



March 10, 2017

Ex Parte Notice

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

RE: WC Docket No. 13-184, Modernizing the E-rate Program for Schools and Libraries

Dear Ms. Dortch:

On Wednesday, March 8, 2017, the undersigned on behalf of NTCA–The Rural Broadband Association (“NTCA”)¹ along with Bob DeBroux and Kay Midthun (via telephone) with TDS Telecommunications² met with Dr. Jay Schwarz, Wireline Advisor to Federal Communications Commission (“Commission”) Chairman Ajit Pai. The parties discussed the Universal Service Fund (“USF”) Schools and Libraries (“E-rate”) mechanism, specifically the *2014 E-rate Modernization Order*³ and the *2014 E-rate Second Report and Order*⁴ adopted by the Commission.

TDS began by providing its feedback on the 2014 modernization of the E-rate program based on its experience in providing voice and broadband service to hundreds of rural schools and

¹ NTCA represents approximately 850 independent, community-based telecommunications companies and cooperatives and more than 400 other firms that support or are themselves engaged in the provision of communications services in the most rural portions of America. All of NTCA’s service provider members are full service rural local exchange carriers (“RLECs”) and broadband providers, and many provide fixed and mobile wireless, video, satellite and other competitive services in rural America as well.

² TDS Telecommunications Corporation (“TDS Telecom/TDS”), a wholly owned subsidiary of Telephone and Data Systems, Inc., is the seventh largest local exchange telephone company in the U.S. TDS provides 1.2 million connections to high-speed Internet, phone, and TV entertainment services in more than 150 rural, suburban, and metropolitan communities.

³ *Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, Report and Order and Further Notice of Proposed Rulemaking, FCC 14-99 (rel. Jul. 23, 2014) (“*2014 E-rate Modernization Order*”).

⁴ *Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, Second Report and Order and Order on Reconsideration, FCC 14-189 (rel. Dec. 19, 2014) (“*2014 E-rate Second Report and Order*”).

libraries (as well as a hundreds of thousands of rural residential and business customers) in 27 states. In particular, TDS discussed the phase-out of support for voice service initiated by the *2014 E-rate Modernization Order*⁵ and beginning in funding year 2015. TDS noted that the schools and libraries to which the company provides voice and broadband service have expressed concern with the lack of support for voice service going forward and have stated that continued support for this service is critical for a number of reasons.

For example, a large number of rural schools and libraries may be forced to continue to utilize existing PBX or similar type voice systems that are in many cases decades old, lack a number of essential features that advance the public safety of students (features available with more modern managed Voice over Internet Protocol (“VoIP”) systems, as discussed below), and may have already been scheduled for replacement in the next few years. However, these schools and libraries now face the inability to replace these older and outdated phone systems due to the lack of E-rate support necessary to do so.

TDS and NTCA then stated that the phase down of voice support in the E-rate program may have, unintentionally, created a barrier to the migration to VoIP service by schools and libraries with older systems. More specifically, the Order seems aimed at phasing out support for legacy voice services as part of modernizing the program for the broadband era and incenting applicants’ transition to VoIP services. However, the rapid nature of the phase down⁶ and its application to voice services as a whole is having the opposite effect, limiting and in many cases eliminating schools’ and libraries’ ability to leverage their high-capacity broadband connections and move to a more efficient, modern, and feature-rich (including public safety features as discussed below) VoIP system.

In addition, TDS noted that the voice support phase down has also had a detrimental effect on schools and libraries that began a migration to a VoIP system before the support phase down was initiated. A number of these schools and libraries that have migrated to managed VoIP systems have expressed concern that the reduction of support for voice service may require them to forego the continued use of VoIP functionality that drew them to the service in the first place. For example, managed VoIP services enable schools to have a reliable landline connection in every classroom for public safety purposes. VoIP services also enable school administrators or faculty to create a message remotely for all inbound calls (for instance, to indicate that all students and faculty are safe and can be picked up at a predetermined checkpoint).⁷ Schools now unable to receive any E-rate support for voice services may need to

⁵ *2014 E-rate Modernization Order*, ¶¶ 134-143.

⁶ *See*, Universal Service Administrative Company (“USAC”) Schools and Libraries New Brief (Feb. 9. 2015), available at <http://www.usac.org/sl/tools/news-briefs/preview.aspx?id=599> (showing that E-rate applicants with a 40 percent or lower discount rate, pursuant to the 2014 E-rate Modernization Order, were allowed zero discounts for voice service beginning in funding year 2016.); *See also*, *2014 E-rate Modernization Order*, ¶ 135.

⁷ Beyond these features, many managed VoIP systems have an enormous capacity for concurrent inbound calls so there will not be a busy signal even during heavy periods of usage. This functionality can provide a great sense of relief to parents. A managed VoIP system may also have redundant servers located in different states so the VoIP system can be up and running within seconds if there’s an outage.

move back to outdated voice technology or away from some VoIP features as a cost-cutting measure.

In terms of the public safety issues that should be considered here, it must be remembered that schools' and libraries' continued access to affordable, high-quality and modern voice service continues to be critical for public safety reasons, and that the phase-down of support for voice service in the E-rate program runs counter to the importance of this service as set forth in statute and recent Commission proceedings. For one, as Section 254 of the Communications Act, as amended, makes clear, the definition of universal service includes telecommunications services viewed as essential to public safety.⁸ Nothing could be more basic to public safety in the communications space than the ability to quickly and reliably call 911 in the event of an emergency; also important in a school environment is the ability of teachers and administrators to maintain communication with parents and first responders in such situations. Continued access to voice service support in the E-rate universal service program would not only be consistent with statute, it would be in keeping with the Commission's consistent focus in many other contexts on reliable and redundant access to 911 services. The Commission's 911 reliability and redundancy proceedings,⁹ enforcement actions against local exchange carriers and others for 911 outages,¹⁰ the focus on the reliability of voice service and access to public safety officials in the IP transition proceeding,¹¹ and the adoption of backup power rules for certain voice providers¹² all demonstrate a serious Commission commitment to voice service as *the indispensable form of access to emergency services*. The continued support of voice service in the E-rate program would simply be an extension of that commitment.

