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***Ex Parte Notice***

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

***Schools and Libraries Universal Service Support Mechanism, WC Docket No. 13-184 and CC Docket No. 02-6***

Dear Ms. Dortch:

On October 21, 2013, I met with Michael Steffen, the Commission's Director of Digital Learning, to emphasize the need to adopt E-rate reform in time to impact Funding Year 2014 and to urge the Commission not to add to the program's complexity by layering on new rules and regulations. Dictating to applicants how much of a particular eligible product or service they may purchase, for example, will slow down an already too-slow application review process, increase the application failure rate, and exacerbate the amount of frustration and anxiety that too many applicants and service providers already feel.

I also emphasized the need to eliminate the program's "Priority" system because it discourages cost-effective decision-making, which in turn costs the program too much money. Because applicants generally can count on receiving full funding for Priority One services, as opposed to nothing for Priority Two services, it is not surprising that some applicants choose Priority One services for deploying broadband, even when there are much more cost effective, Priority Two broadband solutions available to them. Another flaw of the "Priority" system is that it fails to take into account that the ability to use the Internet effectively is a function of both high-speed connectivity and capacity. The "Priority" system, especially when coupled with broadband speed goals, incents applicants to procure expensive, high-speed connections, whether or not they have or will have the capacity to use those speeds effectively or even at all.

I shared another concern related to the "Priority" system: the oddity that E-rate applications submitted on behalf of state networks are managed as if they were the same as an individual school application. It is odd that state network applications, which typically impact every school in a state, are subject to discount thresholds and can be denied or delayed because of the funding requests of individual schools. Under the Funds For Learning (FFL) proposal for E-rate reform, a portion of the annual E-rate funding cap would be set aside specifically for those kinds of applications. This would enable the FCC to prioritize and USAC to process state network applications separate and apart from individual school applications.

Finally, I expressed my disbelief that some people in the E-rate community are trying to characterize FFL's E-rate reform proposal as a "block grant" proposal. That makes no sense. Our proposal is based on a 2003 USAC Waste, Fraud, and Abuse Task Force recommendation that caps be placed on the discounts received by applicants. The Task Force did not suggest -- in any way whatsoever -- that the E-rate become a block grant, and neither do we. What we have offered is a specific and detailed way to fulfill the Task Force recommendation. We have proposed that there be a ceiling over and a floor under the total annual discounts applicants may receive, and that those ceilings and floors take into account applicants discounts rates, location, and size.

FFL's ceiling and floor proposal offers up a simple, common sense structural change that will benefit the E-rate program by ensuring its long-term viability. Under FFL's proposal, eligible services, discount rates, window periods, etc. remain the same. What's more, it works no matter how much funding the Commission makes available annually. All that changes is that a small percentage of applicants will no longer be able to break the E-rate bank every year by requesting as much funding as they want. This in turn will enable the Commission to eliminate the "Priority" system together with all of its well-documented shortcomings. FFL's proposal is based on the premise that the E-rate program is fundamentally sound, that the program as it was originally envisioned, which did not include a priority system, should be restored, and that it is fundamentally bad public policy not to limit how much money can go out the door annually to any one applicant.

/s/

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