) services. That is, program demand was so significant that virtually all available funding was consumed in Priority One services, and USAC was left with very few dollars to serve Priority Two. The application period for Funding Year 2014 applications closed on March 26, 2014. USAC received more than 47,000 applications totaling $4.868 billion, with $2.643 billion in Priority One applications and $2.225 billion in Priority Two applications. This does not include the additional 1,000 applications USAC anticipates receiving as paper applications continue to arrive.

As a long-standing member of EdLiNC, a coalition of schools and libraries groups representing E-Rate program beneficiaries, we signed on to their recent filing in response to this same PN. We echo the information and argument EdLiNC made available in the discussion to raise the E-Rate funding level, including the anticipated growth in E-Rate program demand, the accuracy of the FCC staff report estimates as it relates to estimated savings available to pay for programmatic changes, and implications for the ability of E-Rate funding to meet program demand absent a raising of the funding cap. Further, as EdLiNC submitted[5], "…the biggest problem for the program is that without additional money, many, many deserving schools and libraries will wait a long, long time to gain WiFi funding. According to the FFL chart, school districts with more than 20% of their students eligible for the National School Lunch Program may not see even a dime of C2 E-Rate money by 2020.[6] That is troubling, particularly as it is a problem that could be remedied by a much needed permanent funding infusion for the program."

Raising the program cap would support not only the original goals of connectivity, but also facilitate expansion of the program's focus to broadband and streamlining the application process, as well as support

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[2] See AASA/AESA Joint Filing, Apr 7, 2014
http://aasa.org/uploadedFiles/Policy_and_Advocacy/files/AASA%20AESA%20Joint%20Filing%20FINAL.pdf

[3] See http://www.usac.org/_res/documents/sl/pdf/tools/news/FY2013-Demand-Estimate.pdf

[4] See http://transition.fcc.gov/Daily_Releases/Daily_Business/2014/db0328/DA-14-426A1.pdf)

[5] EdLiNC Comments *In the Matter of Modernizing the E-Rate Program for Schools and Libraries*. (Dated Sept. 15, 2014, URL unavailable)

[6] Ta'Chelle Jones, *Balancing the E-Rate Budget*, FUNDS FOR LEARNING (Sept. 9, 2014), http://www.fundsforlearning.com/blog/2014/09/balancing-the-e-rate-budget (*FFL Chart*).

the changes adopted in the July 2014 order. Permanent, adequate funding ensures equity in program benefit, providing connectivity to the schools and classrooms of a much larger portion of applicants.

AASA Opposes Pilots and Carve Out Projects, and Supports Funding/Entity Neutrality Within E-Rate: To the extent that the FCC is considering how to allocate funds made available through Category 2, we reiterate our opposition to *any* pilot or carve out project within E-Rate funding, including the $2 billion in 'found funding'. This is a position we have long advocated, as any of the pilot projects siphon limited dollars away from the historically oversubscribed E-Rate program. We applaud the Commission's interest in testing proposals and ideas aimed at modernizing E-Rate and would support some of the proposed pilots, but not within the limited E-Rate dollars. Any incursion on the E-rate program – whether it be from a new service, a new class of applicants, or a new program (as the proposed pilot would be) – would significantly destabilize the program. We also oppose any move away from entity neutrality in the allocation of E-Rate dollars. The E-Rate program has historically made funding available for all eligible entities—school or library. We are deeply concerned by consideration of entity-specific carve-out or pilot projects. That is, should the FCC pursue a carve-out or pilot project related to E-Rate, it must NOT establish preference or sole access for one entity over another.

AASA Seeks Clarification on the Definition of Rural: One of the changes in the July order was an adjustment to the definition of rural within the E-Rate order. At this point, AASA is confused by aspects of the definition and seeks clarification. In particular, we submit the same text of an email exchange with the FCC that has yet to be fully addressed. We are committed to the idea that an E-Rate eligible entity classified as 'rural' under the previous set of rules should remain 'rural' under the new definition. It defies logic that a rural school/library would lose the related discount simply because a federal agency decided to change a definition. While we have had unofficial affirmations that the intent of the change in definition is that all 'rural' entities will indeed remain 'rural', we have yet to receive final clarification.

As submitted via email: There has been some confusion regarding the definition of "rural" in the E-rate order by which "urban clusters" of 2,500 or more people would be treated as urban. This would mean that a number of schools and libraries in rural towns that today qualify as "rural" for purposes of the higher discounts would now fall to the "urban" discount levels. Here is a quick summary of the basic issue to provide more context:

54.505(b)(3)(i) of the new E-rate order says the Administrator shall designate a school or library as "urban" if the school or library is located in an urbanized area as determined by the most recent rural-urban classification by the Bureau of the Census. The Administrator shall designate all other schools and libraries as "rural."

There is a link in footnote 512 of the E-rate order that ties to the Census definition. That link takes one to a page that says:

"Rural encompasses all population, housing, and territory not included within an urban area." And "The Census Bureau identifies two types of urban areas: Urbanized Areas (UAs) of 50,000 or more people; Urban Clusters (UCs) of at least 2,500 and less than 50,000 people."

So while the FCC rule refers to "urbanized area" (which should be an area of 50K people or more), the Census page to which the FCC order links says rural does not include either "urbanized areas" or "urbanized clusters." Hence, the confusion and the need for clarification – did the FCC's specific use of "urbanized area" in the text of the rule mean that "urban clusters" remain rural, or did its decision to use the US Census Bureau definition for rural and urban mean that it intends (like the Census Bureau) to treat "urban clusters" as non-rural?

In addition, the urban cluster definition alone is not the sole driver. You then have to look at the district as a whole. The E-Rate order also provides as follows:

"54.505(b)(3)(ii) states: Any school district or library system that has a majority of schools or libraries in a rural area qualifies for the additional rural discount"

This would seem to suggest that if there are 11 schools in a school district and 6 are located at addresses classified as rural, all 11 schools are eligible for the additional rural discount. This could make sense given the shift from school to district-level poverty rates, but poverty rates are different than rural classifications. AASA welcomes clarification on this issue.

Conclusion

AASA remains supportive of efforts to increase access to broadband across the country. We urge the FCC to move forward to ensure permanent additional funding for E-Rate with the speed and commitment with which they advanced programmatic changes earlier this calendar year. The long-term success of E-Rate relies on its ability to be updated to reflect the ever-changing world of connectivity and educational technology, remaining a program committed to its focus on equity and program sustainability, and having sustained, adequate funding that supports the programmatic changes and changing demand.

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