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FCC'S E-RATE PLANS TO ASSIST GULF COAST RECOVERY: ENSURING EFFECTIVE IMPLEMENTATION

HEARING

BEFORE THE

SUBCOMMITTEE ON
OVERSIGHT AND INVESTIGATIONS

OF THE

COMMITTEE ON ENERGY AND
COMMERCE
HOUSE OF REPRESENTATIVES

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FCC'S E-RATE PLANS TO ASSIST GULF COAST RECOVERY: ENSURING EFFECTIVE IMPLEMENTATION

THURSDAY, OCTOBER 6, 2005

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:05 p.m., in room 2123 of the Rayburn House Office Building, Hon. Ed Whitfield (chairman) presiding.

Members present: Representatives Whitfield, Pickering, Walden, Burgess, Blackburn, Stupak, and Inslee.

Staff present: Peter Spencer, majority professional staff; Tom Fedo, majority counsel; Jaylyn Jensen, majority professional staff; Mark Paoletta, chief counsel; Terry Lane, deputy communications director; Jonathan Pettibon, clerk; David Nelson, minority counsel; and Jessica McNiece, research assistant.

Mr. WHITFIELD. I will call this meeting to order, and I apologize for just a few minutes delay. Mr. Stupak, his plane was delayed coming in from Michigan and we are delighted that he is here. And I certainly want to welcome all of the witnesses today. We appreciate your being here. And I will begin the hearing with an opening statement, and then we will go to Mr. Stupak, and then we will swear you all in and we will go from there.

First of all, I want to welcome you. Today, the Oversight and Investigations Subcommittee will hear about what is, to this subcommittee, a familiar program, but a program that is about to be tasked to operate in an unfamiliar situation. We will find out about the Federal Communications Commission's plans for E-rate Program relief to communities devastated by Katrina. The goal of this hearing is to understand what measures can be taken to assist those most in need, as they work to recover from this devastating storm, and to begin to determine whether such measures, as currently envisioned, can be implemented effectively.

The effort to supply assistance effectively to Gulf Coast entities and families can be equally challenging, especially when working in an area with limited records, urgent needs, and where the requirement of speed tests many of the established safeguards against waste, fraud and abuse. Our responsibility as members of the Energy and Commerce Committee is to oversee the relevant operations in areas of our jurisdiction, to ensure that the necessary

assistance gets to where it is supposed to go and to make a positive difference.

A few weeks ago, the FCC's chairman, Kevin Martin, proposed a number of measures to assist the Gulf Coast rebuilding effort. I applaud Chairman Martin for seeking to come to the region's aid. An important piece of this initiative involved plans for the E-rate Program, which is the universal service funding mechanism that subsidizes telecommunications and certain infrastructure in schools and libraries. As Chairman Martin outlined, schools and libraries affected by the hurricane would receive relief from the program's standard rules and requirements to assist in the rebuilding or restoration of E-rate covered services.

We will learn about the status of some of these proposals today, and whether the proposed relief is what is needed to meet the needs of affected communities as they seek to restore schools and libraries. We will also seek to answer some important questions surrounding the proposal. For example, what effects will Katrina-related changes have on other program funding; what new integrity challenges will arise; what measures will be necessary to speed funding relief, while guarding against the types of waste, fraud and abuse this subcommittee identified in hearings over the past year and a half?

With so much funding potentially involved in the Gulf Coast relief initiative, the risk for waste, fraud and abuse is great. This hearing is to help ensure that support goes to those who need it. The FCC and USAC must do its best to guard against waste, fraud and abuse. And we all want this effort to succeed. Yet to do so, the FCC and USAC must confront the weaknesses that exist in the program, and work to ensure its integrity under the increased pressure from this Gulf Coast relief.

You know, we are talking about a $2 billion plus program each year, and we know from hearings last year that there was some concern about some weaknesses in the program and between the communication between the FCC and USAC. And without blaming anyone, we want to explore ways to improve the program to make it its most effective and certainly to explore today how those weaknesses may interfere with this initiate established by Chairman Martin.

We are going to hear from several government witnesses who will be essential to the success of the initiative. We will hear from the FCC, which sets the rules, and from USAC, the administrator of the program, which is responsible for implementing the program. We will also hear from the FCC inspector general, who may help identify program weaknesses. And finally, we will hear from the E-rate coordinator for the State of Mississippi, Mr. Rawson. And I would like to extend appreciation to all of you for appearing today, and I certainly appreciate Mr. Navin, Chief of the Wireline Competition Bureau at the FCC, for being here today. He has been on the job for only 5 months and is currently working, I know, involved in approving one of the largest mergers in telecommunications history, so we know his time is valuable as well. And I already welcomed Mr. Rawson, but we look forward to the testimony of all of you today, Mr. Feaster, Ms. Zaina.

And at this time, I will turn it over the ranking member, Mr. Stupak, for the purposes of an opening statement.

Mr. STUPAK. Thank you, Mr. Chairman. I again apologize for being a little bit late here this afternoon. But thanks for convening this hearing regarding the use of E-rate funds to help the schools devastated by Katrina return to Internet conductivity as soon as possible. Understand that tomorrow will vote to adopt a staff report on the E-rate investigation of the past 2 years. Lessons detailed in that report ought to be applied as we rebuild the education infrastructure devastated by the hurricanes.

Let us be clear, while the FCC press release touts a $132 million in E-rate funds as a critical part of the $211 million USF contribution to Katrina rebuilding, it is simply a mirage. All the FCC is doing is opening the application window in 2005 and expanding it in 2006, with a broad assumption that all schools in the affected counties will be eligible for a 90 percent Federal contribution. This is important help, but it is merely the reprogramming of funds from other schools in the country. This policy will simply take money away from schools that were counting on the money and planning to implement their programs.

There is no new money in the FCC's plan, even though there should be funds available without raising the ratepayer contribution. I am afraid this plan is yet another example of the Bush Administration shifting funds from one region of the country to pay for Katrina relief effort, leaving some of our schools empty-handed.

Mr. Chairman, we need details regarding the available funds, the shifting of the funds, and the uses of the funds. Yet, today I expect that the invited FCC guests cannot or will not comment on the so-called Katrina Relief program because a final order has not been implemented. At a minimum, maybe Chairman Martin should be testifying today.

The lessons of fraud, waste and abuse uncovered in this subcommittee's investigation over the past 2 years should alert us to two situations that cry for an oversight plan from the FCC, a plan that I hope will but I am sure we probably won't see today. The first involved the lesson of relying too much on the assumption that telecommunication companies will always do the right thing.

In the Puerto Rico case, we learned how Puerto Rico Telephone charged the schools $1,500 per month for each of hundreds of T-1 lines that they knew, or should have known, were not being used because the internal connection and related infrastructure were not operable. Still, the carrier rationalized their billing, that they were not responsible for the failure of the schools to actually use the T-1 lines, even though they were never hooked up. I hope not a single telephone bill for Internet or other services has been delivered to any schools devastated by the hurricanes.

Unless the FCC and USAC are vigilant, we may have executives claiming that their companies were prepared to provide the services contracted for before the storms, and there is no reason why they shouldn't be paid for now, even if the school was completely destroyed by the hurricanes. If that happens, Mr. Chairman, I hope you will see to it that they make that argument in this room with the TV cameras rolling.

The second class of fraud that should be a particular concern while we are expediting connections to the Gulf Coast schools is what we called gold plating. In our investigation, we should, and apparently in Atlanta, Cisco Systems convinced local officials that individual elementary schools needed servers large enough and expensive enough to operate some whole school districts. In El Paso, IBM spent some $69 million of Federal and local funds on extravagant gear and services, with no noticeable effect on the education of the school children in that city.

Mr. Chairman, the Atlanta and El Paso situations were merely some of the worse examples of this problem that this committee investigated, but it was a pervasive problem. The same sales persons with the same ethics are undoubtedly already plying the latest whiz-bang gadgetry to the school trade in the Gulf Coast. They retain the irresistible selling point that Uncle Sam, or in this case, maybe Uncle E-rate, will pay for most of it, 90 percent. We have seen repeated examples of the most outrageous FEMA contracts going to overpriced and under-qualified companies in the wake of the storms. There appears to be nothing in our E-rate record to suggest that the FCC or USAC is capable of preventing a repeat of fraud and waste in the rebuilding and reconnecting effort. I truly hope that we will hear otherwise today.

With that, Mr. Chairman, I would yield back the balance of my time, and thank you.

Mr. WHITFIELD. Thank you, Mr. Stupak. And at this time, I recognize the gentle lady from Tennessee, Ms. Blackburn, for her opening statement.

Ms. BLACKBURN. Mr. Chairman, I will waive the statement and reserve my time for questions.

Mr. WHITFIELD. Okay, thank you. I know you were sorry to hear there are no more opening statements for you to listen to, but—so at this time, I want to formally introduce our witnesses this morning, or this afternoon.

First of all, Mr. Thomas Navin, who is the chief of the Wireline Competition Bureau at the Federal Communications Commission. We also have with us the Honorable H. Walker Feaster, who is the inspector general of the Federal Communications Commission. We have Ms. Lisa Zaina, who is the chief executive officer of the Universal Service Administrative Company, and she is accompanied by Mr. Mel Blackwell, who is the acting vice president of the Schools and Libraries Division at USAC. And then our final witness is Mr. Gary Rawson, who is the State E-rate coordinator from the Mississippi Department of Information Technology Services.

As you all probably know, this is an Oversight and Investigation's hearing, and it is our custom, when holding an investigative hearing, to ask that witnesses testify under oath. Do any of you have any objection to testifying under oath?

The Chair would also advise you that under the rules of the House and the rules of the committee, you are entitled to be advised by counsel. Do any of you desire to be advised by counsel during your testimony today?

In that case, if you would please rise and raise your right hand, I will swear you in.

[Witnesses sworn.]

Thank you. You are now under oath, and we will start with you, Mr. Navin. You may give a 5-minute summary of your written statement. Be sure and turn your microphone if it is not.

TESTIMONY OF THOMAS J. NAVIN, CHIEF, WIRELINE COMPETITION BUREAU, FEDERAL COMMUNICATIONS COMMISSION; H. WALKER FEASTER III, INSPECTOR GENERAL, FEDERAL COMMUNICATIONS COMMISSION; LISA M. ZAINA, CHIEF EXECUTIVE OFFICER, UNIVERSAL SERVICE ADMINISTRATIVE COMPANY; AND GARY RAWSON, STATE E-RATE COORDINATOR, MISSISSIPPI DEPARTMENT OF INFORMATION TECHNOLOGY SERVICES

Mr. NAVIN. Thank you, Mr. Chairman and distinguished members of the subcommittee. Again, my name is Tom Navin, and I have served as the chief of the Federal Communications Commission's Wireline Competition Bureau since the beginning of May 2005. I thank you for this opportunity to appear before you to discuss our plans to use the Universal Service Fund E-rate Program to assist in Hurricane Katrina recovery.

Hurricane Katrina caused catastrophic damage and massive flooding in areas of Louisiana, Mississippi, and Alabama. The loss of life and damage to property is astounding, and our thoughts and prayers go out to those people affected by this disaster. AS I am sure that you are aware, most of the communications industry sustained substantial damage to their facilities in the affected areas, and the damage has had a significant impact on consumers in those areas.

Hurricane Katrina knocked out more than 3 million customer phone lines in the Louisiana, Mississippi, and Alabama. The wireline telecommunications network sustained enormous damage both to the switching centers that route calls and to the lines used to connect buildings and customers to the network.

The work to restore communications services began almost immediately. Despite the significant obstacles, like continued flooding, lack of commercial power, dwindling fuel resources, and security concerns, the companies in the region have made meaningful progress to restore service in the disaster area. Even with these efforts, given the enormity of the disaster, many of the communication services in the affected areas remain damaged. Today, we understand that more than 200,000 customer lines remain out of service. More than 500 DS-3's worth of interoffice facilities remain down. Although many cell sites have been restored, hundreds are still not operational in the affected area. More than 50 radio and television stations remain off the air.

On August 30, Chairman Martin established an internal task force consisting of senior executives in management from within the commission. The task force activity centered around three major goals: first, regulatory relief for industries; second, industry outreach and coordination with other Federal agencies; and third, assistance to consumers and evacuees. The task force has been working on these assignments continuously since August 30th, and the commission was open throughout the Labor Day weekend, as well as the past several weekends. To date, hundreds of commission employees have assisted in this effort.

On September 15, 2005, Chairman Martin announced his intention to propose to the other members of the commission action intended to address the damage caused by Hurricane Katrina. To enhance the commission's planning and response efforts for times of crisis, Chairman Martin announced his intention to propose a new Public Safety/Homeland Security Bureau to consolidate the public safety, Homeland Security, and disaster management functions currently housed in multiple bureaus and offices throughout the commission. Chairman Martin also announced his intention to establish an independent panel to review and improve the disaster preparedness of the agency. Chairman Martin also announced his intention to establish an independent panel to review the impact of Hurricane Katrina, and to make recommendations on ways to improve disaster preparedness, public safety operations, and network reliability.

To provide immediate relief to the Hurricane Katrina disaster areas and to the disaster victims, Chairman Martin proposed to work through the existing USF programs to target approximately $211 million in universal service support to consumers, schools, libraries, health care providers, and telecommunication service providers affected by Hurricane Katrina. Chairman Martin proposed to work through the existing low-income, rural health care E-rate and high-cost universal service programs to make this temporary support available.

Chairman Martin proposed to use the E-rate Program to help reconnect schools and libraries throughout the region. This would consist of three measures. First, we would open a new funding year for 2005, for the 2005 window, for schools and libraries damaged by the hurricane. This action would allow the approximately 600 schools and libraries damaged by the hurricane, and in need of funds for this funding year, to revise their requests for support in light of the dramatically changed circumstances caused by the hurricane. Second, we would treat schools and libraries struck by the hurricane at the highest level of priority, 90 percent, for the funding years of 2005 and 2006. And finally, we would also allow schools and libraries serving evacuees to amend their 2005 applications to account for the unexpected increase in population. We estimate that these E-rate measures could provide approximately $132 million to schools and libraries in the disaster areas that were damaged by Hurricane Katrina.

We are committed to making sure that these USF monies are used well and that program is protected from potential waste, fraud and abuse. For that reason, applicants for this temporary support, including the E-rate supported noted earlier, would have to comply with all existing program requirements. This includes, for example, competitive bidding requirements, certification requirements, document retention requirements, strengthened technology plan requirements, and potential audit requirements. The existing program's application processes and procedures, including the Universal Service Administrative Company's program integrity assurance review procedures and selected review procedures, which subject applications for E-rate monies through heightened scrutiny, will continue to apply to applicants for the Hurricane Katrina-specific support. All other safeguards established in the program will

continue to apply, including the E-rate Program's existing $2.25 billion annual funding cap.

Finally, we are examining potential additional safeguards for the Hurricane Katrina initiatives. These include relying the Federal Emergency Management Agency determinations, that households are eligible for disaster assistance, or that a school or library is located in the disaster-struck county. We also are considering additional audit and certification requirements as part of this temporary package.

The damage wrought by Hurricane Katrina is tremendous and its effects will be felt for months and possibly years to come. The commission stands ready to work with Congress, our colleagues at the Federal, State, and local agencies, and the American public to do whatever we can to help the disaster relief and restoration efforts.

I would be pleased to respond to your questions. Thank you.

[The prepared statement of Thomas J. Navin follows:]

PREPARED STATEMENT OF THOMAS J. NAVIN, CHIEF, WIRELINE COMPETITION BUREAU, FEDERAL COMMUNICATIONS COMMISSION

Good morning Mr. Chairman and distinguished members of the Subcommittee. My name is Thomas Navin and I have served as the Chief of the Federal Communications Commission's Wireline Competition Bureau since the beginning of May 2005. Thank you for this opportunity to appear before you to discuss our plans to use the Universal Service Fund (USF) E-rate Program to assist in Hurricane Katrina recovery.

BACKGROUND

Hurricane Katrina caused catastrophic damage and massive flooding in areas of Louisiana, Mississippi, and Alabama. The loss of life and damage to property is astounding, and our thoughts and prayers go out to those people affected by this disaster. As I am sure you are aware, most of the communications industry sustained tremendous damage to their facilities in the affected area, and the damage has had a significant impact. The damage to the communications infrastructure hampered the rescue operations of emergency responders. Relief efforts and survivors are still struggling with the effects of the hurricane. Survivors lack information about relief efforts. People displaced from their homes do not have the means to contact their loved ones to let them know they are safe. And of course, survivors remaining in the affected area lack a reliable means of contacting the authorities and getting help in lifethreatening situations.

Hurricane Katrina knocked out more than 3 million customer phone lines in the Louisiana, Mississippi, and Alabama area. The wireline telecommunications network sustained enormous damage both to the switching centers that route calls and to the lines used to connect buildings and customers to the network. Local wireless networks also sustained considerable damage—more than a thousand cell sites were knocked out of service by the hurricane. During this disaster, millions of telephone calls were simply not able to get through. Of the 41 broadcast radio stations located in New Orleans and the surrounding area, only two AM and two FM stations remained on the air in the wake of the hurricane.

The work to restore communications services began almost immediately. Despite the significant obstacles like continued flooding, lack of commercial power, dwindling fuel resources, and security concerns, the companies in the region have made meaningful progress to restore service in the disaster area. Even with these efforts, given the enormity of the disaster, many of the communications services in the affected areas remain damaged. Today, we understand that more than 200,000 customer lines remain out of service. More than 500 DS-3 interoffice facilities remain down. Although many cell sites have been restored, hundreds are still not operational in the affected area. More than 50 radio and television stations remain off the air.

