

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

In the Matter Of)	
)	
Delete, Delete, Delete)	GN Docket No. 25-133
)	
Schools and Libraries Universal Service Support Mechanism)	CC Docket No. 02-6
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Changes to the Board of Directors of the Board of Directors of the National Exchange Carrier Association, Inc.)	CC Docket No. 97-21
)	
Modernizing the E-rate Program for Schools and Libraries)	WC Docket No. 13-184
)	
Promoting Telehealth in Rural America)	WC Docket No. 17-310
)	
Rural Health Care Support Mechanism)	WC Docket No. 02-60

**COMMENTS OF THE
SCHOOLS, HEALTH & LIBRARIES BROADBAND (SHLB) COALITION**

The Schools, Health & Libraries Broadband (SHLB) Coalition appreciates efforts to alleviate unnecessary regulations and respectfully submits several proposals that would streamline processes in the E-Rate and Rural Health Care universal service programs. We believe the following changes would allow the programs to better serve Americans and reduce administrative program expenses.

I. SUMMARY

Specifically, and as described below, SHLB recommends the following deletions:

E-Rate

- Delete FCC Form 486
- Eliminate the “extraordinary circumstance” invoice deadline waiver standard
- Delete USAC post-audit “policies and procedures” requirement
- Delete statement that Demand Payment Letters cannot be appealed
- Eliminate program procedures that hinder transitioning between service providers
- Eliminate program procedures that disallow bandwidth increases
- Eliminate Form 470 drop-down menu categories confusion

Rural Health Care

- Delete rule section 54.605 – Methods 1, 2, and 3 for Telecom Program rural rates
- Delete rule section 54.622(i)(3) – approval of “evergreen” contracts

II. DISCUSSION AND RECOMMENDATIONS

E-Rate

- Delete FCC Form 486¹

The E-Rate program provides much needed funding for schools and libraries, but some aspects of the program’s implementation inhibit the program’s mission of getting funding to the applicants. An example of one unnecessary step in the process is the Form 486. The Commission has recognized that, because this form requires certifications to be made in the middle of the application cycle, it creates an extra step in which applicants may make minor errors and lose funding.² The Commission therefore sought comment on eliminating this form and moving its certifications to other existing E-Rate forms.³ The record developed in response confirms that the Form 486 is unnecessary and should be deleted; therefore, the Commission should take this action.

- Eliminate the “extraordinary circumstances” invoice deadline waiver standard

The Commission evaluates waiver requests based on a public interest standard in almost all cases, with the exception of waivers of the E-Rate invoice deadline. In 2014, the Commission adopted a stricter “extraordinary circumstances” invoice waiver standard,⁴ which has caused

¹ FCC Form 486, Schools and Libraries Universal Service Receipt of Service Confirmation and Children’s Internet Protection Act and Technology Plan Certification Form, <https://www.usac.org/wp-content/uploads/e-rate/documents/resources/FCC-Form-486.pdf>.

² *Schools and Libraries Universal Service Support Mechanism*, CC Docket Nos. 02-6, 96-45, and 97-21, Report and Order and Further Notice of Proposed Rulemaking, FCC 23-56, ¶¶65-66 (July 21, 2023) (*E-Rate Tribal Libraries NPRM*).

³ *Id.* ¶65.

⁴ *Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 8870, 8966, ¶240 (2014) (*E-Rate Modernization Order*).

significant disadvantage to program participants who are denied invoicing waivers that would routinely be granted for other, similar procedural E-Rate errors. The Commission sought comment on the invoicing extraordinary circumstances waiver standard in the *E-Rate Tribal Libraries NPRM*,⁵ and should now act to delete this strict standard.

- Delete USAC post-audit “policies and procedures” requirement

USAC has imposed unnecessary requirements on E-Rate program applicants to prepare and submit for USAC approval “policies and procedures” documents after the conclusion of an audit.⁶ There is no requirement in the E-Rate rules that applicants create or maintain such documents, and USAC has demanded that applicants undergo lengthy reviews before approving them, including insisting on seeing drafts of the policies and procedures, and dictating the letterhead on which they are printed and who must sign them. USAC will also withhold funding and deny pending applications and invoices if entities do not “adequately address” an adverse audit finding to USAC’s satisfaction, regardless of whether the audit finding is appealed and ultimately overturned. To streamline the program’s audit procedures, this USAC requirement should be deleted.

- Delete statement that Demand Payment Letters cannot be appealed⁷

Section 54.719 of the Commission’s rules states that parties aggrieved by actions of the universal service administrator (USAC) may seek review of that action.⁸ The Commission made clear that this right of appeal extends to demands for payment, stating in 2004, “Parties are already free today to challenge any action of USAC – including the issuance of a demand for

⁵ *E-Rate Tribal Libraries NPRM*, FCC 23-56, ¶72.

⁶ USAC School and Libraries Program Administrative Procedures, <https://www.fcc.gov/ecfs/document/11021884723696/1>, 32-33 (Oct. 31, 2023).

⁷ This requirement was adopted in the context of an E-Rate application, but its deletion would apply to and improve both the E-Rate and Rural Health Care programs.

⁸ 47 C.F.R. §54.719.

recovery of funds.”⁹ However, despite this clear policy statement, in 2017 the Commission issued a conflicting decision, denying an applicant the ability to submit an appeal of a Demand Payment letter.¹⁰ The Commission made this statement without reference to the requirements in the rule or its previous clear statement that such appeals were allowed. The Commission should now delete this unsupported precedent and make clear that applicants may appeal adverse demand for payment decisions issued by USAC, consistent with rule section 54.719.

