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

In the Matter of	)	
	)	
Modernizing the E-rate	)	WC Docket No. 13-184
Program for Schools and Libraries	)	

REPLY COMMENTS OF FUNDS FOR LEARNING, LLC

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November 8, 2013

SUMMARY

Numerous commenters, including associations, school districts, and libraries either agree with us in principle that annual funding to applicants should be capped or agree specifically with our proposal to (1) control E-rate spending, (2) protect funding for small and rural remote schools and libraries, and (3) enable the E-rate program to operate more equitably and universally. An E-rate program that continues to allow applicants to write a blank check every year for as much funding as they want is unsustainable, that restoring technology decision making to the local level by eliminating the priority system should be a priority, that applicants desperately need funding for WLAN and other infrastructure, and that putting reasonable ceilings over and floors under annual funding is the only realistic way to accomplish all of these objectives without altering a structure with which everyone is familiar and that everyone generally agrees works pretty well.

Most of the criticism of our proposal came from commenters who complained that small schools and rural schools in particular might not receive "enough" E-rate support if the Commission adopted it. Our own analysis shows that in FY2014, assuming no change in the current funding cap and a funding rollover similar to FY2013, most E-rate applicants would be eligible for E-rate discounts that are greater than their FY2013 discounts. We are not aware of any comment that considered the impact that the *status quo* or other proposed changes might have on applicant funding relative to our proposal.

We agree with EdLiNC and other commenters who argue that the E-rate program is woefully underfunded. However, a bigger E-rate fund should help all applicants, not just a few. While the fund desperately needs more money, much of that new money will be wasted and a lot more of it will be ineffective unless and until the Commission: (1) retires the "blank check" application; (2) puts reasonable limits on every applicant's E-rate discounts; and (3) restores local decision making by permitting every applicant to order off of the full menu of E-rate eligible services. Until this happens, the E-rate program is going to remain massively underfunded and perpetually in crisis — <u>no matter how much money the Commission injects into it.</u>

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I. REPLY TO COMMENTS RECEIVED ON THE ISSUE OF FUNDING CAPS GENERALLY AND TO FUNDS FOR LEARNING'S PROPOSAL TO PLACE CEILINGS OVER AND FLOORS UNDER HOW MUCH E-RATE FUNDING APPLICANTS RECEIVE ANNUALLY.

A. Support

Numerous commenters, including associations, school districts, and libraries either agree with us in principle that annual funding to applicants should be capped or agree specifically with our proposal to (1) control E-rate spending, (2) protect funding for small and rural remote schools and libraries, and (3) enable the E-rate program to operate more equitably and universally. As we have said before, an E-rate program that continues to allow applicants to write a blank check every year for as much funding as they want is unsustainable, that restoring technology decision making to the local level by eliminating the priority system should be a priority, that applicants desperately need funding for Priority 2 WLAN and other infrastructure, and that putting reasonable ceilings over and floors under annual funding is the only realistic way to accomplish all of these objectives without altering a structure with which everyone is already familiar and that everyone generally agrees works pretty well.

The *Comments and Reply Comments of the E-rate Reform Coalition* discuss our proposal and the support for it in much greater detail. Here is a link to the Coalition's comments: http://apps.fcc.gov/ecfs/document/view?id=7520943975

Insofar as funding caps and the elimination of the priority system is concerned, it is important to note that the organization with the most credibility when it comes to school technology issues, the State Educational Technology Directors Association (SETDA), supports a "thoughtful combination of decreases in existing discount rates and the institution of reasonable applicant funding caps." (Emphasis added).[1] In addition, SETDA supports "the simplification and merging of Priority 1 and 2 services." This, SETDA explains, will give to school districts "the freedom to design and deploy cost-effective, comprehensive solutions that meet student and teacher needs in line with adopted capacity targets."