COMMISSION ACTIONS

On August 30th, Chairman Martin established an internal Task Force consisting of senior executives and management from within the Commission. The Task Force's activities centered around three major goals: (1) Regulatory Relief for Industries; (2) Industry Outreach and Coordination with Other Federal Agencies; and (3) Assistance to Consumers and Evacuees. The Task Force has been working on these assignments continuously since August 30th, and the Commission was open throughout the Labor Day weekend to continue the work. To date, hundreds of Commission employees have assisted in this effort.

On September 15, 2005, Chairman Martin announced his intention to propose to the other members of the Commission action intended to address the damage caused by Hurricane Katrina. To enhance the Commission's planning and response efforts for times of crisis, Chairman Martin announced his intention to propose a new Public Safety/Homeland Security Bureau to consolidate the public safety, homeland security, and disaster management functions currently housed in multiple bureaus and offices throughout the Commission. Chairman Martin also announced his intention to establish an independent panel to review the impact of Hurricane Katrina and to make recommendations on ways to improve disaster preparedness, public safety operations, and network reliability. To provide immediate relief to the Hurricane Katrina disaster area and victims, Chairman Martin proposed to work through the existing USF programs to target approximately $211 million in USF support to consumers, schools, libraries, healthcare providers, and service providers affected by Hurricane Katrina.

Chairman Martin proposed to work through the existing Low Income, Rural Healthcare, E-rate, and High Cost USF programs to make this temporary support available. We estimate that approximately $79 million would be made available through the Low Income and Rural Healthcare programs to help the disaster area. Waivers, clarifications, and temporary modifications of the Commission's Low Income rules could be made to authorize support for a package consisting of at least 300 minutes of wireless service and a handset. Similar waivers of existing Low Income program rules could provide support to help people who have been cut off from telephone service to reestablish service. Our proposal would provide public and nonprofit healthcare providers a new opportunity to apply for increased discounts for advanced telecommunications and information services used in telemedicine applications to treat victims of Hurricane Katrina.

Chairman Martin also proposed to allow high cost carriers participating in the High Cost Program to prioritize rebuilding facilities damaged by the hurricane. This initiative would allow telephone companies greater flexibility to use USF support for rebuilding wire centers affected by the hurricane.

Finally, Chairman Martin proposed to use the E-rate Program to help reconnect schools and libraries throughout the region. This would consist of three measures. First, we would open a new Funding Year 2005 filing window for schools and libraries damaged by the hurricane. This action would allow the approximately 600 schools and libraries damaged by the hurricane and in need of funds for this Funding Year to revise their requests for support in light of the dramatically-changed circumstances caused by Hurricane Katrina. Second, we would treat schools and libraries struck by the hurricane at the highest level of priority (90%) for Funding Years 2005 and 2006. Finally, we would also allow schools and libraries serving evacuees to amend their Funding Year 2005 applications to account for the unexpected increase in population. We estimate that these E-rate measures could provide approximately $132 million to schools and libraries in the disaster areas that were damaged by Hurricane Katrina.

We are committed to making sure that these USF monies are used well and that the program is protected from potential waste, fraud, and abuse. For that reason, applicants for this temporary support, including the E-rate support noted above, would have to comply with all existing program requirements. This includes, for example, competitive bidding requirements, certification requirements, document retention requirements, strengthened technology plan requirements, and potential audit requirements. The existing program's application processes and procedures—including the Universal Service Administrative Company's (USAC's) Program Integrity Assurance review procedures and selective review procedures, which subject applications for E-rate monies through heightened scrutiny—will continue to apply to applicants for the Hurricane Katrina-specific support. All other safeguards established in the program will continue to apply, including the E-rate program's existing $2.25 billion annual funding cap. Finally, we are examining potential additional safeguards for the Hurricane Katrina initiatives. These include relying on Federal Emergency Management Agency (FEMA) determinations that households are eligi-

ble for disaster assistance or that a school or library is located in a disasterstruck county. We also are considering additional audit and certification requirements.

CONCLUSION

The damage wrought by Hurricane Katrina is tremendous and its effects will be felt for months and possibly years to come. The Commission stands ready to work with Congress, our colleagues at federal, state, and local agencies, and the American public to do whatever we can to help with the disaster relief and restoration efforts. I would be pleased to respond to your questions.

Mr. WHITFIELD. Thank you very much. Mr. Feaster, you are recognized for 5 minutes.

TESTIMONY OF H. WALKER FEASTER III

Mr. FEASTER. Mr. Chairman and members of the subcommittee, I appreciate the opportunity to come before you today to discuss the FCC's plans for participation in Hurricane Katrina's rebuilding activities, and our plans to provide oversight for these activities. I applaud the commission's efforts to be a positive force in the post-Katrina recovery, and I am supportive of all the agency can do to assist. However, I am mindful that, in my role as inspector general, I am responsible for ensuring that these relief efforts do not present unacceptable risks to the agency and the taxpayers' dollars. I would like to discuss my plans for oversight of the Katrina-related efforts.

The FCC's financial contribution to the recovery is via the USF. My concerns about the USF, and in particular, the E-rate Program, have been the subject of numerous discussions with agency management, several audit reports and semiannual reports issued by my office, and previous testimony before this committee. I will discuss concerns we have had about this program, that they may generate higher audit risk associated with the hurricane recovery efforts. Due to the materiality and assessment of audit risk, we have focused much of our attention on USF mechanisms for funding telecommunications and information systems for schools and libraries, known as the Schools and Libraries Program, or E-rate.

The audits and investigations performed to date indicate a high-level risk for misuse of funds in the E-rate Program. We have had specific concerns about these E-rate—about the E-rate Program that will have a direct impact to disaster assistance funding. These include but are not—excuse me. These include but are not limited to a lack of clarity in the program's rules being a catalyst for both inadvertent errors and deliberate waste and fraud and abuse and weaknesses in the competitive procurement requirements that use E-rate goods and—used to purchase E-rate goods and services.

I am concerned that the programmatic weaknesses that we have found will be compounded by the confusion of overworked school and library administrators trying to rebuild shattered information systems under less than ideal circumstances. Additionally, I fear these rules, waivers, or exemptions will be taken advantage of by unscrupulous E-rate service provides that Federal criminal investigations have turned up time and time again.

Our most significant effort to date to implement our E-rate oversight program has been our ongoing work to establish a three-way contract under which the OIG and USAC can obtain audit resources to conduct USF audits. The project has been delayed, but

the chairman has recently expressed support for this three-way agreement, and we are hopeful that the contract will move forward in the very near future. In the interim, we are working with USAC Internal Audit Department and a public accounting firm under contract to USAC to conduct audits of E-rate beneficiaries.

Because we have focused our limited resources on E-rate, we have not been able to devote a great deal of attention other USF mechanisms. The other large USF program is the High Cost Program. At present, we are assessing risk in the High Cost Program in anticipation of being able to institute an audit program in the near future.

The proposed low-income disaster relief is very interesting, in that it seems to represent an entirely new use for the fund. To the best of my knowledge, the support mechanism has not been used in the past to provide wireless handsets and free minutes of service in the past. We will include an audit in our fiscal year 2006 audit plan to determine how eligibility for this help is determined and verified, and measures the commission has taken to ensure that the products delivered are in the hands of the people who need the help.

The Office of Inspector General has been and remains committed to meeting our responsibility for providing effective independent oversight in the USF. My office will dedicate as much of our resources as possible to ensure that the extra measure of support provided by the commission is utilized in a manner that best benefits the people whose lives have been so horribly uprooted by Hurricane Katrina.

Thank you. I will be happy to answer any questions.

[The prepared statement of H. Walker Feaster III follows:]

PREPARED STATEMENT OF H. WALKER FEASTER III, INSPECTOR GENERAL, FEDERAL COMMUNICATIONS COMMISSION

Mr. Chairman and Members of the Subcommittee, I appreciate the opportunity to come before you today to discuss the FCC's plans for participation in Hurricane Katrina rebuilding activities and our plans to provide oversight of these activities. Last week I participated in a panel before this subcommittee, in which we discussed plans of several Inspectors General for providing oversight of their agencies Katrina related efforts. Today I will expand on some of the topics touched upon in my testimony from that date, and provide additional information on my Office's plans for oversight of the FCC's assistance in rebuilding in the wake of Hurricanes Katrina and Rita. Since the majority of the actual funds used by the FCC in the recovery efforts will come from the Universal Service Fund (USF), I will place emphasis on the plans to use the USF, and particularly the E-rate fund, in the rebuilding efforts.

FCC USE OF THE USF IN KATRINA REBUILDING SUPPORT

The Commission took the unprecedented step of holding an Open Meeting in Atlanta, Georgia on September 15, 2005. At this meeting, the Commission announced that it would use $211 million of funds from the USF to assist recovery efforts in the disaster area. The FCC will use the four existing support mechanisms of the USF to provide this assistance, as follows:

- The Low Income program will be used to provide evacuees and persons in the affected areas still without telephone service wireless handsets and a package of 300 minutes. This fund will also be used to provide support for reconnecting consumers as the area is rebuilt. The FCC has estimated this will amount to $51 million of Low Income support.
- The Rural Health Care program will allow public and for-profit health care providers to apply for assistance with the cost of telecommunications services under relaxed participation requirements. The FCC has estimated this will amount to $28 million of Rural Health Care support.

- The Schools and Libraries program (or E-rate) will be used to reconnect schools and libraries in the affected areas to telecommunication and network services. Using a variety of program rule waivers, the FCC will be able to authorize an estimated amount estimated of $132 million in E-rate funds for the 600 schools and libraries hit by the hurricane.
- The High Cost program will allow greater flexibility for telephone carriers to use high cost funds to prioritize facilities affected by Katrina.

On September 21, 2005 the Commission issued an Order that provides some details on how this support will be facilitated. In this Order, numerous filings for various forms and information under the USF support mechanisms were postponed for a period of up to 150 days, including:

- For the E-rate program, responses to information requests from the Universal Service Administrative Company (USAC) relating to funding applications, formal requests for extensions of service delivery deadlines and service substitutions, and filings related to actions seeking recovery of funds disbursed in violation of program rules.
- For the Low Income Program, numerous filings that provide information related to the calculation and receipt of funding.
- Filings that support carrier contributions to the USF.

These temporary waivers are in effect from August 29, 2005 to January 26, 2006. In addition, the Commission has waived recordkeeping requirements pertaining to those entities in the Katrina affected areas.

The Commission has also stated that they will distribute additional funds in the hurricane affected areas by setting all schools and libraries in the disaster area at the 90% level of support, which is the highest level of support available under the program, in FY 2006. They will open a new 2005 funding window for schools and libraries in the affected areas to request new or additional support, and they will allow schools and libraries serving evacuees to amend their 2005 funding to account for increased student populations.

The Commission is currently drafting additional regulatory relief that will be needed to implement aspects of the Commission's plans. My Office has been requested to review and provide comment on the proposed actions.

OTHER REBUILDING SUPPORT BY THE FCC

The Commission has also announced the creation of a new Bureau—the Public Safety/Homeland Security Bureau. This Bureau will be comprised of existing functions currently in other FCC bureaus and offices and will have responsibility for the FCC's public safety, national security, disaster management programs.

Additionally, the Commission has undertaken several actions that allow the telecommunications industry regulatory flexibility in rebuilding efforts. Through the issuance of temporary rule waivers and special temporary authorities, the FCC is assisting in re-establishing emergency communications, providing assistance and relief to television and radio stations in getting back on the air, extending regulatory fee payments, extending filing due dates for licensees, and performing a host of activities to contribute to the recovery efforts. The FCC is coordinating with the Federal Emergency Management Agency and the National Communications System, as well as state and local governments and organizations to communicate the FCC's flexibility in eligibility standards and processes to aid in the Hurricane Katrina relief efforts.

AUDIT OVERSIGHT OF THE FCC'S KATRINA-RELATED EFFORTS

I applaud the Commission's efforts to be a positive force in the post-Katrina recovery, and I am supportive of all that this agency can do to assist. However, I am mindful that in my role as Inspector General, I am responsible for ensuring that these relief efforts do not present unacceptable risks to the agency and the taxpayer's dollar. I would like to discuss my plans for oversight of the FCC's Katrina-related efforts.

The myriad of rule waivers and special temporary authorities the Commission is granting for such areas as the resumption of radio and television broadcasting and regulatory licensing has only a small impact on audits conducted by my office. I have received estimates from agency management that indicate that efforts related to disaster recovery will cost approximately $400 thousand in appropriated funding for personnel costs and contracted efforts. The Commission does not anticipate requesting additional budgetary resources for disaster recovery efforts.

Our primary audit role in these functions is to ensure that adequate internal controls are in place and operating effectively to ensure regulatory compliance and that financial cost accumulation and reporting is current, accurate and complete. While

the reorganization and formulation of a new bureau carries a higher level of risk, our concerns are the same—are the financial and operational controls in place to ensure that the agency's programs and functions are operating in an effective and efficient manner and in compliance with applicable laws and regulations. My financial statement audits for FY 2005 and 2006 are the best tools I have available to make this assessment. My staff is coordinating with our contracted independent public auditors to ensure that testing under our financial statement audit will address any concerns.

One area of relief that impacts an area of audit concern for my Office is the extension of filing deadlines for payment of annual regulatory fees. The Commission has provided regulatees in the affected areas an extended deadline for the payment of regulatory fees. My Office currently has in progress an audit of regulatory fee collections and we will incorporate additional tests into this audit to ensure compliance with the deadline extension granted by the Commission. Additionally, we are considering adding a review of the Emergency Alert System to our FY 2006 Audit Plan to determine of it operated as effectively as possible during the hurricane event.

OIG OVERSIGHT OF THE USF KATRINA FUNDING

The FCC's financial contribution to the recovery is via the USF. My concerns about the USF, and in particular the E-rate program, have been the subject of numerous discussions with agency management, and several audit reports and semi-annual reports issued by my Office. We have testified before this Subcommittee on three occasions, as well as other House and Senate committees, about concerns regarding the E-rate program. I will summarize the four parts of the USF and our efforts to provide oversight of the fund. In this discussion, I will focus on how concerns we have had about this program may generate higher audit risks associated with the hurricane recovery efforts.

Due to materiality and our assessment of audit risk, we have focused much of our attention on the USF mechanism for funding telecommunications and information services for schools and libraries, also known as the "Schools and Libraries Program" or the "E-rate" program. The E-rate program has expended $10 billion since its inception in 1998. Our involvement in E-rate audits and investigations has highlighted numerous concerns with this program.

Our E-rate oversight program is designed around two corollary and complementary efforts. First, we would conduct audits on a statistical sample of beneficiaries large enough to allow us to derive inferences regarding beneficiary compliance at the program level. Second, we would establish a process for vigorously investigating allegations of fraud, waste, and abuse in the program.

The primary obstacle to our implementation of effective and independent oversight of the E-rate program has been a lack of adequate resources to conduct audits and provide audit support to investigations. Despite limited resources, the OIG has implemented an aggressive independent oversight program. My oversight program includes: (1) audits conducted using internal resources; (2) audits conducted by other federal Offices of Inspector General under reimbursable agreements; (3) review of audit work conducted by USAC; and (4) active participation in federal investigations of E-rate fraud.1To date One-hundred and fifty-eight (158) audits have been completed by the OIG, USAC internal auditors, or USAC contract auditors in which the auditors have reached a conclusion about beneficiary compliance. Of the 158 audits, auditors determined that beneficiary were not compliance in 34% of the reports issued. Recommended fund recoveries for those audits where problems were identified total nearly $18 million. Additionally, we are providing audit support to 26 investigations into E-rate fraud allegations and monitoring another 13 investigations. There have been successful criminal prosecutions for E-rate fraud and settlement recoveries in excess of $30 million.

The audits and investigation performed to date indicate a high level of risk for misused funds in the E-rate program. We have specific concerns about the E-rate program that will have a direct impact the disaster assistance funding, and I would like to highlight some of these issues.

For example, we have cited a lack of clarity in the program's rules as being a catalyst for both inadvertent errors and deliberate fraud, waste and abuse. We believe that it is critical that participants in the E-rate program have a clear understanding of the rules governing the program and the consequences that exist if they fail to comply with those rules. In circumstances under which additional rule waivers are laid on top of existing ambiguities, the potential for either accidental or intentional noncompliance with the rules and abuse of the Fund is dramatically increased.

We believe that it is possible under the current structure that applicants may not have a clear understanding of program rules. We are concerned that the Commis-

sion has not determined the consequences of beneficiary non-compliance in many cases and that, in those instances where the Commission has addressed the issue of consequences for non-compliance, the consequences associated with clear violations of program rules do not appear to be consistent. In some cases, USAC has implemented numerous policies and procedures to administer the E-rate program that the Commission has not adopted these USAC operating procedures and therefore, there is no legal basis for recovery of funds when applicants fail to comply with these procedures. To further complicate matters, we have been advised that, in some cases, USAC may have exceeded their authority in establishing program requirements.

We have also described weaknesses in the competitive procurement requirements used to purchase E-rate goods and services and the ineffective use of purchased goods and services. Program rules require that applicants use a competitive procurement process to select vendors, to preclude instances where prices charged to schools and libraries are needlessly high and the Fund is unable to provide support to eligible schools and libraries.

Although the programs competitive bidding requirements were intended to ensure that schools and libraries are informed about all of the choices available to them, we have observed numerous instances in which beneficiaries are not following the program's competitive bidding requirements or are not able to demonstrate that competitive bidding requirements are being followed. We question whether the rules are adequate to ensure a competitive process is followed. In addition, weak recordkeeping requirements to support the procurement process, as well as other aspects of the E-rate application, offer little protection to the program.