- Eliminate program procedures that hinder or prohibit transitioning between service providers

The Commission has recognized that program procedures have made it difficult for E-Rate applicants to transition between service providers during a funding year and has sought comment on improving that process.¹¹ The Commission should simplify this process and direct USAC to accept funding requests for both providers when E-Rate service funding requests are identified as transitional. This is a commonsense proposal and does not result in any duplication of services.

- Eliminate program procedures that disallow bandwidth increases

The Commission has also previously sought comment on eliminating USAC-created E-Rate procedures that would disallow applicants to request mid-year bandwidth increases.¹² The Commission should take this action, allowing applicants to have flexibility to request funding for the anticipated greater bandwidth amount and invoice for the amount of bandwidth actually

⁹ *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Fifth Report and Order, 19 FCC Rcd 15808, ¶40 (2004).

¹⁰ *Application for Review of a Decision of the Wireline Competition Bureau by Net56, Inc., Palatine, Illinois, Schools and Libraries Support Mechanism*, CC Docket No. 02-6, Memorandum Opinion and Order, 32 FCC Rcd 963, ¶ 4 (2017) (*Net56 Order*).

¹¹ *E-Rate Tribal Libraries NPRM*, FCC 23-56, ¶¶44-45.

¹² *Id.*, ¶¶ 51-52.

provided.¹³ The Commission should also confirm that parties are able to enact bandwidth increases during a multi-year contract that are included in the contract, and explain when and how parties may do so for bandwidth increases that are not explicitly stated within multi-year contracts.¹⁴

- Eliminate Form 470 drop-down menu categories confusion

Applicants must use Form 470 to identify the E-Rate services and equipment for which they are seeking bids from service providers, but the descriptions of the requested services located in the form's drop-down menus have been unclear, causing applicants to select the wrong category and receive funding denials. In E-Rate Funding Year 2018, USAC made unvetted and confusing changes to the service descriptions included in the Form 470 drop-down menu. Additional changes have been made to these service descriptions by USAC since then, but because they remain unclear, many applicants have made mistakes and lost funding due to selecting the wrong services from this list. Comment has been previously sought on clarifying the drop-down menu¹⁵ and the Commission should now eliminate the confusing categories and adopt straight-forward service descriptions.

Rural Health Care

- Delete rule 54.605 – Methods 1, 2, and 3 for Telecom Program rural rates

The Commission has struggled with ways to simplify the identification of rural rates under the Rural Health Care Telecom Program, and has sought comment on the current method,

¹³ Comments of the Schools, Health & Libraries Broadband Coalition, CC Docket Nos. 02-6, 96-45, and 97-21, at 11 (Sept. 25, 2023) (SHLB Tribal Libraries NPRM Comments).

¹⁴ *Id.* at 11-13.

¹⁵ *Wireline Competition Bureau and Office of the Managing Director Seek Comment on Improving FCC Form 470 Drop-Down Menu*, WC Docket No. 13-184, Public Notice, DA 19-986 (WCB and OMD, Oct. 1, 2019).

which consists of three different ways to calculate the rates.¹⁶ The Commission should take this opportunity to delete rule 54.605, which sets out the current methods for determining rural rates,¹⁷ and instead rely on a simplified method of competitive bidding to establish rural rates in the Telecom Program.¹⁸ The difference between urban and rural rates can still be calculated: the urban rate will be documented in the same way it is now while the rural rate will be the rate that is competitively bid and selected by the eligible health care provider as the winning vendor.

- Delete rule section 54.622(i)(3) – approval of “evergreen” contracts

Rule section 54.622(i)(3) provides detailed requirements for USAC to approve multi-year contracts in the Rural Health Care program as “evergreen.”¹⁹ These requirements are unnecessary – there is no need for applicants to submit and wait for approval from USAC for their multi-year contracts. If USAC does not issue evergreen approvals in a timely manner, applicants must initiate new competitive bidding processes for years that are already covered by an existing contract, because USAC has not yet approved the existing contract’s evergreen status. USAC’s review consists only of confirming terms of the agreement, which is not necessary and in which USAC has no special expertise. This type of review also increases USAC’s administrative expenses with no corresponding benefit to the program. Instead, Rural Health Care multi-year contracts should be treated in the same manner as in the E-Rate program, where no USAC “evergreen” approval is required. In the E-Rate program, applicants simply have to seek competitive bids when the multi-year contract is expiring. If E-Rate multi-year

¹⁶ *Promoting Telehealth in Rural America*, WC Docket No. 17-310, Order on Reconsideration, Second Report and Order, Order, and Second Further Notice of Proposed Rulemaking, FCC 23-6, ¶ 72 (Jan. 27, 2023).

¹⁷ 47 C.F.R. § 54.605.

¹⁸ Reply Comments of the Schools, Health & Libraries Broadband (SHLB) Coalition, WC Docket No. 17-310, at 3 (May 22, 2023).


¹⁹ 47 C.F.R. § 54.622(i)(3).

contracts do not need this extra approval, there is no reason for Rural Healthcare contracts to require it.

III. CONCLUSION

SHLB commends the Commission for examining ways to improve and streamline its rules and procedures. We believe making the above-listed changes will serve these goals.

Respectfully submitted,



Kristen Corra, Policy Counsel
Schools, Health & Libraries Broadband
Coalition
1250 Connecticut Ave. NW, Suite 700
Washington, DC 20036
571-306-3757
kcorra@shlb.org



Jennifer McKee
Broadband Legal Strategies, LLC
1118 Rankin Dr.
Lawrence, KS 66049
(202) 907-6252
jennifer@broadbandlegal.com

*Counsel to the Schools, Health & Libraries
Broadband Coalition*

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