The Education Coalition, which includes the Council of Chief State School Officers, the Foundation for Excellence in Education, the Alliance for Excellent Education, the Chiefs for Change International, the Association for K-12 Online Learning, the Knowledge Alliance, the National Alliance for Public Charter Schools, and the Clayton Christensen Institute for Disruptive Innovation, is another group that did not try to sidestep the complex funding issues that face the E-rate program today and the extremely difficult decisions that lie ahead for the Commission in this regard. Accordingly, the Education Commission recommended to the Commission that it "take a fresh look" at, among other things, per-student funding limits:[2]

> The Commission should also take a fresh look at the discount matrix, the relative proportion of state and local matching funds, the possible value of per-student or per-building funding limits, as well as per-school fixed budgets. Given that the E-Rate program is oversubscribed today and the funding demands of the program are only going to grow as the technology needs of schools evolve, such a review is important to ensure an equitable distribution of finite federal funds and the financial accountability of the entire program

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[1] All SETDA quotations in this section are from *SETDA's Comments* at 19-20. http://apps.fcc.gov/ecfs/document/view?id=7520944050

[2] *Comments of the Education Coalition* at 18-19.

Kellogg and Sovereign is a very well respected E-rate consulting firm located in rural, Ada, OK. Since the majority of their clients are small schools (less than 1,000 students) located in rural and rural-remote areas, it is interesting to hear what this firm had to say about funding caps based on a per-student formula:[3]

> If a per student funding cap is implemented and schools and libraries are given the ability to make their own choices on how to spend their limited E-rate funding, we believe applicants will select the most cost-effective solution instead of simply the solution that has Priority One status.

B. Criticism

Most of the criticism of our proposal came from commenters who complained that small schools and rural schools in particular might not receive "enough" E-rate support if the Commission adopted it. Much of it appeared rather reflexive. We are not aware of any comment that considered the impact that the *status quo* or other proposed changes might have on applicant funding relative to our proposal. While many commenters said that they would like to see the Commission address the funding crisis by lowering discount rates, no commenter analyzed how savings from lower discount rates would affect the availability of Priority 1 and 2 funding in the short term, let alone the long term.

Contrary to what some commenters would have the Commission believe, implementing our funding ceiling and floor proposal would not cause the sky to fall. Indeed, our data shows that in FY2014, assuming no change in the current funding cap and a funding rollover similar to FY2013, most E-rate applicants would be eligible for E-rate discounts that are greater than their FY2013 discounts.[4]

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[3] *Comments of Kellogg and Sovereign* at 7.
http://apps.fcc.gov/ecfs/document/view?id=7520944159

[4] *See E-rate Reform Coalition Comments* at 9 and Exhibit D.

So yes, it is true that under our proposal a relatively small number of applicants might receive less E-rate support than they did in a prior funding year. That is not automatically bad though. In fact, it could actually be beneficial, as big spenders might be forced to spend less, and applicants who otherwise might be sloppy in preparing their applications, who would inadvertently wind up requesting more funding than they will use, would have an incentive to be much more careful and specific. In other cases where prices go down due to market forces or harder bargaining, for example, applicants might not need as much funding as they did the year before. In the relatively small number of instances where a legitimate "loss" does occur, what the critics fail to point out is that the status quo and/or other proposals to deal with a finite amount of funding, such as reduced discount rates and fewer eligible services, will likely cause those applicants to "lose" even more.

The following are significant facts that many commenters also failed to point out or neglected to mention: (1) if the Commission decides not to increase the annual funding cap or not to increase it substantially, <u>there will be</u> a Priority 1 funding shortfall and, as a result, numerous applicants will receive no E-rate support or much less support than they do now; (2) without annual funding budgets and/or a gigantic infusion of funds, the availability of Priority 2 funds will not improve, but rather, will quickly disappear altogether; and (3) decreasing discount rates pose the same or an even greater threat to some applicants' ability to afford eligible services than a funding cap does.

