



PUBLIC NOTICE

Federal Communications Commission
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DA 10-1045
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**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**

Comment Date: July 9, 2010

Reply Comment Date: July 26, 2010

In this public notice, we announce the comment deadlines for the *E-rate Broadband NPRM* released by the Commission on May 20, 2010,¹ and the *ESL Order and FNPRM* released by the Commission on December 2, 2009.² The *E-rate Broadband NPRM* and the *ESL Order and FNPRM* were published in the Federal Register on June 9, 2010.³

We also seek comment on the attached draft Eligible Services List (ESL) proposed by the Universal Service Administrative Company (USAC) for E-rate funding year 2011.⁴ Commission rules require USAC to submit annually a draft ESL for the schools and libraries universal service support mechanism (also known as the E-rate program) for the following funding year.⁵ Many of the proposed changes for the funding year 2011 ESL are based on proposals in the *ESL Order and FNPRM* and the *E-rate Broadband NPRM*. These changes include:

¹ *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*).

² *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*).

³ See *E-rate Broadband NPRM*, 75 Fed Reg. 32699 (June 9, 2010); *ESL Order and FNPRM*, 75 Fed Reg. 32692 (June 9, 2010).

⁴ See attachment (Draft ESL).

⁵ See 47 C.F.R. § 54.522; see also *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Third Report and Order and Second Further Notice of Proposed Rulemaking, 18 FCC Red 26912, 26929, para. 40 (2003) (*Schools and Libraries Third Report and Order*).

- Clarifying that software applications, including global positioning systems, for wireless devices and the service and data charges solely for the provision of those applications are ineligible for E-rate funding;⁶
- Designating web hosting, web server, and domain name registration,⁷ separately priced firewalls,⁸ and anti-virus and anti-spam software⁹ ineligible for E-rate funding;¹⁰
- Adding unbundled warranties to the list of products or services that are ineligible for funding;¹¹
- Adding leased fiber to the list of miscellaneous services so that third parties can lease fiber capacity to applicants that will provide the electronics to modulate the fiber and will use the fiber on an immediate basis.¹²

Other additional proposed changes to the ESL for funding year 2011 include:

- streamlining the ESL to remove several items because they are infrequently requested (i.e., DS-2, T-2, network access register charges, primary interexchange carrier charges, and Global Service Provider fees);¹³
- removing language requiring that an auditable monitoring system be in place for voice or video conferencing services;¹⁴
- clarifying that a toll-free number used as a homework information line is an example of an eligible 800 service;¹⁵
- clarifying that online backup solutions are ineligible for E-rate funding.¹⁶

⁶ Draft ESL at 6, 8. Under this proposed change, applicants seeking support for service/data charges related to the provision of applications would be required to cost allocate these charges. *Id. See also ESL Order and FNPRM at 19-20, para. 39.*

⁷ Draft ESL at 9, 15, 18; *ESL Order and FNPRM at 19, para. 37.*

⁸ Draft ESL at 8; *ESL Order and FNPRM at 17-18, para. 34.*

⁹ Draft ESL at 18; *ESL Order and FNPRM at 18-19, para. 35.*

¹⁰ Draft ESL at 18; *ESL Order and FNPRM at 18, para. 35.*

¹¹ Draft ESL at 21; *ESL Order and FNPRM at 15, para. 28.*

¹² Draft ESL at 23. This change was initiated by a proposal in the *E-rate Broadband NPRM*. *See E-rate Broadband NPRM, at para. 54.*

¹³ Draft ESL at 3, 8.

¹⁴ Draft ESL at 4.

¹⁵ *Id.*

¹⁶ Draft ESL at 9, 19; *ESL Order and FNPRM at 15, para. 28.*

The draft ESL is being proposed for the sole purpose of informing potential beneficiaries of the specific products and services that may be eligible for discounts under the E-rate program pursuant to section 254 of the Communications Act of 1934, as amended.¹⁷ Pursuant to section 54.522 of the Commission's rules, the Commission will release the final ESL for the upcoming funding year at least 60 days prior to the opening of the E-rate application filing window for that funding year.¹⁸

For both notices of proposed rulemaking and the draft ESL, interested parties may file **comments on or before July 9, 2010**, and **reply comments on or before July 26, 2010**. Parties are encouraged to combine their comments for all items into one comment filing and one reply comment filing. All pleadings are to reference **CC Docket No. 02-6** and **GN Docket No. 09-51**.

Comments may be filed using the Commission's Electronic Comment Filing System (ECFS), or by filing paper copies.¹⁹

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/>. Filers should follow the instructions provided on the website for submitting comments.
- For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.
- **Paper Filers:** Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East

¹⁷ 47 U.S.C. § 254.

¹⁸ See 47 C.F.R. § 54.522; *Schools and Libraries Third Report and Order*, 18 FCC Rcd at 26928, para. 40.

¹⁹ See *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322 (1998).

Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, S.W., Washington D.C. 20554.

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In addition, one copy of each pleading must be sent to each of the following:

- (1) The Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, www.bcpweb.com; phone: (202) 488-5300 fax: (202) 488-5563;
- (2) Regina Brown, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-A445, Washington, D.C. 20554; e-mail: Regina.Brown@fcc.gov; and
- (3) Charles Tyler, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-B521, Washington, D.C. 20554; e-mail: Charles.Tyler@fcc.gov.

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, telephone: (202) 488-5300, fax: (202) 488-5563, or via e-mail www.bcpweb.com.

This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.²⁰ Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented generally is required.²¹ Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in section 1.1206(b) of the Commission's rules.²²

For further information, please contact Regina Brown, Telecommunications Access Policy Division, Wireline Competition Bureau at (202) 418-7400 or TTY (202) 418-0484.

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²⁰ 47 C.F.R. §§ 1.1200 *et seq.*

²¹ *See* 47 C.F.R. § 1.1206(b)(2).

²² 47 C.F.R. § 1.1206(b).