Since our involvement in this program, I have become increasingly concerned about efforts to resolve audit findings and to recover funds resulting from E-rate beneficiary audits. It has been our observation that audit findings are not being resolved in a timely manner and that, as a result, actions to recover inappropriately disbursed funds are not being taken in a timely manner. While it appears this situation may be slightly improved in the past year or so, I remain concerned about the Commission's support to resolving audit findings. In September 2004, I issued three draft reports on E-rate compliance at private schools in the Virgin Islands. The Commission did not provide timely responses to these drafts, and in fact, never formally responded to these draft reports. On August 18, 2005, I issued these reports in final without agency comments. Given the planned increase in the number of E-rate audit reports over the next several weeks and months, I have strong concerns at the Commission's ability to provide comment on draft reports and resolve audit findings.

Site visits are conducted during most E-rate beneficiary audits. Site visits are conducted for several reasons including to evaluate the eligibility of facilities where equipment is installed, to verify that equipment is installed and operational, and to verify that equipment is being used for its intended purpose. Examples of concerns identified during audits and investigations are as follows:

- Goods and services not being provided.
- Unauthorized substitution of goods and services.
- Goods and services being provided to ineligible facilities (e.g., non-instructional building including dormitories, cafeterias, and administrative facilities).
- Equipment not being installed or not operational. Program rules require that non-recurring services be installed by a specified date. However, there is no specific FCC rule requiring beneficiaries to use equipment in a particular way, or for a specified period of time, or to full efficiency. Commission staff have provided guidance stating that if the equipment was uninstalled (i.e., still in a box) that would represent a rule violation. However, Commission staff has also provided guidance stating that the rules do not require that beneficiaries effectively utilize the services provided or that the beneficiaries maintain continuous network or Internet connectivity once internal connections are installed.

In addition to the concerns listed above, we have on-going concerns regarding the program's over reliance on self-certification by participants, weaknesses in technology planning, discount calculations and beneficiary payment of their share of the costs. I am concerned that the kinds of programmatic weaknesses I have described will be compounded by the confusion of overworked school and library administrators trying to rebuild shattered information systems under less than ideal circumstances in the hurricane affected areas.

Additionally, I fear these rule waivers or exemptions will be taken advantage of by unscrupulous E-rate service providers that federal criminal investigations have turned up time and again. Since the inception of the E-rate program in 1998, over $184 million has been expended in Louisiana, and over $79 million in New Orleans alone. As well as E-rate funds, the High Cost program has expended $555 million

in the state of Louisiana since 1998. Rebuilding the shattered infrastructure is critical. The financial needs will be huge and the risk of misspent funds must be taken into account. This level of funding will certainly attract the less honest service providers to the area who might hope to take advantage of the additional funds being expended under relaxed rules.

I have mentioned the lack of resources my Office has struggled with in our work to provide effective and independent oversight of the E-rate program, as well as the other USF support programs. We have requested appropriated funds in our last three budget requests to Congress and have been supportive of efforts to provide the Commission with access to the USF for oversight funding. In addition, we are working with USAC Internal Audit department (IAD) and a public accounting firm under contract to USAC to conduct audits of One-hundred (100) E-rate beneficiaries. This project was initiated in August 2004 and is expected to be completed in FY 2006.

The round of 100 audits is being conducted under a relationship with USAC and the public auditors that could be described as semi-formal, at best. OIG is not a party to the contract between USAC and the contracted auditors and our participation is documented only in the engagement letter. We believe that our participation in this process would be enhanced by a more formal partnership between the Commission, USAC and the contracted auditors.

Our most significant effort to date to implement our E-rate oversight program has been our on-going work to establish a three-way contract under which the OIG and USAC can obtain audit resources to conduct USF audits. Under this contract, we intend to conduct the body of audits necessary to assess fraud, waste, and abuse at the program level by conducting a statistically valid sample of audits for each of the four USF funding mechanisms. An additional objective is to identify improper payments as defined by the Office of Management and Budget to estimate error rates for the Improper Payments Improvement Act of 2002 (IPIA). Unfortunately, this project has been delayed. A Request for Proposal for this contract was issued in November 2004. The proposal evaluation process was completed, a contractor was selected and USAC submitted the proposed contract for Commission approval in April 2005. The proposed contract was held up in the transition between the former FCC Chairman and Chairman Martin, as the Chairman wanted to give this procurement detailed review prior to approval. Recently, we were provided a memorandum that lists concerns that the FCC Office of General Counsel has regarding the contractor selection process. Given the issues raised by the General Counsel, I have agreed, along with the Managing Director of the FCC, the Chief of the Wireline Competition Bureau and the General Counsel, that recompeting this contract is necessary to protect the interests of the fund and the integrity of the procurement process. The Chairman has recently expressed support for this three-way agreement and we believe that the contract will move forward in the very near future.

USAC is contemplating further audits to meet their oversight responsibilities, and we may be invited to participate in the same manner as we are in the current round of 100 audits. While this arrangement is less than ideal, it does allow for E-rate compliance audits to continue. Our auditors will incorporate appropriate steps in the audit work programs currently in use to ensure the Katrina rule waivers are considered in audit planning and fieldwork. We will continue to work in close coordination with USAC internal auditors, independent auditors under contract to USAC, and other federal auditors conducting E-rate audits under interagency memoranda of understanding. We will ensure that the special risks that the FCC's proposed rules bring are addressed in the conduct of future audits.

However, the current working relationship we have with USAC IAD and the three-way contract are both solutions that could be described as second best. As we have stated previously, limited resources have precluded our ability to implement our planned oversight of the USF. Our preferred method of providing oversight of the USF program is for OIG to have direct access to the Fund for our use in implementing an independent oversight program. Any oversight program of the magnitude encompassed by the three-way agreement presents management challenges for our office. The audit supervision and quality assurance necessary for an audit program of this size is a major effort, and I do not have adequate staff to perform this work. I have requested funds in my 2006 and 2007 budget requests for additional staff and contract resources to assist in the management of this audit program; however, I would reiterate my support for enabling OIG to use the USF as the source of funds for this work.

Because we have focused our limited resources on the E-rate program, we have not been able to devote a great deal of attention to the other USF mechanisms. The other large USF program is the High Cost program. This program provides support to telecommunication carriers to ensure that consumers in all regions of the United

States have access to and pay rates for telecommunications services that are reasonably comparable to those services provided and rates paid in urban areas. This program has averaged over $2.5 billion in annual expenditures and my office is aware that we need to expand our oversight in this area. However, we have not had the resources to establish an effective oversight program. In the breakdown of the $211 million of Katrina relief there does not appear to be additional funds contemplated for High Cost and I believe that the primary effect of the Katrina support will be the redistribution of existing support. At the present, we are assessing risks in the High Cost program in anticipation of being able to institute an audit program in the future and will ensure our plans address any considerations brought by the Katrina relief.

The proposed Low Income disaster relief is very interesting, in that it seems to represent an entirely new use of this Fund. The Low Income program assists eligible low-income consumers to establish and maintain telephone service by discounting services provided by local telephone companies. The USF reimburses the telephone companies for the discounts under the Low Income program. This program provided $759 million in support in 2004 and is considered to be of lower audit risk than the E-rate or High Cost programs. To the best of my knowledge, this support mechanism has not been used to provide wireless handsets and free minutes of service in the past. We will include an audit in our FY 2006 Audit Plan to determine how eligibility for this help is determined and verified and measures the Commission has taken to ensure the products provided are in the hands of the people who need the help.

The Rural Health Care program is the smallest USF program, having disbursed $38 million since 1999. The FCC's proposed $28 million of disaster assistance to emergency health care providers in the affected region will represent a dramatic increase in Rural Health Care expenditures. This is being accomplished by increasing the discount rate, which is the portion of costs covered by the support mechanism to 50% for qualified providers in the affected areas and for health care providers providing assistance to disaster victims nationwide. Additionally, the FCC will allow health care providers to file new or amended applications for funds in the current year. We are still assessing the requirement for oversight represented by the additional disaster relief funds.

CONCLUSION

The Office of Inspector General has been and remains committed to meeting our responsibility for providing effective independent oversight of the USF. My office will dedicate as much of our resources as possible to ensure that the extra measure of support provided by the Commission is utilized in a manner that best benefits the people whose lives have been so horribly uprooted by Hurricane Katrina.

Thank you. I will be happy to answer any of your questions.

Mr. WHITFIELD. Thank you, Mr. Feaster. Ms. Zaina, you are recognized for 5 minutes.

TESTIMONY OF LISA M. ZAINA

Ms. ZAINA. Thank you, Mr. Chairman. Good afternoon, Mr. Chairman and members of the subcommittee. My name is Lisa Zaina, and I am the chief executive officer of USAC, which administers the Federal Universal Service Fund. Thank you, Mr. Chairman, for convening this hearing today.

I appreciate the opportunity to come before you today to discuss USAC's role in administering the fund and how USAC can assist the FCC with its Hurricane Katrina rebuilding activities. As we all know, the Gulf Coast was devastated by Hurricane Katrina and then Hurricane Rita. Our hearts go out to all of the survivors who are now struggling to put their lives back together. I would like to say at the outset of the hearing that USAC stands poised to assist the FCC in implementing its hurricane-related efforts.

USAC looks forward to working closely with the commission to implement Chairman Martin's September 15 proposals to use $211 million from the fund for immediate relief to the program participants affected by Katrina. In anticipation of implementing Chair-

man Martin's proposals as quickly, efficiently and effectively as possible, USAC review its operations to better prepare it to carry out the necessary functions. USAC staff identified critical issues to the commission.

Today, I will discuss USAC's role in administering the fund. With me today is Mel Blackwell, Acting Vice President of the Schools and Libraries Program at USAC. We are happy to answer any questions you may have.

USAC is the private not-for-profit corporation that administers the USF's support programs, pursuant to the commission's Part 54 Rules. The four support programs are High Cost, Low-Income, Rural Health Care, and Schools and Libraries. USAC is governed by a board of directors that includes a broad representation of USF stakeholders. USAC anticipates support to be approximately $7 billion this year in universal service funds, with the High Cost Program receiving $4 billion, the Schools and Libraries Program, $2.25 billion, the Low-Income Program, $800 million, and the Rural Health Care Program, $44 million.

USAC and its dedicated professional staff are intimately familiar with the operations of the many aspects of the USF. USAC was very pleased to be able to assist the commission by providing the information it requested regarding USF support in the affected areas. USAC looks forward to working closely with the FCC to implement as quickly, efficiently and effectively as possible the emergency provisions the commission adopts. We recognize the proposals as an effort to ensure that people can begin putting their lives back together after the devastation of this disaster, and that we must work quickly to ensure that help gets to where help is needed.

We applaud Chairman Martin and the commission for the quick response to the horrible devastation caused by Katrina. In addition to working with the commission to implement Chairman Martin's relief proposals, we support the commission's efforts to quickly address any emergency situation that implicate the USF in the future. With stakeholders, including schools and libraries, rural health care providers, telecommunications providers, we believe USAC can and will play an important role in providing information and assistance.

As the administrator, one of the greatest concerns for USAC is protecting the integrity of the fund. To echo Mr. Feaster's concerns in his testimony, USAC wants to make certain that it has the operational controls in place to ensure that USF programs and functions are operating in an effective and efficient manner, and in compliance with laws and regulations. We are prepared to work with the commission and the inspector general to identify additional ways to protect the integrity of the fund, in addition to the many measures USAC already employs. USAC will have a dedicated team to resolve any administrative issues regarding the chairman's proposal.

At the same time, USAC wants to ensure that the process for program participants is streamlined and easy to use. This is a point that Chairman Martin made in his statement at the open meeting September 15. USAC stands ready and is prepared to offer additional information to assist the commission on the operational

aspects as well on the implementation of Chairman Martin's proposals, and to work for a future streamlined and more systematic way to address disaster situations, whatever their cause and wherever they may occur.

Once again, thank you for having me here today to testify on these important issues.

[The prepared statement of Lisa M. Zaina follows:]

PREPARED STATEMENT OF LISA M. ZAINA, CHIEF EXECUTIVE OFFICER, UNIVERSAL SERVICE ADMINISTRATIVE COMPANY

INTRODUCTION

Good afternoon Mr. Chairman and members of the subcommittee. My name is Lisa M. Zaina and I am the chief executive officer of the Universal Service Administrative Company, or USAC, which administers the federal Universal Service Fund (USF or Fund). Thank you, Mr. Chairman, for convening this important hearing today.

I appreciate the opportunity to come before you today to discuss USAC's role in administering the Fund and how USAC can assist the Federal Communications Commission (FCC or Commission) with its Hurricane Katrina rebuilding activities. As we all know, the Gulf Coast was devastated by Hurricane Katrina and then Hurricane Rita. Our hearts go out to all of the survivors who are now struggling to put their lives back together. I would like to say at the outset of this hearing that USAC stands poised to assist the FCC in implementing its Hurricane-related efforts.

USAC looks forward to working closely with the Commission to implement Chairman Martin's September 15th proposals to use $211 million from the Fund for immediate relief to the program participants affected by Hurricane Katrina. In anticipation of implementing Chairman Martin's proposals as quickly, effectively, and efficiently as possible, USAC reviewed its operations to better prepare it to carry out the necessary functions. USAC staff identified initial critical issues to the Commission.

Today, I will discuss USAC's role in administering the Fund. With me today is Mel Blackwell, Acting Vice President of the Schools and Libraries program at USAC. We are happy to answer any questions you may have.

USAC is the private, not-for-profit corporation that administers the USF support programs pursuant to the Commission's Part 54 rules. The four support programs are High Cost, Low Income, Rural Health Care, and Schools and Libraries. USAC is governed by a Board of Directors that includes a broad representation of USF stakeholders. USAC anticipates support to be approximately $7 billion this year in universal service funds with the High Cost Program receiving $4 billion, the Schools and Libraries Program $2.25 billion, the Low Income Program $800 million, and the Rural Health Care Program $44 million.

USAC and its dedicated professional staff are intimately familiar with the operations of the many aspects of the USF. USAC was very pleased to be able to assist the Commission by providing the information it requested regarding USF support in the affected states.

USAC looks forward to working closely with the FCC to implement as quickly, efficiently, and effectively as possible the emergency provisions the Commission adopts. We recognize the proposals as an effort to ensure that people can begin putting their lives back together after the devastation of this disaster and that we must work quickly to ensure that helps gets to where help is needed.

We applaud Chairman Martin and the Commission for the quick response to the horrible devastation caused by Hurricane Katrina. In addition to working with the Commission to implement Chairman Martin's relief proposals, we support the Commission's efforts to quickly address any emergency situation that may implicate the USF in the future. With stakeholders including schools and libraries, rural health care providers, and telecommunications providers, we believe USAC can and will play an important role in providing information and assistance.

As the Administrator, one of the greatest concerns for USAC is protecting the integrity of the Fund. To echo Mr. Feaster's concerns at a hearing before this subcommittee September 28, USAC wants to make certain that it has the operational controls in place to ensure that USF programs and functions are operating in an effective and efficient manner and in compliance with laws and regulations. We are prepared to work with the Commission and the Inspector General to identify additional ways to protect the integrity of the Fund in addition to the many measures

USAC already employs. USAC will have a dedicated team to resolve any administrative issues regarding the proposal.

At the same time, USAC wants to ensure that the process for program participants is streamlined and easy to use. This is a point that Chairman Martin made in his statement at the open meeting September 15th.

USAC stands ready and is prepared to offer additional information to assist the Commission on the operational aspects, as well as on the implementation, of Chairman Martin's proposals—and to work for a future streamlined and more systematic way to address disaster situations, whatever their cause, and wherever they may occur.

Once again, thank you for having me here today to testify on these important issues.

Mr. WHITFIELD. Thank you, Ms. Zaina. At this time, I will recognize Mr. Rawson for his opening statement.

TESTIMONY OF GARY RAWSON

Mr. RAWSON. Thank you. I am Gary Rawson——

Mr. WHITFIELD. Do you have your microphone on?

Mr. RAWSON. Is that better? I am Gary Rawson, State E-rate Coordinator for Information Technology Services in the State of Mississippi. I have been the E-rate coordinator for 8 years since the beginning of the program. I am also chair of SECA, which is State E-rate Coordinators Alliance, and I support this program with all the enthusiasm that I can communicate to you.

As you all know, Katrina was and continues to be the single most devastating natural disaster to strike the United States. Recovery goes well beyond the cleanup of debris, beyond rebuilding of roads and buildings. Recovery will take years. Recovery starts with the communities and the people who make up those communities.

So what do we do first? First, we provide homes for these folks. FEMA and many other groups are working on that issue.

Second, we get the kids back into school. If these kids miss out on the remaining school year, then they must repeat the school year. No child wants to repeat a school year. If these kids have to move up to another community or to another State to stay in school, they will. Parents will follow the kids. Once these kids get into another school, another community, and the parents find new jobs, new homes, and a new life, they may never move back. Communities die because their life-source, the people, have moved on; some because they simply couldn't find a school. We need to do everything we can to get these kids back into school in the shortest time period possible. By today's date, many schools are back in operation. Some may have fewer teachers, some may have fewer students, some may have less of the resources that they need to do an effective job of teaching, but what matters is that the kids are in school and are learning again. And what matters most is that these kids are getting some level of normalcy back into their lives.

We have several stages of devastation related to schools and libraries in the affected areas; little or no damage and we are able to open back up soon thereafter; minor damage and opened—reopened several days or even a few weeks later; sustained significant damage, and repair will take weeks or months, but will be able to reopen before the school year is out; sustained major damage or total destruction and will have to be demolished or rebuilt. The rebuilding may take several years.

In some of these cases, schools were able to relocate in some other facility and resume classes. I have heard of one school that is now located in an empty Wal-Mart building. Other schools merged with another school that had the space and resources to accommodate. Other schools simply closed and students relocated to parts unknown.