Adopting a formula to place reasonable ceilings over and floors under how much funding applicants may receive each year might be difficult political decision to make, but otherwise it is not very difficult at all. Today, the E-rate program is a zero sum game. In a zero sum game, players' gains must be offset by other players' losses. Thus, for so long as the E-rate program allows every applicant to fill out their annual E-rate checks for as much funding as they want, it will remain a zero sum game. That is far more disruptive and unfair to the E-rate community as a whole than a small number of ill-defined, so-called "losses" from reasonable annual budgets would ever be. The ONLY way to stop the E-rate program from remaining a zero sum game is to place a ceiling on every applicant's annual E-rate discounts. That is the only realistic way to revive and revitalize the program for the long haul.

If annual E-rate budget ceilings are not the answer to the funding crisis, because they will cause some applicants to "lose" funding, then reducing discount rates to solve the funding shortfall, which some commenters suggest, cannot possibly be the answer either. If the Commission reduces discount rates, applicants <u>will</u> have to pay a lot more money out of pocket next year for the exact same services they received this year. The commenters who propose this believe it is a good idea, even though the services that some applicants could afford previously will become much more difficult to afford or, in some cases, wind up completely out of reach. Which makes us wonder why the commenters, who worry so much about applicants "losing" money under an E-rate budget system, do not seem to care or care all that much about the impact that lower discount rates will have on affordability – South Dakota DOE for example.[5]

Everyone knows that lower discount rates will put a tremendous strain on school and library budgets that have become, unfortunately, increasingly tighter over the last few years. At a 90% discount rate, a $100,000 service costs an applicant $10,000. At 75%, which is what South Dakota DOE suggests the highest discount rate should be, the same service will cost that applicant $25,000. Under South Dakota DOE's definition of "lost funding," that would amount to a $15,000 loss of funding. We do not understand why the commenters who champion discount rate reductions, but oppose annual budgets, think it is okay to lose funding this way but not under a budget system. "Lost funding" is lost funding. Note that in our proposal, the discount matrix remains unchanged.

The E-rate community must come to grips with the hard, cold, reality of the situation. If it does not, E-rate 2.0 will turn out to be nothing more than E-rate 1.1. Without limits on applicant funding, there will be no or very little funding available for internal connections this year or next, and <u>sooner or later and with or without a higher</u>

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[5] *Comments of South Dakota Department of Education and the South Dakota Bureau of Information and Telecommunications (South Dakota DOE)* at 16-20. <u>http://apps.fcc.gov/ecfs/document/view?id=7520944031</u>

<u>cap (unless it is enormous and permanent), there will be a shortfall in Priority 1 funding</u>. The commenters who bemoan the idea of discount ceilings are ignoring the writing on the wall: when there is not enough Priority 1 money to distribute to everyone who wants it, and large numbers of applicants wind up receiving no Priority 1 funding as a result of that shortfall, the amount of funding that those applicants would have received in their annual E-rate budgets and could have elected to spend on Priority 1 services will begin to look rather appealing.

Finally, we were extremely disappointed to see that some critics of our proposal ignored the protection for small and remote rural schools that we painstakingly made sure to include in it. Therefore, in response to commenters who claim that our proposed formula for calculating annual funding budgets will yield budgets that are too low for small and remote rural schools, we again direct the Commission to the Comments filed by the E-rate Reform Coalition:[6]

> In FY2014, assuming no change in the current funding cap and a funding rollover similar to FY2013, the per-student budget factor would be $67.65 per-student. This means that most applicants would be eligible for E-rate discounts that are greater than their FY2013 discounts. Moreover, under the FFL proposal, ***all applicants would be funded, small schools would be protected*** by a funding "floor" to ensure that they are not disadvantaged by their size, and ***remote rural schools would receive twice the funding*** of other schools given that their telecommunications and Internet expenses are consistently double that of other schools. The proposed formulas are transparent, easily calculable, and based on publicly-available numbers. They also ensure that E-rate discounts are based on an applicant's level of need, which is consistent with the original intent of the E-rate program.

C. Rebuttal

Some commenters posited hypothetical outcomes based on our proposal to establish annual budgets for E-rate applicants with which we disagree completely, while other commenters, unfortunately, misrepresented certain parts of it. We discuss both

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[6] *Comments of the E-rate Reform Coalition* at 9.

categories of comments below.

