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 THE E-RATE REFORM COALITION

The E-rate Reform Coalition ("Coalition") represents approximately 1,600 schools and 1,000,000 students that rely on the E-rate program.[1] In its comments, the Coalition supported the Funds for Learning, LLC ("FFL") proposal to adopt per-applicant funding limits, eliminate the existing priority system, and increase total E-rate funds.[2] Several parties submitted letters in support of the Coalition's comments, including Arlington County Public Schools, Atlanta Public Schools, Durant Independent School District, Fort Worth Independent School District, Marion County Public Schools, Putnam City Schools, and the Kansas City Public Library. In addition, numerous parties filed comments in support of the FFL proposal and the general concept of applicant funding limits.[3]

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[1] Members of the Coalition include the Philadelphia School District, Fairfax County Public Schools in Virginia, the School District of Palm Beach County, Florida, the Montgomery County School District in Maryland, the Archdiocese of Los Angeles, the Archdiocese of Chicago, the Archdiocese of Detroit, the El Paso Independent School District, the Mesquite Independent School District in Texas, and Western Heights School District in Oklahoma.

[2] *See* Comments of E-rate Reform Coalition filed Sept. 16, 2013.

[3] *See* Comments of New York City Department of Education at 4 ("The NYCDOE is open to re-examining the funding allocation and creating a more equitable and fair methodology in distributing resources. . . . that allows ALL schools to share program funding . . . [including establishing] a maximum funding cap for all applicants whereby the sum of all applicants' caps in any given program year could not exceed the E-Rate program annual budget."); State Educational Technology Directors Association at 20 ("the institution of reasonable applicant funding caps could better target scarce federal dollars"); Los Angeles Unified School District at 8 ("LAUSD could support a budget approach that provides funding prior to the start of a school

The fundamental problem with the E-rate program is that there are no caps on the funding available to individual applicants. As a result, a small number of applicants receive a disproportionate share of E-rate funds, leaving other applicants unfunded or underfunded each year for their critical technology needs. This problem is not new. It has plagued the E-rate program from the start. Indeed, a special task force charged with examining the sustainability of the program in 2003 recommended that the Commission consider establishing funding ceilings on individual applicants. The task force concluded that a "ceiling would limit those applications that appear to be seeking disproportionately large funding requests."[4] The Coalition is simply asking the Commission to implement what an independent governmental task force has already recommended.

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year, with some caveats"); Miami-Dade County Public Schools at 8 ("M-DCPS fully supports the recommendation set forth by Funds for Learning"); Capistrano Unified School District at 4 ("the total funding 'ask' that each district may seek should be capped"); Orange County Public Schools at 2 ("OCPS supports a per-student funding solution to ensure equitable distribution of available funds"); Richmond County Schools in Georgia at 2 ("we propose that the commission adopt pre-discount limits for funding, in conjunction with the elimination of the Priority 1 Priority 2 Distinction"); Weslaco Independent School District at 9 ("Weslaco ISD is strongly in favor of instituting a cap and basement funding system."); Merit Network at 8 ("a per-student funding approach that is weighted for rural and poverty-based need is a good solution for improving the e-rate program. It provides predictability for the school in the funding amount they receive and simplifies the administrative burden on the applicant."); Kellogg & Sovereign Consulting at 7 ("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."); E-Rate Provider Services, LLC at 13 ("Implementing a 'per student' or 'per entity' funding cap, coupled with a revision or elimination of the current designation of some services as 'Priority 1' or 'Priority 2,' would have . . . significant benefits."); Chris A. Quintanilla consulting ("We generally agree with most of the points raised in the Funds for Learning proposal."); and New Hope Technology Foundation at 3 ("We strongly support the model put forth by Funds for Learning.").

[4] Recommendations of the Task Force on the Prevention of Waste, Fraud and Abuse Convened by the Schools and Libraries Division, Universal Service Administrative Company, at 5 (Sept. 22, 2003) (http://www.fundsforlearning.com/docs/2013/02/Erate%20Task%20Force%20Report.pdf).

<u>The lack of per-applicant funding limits is made worse by a "priority" system that incentivizes applicants to make inefficient purchasing decisions based on outdated priority classifications rather than technological and economic considerations</u>. For example, because applicants have a much better chance of receiving funding for priority one services, they often choose such services for deploying broadband even though there are more cost effective priority two solutions available. This will only become *more* of a problem going forward as pressure mounts on schools to connect more and more students to next generation, high-speed wireless as part of President Obama's ConnectED initiative.[5]

To address these problems, FFL proposed specific formulas for adopting per-applicant funding limits, and the Coalition proposed specific revisions to the Commission's rules to implement these formulas.[6] These proposals can be implemented quickly and without the need to overhaul the basic framework of the E-rate program. This is important because, as many commenters have observed, the basic framework of the E-rate program continues to wear well, even after fifteen years.[7]

The majority of commenters in this proceeding have asked for significant increases in the size of the overall E-rate program. The Coalition would also like to see an increase in E-rate funding. But, it is important to recognize two things. First, it is possible that the size of the

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5 ConnectED is intended to connect 99% of America's students to next-generation broadband and high-speed wireless within five years. (http://www.whitehouse.gov/blog/2013/06/06/what-connected).

