

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Schools and Libraries Universal 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 National Exchange Carrier Association, Inc.)	CC Docket No. 97-21
)	

**COMMENTS
OF
WTA – ADVOCATES FOR RURAL BROADBAND**

WTA – Advocates for Rural Broadband (“WTA”) hereby comments in response to the Commission’s *Notice of Proposed Rulemaking*, FCC 23-10, released February 17, 2023, in the captioned proceeding (“*NPRM*”).

WTA is a national trade association that represents more than 360 rural local telecommunications carriers (“RLECs”) that provide voice, broadband and other services to some of the most rural, remote, rugged, sparsely populated, and expensive-to-serve areas of the United States. WTA members have long constructed and operated rural voice and broadband networks – very often as providers of last resort – in high-cost farming, ranching, mining, mountain, forest and desert areas, as well as on Native American reservations and other Tribal Lands.

WTA applauds the Commission’s recent outreach to Tribal libraries to make it easier for them to participate in the E-Rate program. Such increased participation is particularly important in many Tribal areas where libraries constitute a key community anchor institution where people congregate, access the Internet, seek useful online and printed information, and originate and receive business and personal communications. Whereas the Native Americans residing on

Reservations and other Tribal Lands have differing histories, cultures and current economic circumstances, many Tribal members must still address the problems of living in remote areas characterized by rugged and sparsely populated terrain, and of obtaining access to quality and affordable high-speed broadband service at their residences.

WTA has previously noted that different Tribes and Tribal Libraries are likely to have different needs. It has advocated that the most effective and efficient way to encourage E-Rate participation and deploy E-Rate funding is to give Tribal libraries as much flexibility as feasible to use their E-Rate support to meet the specific needs of their Tribal members.¹

Tribal Representation on USAC Board of Directors

The Commission's proposal to add a Tribal community representative director as the twentieth (20th) member of the Universal Service Administrative Company ("USAC") Board of Directors is an excellent way for the Commission and its Universal Service Fund ("USF") administrator to achieve flexibility by keeping informed regarding issues, changing conditions and special circumstances regarding not only Tribal E-Rate programs but also Tribal High-Cost and Rural Health Care programs.

A *bona fide* Tribal representative on the USAC Board will provide a valuable new perspective and permit the initiation of an important new dialogue during the consideration of potential new Universal Service programs, policies and initiatives. A Tribal representative directly familiar with Tribal circumstances and Tribal USF programs will be in an excellent position to provide early analysis and feedback regarding the likely impact of contemplated changes in Tribal high-cost, E-Rate and Rural Health Care programs and services before such changes are formally proposed. Likewise, a Tribal representative can serve as a contact point for receiving and

¹ Comments of WTA – Advocates for Rural Broadband, CC Docket No. 02-6 (November 15, 2021), at p. 3.

aggregating complaints and suggestions from Tribal recipients regarding the operation and improvement of various USF programs and initiatives. Finally, a Tribal representative would serve not only as an advocate for the betterment of Tribal USF programs, but also as an informed participant able to explain the goals and provisions of proposed or adopted USF programs to affected Tribal recipients.

WTA recognizes that the Commission's Office of Native Affairs and Policy ("ONAP") performs some of these functions. However, the addition of a specific Tribal representative to the USAC Board would permit an additional voice with actual experience as a direct or indirect USF beneficiary to help improve the operations and impacts of USF programs on Tribal Lands.

Simplifying and Improving the E-Rate Application Process

WTA believes that E-Rate application forms and procedures are more extensive and more complicated than necessary not only for Tribal applicants but also for other small service providers. WTA is aware of the Tribal Libraries E-Rate Pilot Program, and hopes that the Commission's experience with that program will enable it to streamline E-Rate application procedures and processes sufficiently to encourage participation by many of the approximately 88 percent of Tribal libraries that have never applied for E-Rate funding.

In evaluating its E-Rate application forms and procedures, the Commission should distinguish among the following three classes: (1) information that is absolutely necessary to identify the applicant and determine its E-Rate eligibility and needs; (2) information that is possibly useful and somewhat relevant, but not essential for the necessary determinations; and (3) information that is not useful or essential for the necessary determinations. It should then streamline its E-Rate forms and procedures to retain the Class (1) information, and eliminate the Class (2) and Class (3) information.