What can the FCC and the E-rate Program do to help these schools and yes, these libraries get back into operation? E-rate can only serve a very small need in a situation of many needs. What comes first? Buildings, lights, books, teachers, pencils, paper, buses, fuel, or Internet access. I think the answer is obvious. But we need to get these kids back to where they were before, as disadvantaged as they may be.

Put yourself into the seat of fourth grade student. You used to live in Biloxi, Mississippi. Today, you are sitting in a class in Tupelo, Mississippi. All of your friends are scattered and you have no idea where. You haven't seen any of your teachers since August the 28th when you and your family drove north to escape Katrina. Suddenly, your teacher in Tupelo calls you over to one of the computers in the back of the room, and right there in front of you is the face of your English teacher from Biloxi smiling at you from a video conferencing classroom in Greenville, Mississippi. Imagine the job. Interactive video between classrooms to connect the student to a teacher, that, good people, is what the FCC and the E-rate Program can do.

Time is critical. We need all the help we can get. We hope that all of this help is close to what we will ultimately need. We know that Chairman Martin issued a statement on September 15 that promised 90 percent discount for those affected schools, and that a special Katrina window would be forthcoming. A special window is needed because the current funding year window for services, July 1, 2005 through June 30, 2006, is closed. Thus the need for a new window to give the affected schools and libraries the opportunity to apply for discounts E-rate eligible services to replace services and equipment lost, or to better serve the students that they have retained or absorbed. But how are we, meaning the FCC, USAC, SLD, and the E-rate coordinators, service providers, and the schools and libraries gong to manage this process?

Under current rules and normal circumstances, the technology plan is the foundation from which the applications are based. Contracts are based upon a documented procurement process. But what if all school and district documentation is now scattered northward through the countryside or floating somewhere out in the gulf? How can we be sure if schools and libraries only apply for what they need to get back to where they were before Katrina struck?

We cannot base post-Katrina needs on pre-Katrina applications because many schools, due to their discount level, have never been funded for internal connections equipment or wiring. Now, under Katrina rules, those schools are eligible to replace equipment and wiring they purchased outside of E-rate. How long should this special Katrina relief effort take before we are done? Well, how long does it take to demolish, disinfect, rebuild, and repopulate a community?

How will monies set aside for this special Katrina relief affect the other schools and libraries across the country? It has been proposed that FCC use—that they use rollover funds, funds that were committed but not spent in previous years, but are still available, to be used for the special Katrina window. This would provide $365 million to pay for services requested by the affected schools and libraries during the period of September 1, 2005, just after Katrina, through June 30, 2006, the remainder of this funding year. If this funding mechanism were chosen, the current demand estimate and the current funding request would not be affected.

Are there any other sources of funding, outside of what the other applicants have requested? Yes. Many of the affected schools and libraries will be unable to use the funding they have already been approved for, and funding they have not yet been granted. The services referred to here are those for funding period July 1, 2005 through June 30, 2006. Those dollars should be identified, and can be identified, and used to help fund the Katrina window.

What should happen after this special Katrina window closes and the schools and libraries have not been rebuilt? An affected entity should be granted this relief until they are back to where they were before August 29, no matter how long it takes. Those affected schools and libraries should apply during the regular funding year window, just as everyone else does. Don't create a new process, but do provide priority application review and funding to those entities.

If this becomes known as a special Katrina window or special Katrina relief effort, then where is the special oversight going to come from? As complex and confusing as the Katrina situation is, it would not be fair to the other schools and libraries in the country to be adversely affected by prioritizing limited resources of USAC and FCC with the Katrina relief. Special circumstances call for special considerations. We all want this special E-rate process to stay within the current rules and regulations the E-rate Program where possible. We know there must be some special considerations due to the lost documentation and lost equipment, but the SLD application process should not be compromised. The affected States fully recognize the need for additional scrutiny. We have committed—we the States have committed to provide a level of oversight that has never been available before. The State E-rate coordinators will verify which entities fit the criteria as an affected entity, will verify that they seek only services that will restore them back to the level they were before, and will verify the procurement process that led to the service contract within legal confinements of State law, and will assist in the posting of needed SLD application forms, specifically the Form 471. Specific hands-on training and support will be provided to each applicant, and we submit that no application should be approved without the certified verification of the State E-rate coordinator.

Should schools and libraries that have not applied previously for E-rate discounts be allowed to participate in the Katrina relief? Absolutely. Don't further penalize them because they didn't have the resources or the needed discount level that would allow them to participate now.

My main point is, I don't want you to call me back up here in 3 years and ask me why the Katrina relief effort failed. Thank you.

[The prepared statement of Gary Rawson follows:]

PREPARED STATEMENT OF GARY RAWSON, MISSISSIPPI E-RATE COORDINATOR, MISSISSIPPI DEPARTMENT OF INFORMATION TECHNOLOGY SERVICES

I have been the e-rate coordinator for Mississippi since the program began in 1998. I also serve as the Chair for the State E-rate Coordinators Alliance (SECA) which is made up of approximately 90 e-rate professionals representing 39 states.

As you all know, Katrina was, and continues to be the single most devastating natural disaster to strike the United States. Recovery goes well beyond the cleanup of debris, beyond rebuilding of roads and buildings. Recovery will take years. Recovery starts with the communities and the people who make up those communities. So, what do we do first?

First, we provide homes for these folks. FEMA and many other groups are working on that issue.

Second, we get the kids back into school. If these kids miss out on the remaining school year then they must repeat the school year. No child wants to repeat a school year. If these kids have to move to another community or another state to stay in school, they will. Parents will follow their kids. Once these kids get into another school, another community, and the parents find new jobs, new homes, and a new life, they may never move back. Communities die because their life source, the people, have moved on; some because they simply couldn't find a school.

We need to do everything we can to get these kids back into school in the shortest time period possible. By today's date, many schools are back in operation. Some may have fewer teachers; some may have fewer students; some may have less of the resources they need to do an effective job of teaching. But what matters is that kids are in school and are learning again. And what matters most is that these kids are getting some level of normalcy in their lives.

We have several stages of devastation related to schools and libraries in the affected areas.

1) Sustained little or no damage and able to reopen as soon as power was restored.
2) Sustained minor damage and was able to reopen after a few days of repair work.
3) Sustained significant damage and repair will take weeks or months, but will be able to reopen before the school year is out.
4) Sustained major damage or total destruction and will have to be demolished and rebuilt; the rebuilding may take several years.

In some of these cases schools were able to relocate in some other facility and resume classes. I have heard of one school that is now located in an empty Wal-Mart building. Other schools merged with another school that had the space and resources to accommodate. Other schools simply closed and students relocated to parts unknown.

What can the FCC and the e-rate program do to help these schools and yes, these libraries get back into operation?1E-rate can only serve a very small need in a situation of many needs. What comes first . . . buildings, lights, books, teachers, pencils, paper, buses, fuel . . . or internet access. I think the answer is obvious. But, we need to get these kids back to where they were before, as disadvantaged as they may be.

Put yourself in the seat of a 4th grade student. You used to live in Biloxi Mississippi. Today, you are sitting in a class in Tupelo Mississippi. All of your friends are scattered and you have no idea where. You haven't seen any of your teachers since August 28th when you and your family drove north to escape Katrina. Suddenly, your teacher calls you over to one of the computers in the back of the room, and right there in front of you is the face of your English teacher smiling at you from a video conferencing classroom in Greenville Mississippi. Imagine the joy.

Interactive video between classrooms, to connect a student to a teacher. That, good people, is what the FCC and the e-rate program can do.

Everyone in the country is asking the same questions: "Why don't those Katrina folks let the FEMA money, and the insurance money and those billions of dollars Congress has approved fix everything?" That is a very good question. Here is my response:

1) FEMA pays a percentage (75% last I heard) of the depreciated value.
2) FEMA takes a very long time to pay.
3) Insurance pays the depreciated value, less the deductable, IF the insurance company decides the losses were covered under the policy.
4) Often, insurance has a cap on what it will pay. Here, we are talking large dollars that simply go beyond the scope of some insurance.
5) Congress has approved the funding, but where is the money?

Time is critical. We need all of the help we can get. We hope that all of the help, and we have been blessed with a lot of help, is close to what we will ultimately need.

We know that Chairman Martin issued a statement on September 15th that promised a 90% discount for those affected schools and that a special Katrina Window would be forthcoming. A special Window is needed because the current funding year Window, for services July 1, 2005 through June 30, 2006 is closed. Thus, the need for a new Window to give the affected schools and libraries the opportunity to apply for discounts on e-rate eligible services to replace services and equipment lost, or to better serve the students they have retained, or absorbed.

But, how are we, meaning the FCC, USAC, SLD, the e-rate coordinators, service providers, and the schools/libraries going to manage this process?

Under current rules, and normal circumstances, the technology plan is the foundation from which the applications are based. Contracts are based upon a documented procurement process. But, what if all school and district documentation is now scattered northward through the countryside, or floating somewhere out in the gulf? How can we be sure schools and libraries only apply for what they need to get back to where they were before Katrina struck?

We cannot base post-Katrina needs on pre-Katrina applications because many schools, due to their discount level, have never been funded for internal connections equipment or wiring. Now, under Katrina rules those schools are eligible to replace equipment and wiring they purchased outside of e-rate.

How long should this special Katrina relief effort take before we are done? Well, how long does it take to demolish, disinfect, rebuild, and repopulate a community?

How will the monies set aside for this special Katrina relief affect the other schools and libraries across the country? It has been proposed to the FCC that rollover funds (funding that was committed, but not spent, in previous years, but is still available) be used for the special Katrina Window. This would provide $365 million to pay for services requested by the affected schools and libraries during the period September 1st, 2005 thru June 30th, 2006. If this funding mechanism were chosen the current demand estimate, and the current funding requests, would not be affected.

Are there any other sources of funding, outside of what the other applicants have requested? Yes. Many of the affected schools and libraries will be unable to use the funding they have already been approved for, and the funding they have not yet been granted. The services referred to here are those for funding period July 1st 2005, through June 30th, 2006. Those dollars should be identified and used to help fund the Katrina Window.

What should happen after this Special Katrina Window closes and the schools and libraries have not been rebuilt? An affected entity should be granted this relief until they are back to where they were before August 29th, no matter how long it takes. Those affected schools and libraries should apply during the regular Funding Year Window just as everyone else does. Don't create a new process. But, do provide priority application review and funding to those entities.

If this becomes known as the Special Katrina Window, or Special Katrina Relief Effort, then where is the "Special Oversight" going to come from? As complex and confusing as the Katrina situation is, it would not be fair to the other schools and libraries in the country to be adversely affected by prioritizing the limited resources of USAC and FCC with Katrina relief. Special circumstances call for special considerations. We all want this special e-rate process to stay within the current rules and regulations of the e-rate program, where possible. We know there must be some special considerations due to lost documentation and lost equipment, but the SLD application process should not be compromised. The affected states fully recognize the needs for additional scrutiny. We have committed to provide a level of oversight that has never been available before: the state e-rate coordinators will verify which entities fit the criteria as an "affected" entity, will verify they seek only services that will restore them back to the level they were before, will verify the procurement process that led to the service contract (within the legal confinements of state law), and will assist in the posting of the needed SLD application forms (specifically the 471). Specific hands-on training and support will be provided to each applicant. We submit that no application should be approved without the certified verification of the state e-rate coordinator.

Should schools and libraries that have not applied previously for e-rate discounts be allowed to participate in the Katrina Relief? Absolutely. Don't further penalize them because they didn't have the resources or the needed discount level that would allow them to participate now.

If this special relief were granted today, how long before schools and libraries felt the benefit? If the relief were granted today, and the Special Katrina Window

opened tomorrow morning, 471s would be filed tomorrow evening, and those applicants would anxiously wait for a Funding Commitment Decision Letter (FCDL).

Will the existing e-rate process work in this special case? Absolutely.

I don't want you to call me back up here in three years and ask me why the Special Katrina Effort failed.

I want to sincerely thank you for the opportunity to speak with you today.

Mr. WHITFIELD. Thank you, Mr. Rawson, and I thank all of you for your testimony.

Ms. Zaina, I want to just start of questions with you this afternoon. Mr. Stupak, in his opening statement, mentioned the fact that the requirement for expenditures to reconnect these schools and libraries may be such that it may be required to, for other schools and libraries around the country, that they may not receive the funding that they expected because of the special needs in the Katrina area. I think there is something referred to as an overflow fund, and I would ask you, is Mr. Stupak's concern a legitimate concern for us, or how do you decide when to use the overflow fund and so forth?

Ms. ZAINA. Sir, the overflow fund, it is the rollover fund and it would be used at the recommendation of the FCC. Essentially, the rollover fund is basically the residual left from the contingencies that we build into the program, whether or not there will be appeals monies available and the like. And currently, that rollover fund is at $365 million. So whether we use the rollover fund, affects the magnitude of the effect on the other schools and libraries in the country, as compared to those in the gulf States. The $2.25 billion, if we were to take it out of that and not use the rollover fund, they would be immediately directly affected. If we use the rollover funds, the magnitude might be different, depending upon how the commission tells us to use the rollover funds.

Mr. WHITFIELD. Okay. And that would be the decision of the FCC?

Ms. ZAINA. Yes, sir.

Mr. WHITFIELD. Okay. Now, on September 21, 2005, you sent a letter to the chairman and the commissioners at FERC, and I think everyone has a copy of this, in which identified certain areas of concern that would have to be addressed as we try to respond to the needs created by Hurricane Katrina. Have your concerns been met that you express in this letter?

Ms. ZAINA. Mr. Chairman, we sent that letter on September 21 in order to allow the commission to deliberate about all of the concerns we felt would be necessary for them to consider as they transferred or created this proposal and turned it into an order that could be operationalized. We asked questions about eligibility. We asked questions about programmatic issues. We asked questions about implementation. And to date, we have not had any discussions with the commission regarding those issues that we raised. We have, however, had discussions with the commission on the September 28 order, the September 28 letter that we sent pursuant to their waiver order about—with the deadlines.

Mr. WHITFIELD. And without objection, I am going to ask that this—your letter be placed into the record. Yes, all three of you. All three of them. Thank you.

[The information referred to follows:]

USAC

Universal Service Administrative Company

Lisa M Zaina
Chief Executive Officer

September 16, 2005

The Honorable Kevin J. Martin
The Honorable Kathleen Q. Abernathy
The Honorable Michael J. Copps
The Honorable Jonathan S. Adelstein

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

Dear Chairman and Commissioners:

USAC looks forward to working closely with the Commission as it addresses the details of the proposal outlined by Chairman Martin this week to use over $200 million in Universal Service Funds for immediate relief to consumers and businesses harmed by Hurricane Katrina. USAC was very pleased to be able to assist the Commission by providing the information it requested regarding Universal Service Fund support in the affected states.

The unprecedented proposal will require a significant level of cooperation between the Commission and USAC in its role as the Administrator of the Universal Service Fund. USAC will want to implement the emergency provisions the Commission adopts as quickly, efficiently, and effectively as possible. We recognize this proposal as an effort to ensure that people can begin putting their lives back together after the devastation of this disaster.

Close cooperation between USAC and the Commission will allow USAC to be better prepared to adjust its operations as necessary to be responsive to the Commission's directives. USAC considers it a privilege to work closely with the Commission and assist it in its efforts to respond to this emergency.

In this spirit, next week we will send a letter identifying some initial critical issues for your consideration in your efforts to craft this relief package.

Sincerely,

Lisa M. Zaina

Enclosure

cc: USAC Board of Directors

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Visit us online at http //www.universalservice.org

Universal Service Administrative Company

Contact:
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Education & Communications
(202) 263-1657

FOR IMMEDIATE RELEASE
September 15, 2005

USAC Applauds Unprecedented FCC Action to Aid Flood-Ravaged Gulf Coast

Washington, DC – Today, FCC Chairman Kevin J. Martin announced unprecedented steps to provide immediate relief to consumers and businesses harmed by Hurricane Katrina including a package of proposals to use available funds from the Federal Universal Service Fund (USF) as part of the larger federal government disaster relief efforts. The USF is administered by the Universal Service Administrative Company and consists of four programs – Low Income, High Cost, Rural Health Care, and Schools and Libraries.

"We applaud Chairman Martin's quick response to the horrible devastation caused by Hurricane Katrina and we will assist the Commission in implementing the unprecedented proposal to use USF funds in helping rebuild the essential infrastructure used by communities in the Gulf Coast region," said Dr. Brian L. Talbott, Chairman of the USAC Board and Executive Director of the American Association of Educational Service Agencies. "We look forward to working with the Commission to ensure that monies from the USF will flow where there is the greatest need."

Chairman Martin's proposals include $51 million in assistance from the Low Income program to provide wireless handsets and a package of 300 free minutes to people without phone service, $28 million in assistance from the Rural Health Care program to public and non-profit health care providers and shelters in the affected areas, and approximately $132 million for schools and libraries from the Schools and Libraries program in the affected region and neighboring regions that will accommodate displaced populations.

In addition, the chairman proposes to assign the highest level of priorities to these schools and libraries for the 2005 and 2006 funding years and will open a new filing window to allow applicants to re-submit requests for Schools and Libraries funding for this year. Chairman Martin also proposes to waive or modify its rules so that Bellsouth can prioritize its use of High Cost program support to help the company rebuild its damaged facilities.

About the Universal Service Administrative Company
The Universal Service Administrative Company (USAC) is an independent, not-for-profit corporation designated as the permanent administrator of the federal Universal Service Fund by the Federal Communications Commission (FCC). USAC administers Universal Service Fund programs for high cost companies serving rural areas, low-income consumers, schools and libraries, and rural health care providers. The Universal Service Fund helps provide communities across the country with affordable telecommunications services. For more information please visit www.universalservice.org.