1. *What FFL has proposed is a block grant program*. No we have not. Indeed, our proposal keeps every single aspect of the E-rate program intact except for the ability of applicants to apply for and receive as much funding as they want every year. The application and review process, the eligible services list, the discount matrix, the payment process, and so on remain <u>exactly</u> the same. The reason the Commission adopted the priority system in the first place was to address the funding shortfall problem. Therefore, a budget system like the one we have proposed, <u>which permanently eliminates the funding shortfall problem</u>, completely eliminates the need for a priority system.

2. *FFL's per-student formula will shortchange small schools and schools in remote rural areas.* As already discussed, our proposal provides reasonable funding floors to help ensure that small schools receive a meaningful amount of annual funding and, for rural remote schools, double the amount of funding that similarly-sized schools elsewhere in the country would receive, since the data shows that their costs tend to be twice as much.

3. *FFL's proposal fails to address how consortia would be funded.* That is incorrect. Our proposal makes it very clear that consortia would be funded from the budgets of the individual consortium members. Each member would assign to the consortium however much funding their share of services required. Since consortia apply for funding on behalf of individual applicants, it is only logical that funding be transferred from budget to budget in this kind of administrative fashion. If the Commission were to assign consortia their own budgets, applicants would be able to take advantage of a consortia's budget to do an end run around the limits of their own budgets.

4. *FFL's proposal offers no funding protection to state telecommunications networks.* To the contrary, see consortia discussion above. More recently, to provide state networks even more funding security, FFL has suggested that the

Commission may even want to consider earmarking a specific amount of funding every year specifically for state networks to ensure that state networks receive the E-rate funding they need. FFL recognizes the vital role that state networks play in the delivery of broadband and other mission critical telecommunications services to schools and libraries.

5. *Some say that assigning budgets to applicants will encourage them to exhaust their budgets every year. Others say that assigning budgets to applicants will result in excessive amounts of unused funding.* Together, these two statements speak for themselves.

   In addition, note that under the current system applicants have free rein to spend as much they want – the sky is the limit. Under a budget system, on the other hand, an applicant cannot spend more than it has in its budget. When the sky is the limit, isn't an applicant likely to spend much more?

   Note too that if an applicant exhausts its budget foolishly, no harm is done to any other applicant. Today however, because E-rate is a zero sum game, whenever applicants spend too much money because of negligence, market forces, price gouging, fraud, or for any other reason, the finite amount of funding available forces other applicants to pay for those applicants' excessive spending.

   On the subject of unused funding, since there is no data from a budget system to draw upon, it is impossible to speculate as to how much unused funding there might be under one. We suspect, however, that a budget system will result in much higher utilization rates because it will enable USAC to issue funding commitments much more quickly. <u>Furthermore, if the Commission adopts our suggestion to permit applicants to roll over unused funds for at least two funding years, unused funding will become less and less of an issue.</u>

6. *Assigning fixed, known budgetary amounts to applicants will increase price gouging and discourage competitive bidding*. Even without the elimination of the priority system, many applicants purchase different services from different

providers. Without a priority system, applicants will increasingly find themselves divvying up their discounts among more services and more providers. Since they will be forced to operate within a budget, applicants will have no choice but to stretch their finite funds as far as they will possibly go. Getting a good price on one service means that the applicant will have more money to spend on other services. This creates a more robust environment for competition in which applicants will be driving harder and harder bargains. A provider that bids high in this environment does so at its own peril.

