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

In the Matter of	)	
	)	
Lifeline and Link Up Reform and	)	WC Docket No. 11-42
Modernization	)	
	)	
Lifeline and Link Up	)	WC Docket No. 03-109
	)	
Federal-State Joint Board on Universal	)	CC Docket No. 96-45
Service	)	
	)	WC Docket No. 12-23
Advancing Broadband Availability Through	)	
Digital Literacy Training	)	

EdLiNC Comments on Lifeline Notice
April 2, 2012

I.   Background

The Education and Libraries Networks Coalition (EdLiNC), a group comprised of the leading public and private education associations and the American Library Association, was formed in 1995 to advocate for the interests of schools and libraries in the Telecommunications Act of 1996. Since the enactment of the E-rate program as part of the Act, EdLiNC has pursued a mission of preserving and protecting the legislative intent of the program and has filed in every Federal Communications Commission (FCC) rulemaking related to the program. As is reflected in our comments below, EdLiNC continues to focus on the preservation of the E-rate program to ensure discounts for advanced, telecommunications services, Internet access and internal connections to public libraries and public and private schools based on need.

In its most recent Further Notice of Proposed Rule Making (FNPRM), the Commission proposes to modernize the Universal Service Fund's (USF's) Lifeline program, which subsidizes telephone service for low-income citizens. Within the FNPRM is a proposal to establish a Digital Literacy pilot program (pilot), which would fund schools and libraries operating digital literacy training courses. The FNPRM recommends that the pilot operate for four years, costing $50 million per year, with libraries receiving 80 percent of the funding and schools the remaining 20 percent. The FNPRM proposes three options for administering the pilot, including: operating the pilot within the USF Low Income program; running the pilot through the E-rate program, which would require rule and E-rate Eligible Services List changes; or establishing a separate program within the USF.

II.   EdLiNC's Response to the Digital Literacy Pilot Program Proposal

In response to the FNPRM and the two key issues of how the proposed Digital Literacy pilot will be funded and then administered, EdLiNC offers the following:

1. Digital literacy is—and should be—both a concern and a priority as the FCC moves forward with its efforts to implement the National Broadband Plan. We support the Digital Literacy pilot project as a way for the FCC to expand digital literacy training.
2. We strongly support the FCC's proposal that the pilot be funded through either the USF High Cost or Lifeline programs and not from the already oversubscribed E-rate program.
3. The pilot should not be administered through the E-rate program. Running the pilot through the E-rate Program poses a host of legal and administrative concerns including the following: requiring changing the E-rate's Eligible Services List; adding services to the E-rate Eligible Services List that do not support telecommunications services, Internet access, or internal connections; burdening the processing of E-rate applications and appeals processes; and creating a very difficult audit situation.
4. We oppose the running the Pilot funds through federal agencies that administer non-Universal Service Fund programs. We are concerned that doing so would establish a precedent for mixing USF funds with appropriated funds, possibly changing the legal character of universal service fund.
5. EdLiNC believes that the Commission should administer the pilot though either the Lifeline or High Cost programs, or some other way. We believe that agreements could be fashioned between the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) to provide relevant information regarding potentially eligible schools and libraries for purposes of administering the pilot.

III. **Discussion of EdLiNC's Response**

A. **Digital literacy is an issue that the Commission can help address**. Over the last 30 years, changes in technology and computers have changed the way we think about and teach literacy. No longer is it enough for learners of all ages to be able to read, write and calculate; they must also be able to make use of computing devices, navigate the online world, engage with digital content, and possess 21st Century skills such as critical thinking, collaboration, and creativity in an electronic environment. As the FNPRM points out, citizens that are not digitally literate cannot access critical government information and services, engage in e-Commerce and, in many cases, apply for jobs. We know that many K-12 students that lack digital literacy skills are at a significant disadvantage compared to their tech savvy peers when it comes to research and homework assignments. We also note that the digitization of communication—from word processing and community sharing to education and social media—represents a huge potential for global access to knowledge. Digital technologies support this global, intercultural exchange, an exchange that is devalued if large segments of the general population are digitally illiterate. According to an August 2011 Pew Research Center survey, nearly 60 percent of adults over the age of 65 do not use the Internet[1] thereby missing out on the opportunity to access a wealth of information pertinent to services and information resources already mentioned, including social security and social activities. EdLiNC believes that the proposed pilot could help reach those in need of developing digital literacy skills, particularly key groups such as the low income population and America's senior citizens.