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USAC

Universal Service Administrative Company

Lisa M Zaina
Chief Executive Officer

September 21, 2005

The Honorable Kevin J. Martin
The Honorable Kathleen Q. Abernathy
The Honorable Michael J. Copps
The Honorable Jonathan S. Adelstein
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Mr. Chairman and Commissioners:

On behalf of USAC, I am following up on my letter of September 16, 2005, in which I stated USAC would identify some initial critical issues for your consideration in your efforts to craft a relief package of proposals to respond to the devastation caused by Hurricane Katrina. While today's Waiver Order addresses some of the deadline-related questions, there are many questions from stakeholders about how an FCC relief package might work. USAC may have further questions after it has had time to review today's order.

In anticipation of implementing the FCC proposals as quickly, effectively, and efficiently as possible, USAC has reviewed its operational procedures and systems operations to better prepare it to carry out the necessary functions. The USAC staff has identified initial critical issues for each of the four programs. An initial list of those critical issues is attached (including some of which were addressed in today's Order).

As the Commission contemplates the actions to be taken by USAC, we would like to discuss some of the ideas presented that may affect current USAC operations and information technology systems. There may be costs associated with implementing any new FCC proposals as changes to USAC operations and systems may be necessary.

USAC looks forward to close cooperation with the Commission in implementing today's directives and others it may issue in the near future. This cooperation is critical for the successful roll out of support where it is most needed. USAC offers some of those questions regarding eligibility, filing windows, filing deadlines, discounts, eligible services, and effect on other applicants, to name a few, for your consideration.

Sincerely,

Lisa M. Zaina

cc: USAC Board of Directors

2000 L Street, N W , Suite 200, Washington, DC 20036 Voice: 202.776.0200 Fax: 202 776 0080
Visit us online at: *http://www.universalservice.org*

Universal Service Fund

High Cost Program

Eligibility Issues

- What components of the High Cost program are included in the relief package?
  - High Cost Loop
  - High Cost Model
  - Interstate Access Support
  - Interstate Common Line Support
  - Local Switching Support
  - Safety Net Additive Support
  - Safety Valve Support
- Which carriers will be eligible for support?
  - Rural incumbent carriers (ILECs)
  - Non-rural incumbent carriers
  - Competitive carriers (CETCs)
- Will carriers eligible for relief need to be designated as eligible telecommunications carriers (ETCs) by their states and have current component eligibility and certification?

Incumbent Issues

- Who are the affected carriers? Besides BellSouth, what other rural ILECs or non-rural ILECs were impacted by Katrina and are they eligible for relief?
- For BellSouth, does the relief proposal apply to all of BellSouth's support across states or just to support in the affected states? That is, can BellSouth use support from another state (e.g., Georgia, South Carolina, etc.) in Louisiana, Mississippi, or Alabama?
- If BellSouth is allowed to use federal USF support from other states, on an interim basis, what outreach and communication must be done with the other states receiving less support?
  - Will other states receive less support?
  - If not, from where will the support come?

Competitive ETC Issues

- Who are the affected wireline and wireless CETCs and are they eligible for relief?
- If wireless providers receive additional support, how will it be calculated? (i.e., ILEC costs vs. wireless provider costs)
- If based on a wireless carrier's costs, what factors should USAC consider in calculating support?
- Will relief support be limited solely to ETCs or will other telecommunications infrastructure providers be eligible for assistance (e.g., IXCs, ISPs, etc.)
- If only ILECs qualify for additional support, will CETCs competing in those ILECs' territories receive the same per-line amount?

Universal Service Fund

High Cost Program

- Where ILECs are allowed to shift dollars from state to state (e.g., BellSouth, CenturyTel), what is the per-line impact on CETCs in other states?

Programmatic Issues

- Does the Commission anticipate that there will be a special fund for relief separate from the existing High Cost programs?
  - If so, what will be the duration of the separate program? (e.g., 1 year, one-time payment, etc?)
  - Will there be thresholds for participation?
  - What will be the certification requirements?
  - How will the Commission/USAC mitigate against potential fraud, waste, and abuse?
  - What other sources of emergency funding are available to carriers impacted, and is there a monitoring mechanism to ensure that only what is needed is allocated?
  - For traffic-sensitive and common line pool members that may participate in the special funding, how will the additional support be accounted for in the Local Switching Support (LSS)/Interstate Common Line Support (ICLS) true-up processes?

Data Collection and Processing

- Are new forms required to implement the relief initiative?
  - Will the Commission waive the OMB-approval requirement for any new forms required to collect information regarding the new support initiative?
  - If OMB approval is required, will the Commission request expedited, emergency approval (i.e., within 24 hours) from OMB?
  - Can USAC use a sample letter, with certifications, instead of a form to collect information from carriers to process support claims?
  - If USAC is required to create new forms, are there Paperwork Reduction Act issues that must be waived? If so, how is that done?
- Current business processes dictate that the next demand projection that USAC files with the Commission will be for 1Q2006. What, if any, additional FCC filings may be required by USAC?
- Will there be waivers of filing deadlines for companies or states impacted by Hurricane Katrina? (e.g., use certifications, line counts, rate comparability filings for High Cost Model states)
- How should USAC report lines served as of 9/30/05 in March 2006 for 3Q2006 projections? What constitutes a line "served" where there is no end user or the infrastructure no longer supports the line because of storm damage?

Universal Service Fund

High Cost Program

- Does the Commission plan to revise the "WCData" information in the High Cost Model to broaden High Cost Model support to include Louisiana?

Implementation Issues

Financial Issues

- Will payments be expedited for BellSouth and/or other carriers impacted by Hurricane Katrina? For example, will BellSouth receive all projected 4Q2005 support in a lump sum?
- How does the Commission propose to obtain the additional dollars that are expedited and from where should it come?
  - Schools and libraries funds?
  - Increased contribution factor?
  - Double billing of monthly contributions?
  - Should billing of additional relief funds begin sooner than 4Q2005?
- Will there be special rules for audits of monies disbursed under this emergency proposal?

Contribution Factor

- Will there be contribution relief for carriers/contributors impacted by Hurricane Katrina?
  - If not, what is the applicability of the Red Light Rule when is it triggered under these special circumstances if there are delays in contributions from affected entities?
  - What form will relief take?

Universal Service Fund
Low Income Program

Eligibility Issues

- What is the definition of an eligible individual/consumer?
  - Must someone be eligible for FEMA disaster assistance to receive a free wireless handset and 300 wireless plan minutes?
  - Which FEMA definition will be used to identify eligible disaster-designated counties and eligible consumers?
    - **Individual Assistance** - *Assistance to individuals and households*
    - **Public Assistance** - *Assistance to State and local governments and certain private nonprofit organizations for the repair or replacement of disaster-damaged facilities*
- Will support be available to individuals/evacuees residing in any state?
- Must an eligible individual be without any telephone service?
- Are there minimum age requirements?
- May eligible individuals choose any wireless service provider?
- If an eligible individual has a functioning wireline connection in his or her name, is the individual still eligible for the free wireless handset and 300 minutes of use?
- If an eligible individual does not have a wireline connection in his or her name, but has access to a wireline telephone, is the individual still eligible for the free wireless handset and 300 minutes of use?

Programmatic Issues

- Does the Commission anticipate that there will be a special fund for relief separate from the existing Low Income programs?
  - If so, what will be the duration of the separate program duration? (e.g., 1 year, one-time payment, etc?)
  - How will the Commission/USAC mitigate against potential fraud, waste, and abuse?
- Are new forms required to implement the initiative?
  - Will the Commission waive the OMB-approval requirement for any new forms required to collect information regarding the new support initiative?
  - If OMB approval is required, will the Commission request expedited, emergency approval (i.e., within 24 hours) from OMB?
  - Can USAC use a sample letter, with certifications, instead of a form to collect information from carriers to process support claims?

- If USAC is required to create new forms, are there Paperwork Reduction Act issues that must be waived? If so, how is that done?

- Must a carrier be ETC-designated by its state to receive support for providing a handset or discounted wireless service and have current eligibility and certification?
  - If ETC designation is required, will support be available for individuals in states that do not have a wireless ETC?[1]
  - If ETC designation is not required, will the wireless carrier be required to complete an FCC Form 498 (Service Provider ID Number and Contact Information Form) to provide USAC with information about where to send disbursement(s) and whom to contact at the company?
  - If ETC designation is not required, should USAC assign a temporary Service Provider Identification Number (SPIN) and Study Area Code (SAC)?

- Is support limited to 300 total minutes of use per subscriber or 300 minutes of use per subscriber per month?
- Are wireless carriers responsible for verifying that participants are eligible for FEMA disaster assistance, if this is the criterion?
- Is support for a wireless handset and 300 minutes of use limited to one per household?
  - If support is limited to one handset and 300 minutes of use per household, how is "household" defined if a family is living in different locations?
  - If support is not limited to one handset and 300 minutes of use per household, can each individual who is eligible for FEMA disaster assistance obtain a handset and 300 minutes of use?
- How should billing address be determined?

Implementation Issues

Financial Issues

- Is the $51 million in assistance to evacuees throughout the country a cap?
  - Are there rules of priority if demand exceeds the cap?
  - Will the $51 million be disbursed as needed or will a certain amount be allocated each month?
  - Is there a cap on the amount of support a company can receive per wireless handset provided?

[1] The following states and territories do not have a wireless ETC: American Samoa, Connecticut, District of Columbia, Maryland, Massachusetts, New Jersey, Rhode Island, and Virgin Islands.

Universal Service Fund
Low Income Program

- Is there a cap on the amount of support a company can receive for providing 300 minutes?

- Will payments be expedited for applicants impacted by Hurricane Katrina?
- What, if any, additional FCC filings may be required by USAC?
- What are the advertising requirements, if any, imposed on carriers and USAC?
- Is USAC (or carriers) required to confirm or collect any records of individuals' eligibility?
- Will there be special rules for audits of monies disbursed under this emergency proposal?
- Will wireless carriers be allowed to charge eligible individuals a service deposit for handsets?

Link Up at Residences in Affected Areas

- Will the Commission waive section 54.411(c), which allows a consumer to receive more than one Link Up benefit only if he or she has moved to a new address?

Universal Service Fund

Rural Health Care Program

Eligibility Issues

- Will the current definition of eligible entities and services be changed?
  - How long will any new definition apply?
  - Will any new definition apply only in affected states?
  - Will the definition of rural be changed or modified?
- Are for-profit as well as not-for-profit entities eligible?
- How will eligibility be determined for American Red Cross shelters?
  - How long will they be eligible?
- What geographic area will be eligible for Hurricane Katrina-related relief?
- Are health care providers in other regions of the country that are treating evacuees eligible?

Programmatic Issues

- Does the Commission anticipate that there will be a special fund for relief separate from the existing Rural Health Care program?
  - If so, what will be the duration of the separate program? (e.g., 1 year, one-time payment, etc?)
  - How will the Commission/USAC prevent potential fraud, waste, and abuse?
- Are new forms required to implement the initiative?
  - Will the Commission waive the OMB-approval requirement for any new forms required to collect information regarding the new support initiative?
  - If OMB approval is required, will the Commission request expedited, emergency approval (i.e., within 24 hours) from OMB?
  - Can USAC use a sample letter, with certifications, instead of a form to collect information from carriers to process support claims?
  - If USAC is required to create new forms, are there Paperwork Reduction Act issues that must be waived? If so, how is that done?
- Will health care providers that file new or revised applications receive support in addition to what they currently are receiving?
- Will the 50 percent discount apply to telecommunications services as well as Internet access charges?

Universal Service Fund

Rural Health Care Program

- Will any deadlines be waived?
- Will there be any build-out discounts available?
- Will the maximum allowable distance (MAD) be waived?

Data Collection and Processing

- Will all current program rules apply?
  - Will there be a competitive bidding process?
  - Will the 28-day posting period apply?
  - Will applicants need to choose the most cost-effective services?
- Will health care providers in the affected areas be given priority for application processing?
- Will all documentation still be required (i.e., contracts, copies of bills, etc.)?

Implementation Issues

Financial Issues

- Is the $28 million in assistance to emergency health care providers in the region a cap?
  - Are there rules of priority if demand exceeds the cap?
- Will payments be expedited for applicants impacted by Hurricane Katrina?
- Will there be special rules for audits of monies disbursed under this emergency proposal?

Review Process and Procedures

- When will the special window open and for how long?
- What are the requirements for the special window?
- What is the relative priority for processing applications filed during the special window?
- How will applicants submit requests to USAC?
- Will USAC use the same means in the existing rules for calculating the discount (i.e., the urban/rural difference)?
- What, if any, additional FCC filings may be required by USAC?

Universal Service Fund

Schools and Libraries Program

Eligibility Issues

- Which schools and libraries are eligible for Hurricane Katrina-related special support?
  - Schools and libraries in the affected Gulf States?
  - Schools and libraries accepting evacuees?
  - Is there a requirement that a school or library must have applied for USF for the 2005 funding year prior to Hurricane Katrina to be eligible for special support?
    - Is a school or library that has never received USF Schools and Libraries support eligible for the special support?
    - How will applications that were received outside of the 2005 filing window be treated?
- How will eligibility be defined?
  - How will schools and libraries that are accepting evacuees be defined and identified?
  - Is there a minimum number of evacuees that a school has to accept in order to qualify?
  - How should this be measured for libraries?
- Is a school or library eligible even if it will not be open during the fund year?
  - Is a school or library eligible if it is operating at another facility that is not usually an eligible location?

Eligible Services

- Will there be any change to the current Eligible Services List?
- What is the applicable Eligible Services List for the special window?
- Will there be modifications to the service substitution process?
  - Can applicants modify the services originally requested?
  - What if delivery of those services has already begun?
  - Must the service substitution meet the current requirements or can the substituted services or products have *different* functionality from the services or products contained in the original proposal?
- Will the "2-in-5" rule for internal connections apply to the special window?

Programmatic Issues

- Does the Commission anticipate that there will be a special fund for relief separate from the existing Schools and Libraries program?
  - If so, what will be the duration of the separate program? (e.g., 1 year, one-time payment, etc?)
  - How will the Commission/USAC prevent potential fraud, waste, and abuse?

Universal Service Fund

Schools and Libraries Program

Data Collection and Processing

- Are new forms required to implement the initiative?
  - Will the Commission waive the OMB-approval requirement for any new forms required to collect information regarding the new support initiative?
  - If OMB approval is required, will the Commission request expedited, emergency approval (i.e., within 24 hours) from OMB?
  - Can USAC use a sample letter, with certifications, instead of a form to collect information from carriers to process support claims?
  - If USAC is required to create new forms, are there Paperwork Reduction Act issues that must be waived? If so, how is that done?
- Will filing requirements for service providers change with the special window?
  - Are there any exceptions to the service provider identification number (SPIN) change rules for any applicant that is receiving relief?
- What forms will be required?
  - Do applicants have to file both the Form 470 and the Form 471?
  - If just the Form 471, when will applicants file their Forms 470?
  - Will there be a new form for Hurricane Katrina relief?
- How will discounts apply for each type of entity (e.g., school, library, consortia)?
  - Are affected schools and libraries eligible for an increased discount listed on their 2005 Forms 471?
  - What discount rates apply for evacuee schools?
  - Are these schools and libraries automatically eligible for a 90 percent discount?
  - What are the requirements for documenting their new National School Lunch eligibility numbers?
  - How will consortia be treated?
    - Is a consortium eligible to apply for more service or a change in discount if one or more of the entities listed on its application is eligible for special relief?
    - Must those additional services be delivered to the affected entities or can they be spread out among all of the entities on the consortium application?
- Does either category of applicant (school or library) receive any additional waivers of deadlines?
  - Invoicing deadlines (recurring and non-recurring)
  - Form 486 deadlines
  - Service delivery deadlines (recurring and non-recurring)
  - SPIN change deadlines
  - 2006 window filing deadlines
  - Appeals deadlines

Universal Service Fund

Schools and Libraries Program

Implementation Issues

Financial Issues

- Is the $96 million in Schools and Libraries USF support for the approximately 600 schools and libraries in Louisiana, Mississippi, and Alabama a cap?
  - Are there rules of priority if demand exceeds the cap?
- Is the $132 million in Schools and Libraries USF support for the schools and libraries affected by the hurricane a cap?
  - Are there rules of priority if demand exceeds the cap?
- Is there a cap on the support that each applicant can receive?
  - Is the cap tied to the amount of funds requested on applicants' 2005 applications?
- Will payments be expedited for applicants impacted by Hurricane Katrina?
- What, if any, additional FCC filings may be required by USAC?
- Will there be special rules for audits of monies disbursed under this emergency proposal?

Review Process and Procedures

- When will the special window open and for how long?
- What are the requirements for the special window?
- What is the relative priority for processing applications filed during the special window?
- How will applicants submit requests to USAC?
- Should USAC use the 2005 PIA Procedures for reviewing these applications?
- Is there any special consideration for invoice reviews, especially service certifications and payment verifications?
- Can either category of applicant add or remove entities from its 2005 Form 471 (specifically, the Block 4 worksheets) without penalty?
- What are the competitive bidding requirements for the special window?
- What are the requirements for status of the technology plan for the special window?
- Will the requirement that the technology plan must support and validate the services requested on a Form 471 be applicable during the special window?
- Will document retention requirements be waived?

USAC

Universal Service Administrative Company

Lisa M. Zaina
Chief Executive Officer

September 28, 2005

The Honorable Kevin J. Martin
The Honorable Kathleen Q. Abernathy
The Honorable Michael J. Copps
The Honorable Jonathan S. Adelstein
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Mr. Chairman and Commissioners:

Attached are issues identified by USAC that the Commission may wish to consider related to the September 21, 2005 Waiver Order (DA 05-2484) addressing deadlines for Universal Service Fund stakeholders affected by Hurricane Katrina. USAC staff has identified questions for your consideration about the High Cost, Low Income, and Schools and Libraries support programs. At this time, USAC does not have additional questions about the Rural Health Care program other than the items raised in my September 21, 2005 correspondence outlining initial issues for consideration.

