

October 27, 2014

Federal Communications Commission
445 12th Street SW
Washington, DC 20554

RE: WC Docket No. 13–184, Petition to Reconsider

Dear Commissioners,

We, the undersigned groups, representing a broad community of E-Rate program stakeholders, including telecommunications companies, E-Rate program coordinators, libraries, public and private schools, rural communities, and education technology providers, write in response to the Federal Communications Commission’s (FCC’s) recent change to the geographic definition of rural as it pertains to the E-Rate program in its July 2014 Order.

We commend the FCC for its responsiveness to the motion to reconsider¹ as filed by the State E-rate Coordinators Alliance (SECA), the NTCA-The Rural Broadband Association (NTCA) and the Utah Education Networks (UEN) and appreciate the opportunity to work with the FCC to adopt a definition of rural that acknowledges the FCC’s desire to modernize the definition of the program. Our vested interests are to ensure that the definition of rural properly identifies rural communities and does so in a way that further bolsters the FCC’s goals for expanding broadband access, including closing the connectivity gap to rural schools and communities.

In its July 2014 Report and Order², the FCC adopted definitions of rural and urban that would include ‘urban clusters’. Urban clusters include populations ranging in size from 2,500 to 50,000:

“ ...We adopt the US Census Bureau definitions of rural and urban for the purpose of determining whether an E-Rate applicant qualifies for an additional rural discount...The Census Bureau defined urban areas as the densely settled core of census tracts or blocks that met minimum population density requirements (50,000 people or more), along with adjacent territories of at least 2,500 people that link to the densely settled core. Rural encompasses all population, housing and territory not included in the urban area...Beginning in Funding Year 2015, schools and libraries located in areas that are not located in urban areas, as defined by the most recent decennial census, will be considered rural for the purposes of the E-Rate program.”

However, the first E-rate modernization Notice of Proposed Rulemaking (NPRM)³ in July 2013 states in paragraph 277 articulated support for using National Center for Education Statistics (NCES)-driven locale codes. The NCES rural definition is used in the Rural Education Achievement Program, the sole rural program within the Elementary and Secondary Education Act (Title VI). Paragraph 279 lays out the proposal to use a census-driven definition:

“The Administrator shall designate a school or library as “urban” if and only if the school or library is located in an urbanized area as determined by the most recent rural-urban classification

¹ Federal Register, October 7, 2014 <https://federalregister.gov/a/2014-23803>

² <http://www.fcc.gov/document/fcc-releases-e-rate-modernization-order> (See paragraphs 222-224)

³ https://apps.fcc.gov/edocs_public/attachmatch/FCC-13-100A1.pdf (See paragraphs 276-281)

by the Bureau of the Census; the Administrator shall designate all other schools and libraries as “rural”.

It is important to note that the 2013 NPRM advances a definition that uses “urbanized area” as the threshold for urban and does NOT include urban clusters⁴. This is a critical distinction, as urbanized area is defined as 50,000 people or more and does not include the 2,500 to 50,000 population range covered by the ‘urban cluster’.

In the October 2014 Erratum, the Commission changed the definition of urban in the July 2014 regulatory language in the Order to include Urban Clusters in addition to urbanized areas, although there was no mention of urban clusters in the July 2014 Order. In making this major change, the FCC failed to address one of the key questions raised in its NPRM from July 2013: “How should the classification account for the fact that schools are often located in small towns, which may be considered urban clusters, even though the costs of providing to the service to the school are significantly higher than the costs in urbanized areas (such as cities and their suburbs)?” This is precisely the problem with the Erratum rural/urban definition.

We strongly disagree with the recently adopted definitions of rural, urban and urban clusters, as they inappropriately capture more than 1,500 rural schools and public libraries in the broad category of ‘urban cluster,’ denying them the additional rural E-rate discount for which they should qualify. We are concerned that the FCC has adopted a specific definition of rural for that will come with unintended consequences. While the FCC inquired about the use of ‘urban center’ in the last Further Notice of Proposed Rulemaking (FNPRM) in distinguishing between urban and rural, no reference was made to including urban cluster to further distinguish what does and *does not* constitute rural areas. To the extent that the FCC had articulated ‘urban cluster’ as disqualifying an area from being rural in the July 2013 NPRM, we would have raised the very concerns outlined here.

On behalf of the broad constituency we represent, and our deep familiarity with the unique obstacles and opportunities that rural communities face, we strongly urge the FCC to modify the definition of rural and urban clusters as used in the E-Rate program.

Working from the FCC’s proposed definition in the July 2014 Order, we propose that a population threshold of 25,000 or greater to be considered urban. Census data compiled by the State E-Rate Coordinator’s Alliance demonstrates that 92% of all areas defined as Urban Clusters have populations below 25,000, and that is where we are focusing our advocacy efforts. Our proposal would allow schools and libraries in urban clusters with populations below 25,000 to be considered rural for the purposes of the E-Rate program. The specific rule change requested is noted in red, below:

§ 54.505 Discounts.

(a) * * *

(b) * * *

(1) * * *

(2) * * *

(3) The Administrator shall designate a school or library as “urban” if and only if the school or library is located in an urbanized area or urban cluster area **with a population equal to or greater**

⁴ FCC NPRM July 23, 2013 [PDF version](#) (See paragraphs 276-281)

than 25,000, as determined by the most recent rural-urban classification by the Bureau of the Census; the Administrator shall designate all other schools and libraries as “rural”.

We submit this alternative definition and urge the FCC to adopt it judiciously, so as to allay the strong outcry from schools and libraries who have qualified as rural applicants up to this point and to ensure that rural schools and libraries are not disadvantaged in the process of modernizing the E-rate program.

Should you have any questions, please contact Julie Tritt-Schell (jtschell@comcast.net), Michael Romano (mromano@ntca.org) or Noelle Ellerson (nellerson@aasa.org).

Sincerely,

AASA, The School Superintendents Association
American Federation of Teachers
American Library Association
Association of Educational Service Agencies
Association of School Business Officials International
Consortium for School Networking
Council of Chief State School Officers
EdLiNC
International Society for Technology in Education
National Association of Elementary School Principals
National Association of Federally Impacted Schools
National Association of Secondary School Principals
National Association of State Directors of Special Education
National Education Association
National PTA
National Rural Education Advocacy Consortium
National Rural Education Association
Organizations Concerned with Rural Education
Rural School and Community Trust
Schools, Health & Libraries Broadband Coalition
State E-Rate Coordinators Alliance
United States Conference of Catholic Bishops

CC: FCC Chairman Wheeler
FCC Commissioner Clyburn
FCC Commissioner O’Reilly
FCC Commissioner Pai
FCC Commissioner Rosenworcel