6 *See* Coalition Comments at <u>Exhibit A</u> (proposed revisions to the Commission's E-rate rules) and <u>Exhibit D</u> (proposed formulas for calculating per-applicant funding limits).

7 *See e.g.*, Comments of the Education and Libraries Networks Coalition ("EdLiNC") at 5 ("We believe that the program's core priorities and structure must remain intact not only because they have proven their validity over the course of the program's first fifteen years, but because they reflect the aims of the program's founders and ensure critical principles such as local decision-making and technological neutrality.).

E-rate fund may *not* increase, and if that happens, the Commission needs an effective mechanism to control applicant spending and equitably allocate limited funds. FFL has proposed such a mechanism with formulas that are transparent, easily calculable, and based on publicly-available numbers.

Second, even if the size of the E-rate fund increases, more money alone will never solve the more fundamental problem that allows "big spenders" to obtain a disproportionate share of available E-rate funds. Nor will it solve the inefficiencies caused by an outdated priority system, which incentivizes applicants to make purchasing decisions based on regulatory classifications rather than economic and technological considerations. Again, the FFL proposal addresses these issues with a formula that is easily adaptable and automatically scalable to accommodate differing funding levels from year-to-year.

EdLiNC has expressed "deep misgivings" with proposals to establish budgets and eliminate the current priority system.[8] EdLiNC's primary concern is that "any formula-driven system is unlikely to account adequately for the needs of low income schools and libraries . . . and could very well lead to small rural and large urban schools and libraries receiving support that is inadequate to purchase higher bandwidth levels."[9] Significantly, the FFL proposal *does* account for the needs of low income schools and libraries by retaining the existing discount system, which ensures that the neediest schools get the most support. 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

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[8] EdLiNC Comments at 22.

[9] *Id.* at 23.

consistently double that of other schools. Finally, like EdLiNC, the Coalition would like to see enough E-rate money in the program so that every applicant – large, small, rural, and urban – can purchase the high bandwidth levels that they need now and in the future. But the simple reality is that there is unlikely to be enough money to satisfy everyone's need for everything. Instead, the Commission must find a way to allocate the funds so that every applicant gets *some* support – as the program originally intended.

The State E-rate Coordinator's Alliance ("SECA") raised four concerns with the adoption of funding limits. First, SECA is concerned that 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."[10] However, data provided by FFL 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.[11]

Second, SECA is concerned that even if the overall E-rate funding cap is increased, setting per-applicant budgets would be like providing block grants that "fail to take into account the differences in prices and costs across the nation, and the differing technology needs of applicants."[12] This is not a fair comparison. Setting per-applicant budgets would not change any of the successful characteristics of the E-rate program which differentiate it from block grants. These characteristics include differing levels of discounts based on differing applicant needs and the allocation of funds based on actual costs after a competitive procurement. Applicants will

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[10] SECA Comments at 31.

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

[12] SECA Comments at 31-32.

still be required to apply for funds, identify how the funds will be spent, select from products and services on the eligible services list, conduct a competitive bidding process, and abide by a host of other E-rate requirements – all of which differentiate the E-rate from block grant programs. It is true that all applicants will not receive everything they want every year. But, that was never the goal of the E-rate program and is not realistic. Instead, by adopting per-applicant limits, the Commission will be able to allocate available funds, whatever the amount, so that all applicants receive some funding.

Third, SECA is concerned that the budget approach is likely to exacerbate the current carry forward problem.[13] This is purely conjecture. Indeed, if the Commission adopts per-applicant funding limits, the Coalition would expect funding utilization rates to *rise* since (a) funding commitment decision letters can be issued more quickly, (b) applicants will have an incentive to submit more accurate funding request estimates, and (c) applicants will have the opportunity to set their own funding priorities.

Finally, SECA is concerned that the budget approach is "unworkable" with consortium applications.[14] However, the Coalition took this concern into account. The Coalition's proposed rule revisions specifically provide that an applicant can assign all or part of its budget to a consortium or state telecommunications network applying on the applicant's behalf for eligible services. Proposed new §54.506(c) provides that "billed entities may assign all or a portion of their applicant funding budget each funding year to school districts, library systems, state telecommunications networks, and other eligible consortia applying on their behalf."[15]

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[13] *Id.* at 33.

[14] *Id.* at 33-34.

[15] *See* Coalition Comments at 9 fn. 20 and Exhibit A at 3.

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By capping individual applicant funding requests, the recurring problem of annual funding shortages will be dramatically reduced – and so will the need to prioritize services. This, in turn, will eliminate the current distortions in the marketplace that drive applicants to make purchasing decisions based on outdated, government-imposed priorities rather than evolving technological and economic needs.

FFL has put forward a sensible, practical, and data-driven solution that has received significant support. Implementation of the proposal would require relatively minor changes to the existing E-rate mechanism, but would produce many tangible benefits. For these reasons, the Coalition respectfully requests that the Commission set an E-rate budget for schools and libraries by establishing reasonable per-applicant funding caps and eliminating the existing priority system.

Respectfully submitted,

THE E-RATE REFORM COALITION

By: /s/ Edwin N. Lavergne

Edwin N. Lavergne
Donna A. Balaguer
Fish & Richardson P.C.
1425 K Street, N.W., Suite 1100
Washington, D.C. 20005
202-783-5070

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Its Attorneys