I believe that close coordination and cooperation between the Commission and USAC is important for timely and successful implementation of the FCC's proposal. We at USAC are anxiously awaiting the forthcoming details of the relief package so that we can implement them as soon as possible.

As the Commission crafts the details of the relief proposals, USAC is prepared to offer additional information to assist the Commission on the operational aspects, as well as on the implementation, of the proposals.

Again, USAC looks forward to working with the Commission in implementing these important directives and others it may issue in the near future.

Sincerely,

Lisa M. Zaina

cc: USAC Board of Directors

Attachments

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Visit us online at: http://www.universalservice.org

Universal Service Fund

Schools and Libraries Program

Eligibility Issues

Clarification of Scope of Waiver Order

- Does the FCC's waiver order apply to State Commissions, carriers, and program beneficiaries in the "affected areas" of the three states as in Paragraph One; **or**
- Does the FCC's waiver order apply to "parties in Louisiana, Mississippi, and Alabama" as in Paragraph Two?

- How will eligibility of program beneficiaries (schools, libraries, consortia) in affected areas be defined?
  - Are all entities in the three states eligible? ***or***
  - Are entities eligible only in the affected counties identified by one of the two FEMA definitions? If so, which definition should be used?
    - **Individual Assistance** - *Assistance to individuals and households;* ***or***
    - **Public Assistance** - *Assistance to State and local governments and certain private nonprofit organizations for the repair or replacement of disaster-damaged facilities.*
  - Are service providers that are serving entities in other locations, but whose offices are in the "affected areas," eligible?
  - Consortia Eligibility
    - If one of the entities listed on Block 4 of a Form 471 is eligible but the consortium is not, how is eligibility defined?
    - Must the entity listed on Block 1 of a Form 471 also be located in the "affected areas" in order to be eligible for the waiver?
  - Are the schools and libraries that are accepting evacuees from the affected areas eligible? In which states?

Programmatic Issues

- Red Light Rule
  - What is the impact of red light in the waiver period?
  - Are COMAD deadlines waived? (Please note that this will halt any actions that would lead to turning on the Red Light Rule and DCIA transfers).
  - Is Red Light Rule dismissal of applications waived?

- Document retention waiver.
  - Is the document retention waiver available to all applicants (affected and non-affected) automatically?
    - Will verification/certification, under penalty of perjury, be required to indicate records or documentation was destroyed?
  - If the record-keeping requirements are waived as described in paragraph three of the Waiver Order, is it possible to have an audit finding for failure to provide records that substantiate an applicant's support claim?

- Invoice deadline.
  - The invoice deadline for non-recurring services falls on January 28, 2006, two days after the end of the extension period. Is this deadline also waived?

Universal Service Fund

High Cost Program

Eligibility Issues

Clarification of Scope of Waiver Order

- Does the FCC's waiver order apply to State Commissions, carriers, and program beneficiaries in the "affected areas" of the three states as in paragraph one of the Waiver Order; **or**
- Does the FCC's waiver order apply to "parties in Louisiana, Mississippi, and Alabama" as in paragraph two?

Programmatic Issues

- Demand Projections
  - If 4Q2005 collections are not sufficient to meet projected demand, from where should payments come?

- Document retention waiver.
  - Is the document retention waiver available to all High Cost recipients (affected and non-affected) automatically?
    - Will verification/certification, under penalty of perjury, be required to indicate records or documentation was destroyed?
  - If the record-keeping requirements are waived as described in paragraph three of the Waiver Order, is it possible to have an audit finding for failure to provide records that substantiate a company's support claim?

- Red Light Rule
  - What is the impact of red light in the waiver period?
  - Should USAC continue to "net" dollars for pre-August 29, 2005 debt?
  - Are debts owed to the FCC resulting in holding of all disbursements subject to waiver?

Universal Service Fund

Low Income Program

Eligibility

Clarification of Scope of Waiver Order

- Does the FCC's waiver order apply to State Commissions, carriers, and program beneficiaries in the "affected areas" of the three states as in Paragraph One; **or**
- Does the FCC's waiver order apply to "parties in Louisiana, Mississippi, and Alabama" as in Paragraph Two?

Programmatic Issues

- Currently any ETC can go six months without filing an FCC Form 497 and still receive a monthly Low Income support payment. Should Low Income support be discontinued if a company in the affected area has not filed for six months or more by January 26, 2006?

- Document retention waiver.
    - Is the document retention waiver available to all Low Income recipients (affected and non-affected) automatically?
        - Will verification/certification, under penalty of perjury, be required to indicate records or documentation was destroyed?
    - If the record-keeping requirements are waived as described in paragraph three of the Waiver Order, is it possible to have an audit finding for failure to provide records that substantiate a company's support claim?

Mr. WHITFIELD. Mr. Rawson, the FCC states that it is considering relying upon FEMA determinations to identify schools and libraries that should be eligible for Katrina-related relief. Does every school in the FEMA zone need E-rate assistance, or have you been able to assess that?

Mr. RAWSON. Yes, we have assessed that. No, every school in the FEMA-defined region does not need E-rate support or even rebuilding. There is minor damage and considerably lesser chance of damage to E-rate-eligible services. There may be schools that are fairly close to the coast that sustained very minor damage. And then you go 150, 200 miles inland and you will have another school that was damaged considerably by trees or wind damage to the roof or flooding or whatever it might be. So no, we have already surveyed all school districts who, in turn, let us, the State, the State Department of Education, know the level of damage for all entities.

Mr. WHITFIELD. And what percent of the schools in that—in the FEMA-designated area would you say needed assistance?

Mr. RAWSON. We haven't done a calculation of the percentage. It is—it is just various schools and with various damage.

Mr. WHITFIELD. Okay.

Mr. RAWSON. And some minor, some major.

Mr. WHITFIELD. Have you come to the conclusion on the amount of money that may be needed in the schools that do have needs?

Mr. RAWSON. No, we have not, because the needs vary and certainly within the E-rate application, the data provided through that, that is—that doesn't provide the information we need, either, because many of the schools haven't used the E-rate funds to provide their infrastructure.

Mr. WHITFIELD. And how would explain or define or describe the coordination between the FCC, USAC, and your colleagues following the Katrina relief proposals?

Mr. RAWSON. Well, up to this point, there is not really a Katrina proposal that we know of, that we have been told about, we, being the applicants. So we are waiting on an order from the FCC, and then we will react accordingly.

Mr. WHITFIELD. Okay. Okay.

Mr. RAWSON. May I add one more thing, though? We, being the tri-State area, Alabama, Mississippi, and Louisiana, did submit a proposal for Katrina relief to the FCC. And I think——

Mr. WHITFIELD. Yes. Would you elaborate on that? When did you do that?

Mr. RAWSON. Oh, goodness. I have forgotten the date, but it is—it was about the 18th of 20th of September. As a matter of fact, the day that he came out with the original order on the 15th, we were scurrying to get our Governors to sign the letter. And the 15th was a Thursday, and the following Monday is when we submitted to the FCC.

Mr. WHITFIELD. Yes. Mr. Navin, let me ask you, when you all formulated this relief plan, which all appreciate your doing very much, how did you, for example, determine that there would be 600 schools that might be affected?

Mr. NAVIN. At the time that the chairman announced his intention to present an item to his fellow commissioners about a relief package, we had been contacted at that point by the Governors of

Mississippi and also Louisiana, and in addition, I believe, the superintendent of schools for the State of Alabama. They were all asking for some special consideration by the commission relating to E-rate funding. I believe that using historical data, we were able to come up with a figure of approximately 600 schools, and we looked at the type of priority to funding that those schools demanded or requested in earlier years.

Mr. WHITFIELD. Now, do you have any idea of when the final order will be completed?

Mr. NAVIN. I know that the chairman has sent a proposal to the other commissioners. I know that they are continuing to debate some of the finer points of that proposal. For me to put a timeframe on it, I think it would be unfair to those deliberations, but I will say that they have certainly engaged on the finer details of the order, and they recognize the urgency of getting the order out as soon as possible so that the relief in the order gets to the affected areas as soon as possible.

Mr. WHITFIELD. Ms. Zaina, have you had any discussions with them on timeframe for the final order?

Ms. ZAINA. No, sir, we haven't.

Mr. WHITFIELD. Okay. So, Mr. Navin, since the announcement of the program, have you consulted or been in pretty detailed discussions with USAC about possible implementation of the program or not?

Mr. NAVIN. My staff is in daily contact with USAC on a variety of issues. We also, having received the letters from USAC raising various questions, have tried to incorporate those issues into the draft item where possible—where it was possible to do so. So we certainly have recognized those issues. The chairman has requested that, to the best of our ability, we address those issues in the item.

Mr. WHITFIELD. Okay. Well, my time has expired, so I will recognize Mr. Stupak for 8 minutes.

Mr. STUPAK. Thank you, Mr. Chairman.

Mr. Navin, you testified that you are committed to making sure that USF monies are used and are well spent and the program is protected from potential fraud, waste and abuse. Yet our subcommittee's investigation found a program rife with waste, fraud and abuse, and the FCC IG remains concerned that Katrina rebuild will result in more abuse, especially when you testified that there will be regulatory relief which, in my mind usually means less controls and more possibility to open up for fraud. So what is the status of the planned 700 audits that were promised? It is my understanding that the they were at the chairman's office from March until August 15, and where have they gone now? Who is holding those things up?

Mr. NAVIN. That might be a question better put to the FCC's IG. One of the things Chairman Martin has tried to do early in his——

Mr. STUPAK. Okay. Well, let me go to Mr. Feaster, then. Do you know the answer, of who has the audit reports now?

Mr. FEASTER. Yes, sir. Excuse me. The plan was held up, the three-way plan you are referring to——

Mr. STUPAK. Right.

Mr. FEASTER. [continuing] and audits, was held up during the transition from Commissioner—Chairman Powell to Chairman

Martin. During that time, the general counsel's office found that the way that the people were selected for—the contractors were selected, there were two flaws in the selection process. This was presented to me in consultation with the chief of the Wireline Bureau and the commission's managing director. We felt it was best to re-complete the thing, re-complete the contract application. And we expect to have a final contract within 90 days in place to start on those audits.

Mr. STUPAK. This final order that the chairman is trying to get done and have the commissioner sign on how they are going to rebuild, shouldn't we have a good understanding of what is in those audit reports before you do a final order, because aren't we bound to repeat the same errors?

Mr. FEASTER. I think we have some background based on about 150 audit reports that we have done to date. And any changes in the processes and procedures, we would apply to those new audits so we—they would be in our audit plan to look at those type of situations.

Mr. STUPAK. And I don't mind them helping to rebuild, but I don't want to build on a program that we have had a lot of problems or discussions on, if we are just going to do another rebuilding on flawed foundations. So let me ask this question, Mr. Navin, if I can. Puerto Rico Telephone I mentioned in my opening statement, about $1,500 per month they charged for hundreds of lines, even though they weren't used. Have you or the commission been put on notice that telecom or other Internet service providers are priority one services; that they will not be paid for connections that are unusable during this time they have been down due to the hurricane, or are we still paying $1,500 a month for these lines? Do you know?

Mr. NAVIN. I don't know the answer to that specific question. What I can say is that one of Chairman Martin's first priorities when I became bureau chief was to take a look at the Universal Service Program and consider fundamental structural reform of the program, for purposes of addressed both Congress' and the IG's——

Mr. STUPAK. Sure. But in your opening, you mention all this stuff about you were immediately getting things back in repair and all this, and did anyone check to see, are you still paying for lines that aren't being used?

Mr. NAVIN. During the outreach, it is my understanding from some of the personal outreach that I did, that carriers were asked for consideration on that issue. I don't have any statistics in front of me right now that I can I provide you concerning the number of carriers who agreed to stop billing and the number of carriers who said no, we were under a contract and we are gong to continue to bill.

Mr. STUPAK. So they could, under contractual obligations, continue to charge $1500 and we really have no recourse other than they are good heartedness. Will that be changed in the new—in this final order that is coming up? I mean, that is just one example of just waste, if the thing goes down, and not to any fault of theirs, but I mean, should we continue to pay?

Mr. NAVIN. We are certainly aware of that issue, and I do not know whether the final order will specifically address that or not.

Mr. STUPAK. Well, I hope you express our concerns. Of the 600 libraries and schools you have identified, are all these schools and libraries going to be rebuilt, or are some of them not going to be rebuilt? Do we know that yet?

Mr. NAVIN. I think the answer is, we don't know that, and I think what is important on this point is that, what our order proposes, or what the chairman's proposal does, is to make these schools and libraries eligible. It doesn't guarantee them support, and to the extent a school or library is not rebuilt, then they will not be filing for additional support under priority two for internal connections.

Mr. STUPAK. You know, we mentioned a little bit about the rollover rate there, that $360 million that rolls over. I am not quite sure how disadvantaged—disadvantaging, I should say—other schools nationwide is the best policy to pursuing—to be pursued here. Isn't there any other place we can subtract money from? For instance, won't there be an E-rate money from 200? And then that is the rollover money. Why couldn't we just use those—that money instead of obligating other school districts' promised money to rebuild the gulf?

Mr. NAVIN. I think it is difficult for any of us to say what the exact impact is going to be at this point in time because of the cash management system that is used at USAC. It is——

Mr. STUPAK. So then, why won't we start with the rollover money so we don't impact other promised money?

Mr. NAVIN. Well——

Mr. STUPAK. Use that first until we know.

Mr. NAVIN. [continuing] there is currently enough money in the fund today to cover all priority one requests.

Mr. STUPAK. Including those in other parts of the country?

Mr. NAVIN. Correct. Yes, for priority one requests, that is true. For priority two requests——

Mr. STUPAK. Correct.

Mr. NAVIN. [continuing] what our order proposes to do is to recognize that those schools and libraries in the disaster area are now some of the neediest schools in the country.

Mr. STUPAK. Sure.

Mr. NAVIN. And therefore we treat them as such.

Mr. STUPAK. But before you commit that money, we should probably determine how many schools and libraries there are, when they are going to open, and the extent of the damages. It sounds like Mississippi has done some of that, Mr. Rawson, and I am sure there has got to be some of them there that just aren't going to open because of lack of population and other things, and putting an expensive system in a school that may or may not open, or even doing the basic wiring wouldn't be worth it right now. Is that fair to say?

Mr. RAWSON. Well, we don't know. We have to go back and build the schools and see who comes back.

Mr. STUPAK. Sure.

Mr. RAWSON. You know, right now, the people in the communities aren't there because there is little community left, in some cases. But you build the school back and then hopefully your teach-

ers come back, and the students come back when you get some semblance of normal community life.

Mr. STUPAK. But I am sure that Mississippi and others aren't going to build a school and hope they come. I mean, you are going to have some kind of foundation that people are going to be returning. And again, I am sure we all want them back as soon as possible, but some of these areas, it is going to take a long time before they get back. So I don't want to be committing funds for a school that may or may not ever come back, and then the rest of the priority two or someone gets pushed back for another year. See, that is what I am concerned about. We all want to help out, but this is what, about our fourth or fifth hearing, and it seems like everyone is promising money and no one knows where it is going or when it is going to be spent, and we are asking everyone else to step back. And I have no problem with that, I just want to make sure there is a plan, that there is a proposal, that we really know what we are talking about instead of just throwing money at it. That is why I am a little perplexed why we wouldn't have the audit report, which shows all the problems we have, before we startup a program again in a massive area, in which we are waving regulations. I just think we are throwing good money after bad at times.

Mr. RAWSON. That is a good point, sir, but you know, which comes first, the chicken or the egg? But you go back and you build Gulfport back. If you don't put the school back, then the people aren't going to come back to Gulfport, or Biloxi or any of the other places that are devastated. The school is part of the restructure and it has to be.

Mr. STUPAK. Absolutely. For many communities, it is the heart and soul of that community. But at the same time, there has to be some plan on areas we are going to rebuild and not rebuild, too.

Mr. RAWSON. That is true. And while I have got your attention, could I give you some statistics related to what you just——

Mr. STUPAK. Sure.

Mr. RAWSON. [continuing] asked a minute ago? The libraries that were destroyed and the schools that were destroyed, you were asking that question.

Mr. STUPAK. Right.

Mr. RAWSON. In Alabama there was one library and one school destroyed. In Louisiana there were four libraries destroyed, 82 schools destroyed, 70 libraries damaged, and 229 schools damaged. In Mississippi there were six libraries destroyed, 28 schools destroyed, 29 libraries damaged, and 280 schools damaged. And recognize that when we wrote this, when we came up with these statistics, we couldn't get into Louisiana and couldn't get into New Orleans to do an assessment there.

Mr. STUPAK. Sure.

Mr. RAWSON. But there is another 212 schools and 13 libraries that were not part of this assessment.

Mr. STUPAK. Well, I agree. And you know, the President says we are going to rebuild New Orleans, and we have an opportunity to make it the new modern city, but that doesn't mean those same libraries will be in those same locations, and those same schools will be in those same locations. So before we start committing and obligating funds that we may not have and impact the rest of the Na-

tion, maybe we ought to figure out where the places the libraries and schools are going to be before we make these commitments and withhold funds from other parts. And I certainly appreciate the answers from everybody on this panel.

Thank you, Mr. Chairman, for your patience.

Mr. WHITFIELD. And I might also add that it is our intention to offer everyone a second round of questions as well. So at this time, I recognize Ms. Blackburn for 11 minutes.

Ms. BLACKBURN. Thank you, Mr. Chairman, and I want to thank all of you for being here today. And, Mr. Chairman, I thank you for holding the committee and convening this for us today, because we all do have concerns about the E-rate Program, and we know it has some problems with waste, fraud and abuse.