7. *If overall funding for the E-rate program is not increased, the adoption of per-applicant funding caps will undoubtedly fail to meet applicants' financial needs since the budget would be based on an existing inadequate funding cap.* Our data shows that in FY2014, assuming no change in the current funding cap and a funding rollover similar to FY2013, most E-rate applicants would be eligible for E-rate discounts that are greater than their FY2013 discounts.[7]

II. COMMENTS ON SOLUTIONS PROPOSED BY OTHER ORGANIZATIONS TO REMEDY THE E-RATE FUNDING CRISIS.

A. Increase the Annual Funding Cap to $5 billion. (EdLiNC)

EdLiNC comments, "For us the real problem is not the program's structure but the lack of funding to ensure that more eligible applicants have access to Priority 2 support."[8] "By permanently increasing the cap to $5 billion," EdLiNC argues, "the Commission would provide schools and libraries with sufficient funds to meet the growing needs of Priority 1 services and allow the program to also fund Priority 2 services to institutions at lower discount levels."[9] We disagree.

[7] *See* Coalition Comments at 9 and Exhibit D.

[8] *Comments of the Education and Libraries Networks Coalition (EdLiNC)* at 32. http://apps.fcc.gov/ecfs/document/view?id=7520943930

[9] *EdLiNC Comments* at 16.

More money, unaccompanied by meaningful structural change is a temporary fix that will do little to widen the historically narrow scope of P2 support. The real problem IS the program's structure AND the lack of funding. $5 billion per year in funding will not be "sufficient" to meet the growing needs of Priority 1 services and allow the program to also fund Priority 2 services to institutions at lower discount levels. What EdLiNC is proposing is a kick-the-can-down-the-road solution to a problem that is more difficult and complex than "just add money". In no time, under this bare-boned solution, we will be right back in the thick of a funding crisis.

Even with a $5 billion annual cap, only applicants that qualify for a 90% discount rate would likely receive internal connections support in FY 2014. By FY 2015, there is unlikely to be enough E-rate funding available to cover all Priority 2 requests at 90%, and by FY 2016, we predict, the Commission would once again have to face a Priority 1 funding shortfall and all of the difficult issues that accompany it.[10]

We agree with EdLiNC and other commenters who argue that the E-rate program is woefully underfunded. However, as we have said numerous times before, a bigger E-rate fund should help all applicants, not just a few. While the fund desperately needs more money, much of that new money will be wasted and a lot more of it will be ineffective unless and until the Commission: (1) retires the "blank check" application; (2) puts reasonable limits on every applicant's E-rate discounts; and (3) restores local decision making by permitting every applicant to order off of the full menu of E-rate eligible services. Until this happens, the E-rate program is going to remain massively underfunded and perpetually in crisis — no matter how much money the Commission injects into it.

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[10] *See* Exhibit A which includes FFL's analysis of (A) the growth in demand for Priority 1 funding at all discount levels and Priority 2 funding at the 90%-discount level from FY2009 to FY2013, and (B) the forecasted demand for these same discount categories from FY2014 to FY2016 based on current demand trends.

B. Assign Priority 1 Status to Essential Broadband Equipment, Move All Voice, Voice-Related, and Ride-Over Services to Priority 2, and Instead of Graduated Discount Rates for P2 Services establish a flat, 50% Discount Rate for Every Service in That Category. (SECA)

The State E-rate Coordinator's Association (SECA) has put a tremendous amount of thought into a proposal that by its own admission cannot possibly succeed without a massive infusion of new E-rate funds.[11] Those funds, SECA explains, must be large enough to guarantee the availability of E-rate funding for every dollar of demand in a newly reconstituted broadband-centric, Priority 1 category.

SECA's proposal includes an astonishing number of moving parts. First, it requires the Commission to define what "essential broadband equipment" is.[12] That, we submit, will not be a process without controversy. Once essential broadband equipment is defined, those products and services will move from Priority 2 to Priority 1.[13] Once in Priority 1, the maximum discounts on those services may or may not be reduced.[14] "All other non-broadband and 'ride-over' services currently classified as Priority 1 services, including email, webhosting, telecommunications service exclusively used for voice communications and all internal connections other than wireless access points and controllers and routers and all other internal connections not directly related to broadband," SECA goes on to explain, will move in the other direction to Priority 2.[15] Once the Priority 2 category is reconstituted, instead of receiving discounts as they do today, SECA says, applicants will start receiving a flat, across-the-board 50% discount on everything in the new Priority 2 category instead of the higher or lower discounts they

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[11] *SECA Comments at 12-16, 20-24.* http://apps.fcc.gov/ecfs/document/view?id=7520944060

[12] *Id.* at 13. (*The definition of* ***essential broadband equipment*** *must be very explicit.* – emphasis in original)

[13] *Id.* at 5, 13. (*Broadband services and related equipment that is narrowly defined by the FCC should receive Priority1 status*).

