



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

In the Matter of:	)	
	)	CC Docket No. 02-6
Schools and Libraries Universal Service	)	
Support Mechanism	)	GN Docket No. 09-51

INITIAL COMMENTS TO  
PUBLIC NOTICE DA 13-1513  
REGARDING DRAFT ELIGIBLE SERVICES LIST  
FOR SCHOOLS AND LIBRARIES UNIVERSAL SERVICE PROGRAM

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The State E-rate Coordinators' Alliance (SECA) comments focus on three areas concerning the Draft Eligible Services List for FY 2014: Miscellaneous Charges, Installation Charges, Bundled End-User Equipment and Interactive Communications Features and Collaboration Tools.

*Miscellaneous Charges*

The section on Miscellaneous Fees and Charges includes the following statement:

Taxes, surcharges, and other similar, reasonable charges incurred in obtaining an eligible product or service are eligible. This includes customer charges for universal service fees, but does not include additional charges for universal service administration [*emphasis added*].

This language was introduced several years ago in response to the Commission's "Truth-in-Billing" proceeding that requires companies to exclude any administrative costs from the Universal Service Fee

line item that some companies choose to itemize on customer bills. Prior to that proceeding, some companies had been adding to the Universal Service Fee line item their administrative costs associated with collecting and remitting the contribution fee to USAC.

Because the administrative costs associated with administering the universal service contribution fee were ruled not to be a valid telecommunications charge, these costs were ruled as ineligible for E-rate support. In all cases of which SECA is aware that these costs are separately itemized, the charges are minimal—certainly far less than 1% of the monthly bills to customers.

Since then, USAC relies on this language to treat any fee labeled as “Administrative” as ineligible, yet many service providers (particularly carriers) regularly include such fees as a surcharge on all customer bills. SECA encourages the FCC to reconsider its approach of deeming ineligible the administrative cost of collecting universal service fund charges for the following reasons:

1) These fees are a minimal amount of the overall monthly bill yet they have become an enormous administrative burden on the program. Schools and libraries are compelled to review every line of every bill, many of which are hundreds of pages each month, to identify which of these small fees must be cost allocated and removed from their BEAR reimbursement or their Form 471 request.

This task is further complicated when the school or library personnel try to decipher which charges are eligible and which are not because there is no consistent naming conventions between carriers and no comprehensive list of which charges are eligible and which are not.

2) PIA and invoice reviewers spend a disproportionate amount of time weeding through Item 21 attachments and invoices, posing follow-up questions, to ensure that none of these rather miniscule

charges are included as part of authorized funding or disbursement. By making these small fees and surcharges E-rate eligible, it will immediately save the program money by reducing PIA reviews, and at the same time will enable the Administrator to release funding commitments and invoices more quickly.

3) There is no statutory imperative underlying the current prohibition against funding these charges. The Commission certainly has the legal discretion to deem these incidental charges to be eligible.

4) Consistent with the efforts proposed and discussed in the recent E-rate 2.0 NPRM to streamline the program administration this one measure would go very far to reducing the administrative burden to the applicants and the Administrator and would have a negligible financial impact on the fund, and likely would be a net cost savings in Administrator personnel costs.

At the very least, and as an alternative to making all administrative fees eligible (including the cost of administering the universal service fee collection), all other administrative fees should be deemed to be “reasonable charges” incurred by schools and libraries in obtaining service and should be eligible. Other than the fact that the charge is itemized as a line item, there is no distinction between these administrative fees and other administrative costs that are included as a component of the prices charged for various E-rate eligible services.

Again, as an alternative only to its strongly preferred position in favor of making all administrative charges eligible for E-rate, SECA encourages the Commission to clarify that only additional “Administrative” fees charges incurred by schools and libraries as a result of their participation in the E-rate program are ineligible. SECA suggests that the above quoted language be changed to read:

Taxes, surcharges, and other similar, reasonable charges incurred in obtaining an eligible product or service are eligible. This includes customer charges for universal service fees, but does not include any additional administrative charges incurred by schools and libraries solely as a result of services received under universal service.