B. **EdLiNC strongly supports the Commission's proposal that the pilot be funded through either the High Cost or Lifeline programs of the Universal Service Fund, and not the E-rate program**. We commend the FCC for not considering the already oversubscribed E-rate program to fund the proposed pilot. As the Commission knows well, the E-rate program's $2.25 billion annual cap (adjusted annually for inflation), is inadequate to meet the demands for current program-eligible services. In fact, last year demand for E-rate support reached $4.3 billion— outstripping available funds by more than $2 billion. Additionally, as demand for Priority 1 services continues to mount

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[1]Pew Research Center's Internet & American Life Project, Trend Data (2012), available at http://www.pewinternet.org/Trend-Data/Whos-Online.aspx.

steadily there is increasing concern that the program will lack sufficient resources—as soon as this year or in the very near future—to support Priority 2 services requests from the poorest of schools, including those eligible for the 90 percent discount. Thus, any incursion on the E-rate program – whether it be from a new service, a new class of applicants, or a new program (as the proposed pilot would be) – would significantly destabilize the program. For these reasons, EdLiNC strongly opposes any significant E-rate program funding changes for purposes that fall beyond the legislative intent of the program, no matter how meritorious.

C. **EdLiNC objects to administering the pilot through the E-rate program**. The proposal to administer the pilot through the E-rate program poses a host of significant concerns, including:

1. Administrative Processing Burden**:** The SLD is already functioning at full capacity, processing thousands of applications and appeals annually and engaging in applicant audits, site visits and other program integrity and outreach activities. In 2010, SLD received and processed 43,866 applications and 1,959 appeals. Processing all of this material takes a significant amount of time: applications from Program Year 2010, which officially ended June 30, 2011, were still being processed as of March 2012. Further, the 1,959 appeals filed in 2010 took, on average, between 44 days and 102 days to resolve. Additionally, SLD conducted over 270 outreach visits to applicants in 2010. In the fall of 2011, it conducted eight applicant training sessions at sites around the country.

   Based on this high volume of activity, it is unreasonable to expect the SLD to absorb the administration burdens of the pilot. According to the FNPRM, the Commission anticipates making awards to 4,800 eligible entities each year. If only 4,800 entities applied, SLD would still see a greater than 10% increase in its application processing burden. Further, with the FNPRM proposing that funds be limited "to entities that do not already offer formal digital literacy training services…whether derived from public or private sector sources," SLD will have to expend significant time on each application to ensure that the entity is not in fact offering digital literacy training already.

2. Dangerous Precedent**:** Further, administering the pilot through the E-rate program would set a dangerous precedent as it would require greatly expanding the types of Eligible Services the E-rate program currently allows. The Commission asks in the FNPRM that "Just as [it] has long relied upon sections 254c(3) and 254(h)(2) to provide support for internal connections to enable access to Internet in the classrooms, could we also authorize funding for training to enable library patrons to effectively utilize the Internet access provided at libraries, or to enable parents and other members of the community to learn the skills to use E-rate funded connections at School Spots across the country?" It proceeds to suggest that, if E-rate were to become the pilot's administrator, the E-rate's Eligible Services List would have to be updated to incorporate pilot-related services, such as labor costs for trainers and staff, curriculum content development, administrative costs, marketing and volunteer recruitment. All of these services are *non-telecommunications services,* however essential to the pilot.