[14] SECA says that it has historically advocated for discounts between 70% and 75% on internal connections, but it takes no position on this issue at this time. *SECA Comments* at 9.

[15] *SECA Comments* at 5, 23.

would receive now.[16] Finally, paging services, basic maintenance of internal connections, and every other service and equipment formerly defined as internal connections and not reclassified as "essential broadband equipment" will no longer be eligible for E-rate discounts.

The hallmark of SECA's proposal is that the purchase and installation of WLAN infrastructure would become a Priority 1 service. SECA estimates the nationwide pre-discount cost to purchase and install wireless access in every school to be in the neighborhood of $22.3 billion to $29.8 billion.[17] SECA's estimate does not include recurring costs for broadband services and Internet access. So unless the Commission foresees that many billions of dollars on the horizon, this proposal appears to be a non-starter.

The SECA proposal is extremely thorough and well thought out, but it is unrealistic. If the Commission attempts to implement it, assuming it can find the billions of dollars necessary to do so, the task will take years and years to accomplish, making it highly unlikely that schools and libraries will get the high speed connectivity they need any time soon. Large battles will brew over discount rate reductions on vital services like voice communications and the elimination of certain services from the Eligible Services List.

Another important thing to keep in mind is that after 16 years of getting used to and becoming familiar with the E-rate program the way it is now, E-rate stakeholders still find it confusing and oftentimes frustrating -- and rightly so. And USAC, after the same period of time, still struggles. That is why we shudder at the thought of fundamental changes to the way the program is constructed. An E-rate 2.0 that looks like what SECA has proposed will turn the program into an administrative nightmare in no time at all, creating wonderful new opportunities for consultants and nothing but more headaches for applicants and service providers.

[16] *Id*. at 24.

[17] *SECA Comments* at 15.

In contrast to SECA's proposal, ours does not hinge on a single dollar of new E-rate funding to pay dividends. It is designed to have a strong, positive impact on the way the program works and to help the program achieve its goals -- no matter how much funding the program may have to offer in any given funding year. The reason for that is simple: budgets are inherently scalable. If the Commission finds more money for the program, which we sincerely hope that it does, it would be able to increase every applicant's budget accordingly. Unlike SECA's complex plan, ours requires no new legal definitions, no transfer of eligible services from one priority category to another, no discount rate changes, and no elimination of eligible services, yet it will still be extraordinarily effective.

C. Reduce the Highest discount rate from 90% to 75% and Create a Rotating Application Priority 2 Funding Schedule for All Applicants Regardless of Discount Level. (South Dakota Department of Education and Bureau of Information and Telecommunications)

The South Dakota Department of Education and Bureau of Information and Telecommunications (South Dakota DOE) wants the Commission to reduce the maximum discount rate that the country's most economically disadvantaged schools and libraries receive by a whopping 15 points, from 90% to 75%.[18] This, South Dakota DOE says, is what it will take to make those applicants "think more carefully" about their E-rate purchases and enable more applicants to receive Priority 2 funding. What South Dakota DOE fails to mention, however, is that the vast majority of the nation's high discount rate applicants are very small schools who request annual telecommunications and Internet access support less than $30,000 per school building[19]. Where is the evidence that those poor schools are guilty, as a group, of not thinking carefully about what they buy or of paying too much money for eligible services? For sure, $2,500 per

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[18] *Comments of South Dakota Department of Education and the South Dakota Bureau of Information and Telecommunications (South Dakota DOE)* at pp. 16-17. http://apps.fcc.gov/ecfs/document/view?id=7520944031