The Commission should also increase the exemption from its E-Rate competitive bidding rules for category two equipment from the current pre-discount cost of \$3,600 to a revised pre-discount cost of at least \$10,000, or do away with the E-Rate competitive bidding requirement entirely for Tribal and other rural schools and libraries. Competitive bidding processes for services or equipment costing between \$3,600 and \$10,000 do not attract many, if any, vendors in Tribal and other rural areas. In addition, such competitive bidding processes cost E-Rate applicants substantial time and money to conduct, while not significantly protecting the USF from material amounts of waste, fraud or abuse.

It would be much more efficient and economical to allow Tribal and other rural libraries and schools to contract for E-rate services and equipment directly rather than via competitive bidding. Such libraries and schools must answer to Tribal and other local authorities and to their patrons for using E-Rate funding wisely to provide the maximum amount and quality of service warranted by such funding.

If the Commission believes that some regulation of purchases is necessary, it could, in the alternative, require Tribal and other rural library and school officials to certify that they negotiated and purchased E-Rate services and equipment at reasonable prices under the vendor, supply and pricing options available in their market at the time. Such certifications would provide comparable protection against waste, fraud and abuse while being much less complicated, time-consuming and expensive than competitive bidding processes.

Cost Allocation Rules and Procedures

Many Tribal libraries are located in multiple-use buildings. WTA recognizes that the allocation of costs among Tribal libraries and other occupants of such buildings can be based upon

multiple factors (*e.g.*, square footage, number of employees or users, days or hours of operation), and result in different answers depending upon the factors and time periods used.

The relevant questions regarding allocations in multi-use buildings are: (1) how much such allocations affect the amounts of category one and category two E-Rate support; and (2) whether the size of such E-Rate impacts justifies the cost and complexity of allocations.

WTA does not believe that allocations are necessary for category two services. These services and associated facilities provide connectivity solely within the walls of the Tribal library (in fact, within all eligible libraries and schools), and should not be impacted by whether the library is located in a sole use or multiple use building.

The primary sector where allocations are potentially relevant is where a Tribe purchases on a single account category one Internet access for most or all of the occupants of a multiple use Tribal building that includes a Tribal library. Such allocations can be avoided if the Tribal library purchases its own Internet access service separately, or if the Internet access service provider agrees to divide its bills between the Tribal library and the other building occupants. If neither of these approaches is possible, an efficient and economical approach would be to conduct a study during a typical month to determine an allocation factor for the Tribal library and then use such factor going forward unless and until the Tribe or its auditor determines that it should be re-calculated and revised.

Category Two Discount Rates and Rule

WTA supports the proposed increase of the maximum category two discount rate for Tribal schools and libraries from 85% to 90%. In fact, the 90% maximum category two discount rate should apply to all schools and libraries on Tribal Lands. This change recognizes that category two services are just as important as category one services in providing quality broadband services

to eligible schools and libraries, and that the additional savings are very important to schools and libraries in the economically challenged and very high-cost areas that qualify for the maximum category two discount.

Tribal College Libraries

WTA supports modification of Section 54.501(b)(2) of the Commission's Rules to allow Tribal college libraries that serve a dual role by serving the Tribal community as a public library to be eligible for E-Rate support. WTA understands the reasons why the Commission does not want limited E-Rate funding to be diverted to institutions of higher education. However, the critical factor here is service to people rather than classification of libraries. Members of Tribal communities are being served by the limited number (estimated at 32) of dual-purpose libraries in substantially the same manner as people in other communities are served by eligible stand-alone libraries. It is reasonable and equitable for the quality broadband services made possible by E-Rate support to be available to Tribal members whether they reside in a Tribal area served by a dual-purpose library or one served by an eligible stand-alone library.

Conclusion

WTA urges adoption of the excellent and very beneficial proposal to add a *bona fide* Tribal community representative as the twentieth member of the USAC Board of Directors. It further advocates: (a) the simplification of E-Rate applications and processes to include only absolutely necessary information; (b) the significant increase in the dollar amount of category two equipment that can be purchased by Tribal and other rural E-Rate recipients without going through a competitive bidding process, or the elimination of the competitive bidding requirements altogether in such areas; (c) the reduction and simplification of requirements for the allocation of E-Rate-related costs in Tribal multiple-use buildings; and (d) the increase of the maximum category two

discount rate to 90 percent in Tribal and other high-cost rural areas. Finally, WTA supports the eligibility for E-Rate support of Tribal college libraries that also serve the local Tribal community as a public library.

Respectfully submitted,
WTA – ADVOCATES FOR RURAL BROADBAND

/s/ Derrick B. Owens
Senior Vice President of Government and Industry Affairs

/s/ Gerard J. Duffy
Regulatory Counsel

400 Seventh Street NW, Suite 406
Washington, DC 20004
Phone: (202) 548-0202

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