   EdLiNC is sympathetic to the need for more training, particularly in light of the defunding of the E-rate's complementary program at the U.S. Department of Education, the Enhancing Education Through Technology Program, which helped provide students and teachers the type of digital literacy training envisioned by the Commission in the pilot. However, we do not believe that the Commission can truly rely upon the sections it has cited within the Telecommunications Act of 1996 because to do so would overturn the long-standing and long-settled policy of the Commission and the Universal Service Administrative Company (USAC) that E-rate funding should only go towards supporting basic conduit access to the Internet for the purpose of

accessing telecommunications and information services.[2] While the E-rate program permits support for non-telecommunications services currently (e.g., internal connections), all of those services support basic conduit access to the Internet for schools and libraries, which is the program's main objective. The pilot-related services the FNPRM suggests for inclusion in the E-rate Eligible Services List do not meet that test: they promote training and curricular content, in contrast.

Beyond the fact that the proposed expansion lacks statutory and program policy bases, EdLiNC is deeply concerned that if such services were included in the Eligible Services List, it could open the door to arguments from applicants and vendors that other, currently prohibited non-telecommunications services should receive support, as well. We unfortunately anticipate this occurring even if efforts are made to segregate the pilot's services within the Eligible Services List. With E-rate unable to satisfy oversubscribed demands for currently eligible services, EdLiNC believes that encroaching on current precedent could have very negative ramifications for the program as a whole. Therefore, we strongly urge the Commission to seek another vehicle for administering the pilot.

3. <u>Oversight Burden</u>**:** The SLD's oversight burden for administering the pilot would be substantial. The FNPRM asks: "How would we ensure that the minimum number of hours of training per week are provided?" The answer is that it would be almost impossible to enforce or guarantee that minimum hours requirements are met. We note that, with E-rate, it has become relatively simple to trace equipment and service purchases and installations through invoices and receipts. Under the pilot, however, it would prove almost impossible for SLD to monitor whether trainings did or did not occur. Moreover, with the Commission proposing to provide no more than $10,500 per application, the labor and travel costs of site-visits and audits would quickly eclipse the value of the grants. Lastly, it is clear that the effort required to monitor and audit the pilot would negatively impact the SLD's E-rate integrity efforts. Less time and resources available for E-rate integrity, including ensuring waste, fraud or abuse does not occur, will either mean much longer wait times for audit completion or fewer audits.

D. **EdLiNC opposes running the pilot funds through a non-Universal Service Fund program**. There has been some discussion of operating the pilot through another federal agency. EdLiNC opposes this concept because we are unclear regarding the effect of sending universal service funds to another agency's account. Comingling appropriated funds and USF funds may have unintended consequences or may result in shifting them to other unintended uses. Moreover, the very act of moving universal service funds to another federal agency may set a precedent of universal service dollars being tapped to subsidize other federal programs.

E. **EdLiNC believes the pilot should be administered though the Lifeline program or a separate program yet to be identified.** EdLiNC believes that the most eloquent solution to the problem of finding the appropriate administrator for the pilot is for the Commission to establish a digital literacy training program within the Lifeline program. The FNPRM's proposal to establish a digital literacy training program to help reduce barriers to broadband adoption by Lifeline customers is an objective EdLiNC supports. In order to successfully target and bolster adoption of these specific customers, EdLiNC believes that the establishment and management of the program would logically fit within the Lifeline program.

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[2] Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Report and Order*, FCC 97-157 (rel. May 8, 1997) (*Universal Service Order*), at paras 436, 441-448.

F. In the FNPRM, the Commission asserts that it has such power to create a new USF program, stating, "Nothing in the statutory framework … precludes the Commission from creating a new program that is administered separately from existing programs, so long as that program is consistent with existing statutory authority." A new program would ensure limited additional burden for SLD as it would have responsibility for processing applications, disbursing grants and monitoring/auditing for program integrity, thereby ensuring those burdens do not fall on SLD. SLD would likely still be called upon to provide access (through a formal agreement) to its databases of eligible schools and libraries but we view that as a not terribly time consuming responsibility. A further benefit of a new program is that it would mitigate EdLiNC concerns regarding the blending of universal service funds with appropriated funds.

IV. Additional EdLiNC Questions and Concerns

Aside from the points already articulated, EdLiNC poses the following questions and concerns regarding the proposed pilot's implementation and operation.