[19] In FY2013, there were 8,263 individual schools and small school district applicants with discount rates of 80% or higher. High discount rate single school building applicants requested an average of $29,578. High discount rate, small school districts requested an average of $20,434 per building. See page 16 of http://apps.fcc.gov/ecfs/document/view?id=7520927795.

month is a significant amount of money; but, considering that this expense covers both high speed Internet access and other vital telecommunications services for an entire school building, we think it is a reasonable amount of money for them to spend. In fact, it is hard to imagine that these schools currently are requesting more services and spending more money than is absolutely necessary for the education and security of their students.

We also have to wonder what makes South Dakota DOE believe that a 15-point reduction in the maximum discount rate will sufficiently offset the growing demand for Priority 1 services to enable more applicants to receive Priority 2 funding in one funding year, let alone over the course of several funding years. What the data actually shows is that the impact of this kind of 15-point discount rate reduction on the availability of Priority 2 funds would be negligible. As the table below shows, dropping the top discount rate from 90% to 75% in FY 2013 would yield a savings of only $208 million, or a mere 12% of the $1,792,230,621 FY 2013 demand for Priority 2 services at 90%.

	FY2013 P1 Demand	
Discount Range	Original	Revised (max disc = 75%)
20%-49%	$126,597,973	$126,597,973
50%-74%	$652,744,695	$652,744,695
75%-90%	$1,977,257,269	$1,768,915,326
TOTAL	$2,756,599,937	$2,548,257,994
	Difference	$208,341,943

Reducing the 90% discount by so many points amounts to nothing more than a punishment for being poor. Putting 90% schools and every other applicant on an annual E-rate budget is a much less draconian way to promote the kind of thoughtful purchasing decisions and hard bargaining that South Dakota DOE would like to see. The combination of forcing applicants to operate within a budget, rather than handing them a blank check every year, and giving them the freedom to use their E-rate budgets to subsidize the purchase of whatever eligible services they decide best meets their needs (i.e., no priority system) will incentivize them to stretch their E-rate dollars as far as they can possibly go and to use every precious one of them wisely.

The South Dakota DOE proposal, if adopted, would cost every 90% school in South Dakota $1,500 more out-of-pocket annually on every $10,000 worth of services they purchase. That is a great deal of money that every poor school in the state would lose. Meanwhile, South Dakota DOE complains that the per-student ceiling that we proposed is a terrible idea because 14 of the 138 districts that applied for E-rate in FY 2013 "stand to lose money" under it.[20] On the other hand, of course, 124 of the 138 schools included in South Dakota DOE's analysis stand to lose nothing. Therefore, for South Dakota schools, our proposal is obviously the better choice.

South Dakota DOE says that "it makes more sense to retain the current system of allowing applicants to apply for all Priority 2 equipment based on when they have the budgeted funds to do so."[21] Then South Dakota DOE goes on to suggest that the Commission should create a rotating application Priority 2 funding schedule for all applicants regardless of discount level, with the highest discount rate applicants getting the first bite at the apple, then the next highest, and so on. These two statements are completely at odds. If applicants must wait their turn to receive Priority 2 funds, all they can do is guess when their number will come up. Consequently, when any given applicant's turn will come up and whether it will happen to come up when that applicant happens to have funds budgeted for Priority 2 equipment, is nothing but a crapshoot.

This kind of "rotating funding" proposal has two fatal weaknesses. First, it makes Priority 2 funding completely unpredictable, which no one wants. Second, the long and unpredictable gap between "internal connection years" will encourage applicants to "shoot for the moon" in the years when their shot at Priority 2 funding finally comes around.

[20] *South Dakota DOE Comments* at p. 19.

[21] *South Dakota DOE Comments* at pp. 18-19.