### *Installation Charges*

The first item in the “Miscellaneous Section” of the Draft Eligible Services List, under Installation and Configuration, reads:

Installation, activation, and initial configuration of eligible components are eligible if they are part of a contract or bid for those eligible components. Such eligible services may include basic design and engineering costs and basic project management costs, if these services are provided as an integral component of the installation of the relevant services.

This language seems to imply — at least as is being interpreted by USAC — that installation-related services (including training) are eligible only if they are part of same contract for the purchase of those eligible components.

SECA believes that it was never the Commission’s intent to require applicants to bundle equipment purchases and installation together in a single contract. Indeed, applicants can often achieve greater flexibility and cost efficiencies by negotiating separately for equipment purchases and for installation services. Such separation would permit an applicant to purchase components directly from a manufacturer without incurring markups from an installation company, or even permitting separate installation services (e.g., basic make-ready and final installation services) from different contractors without incurring additional subcontracting charges.

This change is crucial to schools and libraries in rural communities that do not have local or regional equipment manufacturers that sell networking equipment and perform installation. In many cases, the schools and libraries purchase the equipment from the manufacturer or reseller online and have it drop-shipped. Then a local firm will be contracted with to perform the installation. This reality of rural school procurement should not be prohibited under program rules.

In addition, in many cases – for both rural and non-rural schools and libraries – it may be more cost effective to sign separate contracts for equipment and installation services. And because the pre-discount price of will be lower, the E-rate fund will realize savings as well. Schools are required to consider total cost of ownership when making major purchases and requiring a higher priced (or sometimes non-existent) bundle is contrary good financial decision making for both the applicant, and for the E-rate program.

The change in language first occurred between the 2006 and 2007 ESL when the ESL was consolidated from 71 to 49 pages. It appears that during the editing process, several distinct aspects of equipment purchase, installation, network design and engineering, and project management were combined into a single paragraph. The 2006 ESL listed each category under separate headings and specifically required that funding for network design and engineering and project management would only be eligible if they were part of a contract or bid for associated eligible products.

However, the 2006 ESL did not have a similar restriction for the installation of eligible equipment.

Rather, the installation section simply and categorically stated: “Services tied directly to installation and

initial configuration are eligible.” SECA is not aware of any Commission order that would require such a drastic change. Of all comments and reply comments, the change was not highlighted or mentioned. So innocuous was the change, it appears the Administrator did not even begin enforcing the new rule until 2011 with the first funding denial for separate equipment purchase and installation contracts.

SECA asks the Commission to clarify that its current rules do not require the bundling of eligible component purchases and installation. SECA suggests that the above quoted language be changed to read:

Installation, activation, and initial configuration of eligible components are eligible. Such services may include basic design and engineering costs and basic project management costs, if these services are directly related to the purchase and initial implementation of these eligible components and are not duplicative of services provided as a part of the purchase agreement.

#### *Bundled End User Equipment Eligibility*

SECA notes that the issue of whether bundled end user equipment is eligible for E-rate under certain circumstances, or whether it must cost-allocated without exception for “free” equipment, remains unresolved in this draft Eligible Services List. We encourage the FCC to issue a final order in connection with the pending Public Notice DA 13-592 as quickly as possible. We understand that many resources were devoted to the preparation and release of the E-rate 2.0 NPRM and hope that formal guidance will be issued on the bundling issue in order to help applicants navigate this issue during the E-rate FY 2014 procurement and funding application process.

*Interactive Communications Features and Collaboration Tools*

The draft ESL proposes to clarify that interactive communications features that are part of eligible webhosting service do not have to cost allocated, but such services are ineligible as stand-alone offerings. The email service description states that collaboration tools are considered an ineligible feature, and therefore, these charges would need to be cost allocated. It is unclear whether interactive communications features are the same as collaboration tools.

If they are the same, (and from a cursory review of vendors' websites in this space, it appears they are) these clarifications do not seem to be fair or consistent. If interactive communications features do not have to be cost allocated from eligible webhosting service, presumably because they are considered to be ancillary, then collaboration tools should not have to be cost allocated from email service. They serve the same purpose and function. Alternative interactive communications features of webhosting as well as collaboration tools of email service should all be deemed ineligible.

Respectfully Submitted by:

/s/ Gary Rawson

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