Mr. Rawson, I will tell you, I was in Jackson and Meridian, Mississippi this week, on Tuesday, and I will tell you, it makes me proud, for you all, for how you are approaching this issue of recovery, cleanup, reconstruction, and I am appreciative for the thoughtful approach that the Mississippi citizens are using as they move forward, and a lot of commonsense that they are bringing, and that is reflected in your remarks and I thank you for that. I will tell you, there is a little bit of head scratching going on down there, as to why FEMA would do some of the things they are doing, like buying trailers for portable schools from Alaska and hauling them down to Mississippi. You know, it doesn't make a whole lot of sense. And I learned a lot being there on the ground.

Let me ask you this. The E-rate Program money, is that going to be used for Internet connectivity in these portable school buildings? And also, you mentioned putting the students and teachers together via the Internet. How much money are you designating for wireless connectivity? I know, as you look at a lot of what has happened in Mississippi, and the hard-line phones are not up, the cell service is sporadic, this is an opportunity to rebuild and rebuild it right. And, Mr. Navin, I certainly wish that the FCC, in your points, you have three points of things that Chairman Martin, in his aggressive agenda, is putting forth, but you don't mention anything about rebuilding it right. And I think all of us would have liked to have seen something about innovation and doing it right. While you have the opportunity to do it right, for goodness sakes, let us do it right.

But back to my point, Mr. Rawson. What are you all doing with wireless technology as you rebuild?

Mr. RAWSON. Well, we leave that up to the individual school districts and schools to request whichever they want. Yes, there has been much talk about going back now, because we are starting from scratch in many cases, and putting wireless, particularly in the situation where we have temporary services set up, so that Wal-Mart that I mentioned in my write-up, they put in wireless there at the Wal-Mart, then when they move back to the renovated building or repaired building, they can take that wireless technology back with them, rather than hardwiring the temporary locations and then abandoning it when they leave.

Ms. BLACKBURN. Okay. That sound great. Now, Ms. Zaina, looking at wireless versus a traditional hardwired system, has USAC

performed any cost benefit analysis on the hardwired system versus the wireless system? Have you done any of that work?

Ms. ZAINA. We have not done any analysis, Congresswoman, but we do look at the cost of the proposal as one of the most important issues for an entity to be looking at when they do ask for schools and libraries' funding.

Ms. BLACKBURN. Okay. Mr. Feaster, thank you for being with our committee again. I know we have kind of worn you out over the last few weeks. We have lots of questions and you have lots of answers, and we appreciate your time. Are you going to be putting any full-time staff into Louisiana or Mississippi for onsite audits and use of the E-rate funds?

Mr. FEASTER. No, I have no plans to do that. You need to remember that my staff totals—my total staff is 10 people, and there is four people working in the four areas of the USF, so we have quite a small staff. We do have one of my staff on almost continuous travel to assist the U.S. attorneys in investigations.

Ms. BLACKBURN. So you have one staff member, basically, that is designated?

Mr. FEASTER. Yes.

Ms. BLACKBURN. Well, maybe we need to look at taking some of those USF funds and re-designating some of those to cover the expenditure——

Mr. FEASTER. That would be an excellent idea.

Ms. BLACKBURN. [continuing] of those funds so that we are auditing that money as we go. I think that is probably, for the record, the third time you have made us aware——

Mr. FEASTER. Yes.

Ms. BLACKBURN. [continuing] on the size of that staff. I think it is beginning to sink in, sir. And then let me ask you this. There again, bearing in mind that we are aware that you have a small staff, what kind of up-to-the-minute review or ongoing auditing are you going to do on uses of the equipment that is being purchased through the E-rate Program, and then putting that into facilities and being certain that the equipment is going into facilities that actually exist, and that they are in the facilities where students are actually sitting, that these aren't ghost facilities or misdirected facilities?

Mr. FEASTER. Well, right now we are working with USAC. They are conducting 200 audits of various beneficiaries. In our three-way proposal, or three-way plan, where we will do 710 audits, we will have 250 audits of the beneficiaries. What I would plan to do in the next 6 months is that we would ask USAC auditors to, as we do a statistical survey based on the 700, to do some focused audits in some of the areas down in the New Orleans area. And in our typical audit, we always look at how the equipment is being utilized, whether it is hooked up and whether there is people there using it, and that is pretty much in all our audits.

Ms. BLACKBURN. Let me ask you this. As you go through the bid process, is there a part of the contract that requires a description of how the beneficiary is going to use that equipment and for how long?

Mr. FEASTER. The tech plan, and, Lisa, stop me if I am—I should give this one to you, really.

Ms. BLACKBURN. Sir, would you prefer for Ms. Zaina to answer that?

Mr. FEASTER. I would think she could answer it better than I could.

Ms. BLACKBURN. Okay, I will be happy to redirect the question. Ms. Zaina?

Ms. ZAINA. You asked a question about whether or not an entity is going to be using equipment in a certain fashion.

Ms. BLACKBURN. Right. If you require a description for how the beneficiary plans to use that equipment, details on where it is going to be used, how much detail you are asking for in the bid process on the front end, so that you have got something in your audit, your working——

Ms. ZAINA. Yes, we ask a very comprehensive set of questions about how the—how that equipment is going to be used, how the funding is going to be used. We have a very comprehensive application process, a very comprehensive invoicing process on top of that. In addition, we started an initiative this year, Congresswoman, that we are visiting a thousand schools and libraries, determining whether or not these schools and libraries are using the funds appropriately.

Ms. BLACKBURN. Okay. That is great. Thank you for your answer on that. I have just a little bit of time left. Mr. Navin, I want to come back to you, and it is not really a part of the E-rate Program, but I have continued to hear some questions about these handsets, the wireless handsets and the 300 minutes, and some questions on that program and how you all went about that. And I would like to know a little bit about what kind of oversight is in place on that, and monitoring the use for that, and how you are qualifying the residents. I think there are still a lot of questions that are out there. And I would also like to know what other alternatives you all might have considered, other than that handset program.

Mr. NAVIN. I will once again try to answer your question as specifically as I can, while respecting the ongoing deliberations at the agency. You were referring to the commission's proposal, or the chairman's proposal under the Low-Income Program to provide consumers in the disaster-affected area with a wireless handset, and I believe what we announced is that it would be a minimum of 300 minutes and the handset for $130. And what we have done, or as the idea has evolved, is, I think, that we have provided some additional flexibility in the order for carriers to provide these low-income consumers with other types of plans.

As it relates to the auditing or, you know, particular safeguards that we have adopted, relating to that particular plan, I would point out that we are, in the first instance, relying on FEMA's disaster designations and application processes to determine the eligibility for the temporary support, and the checks and balances that are build into FEMA's internal controls and procedures, to ensure that parties are either eligible or ineligible for FEMA support. Similarly, we targeted the temporary support to the counties and parishes and individuals that have suffered the most from the disaster, and I believe that we will be able to identify the counties in the order that are affected.

Ms. BLACKBURN. Thank you, sir. Mr. Chairman, I yield back.

Mr. WHITFIELD. Thank you. At this time, I will recognize the gentleman from Washington, Mr. Inslee, for 8 minutes.

Mr. INSLEE. Thank you, Mr. Rawson, and I am sorry I wasn't here for your whole testimony. But I just wonder if you can address this issue of using rollover funds. Apparently, there is $365 million available, and I just wondered if that makes sense to use that and what affect it would that have on other potential recipients.

Mr. RAWSON. Yes, that does make sense because, if the $365 million rollover funds, which is funding that is left over from previous years, if that were used, it would not affect any of the FCDLs or funding commitment decision letters, that are in place now for the other applicants throughout the country, and also future commitments that are under review at this point. It would totally separate the Katrina window and the Katrina window funding from what is not in process, and life goes on for the rest of country.

Mr. INSLEE. And forgive me for this layman question, but I assume there are other potential recipients of those rollover funds who would not be getting it because they went to the Katrina relief effort. It is not a zero-loss situation, I assume.

Mr. RAWSON. Absolutely. If you take them from somewhere, you know, somebody has got to give it up. But that is true, if the funds are not used, then it rolls back into the general, or to the—added to the $1.25 billion, so yes, that is correct.

Mr. INSLEE. Okay. And could you give us any flavor for what percentage other districts can anticipate reduction or foregone receipts as a result of this relief effort through E-rate?

Mr. RAWSON. The only way to do statistics is to know the overall requests that will come from this, and we have no way of knowing that at this time. But I would think, out of $2.25 billion available to commit, then what we are talking about here would hardly be missed.

Mr. INSLEE. By individual districts?

Mr. RAWSON. That is correct.

Mr. INSLEE. Okay. Now, this is maybe the—not the most welcome question, but let me ask it anyway. Does it—if we want to make this commitment to the Nation's system that are benefited by the E-rate Program, is there argument that we should really—instead of using E-rate funds for this, use general appropriations out of disaster relief so that we don't diminish, even to a small amount, the commitment to the other function?

Mr. RAWSON. I have been asked that question many times, and my response has always been, yes we have FEMA funds, but there are problems with FEMA, about delays in getting funding and FEMA only pays a certain percentage after you take depreciation into consideration. Then there is individual school district insurance, the same thing there, depreciated value, the delays in getting funding. We are trying to get these schools back in operation now, or as soon as possible. E-rate, as convoluted as some of you may think, it is still a clean process. And if we can use the E-rate funds to get that small portion of the needs of the school back in place, we could do that much sooner than we can going through any of these other vehicles that we have available. And speaking of all the billions of dollars committed, I don't know about you, but I haven't seen an armored truck yet go south with any money in it.

Mr. INSLEE. So I may have missed this. You may have talked about this. But do you have any kind of brackets at all about the numbers we would be talking about to have sort of an extraordinary response?

Mr. RAWSON. The numbers of what?

Mr. INSLEE. Of the amount that we would be putting in from E-rate dollars to Katrina response.

Mr. RAWSON. We don't know yet. We have done an assessment of some of the damage, but we don't know what it is going to cost to put those services back in yet. We know a lot about the equipment, we know the connectivity they had, but we have not done individual school site assessments of what it is going to take to get them back to where they were before.

Mr. INSLEE. And I will be happy if some of those E-rates are used to provide people access to the NOAA site, from the National Fluid Dynamics Laboratory that predicts a one-half increase in intensity of hurricanes in the next several decades due to global warming. So I will hope you will plug these students into that, in fact, maybe some Members of Congress, too. Thanks a lot.

Mr. RAWSON. Well, actually, we have been doing that.

Mr. WHITFIELD. Thank you, Mr. Inslee. At this time, I will recognize the gentleman from Oregon, Mr. Walden, for 8 minutes.

Mr. WALDEN. Thank you very much, Mr. Chairman. And I appreciate our panelists today testifying on this very important issue and, Mr. Chairman, your leadership on this issue as well. As you know, this subcommittee, over the last 2 years, has investigated the E-rate Program. Some of you are painfully aware of that. And we will be putting into the record tomorrow in a meeting the report that is now in draft form regarding the E-rate Program and concerns that we have. And obviously, a lot of what we have found over the years in investigating is just this lack of communication and maybe even a relationship between the FCC and USAC.

I am a bit concerned, as I look at how this program was rolled out, that it seemed to come out by press release first with communication second. And I understand to a certain extent the desire of all Federal agencies to step up and respond to this very horrific hurricane and the tragedy that has ensued thereafter, and to do everything possible and kind of cut through the red tape to get things done.

But, Mr. Navin, maybe you can explain. How did the FCC come up with the numbers that it came up with, $132 million that is referenced in the news release? How reliable do you think that number is it? Was that done in close coordination with USAC? Why don't we start there.

Mr. NAVIN. We certainly obtained the historical data from USAC, and what we did is we looked at the schools and libraries in the disaster-affected area.

Mr. WALDEN. Right.

Mr. NAVIN. And based upon historical demand, under priority two, we made the estimate of $132 million. But it is just an estimate.

Mr. WALDEN. How confident are you in that number?

Mr. NAVIN. Again, I think, because of the cash management system at USAC and the way we fund priority one and priority two

services, it would be difficult to specify today exactly how much is going to be—you know, how much is going to be requested. We make them eligible to request. We don't know——

Mr. WALDEN. Okay.

Mr. NAVIN. We know that it will not exceed the $2.25 billion cap.

Mr. WALDEN. Well, I would, yes, hope not, just in the wake of Katrina. There are other schools out there in need as well, and I guess that raises the next set of issues, which is, we have been supplied with the letters USAC wrote to the commission on, I guess, perhaps the 16th of September and then again on the 21st, raising a lot of questions about—pardon me—the FCC roll out of the news release, saying, here is what we are going to do, and waive all these things. And then USAC has come forth with a long laundry list of questions. And I know you have already been asked about this to a certain extent. Do you have answers for these yet?

Mr. NAVIN. What I can tell you for certain is that we have reviewed those questions, and to the best of our ability tried to reflect, in the order, answers to those questions.

Mr. WALDEN. Now, following the issue of the order, I believe there was yet another letter from USAC detailing additional issues of concern and questions. Before you issued the order, does the FCC sit down with USAC and talk about this stuff, or do you guys just share letters back and forth? How does this work? Maybe, Ms. Zaina, do you want to talk about that? What is this relationship?

Ms. ZAINA. Sir, under these circumstances, as per the Katrina situation, we were asked by the commission on September 1 and 2 to provide the commission with some data, which included deadlines for the program——

Mr. WALDEN. Okay.

Ms. ZAINA. [continuing] included recipients of the program——

Mr. WALDEN. All right.

Ms. ZAINA. [continuing] in the affected areas. And then we became aware of the chairman's proposal on September 15, when we were monitoring the open meeting, and on September 16, sent the letter saying we have, you know——

Mr. WALDEN. A lot of questions.

Ms. ZAINA. [continuing] ideas for you so that you can consider them as you deliberate, as you move this proposal and turn it from a proposal into an order. And because of the—knowing that this wanted—this was something that the chairman——

Mr. WALDEN. Right.

Ms. ZAINA. [continuing] wanted to move quickly, we thought it would be expedient if we were to provide a letter with the list of issues that we have, hoping to have a discussion about them. We did not have a discussion about the letter from September 21 with the commission, but the September 28 letter, sir, that you have mentioned, is a letter that was in response to the commission's waiver deadline order, and we have had a—we have had a couple of conversations with the commission regarding that order, but we have not discussed the September 21 issues.

Mr. WALDEN. All right. I have only got a couple of minutes here, so let me try and be brief. Mr. Navin, okay, the commission says, in the wake of Katrina, we are going to waive these rules and expedite this help to schools and lord knows, they need the help. How

about Rita victims? I mean, I hear from people that there is a problem in Texas with schools. We know the problems of hurricanes that have occurred in Florida. We don't get many of them up in the northwest in Oregon, fortunately, but all this will impact what is in the fund and I assume delay other projects in other schools elsewhere. Does this set a precedent that now it will be used, and how are you going to deal with Rita victims? Has the commission reviewed that?

Mr. NAVIN. Fortunately for the FCC, unfortunately for the folks in Texas and western Louisiana, we were very well prepared for Rita, and we started our outreach related to Rita very early in the process. We called public safety answering points and made sure that they had contingency plans in place. We called all the carriers.

Mr. WALDEN. Right.

Mr. NAVIN. This was all before the disaster struck. We have continued that outreach effort. We have continued the outreach effort to western Louisiana——

Mr. WALDEN. Good.

Mr. NAVIN. [continuing] as well as to Texas. And I am sure that there are individual carriers who have been——

Mr. WALDEN. But what about——

Mr. NAVIN. [continuing] harmed substantially, but we have not—what I was just going to say is, to contrast the two situations, in the wake of Katrina, we received letters from several public officials in Louisiana, Mississippi, and Alabama. In the wake of Rita, we did not receive similar inquiries or similar proposals related to that.

Mr. WALDEN. You will after this hearing. But in all seriousness, if you are waiving these rules and expediting the application process and moving money around to deal with broken schools or missing schools in Mississippi and Alabama and Louisiana or wherever, I want to make sure I understand it. Are you saying you are not expanding that to schools that are similarly destroyed in the wake of Rita, or were there none? Maybe there weren't any. I don't know.

Mr. NAVIN. Congressman Walden, what I can tell you is, if someone brings a proposal to the FCC, or someone presents evidence to us to show that that is a remedy that we should be considering as it relates to Rita, I am sure that Chairman Martin would deliberate that proposal and present it to his colleagues. I can tell you that the order that they are currently considering does not include disaster areas related to Rita.

Mr. WALDEN. But wouldn't you say it sets a precedent for similar areas that are similarly—I mean, nobody has been similarly destroyed as in the wake of Katrina, but if you are in Small Town, Mississippi and your school is out in the gulf now, and you are in Small Town, Texas and your schools is washed up the road somewhere, it is the same effect.

Mr. NAVIN. And perhaps the difference is, in the wake of Katrina, the disaster was so widespread, some global order resolving the situation for all schools was perhaps more appropriate. The agency does have a waiver process for individual circumstances, like the circumstances that you are suggesting. So schools would be free to use that waiver process to bring any damage or special circumstances to the commission's attention.

Mr. WALDEN. Why couldn't they have used that waiver process, then, if it is functional and effective in Mississippi and Louisiana?

Mr. NAVIN. I think, because of the number of entities involved, carriers——

Mr. WALDEN. Right.

Mr. NAVIN. [continuing] schools, customers, that it would have been very difficult to use that waiver process, which is really for individual or unique circumstances. And the circumstances in the aftermath of Katrina were common among all of these parties. So——

Mr. WALDEN. All right.

Mr. NAVIN. [continuing] it lent itself to a more global resolution.

Mr. WALDEN. All right. Thank you, Mr. Chairman. I know my time has expired.

Mr. WHITFIELD. Thank you. At this time, I will recognize the gentleman from Mississippi, Mr. Pickering, for 8 minutes.