Respectfully submitted,

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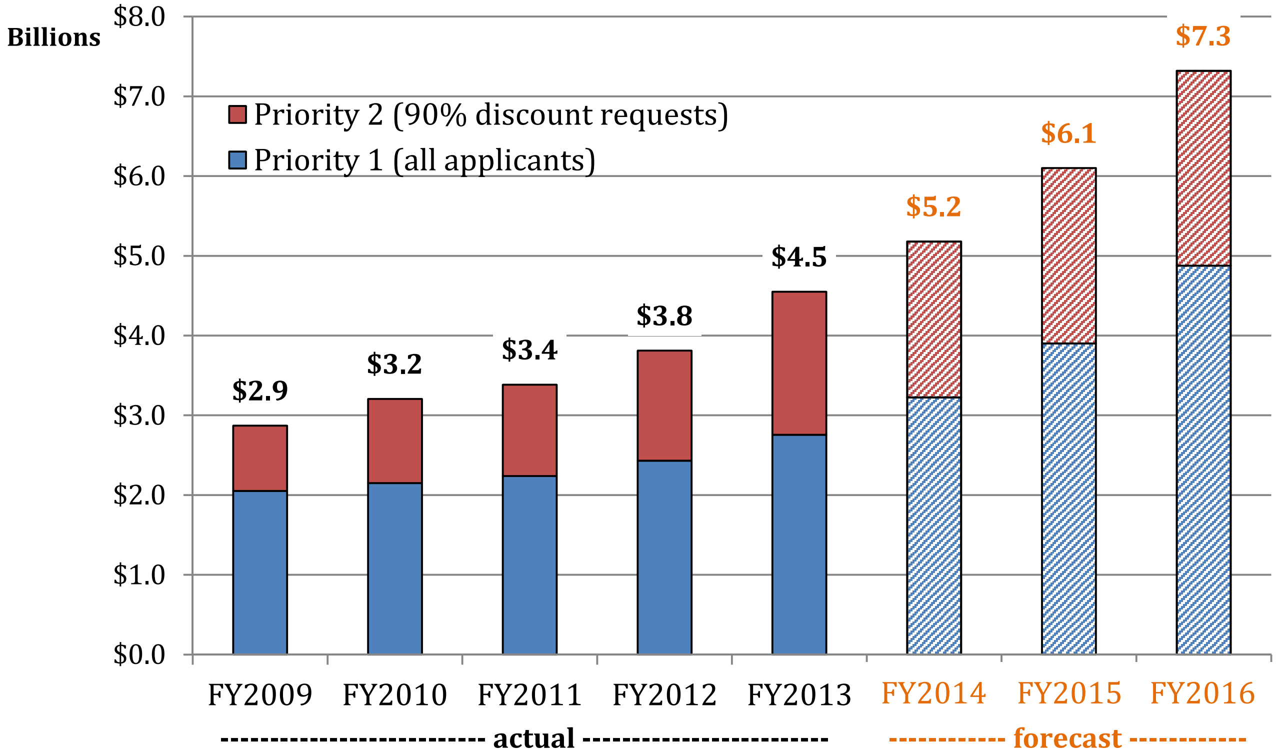
EXHIBIT A

Demand for Priority One (All Requests) and Priority Two (90%-discount Rate Requests)
FY2009 to FY2013 (Actual) and FY2014 to FY2016 (Forecasted)



Funding Year	Priority 1 All Requests	Priority 2 90%-discount Requests	Total	Annual Growth from prior year
FY2009	$2,052,248,303	$817,634,364	$2,869,882,667	-1.4%
FY2010	$2,149,626,824	$1,056,874,370	$3,206,501,194	12%
FY2011	$2,237,885,631	$1,146,242,119	$3,384,127,750	6%
FY2012	$2,430,339,948	$1,380,801,479	$3,811,141,427	13%
FY2013	$2,756,599,935	$1,792,230,621	$4,548,830,556	19%
Forecasted				
FY2014	$3,224,640,579	$1,954,194,176	$5,178,834,755	14%
FY2015	$3,901,815,101	$2,198,256,987	$6,100,072,087	18%
FY2016	$4,877,268,876	$2,442,319,798	$7,319,588,674	20%