In addition, the continued support for modern voice service need not interfere with the broadband availability and affordability goals set forth in the *2014 E-rate Modernization Order* or the *2014 E-rate Second Report and Order*. It would, rather, only increase E-rate applicants' ability to choose the services that best fit their current needs. For instance, a school that already

⁸ 47 U.S.C. § 254(c)(1).

⁹ *Improving 911 Reliability*, PS Docket 13-75, Report and Order, FCC 13-158 (rel. Dec. 12, 2013), ¶ 1 (adopting “rules to improve the reliability and resiliency of 911 communications networks nationwide by requiring that 911 service providers take reasonable measures to provide reliable 911 service”).

¹⁰ New Release: *FCC Fines CenturyLink and Intrado \$17.4 million for Multi-State 911 Outage* (Apr. 6, 2015) (“Delivering 911 calls is one of the most important public safety responsibilities a phone company has.”), available at https://apps.fcc.gov/edocs_public/attachmatch/DOC-332853A1.pdf.

¹¹ *Technology Transitions*, GN Docket No. 13-5, et. al., Declaratory Ruling, Second Report and Order, and Order on Reconsideration, FCC 16-90 (rel. Jul. 15, 2016), ¶ 127 (adopting the “adequate replacement” test in the context of Section 214 discontinuance applications that involve technology transitions and stating that the second prong of that test requires that “a replacement service complies with Commission requirements pertaining to accessible, accurate, and reliable 911 service.”).

¹² *See*, *Ensuring Customer Premises Equipment Backup Power for Continuity of Communications*, PS Docket No. 14-174, FCC 15-98, Report and Order (rel. Aug. 7, 2015) (“Report and Order”).

utilizes a high-capacity broadband connection that meets the speed targets set forth in 2014¹³ and that meets their educational needs for the foreseeable future may now need support for improved voice service. Moreover, the support for an upgraded voice service would allow the school to leverage their high-capacity broadband connection by moving to a more efficient VoIP system.

Based on the above discussed points, the Commission should ensure that the modernized E-rate program can continue to meet the diverse needs of schools and libraries, needs that in many instances across the nation include continued support for modern voice service. As a first step, the Commission should conduct an E-rate support applicants study – as the *2014 E-rate Modernization Order* directed¹⁴ – to enable schools and libraries to demonstrate the consequences of the voice support phase-down on their operations and budgets. This would provide the Commission with the direct applicant feedback necessary to engage in a “data-driven” determination of the needed levels of voice support going forward.

With respect to the continuation of voice service support, TDS and NTCA noted that while a “pause” at funding year 2016 support levels may appear on its face to be a reasonable and simple step, the phase-down of support as structured by the *2014 E-rate Modernization Order* would limit the efficacy of such action for a large number of schools and libraries. More specifically, E-rate applicants with a 40 percent or smaller discount rate matrix were already ineligible for E-rate voice service support beginning in funding year 2016.¹⁵ Thus, a simpler and more effective solution would be a restoration of funding year 2014 levels of support for voice service.

TDS and NTCA further noted their recognition of the fact that even a short term restoration of support at levels pre-dating the phase-down must not place upward pressure on the overall E-rate budget. One possible solution would be a move toward “per-student” (or “per-building” for libraries) *budgets for all E-rate services*. Each school or library would have a “budget” to spend on whatever communications services they choose. This would enable schools and libraries in need of voice support to get it (or not, should they choose to seek support for broadband or other services instead) yet ensure that the restoration of support for voice does not have a budgetary effect. As to the latter issue, it would ensure that the increased *availability* of voice support in the program does not mean that increased voice support flowing to applicants that choose such support will increase *overall program total expenditures* or come at the expense of applicants in need of support for other services. Moreover, because the Commission has already implemented

¹³ *2014 E-rate Modernization Order*, ¶¶ 32-47. *See also*, Comments of NTCA–The Rural Broadband Association, WC Docket No. 13-184 (fil. Sep. 16, 2013), pp. 12-13 (discussing a survey of NTCA members which found that, of the 1,208 K-12 schools identified by NTCA members as located within their serving areas, 907 (75%) of those are already connected by Fiber-to-the-Premises (“FTTP”), and another 132 (11%) are connected by Fiber-to-the-Node (“FTTN”).

¹⁴ *2014 E-rate Modernization Order*, ¶ 135 (“Over the first two years of the phase down for voice services support, we direct the Bureau to evaluate the impact of the phase down on eligible schools and libraries and study the transition of eligible schools and libraries to VoIP services and issue a report to the Commission as we continue to reduce voice support by 20 percentage points each year.”).

¹⁵ *See, supra* fn. 6.

budgets for Category Two services,¹⁶ the move to a budget for the rest of the program should be less burdensome than would otherwise be the case for both applicants and USAC.

Thank you for your attention to this correspondence. Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed via ECFS.

/s/ Brian Ford
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cc: Dr. Jay Schwarz

¹⁶ 2014 E-rate Modernization Order, ¶¶ 86-107.