Mr. PICKERING. Thank you, Mr. Chairman. I want to welcome Mr. Rawson from Mississippi up here, and all the panel. And I do want to put everything into context, that we need to have these schools rebuilt, and a critical component of that is the communications capabilities, the Internet access; of having a good functioning school in an area that has been devastated, that lost its critical infrastructure; that lost, in many of the schools, not only the school buildings, but all the documents. And so what we are talking about today is very important. People will come home when they can send their children to school. Rebuilding their school needs to be a critical first priority. There needs to be a sense of urgency about it. It is appropriate, in times of crisis, to waive rules that make sense in normal circumstances, but do not make sense in a crisis circumstance and disaster.

The second context is that you need to coordinate and communicate with the people most affected, as you develop your rules or your waivers, or we find a more streamlined way to get help to the schools in the rebuilding effort, but to do it in a way that you maintain the accountability standards. And I think that we can achieve those things, and I want to talk to Mr. Rawson, and then the other members of the panel, to see what is the most effective way for us to achieve these objectives.

Mr. Rawson, since Katrina, have you had any communication coordination from the FCC or from any other Federal entity, as it relates to your proposals on E-rate?

Mr. RAWSON. No, I have not.

Mr. PICKERING. No communication?

Mr. RAWSON. No direct communication from them. We have submitted a proposal to them, which you have a copy of, but nothing from them coming back to us.

Mr. PICKERING. Okay. No one initiated communication with you, and no one has responded to your communication to them?

Mr. RAWSON. That is correct.

Mr. PICKERING. That is correct. And this is a disaster, and we have an urgency here, and it is unacceptable not to communicate and not to coordinate with the most affected parties first. Do you think that the FCC estimate of $132 million is accurate, is inac-

curate? What are the needs based on, the schools in Mississippi, and as you talk to your colleagues in Louisiana and Alabama?

Mr. RAWSON. We don't know what the accurate figure would be. It would take a considerable amount of assessment at the individual schools to see what they had before and what they need now, and there is so many variables, temporary services, the kids moving to another school, will they come back? There are many, many variables involved. We cannot put a dollar figure on it now.

Mr. PICKERING. My understanding is that the $132 million estimate is based on last year's applications, is that correct?

Mr. RAWSON. I believe it is.

Mr. PICKERING. Now, $132 million is based received applications, based from in a stable situation with whole schools, under normal circumstances. I would assume that the $132 million, when you have lost everything, is not an accurate projection. Would that be a fair assumption, Mr. Rawson? So you would say that the needs would probably be greater than $132 million?

Mr. RAWSON. I would expect, me, I would say that I would expect $132 million for the three States would not be enough. One factor about the estimate that was provided, that is a verifiable number and that is a good thing. We always want verifiable numbers. But the variable to that is, there were many schools, especially along the coast and various other places, that did not apply for internal connections last year because their discount was too low. Or it could be, you have a 90 percent school in central Mississippi that was destroyed. They didn't apply for internal connection last year because they already had what they needed. The wiring is in place, the equipment is in place. So last year's application figures really have nothing to do with what it is going to take to put those schools back starting from zero.

Mr. PICKERING. Now, the underlying service providers, BellSouth, the other regional communication companies, they have had their complete infrastructure wiped out, is that correct?

Mr. RAWSON. That is correct.

Mr. PICKERING. And the capacity of what they have been able to restore, on a percentage basis, is still very low, especially in the coastal counties along Mississippi.

Mr. RAWSON. That is correct.

Mr. PICKERING. So to have comparable capability to what you had prior to Katrina is going to require significant investment, not only from the private sector, but for the E-rate to give functional equivalencies to your schools, is that correct?

Mr. RAWSON. That is correct.

Mr. PICKERING. Before—Mr. Navin, before the FCC revises its estimate, it seems to me that you should talk to the affected people in Mississippi, Louisiana, and Alabama, before you can make accurate projections so that we as policymakers know what is going to be needed to help rebuild the capabilities that existed prior to Katrina.

The other thing is that the failure to communicate and coordinate shows a lack of urgency. Now, I have been dealing with FEMA a good bit, and I can tell you that the people in the States are very frustrated because it takes so long to get what is needed, because you have to go through so many regulatory red tape, bureaucratic

hurdles. And I would hope that the FCC would want to take lessons learned from sister agencies and try to streamline this process as quickly and as effectively as possible, while maintaining accountability. But let us get help to the people in a quick way, in an effective way, without a lot of red tape, so that these schools can get up and running and that the parents will bring their—not only their families back, the children back to the schools, but the economy of those regions. The economy needs the parents for the jobs, and the parents need the schools for their children, and we have got to do both.

Three hundred and sixty-five million dollars now exists in a rollover fund, is that correct? Would it make sense—if we are trying to do this quickly, would it make sense to send that directly to the affected States, to an appropriate entity, whether it is the E-rate coordinators or to the State Departments of Education, and let them spend it as quickly as possible without all the red tape? Mr. Rawson? Or some portion of that $365 million. It wouldn't compete with any other States, but we could take the $365 million or some number that people can agree to, whether it is $132 million or $200 million or $250 million or $300 million, send it to the States that are affected, send it to the State Departments of Education or the E-rate coordinators, and let you all certify, do your accounting, your documentation, with FCC consultation, but let us cut to through the red tape, get the money and let you rebuild your school and hook up to the Internet. Would that be quicker? Wouldn't that be better?

Mr. RAWSON. It would be quicker. The oversight, the management of that would be a significant and a tremendous burden on the State to do so. Then the other part you have to consider is making sure you don't make it competitive between the States or among the States; that is fair to all the entities that were involved. So there would be some issues, but I will be honest with you, I thought I thought of everything, but you floored me on this one.

Mr. PICKERING. If we did it that way, who would do the oversight? Who would do the monitoring so that everybody in the country could say, this money went quickly, it went effectively, but there was no fraud and abuse? Who would do the backend accountability under that proposal?

Mr. RAWSON. If you keep it under the guidelines of the current system, as far as electrical service is concerned and what is eligible for E-rate discounts, then there would have to be a mirroring between the State and FCC and USAC. We couldn't—I don't think we could divorce ourselves from that. What good is it to steal E-rate funds? But as far as oversight of managing the funding and who is eligible and how much they get and what they replace, then the States could do that. They could certainly do that.

Mr. PICKERING. Would it be quicker, then, to, through the next supplemental appropriation bill, take from the $365 million, give it to the States, but do it based on current FCC guidelines and standards, and FCC accountability at the end?

Mr. RAWSON. It would be quicker, but what is the audit process in the back of that to make sure the funds were used appropriately?

Mr. PICKERING. That would give you both——

Mr. RAWSON. Yes.

Mr. PICKERING. [continuing] quick, efficient, compassionate release of the funds, with accountability assured by everybody.

Mr. RAWSON. Correct.

Mr. PICKERING. Thank you, Mr. Rawson.

Mr. WHITFIELD. Thank you, Mr. Pickering. Your testimony and the questions asked, I am sure, raised some additional issues with members of the panel. And so, Mr. Inslee, would you have any additional questions you would like to ask at this time? Mr. Walden, do you have any additional questions?

Mr. WALDEN. I do, Mr. Chairman.

Mr. WHITFIELD. You are recognized for 5 minutes.

Mr. WALDEN. Mr. Chairman, I would like to ask a question of Mr. Feaster. In your discussion, in your testimony here, sir, page 15, you talked about this process and the audits, and you know that is obviously something this subcommittee has been very interested in over the last couple of years since we have done our investigation, and I wonder if you can detail for me, what was it that caused Chairman Martin to put a halt to the contracting process when he took over? Because, you know, there had been discussions before this subcommittee about how this was online and ready to go and all of that. Can you speak, or maybe Mr. Navin can, as to why?

Mr. FEASTER. What I was told during that, the 3-month process that was held, it was under review by the chairman's office. Then I was later presented with a memorandum from the general counsel's office that listed some problems they had and concerns that they had with the regional procurement.

Mr. WALDEN. Is there not a procurement process in place——

Mr. FEASTER. Well——

Mr. WALDEN. [continuing] for this sort of contracting?

Mr. FEASTER. This was, as we keep referring to it as three-way, is between——

Mr. WALDEN. USAC.

Mr. FEASTER. [continuing] my office, USAC, and a contractor. And USAC's process does not exactly duplicate the FCC's procurement——

Mr. WALDEN. I see.

Mr. FEASTER. [continuing] process. And you may want to ask Lisa, again, if she agrees with that or not.

Mr. WALDEN. Do you agree with that?

Ms. ZAINA. Congressman, I am not completely familiar with our procurement process. All of the steps that we take, we try to follow as many of the procurement process. And for instance, in the FAR requirements, as the Federal acquisition requirements, as we can. So we mimic that, in a sense. And I understand, from what I hear Mr. Feaster saying, possibly, is that there were bidding issues regarding the involvement of the FCC as per the FCC and not necessarily in the process itself. I don't know if that is what I am hearing or not.

Mr. WALDEN. Mr. Navin, can you speak—is it Navin or Navin? I am sorry.

Mr. NAVIN. Navin is the actual correct pronunciation.

Mr. WALDEN. Navin.

Mr. NAVIN. But one of my ancestors determined to turn to it to Navin for some reason.

Mr. WALDEN. Oh, so it doesn't matter.

Mr. NAVIN. So it won't sound like an Irish name.

Mr. WALDEN. Yes, all right. Can you speak to this? I am just perplexed. I mean, that was several months ago. We have been pushing hard, as you know——

Mr. NAVIN. Sure.

Mr. WALDEN. [continuing] about getting these audits going. This is a program that has what, $2 billion-plus allocated every year and 158 audits. That is about 20 a year that get done. And 34 percent of them, according to your own data, show there is problems. I mean, we have had recoveries of $30 million or something. What is the hiccup?

Mr. NAVIN. Well, much of this occurred before I came into my current position.

Mr. WALDEN. All right.

Mr. NAVIN. I started in May of 2005, thereabouts. It is my understanding that the memo that was presented to Inspector General Feaster was—those concerns were memorialized in a memo fairly recently, but that the concerns were raised sometime earlier in the process. So that very well may explain why it got held up.

Mr. WALDEN. And when was that? When was it held up, Mr. Feaster?

Mr. FEASTER. Well, March through——

Mr. WALDEN. June?

Mr. FEASTER. Later than that. Actually, the memo was dated August 16, I believe. So it was being held at least until that period.

Mr. WALDEN. When did that process start to recruit an auditor among the three of you? How long does this take to get done right? I mean, I am starting to feel a little frustrated.

Mr. FEASTER. The answer to that question is 90 days. That is the choice we made, thinking that——

Mr. WALDEN. I know, but how far back does this go? When did you start this three-way audit process under the prior chairman?

Mr. FEASTER. It was 2004.

Mr. WALDEN. When in 2004?

Mr. FEASTER. The spring, late spring, I believe.

Mr. WALDEN. Do you see why I am frustrated——

Mr. FEASTER. Yes, sir.

Mr. WALDEN. [continuing] and why this committee is?

Mr. FEASTER. I am frustrated, also.

Mr. WALDEN. I mean, I am not up here to preach at you, but you know, this stuff is hard to explain at home, it really is.

Mr. FEASTER. I understand that.

Mr. WALDEN. And you know, to have started just figuring out how to get an auditor hire, the contract, in the spring of 2004, it is October of 2005 and you are telling me it is 90 days 3 months from now, right?

Mr. FEASTER. As we have said several—as I have said several times to the committee, we had to go through a second-best process. I have said on several occasions, that we need to do, aggressive oversight, is direct access to the USF, the fund.

Mr. WALDEN. And I don't disagree with that and——

Mr. FEASTER. And somehow keeps not happening each year. Again, in 2006, it was eliminated from our budget request.

Mr. WALDEN. By the Congress?

Mr. FEASTER. By the Congress, yes, sir. And that forced us into a little convoluted situation with the development of this three-way plan.

Mr. WALDEN. My time has expired. Sorry.

Mr. WHITFIELD. Mr. Pickering, do you have an additional round of 5 minutes?

Mr. PICKERING. I do. Mr. Navin, if we wanted to the regular order, when would the $211 million announced by the commissioner, the chairman, when do you think that that order will be done, and the rules for establishing a Katrina fund and the processes by which that is going to be done, when do you think that will be complete at the FCC?

Mr. NAVIN. As I mentioned before, the order, some of the finer details of the order are still being debated among the chairman and his fellow commissioners. So I don't want to give a specific time period. What I can tell you is, we are late in the process. We have dotted many I's and crossed many T's, but at the same time, for me to set a specific period of time would really infringe upon their deliberative process and I don't want to do that today.

Mr. PICKERING. Two weeks, 4 weeks, 6 weeks? A frame of reference that——

Mr. NAVIN. I personally would be—given the speed with which we put the order together, given the speed with which the chairman and his colleagues were able to come to a unanimous consensus on agreement in principle, which in part explains why there was not a lot of back and forth with Mr. Rawson, was because the four commissioners, or the three commissioners and the chairman agreed with his position. So hopefully you will see that reflected in the item. But I think that we are very—we are close.

Mr. PICKERING. And so once that order is completed and is close, then the schools in the States would apply, and you would see disbursements by when?

Mr. NAVIN. I think I defer the disbursement question to Ms. Zaina. But I can tell you that the order will be effective upon release, if the Office of General Counsel allow us to do that.

Mr. PICKERING. Ms. Zaina? So once they did their order, how long would it take you to help the schools in Mississippi?

Ms. ZAINA. Mr. Pickering, we want to be able to disperse those funds as quickly and efficiently and as effectively as we can, with a mind toward program integrity. And I have not had an opportunity to review anything beyond the press release from the chairman on September 15. So questions about eligibility, programmatic aspects, and implementation are critical for us to be able to answer and have answered, and I was very pleased to hear Mr. Navin say that they took our September 21 letter and they worked very closely from it, in order to establish and craft an order based on this. But decisions made on those sorts of things, programmatic, the eligibility, and implementation issues are critical for us to be able to move this money out to the people who are in the greatest need.

Mr. PICKERING. If we were to do a supplemental appropriation in the first 2 weeks of November, do you think that you all will have

the program up and running and dispersing funds by the first 2 weeks of November, given where you are in the regulatory process, and given what you need for program integrity?

Ms. ZAINA. Mr. Pickering, it would depend on, first of all, what the details of the commission's proposal is, because we can't make policy. That is something USAC can't do. What we do is administer the program. So the commission would first have to make the policy, we would first have to understand what that policy is, and then we would be able to craft something to disperse those funds.

Mr. PICKERING. Let us say the FCC complete its work in 2 weeks, so you have your policy guidelines within 2 weeks, would you then be able to disperse to the people and the schools in Mississippi before Thanksgiving?

Ms. ZAINA. I can't answer that question, Mr. Pickering, because I don't know if all of the answers have been given to the questions we raised for purposes of deliberation of the commission.

Mr. PICKERING. You know, this—Mr. Chairman, this is the same type of answers we get on getting our people help through FEMA, and it is just—and there is nothing wrong with the current process or the current agencies. Good people and a good process in normal times. But the Federal Government and rapid response don't go together. And so that just creates a lot of frustration for people who need immediate help to rebuild their communities. And the communities all along the Mississippi coast, the Gulf Coast, they don't have any tax base. It was completely wiped out. And so they are going to have to depend on getting the Federal resources to rebuild our infrastructure, schools, highways, and our communication capability. And what we are trying to do is to have some degree of certainty as to when this is going to happen so that we can plan the rebuilding.

And so I hope that you all would all coordinate closely together, the policy side, the administrative and implementers of the policy, and the recipients and those who are going to be doing it at the local and State level. And that coordination really needs to be improved. I appreciate the commissioners' quick announcement in trying to move this regulatory process. But if we could have better coordination and greater certainty, that helps the emotional well-being as well the recovery of the people most affected, and I would urge you all to do that.

Mr. WHITFIELD. Mr. Pickering, thank you very much. And I would, after listening to all of this today, one thing that is clear is that all of us have the best intentions, but we know that the school systems in Mississippi, Alabama, and Louisiana are now going to be rebuilt without assistance from this program, and not going to be reconnected. And I think Chairman Martin acted with all good intentions, but I think it is very clear from this hearing today that there has been—there is no final order. We don't know when the final order is going to be. There has been a lack of communication between the FCC and USAC, and vice versa, and certainly there has been a lack of communication between Mr. Rawson, as the contact person for the government of Mississippi, and I guess he submitted a report and request for Alabama and Louisiana as well.

And so despite all of these good intentions, it appears that we are not very far down the road when it comes to really offering relief to the needed school systems, and recognizing that some of the schools have already been destroyed, some of them are in makeshift schools, temporary schools, where they are meeting now, and I recognize the complexity of the issue, but it is quite clear from the hearing that we are a long way from delivering much of anything, to be truthful about it. And I would hope that within the next 2 weeks, that Chairman Martin and others, Mr. Navin, maybe you could get this information to them, that we would like an opportunity, Mr. Pickering and others on the Oversight Committee, and other affected members on the Energy and Commerce, to have a meeting and maybe you all could give us a more precise update on what is taking place, when do we expect some action on it? So if you all would take that back and get back in touch with us, we would appreciate it.

I would also say that we are going to leave this record open for 30 days. Mr. Stupak may have some additional questions. We found out that there was an avian flu briefing going on by Secretary Leavitt. It started at 3:15 and he had to get up for that. So we are going to leave it open for any additional questions that someone may have for the panel.

And I do thank you for being here. We appreciate your sincerity, and I think you would agree with us that we are a long way from being very effective at fulfilling the commitment that we have made to the people and school children of Mississippi, Louisiana, and Alabama.

With that, the hearing is adjourned.

[Whereupon, at 4 p.m., the subcommittee was adjourned.]