1. EdLiNC is committed to safeguarding the E-rate program's legislative intent to benefit schools and libraries and is concerned with how the FCC's proposed pilot would co-mingle funds designated for the E-rate program with those intended for a training program targeted at broadband adoption of Lifeline customers.
2. If the pilot was administered by the SLD, does the Commission expect pilot applications and appeals to receive priority over E-rate applications and appeals and be limited to only currently eligible E-rate applicants?
3. Under the proposed pilot, the proposed percentage distribution of funding between the schools and libraries is 20/80. We are curious as to how this distribution was identified and on what basis. While EdLiNC feels strongly about not using the E-rate program to administer the pilot, we do think that schools—as community centers—may have a larger role to play in some communities and that the low split (20 percent) could prohibit some communities from participating in the pilot.
4. The FNPRM estimates that "approximately $15,000 a year would be sufficient to cover the cost of approximately eight to ten hours of literacy training per week at one funded location." In a footnote, the Notice indicates that: "The estimate is based on a review of the average hourly trainer salary, benefits and administrative costs of various ongoing digital literacy programs administered by NTIA." EdLiNC wonders if this proposed figure takes into account the likely higher costs for trainers in urban and suburban areas. We are deeply concerned that the specified award amount means that communities of all scopes, sizes and capacities will receive the same funding amount, regardless of existing structure and capacity. Additionally, we are concerned that this figure is simply inadequate to hire a part time trainer, purchase relevant equipment, engage in marketing and publicity, and develop materials. Would it not make more sense to give larger but fewer grants so that entities can more appropriately invest in all of the items that are needed to make Digital Literacy training a success and to make the very act of applying more appealing?
5. The FNPRM suggests that applicants provide a $4,500 per year match for the $10,500 award that the Commission proposes to provide. If implemented, this approximately 30 percent match would require 90 percent eligible E-rate applicants, who are only required to pay 10 percent of E-rate supported services, to pay three times more out of their own pockets to receive digital literacy funds. EdLiNC is concerned that many schools and libraries will not only struggle during these difficult economic times to come up with that match but that requiring the match for such a limited and low-dollar award will deter eligible applicants from pursuing this opportunity at all. Would the Commission consider reducing or eliminating the match, or raising the amount of funds available to each applicant make the pilot more appealing?

6. The FNPRM proposes to limit pilot funds only to those entities that are not already operating digital literacy programs. EdLiNC believes that this restriction is short-sighted. Excluding current digital literacy programs from applying for the pilot is tantamount to punishing those communities and entities who acted in good faith to address local needs. In addition, limiting the pilot to new programs would exclude the experience and knowledge of experts already engaged in digital literacy programs. Finally, some entities that already provide training may not have the capacity to meet community demand for classes and digital literacy support. If the goal of the pilot is to facilitate and grow the number of digital connectors, EdLiNC believes it should be robust in supporting both new and scale-up program awards. Would the Commission consider eliminating this restriction?

Conclusion

EdLiNC applauds the Commission for proposing the Digital Literacy Training pilot program. We appreciate the Commission's efforts to protect the already oversubscribed E-rate program by not supporting the pilot with the E-rate's resources. We urge the Commission to implement and administer the Digital Literacy Training pilot program by creating a program within the existing Lifeline program or a separate program yet to be identified. These options will greatly reduce the likelihood of significant administrative disruption to the E-rate program's applications, administration and appeals processes, as well as prevent the possibility of establishing troubling precedents on uses of E-rate program that fall outside its established legislative intent.

Appendix A: Members of EdLiNC

EdLiNC is a coalition of educational and library groups that have been working together to provide schools and libraries with affordable access to telecommunications and to ensure the effective implementation of the program. More information about EdLiNC is available from our website at http://www.edlinc.org. EdLiNC's members include:

American Association of School Administrators
American Federation of Teachers
Association of Educational Service Agencies
American Library Association
Consortium for School Networking
Education Legislative Services
International Society for Technology in Education
National Association of Elementary School Principals
National Association of Independent Schools
National Association of Secondary School Principals
National Association of State Boards of Education
National Catholic Educational Association
National Education Association
PTA
National School Boards Association
United States Conference of Catholic Bishops