

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

In the Matter of)
)
Modernizing the E-rate) WC Docket No. 13-184
Program for Schools and Libraries)

**REPLY COMMENTS
OF
NTCA–THE RURAL BROADBAND ASSOCIATION**

April 21, 2014

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I. INTRODUCTION AND SUMMARY.

NTCA–The Rural Broadband Association (“NTCA”)¹ hereby submits these reply comments in response to comments filed on the *Public Notice*² released by the Federal Communications Commission (“Commission”) on March 6, 2014 in the above-captioned proceeding. The *Public Notice* seeks comment on several discrete issues related to modernization of the Universal Service Fund (“USF”) Schools and Libraries (“E-rate”) program.

NTCA’s RLEC members have done a commendable job of delivering high-capacity, affordable broadband connections to most of the schools and libraries in their service areas. They have a vested interest in the success of the E-rate program, as it improves educators’ ability to complete their mission in the very communities in which the typical RLEC owner, manager, or employee resides.

¹ NTCA represents nearly 900 rural rate-of-return regulated telecommunications providers (“RLECs”). All of NTCA’s members are full service local exchange carriers and broadband providers, and many provide wireless, video, satellite, and/or long distance services as well.

² *Wireline Competition Bureau Seeks Focused Comment on E-Rate Modernization*, WC Docket No. 13-184, Public Notice, DA 14-308 (rel. Mar. 6, 2014) (“Public Notice”).

As can be seen from the record compiled thus far in this proceeding, a lack of funding for internal connections plagues schools and libraries all across the nation. These internal connections are necessary in today's digital learning environment to deliver to each and every student and library patron full access to all that a high-capacity broadband connection can make possible. The Commission's ability to meet this need depends on a targeted use of E-rate funds that solves the unique problem faced by each individual school and library. NTCA therefore reiterates its support for an analytical framework that, in the first instance, identifies the "problem" to be solved (whether that be a lack of a high-capacity broadband connection, lack of sufficient internal connections, or lack of an affordable connection) and targets resources in the most cost-effective manner to "solve" that problem.

NTCA herein further cautions the Commission to avoid artificially encouraging the use of consortium bidding in a manner that needlessly wastes limited E-rate funds. As is demonstrated by the attached "Declaration," consortium bidding poses unique risks that can, if not administered in a careful manner, actually drive up E-rate expenditures and consume funds better spent elsewhere because the consortium "defaults" to the biggest seller. The Commission should therefore neither encourage nor preclude consortia procurement strategies that make sense to local buyers, but it should ensure that, to the extent a consortium covers a large geographic area, that consortium must allow schools and libraries to purchase the services that best meets their specific needs and from the providers that meet those needs in a cost-effective manner.

Finally, NTCA urges the Commission to remain focused on streamlining and simplifying the E-rate program. Certainly, a program of such significance should not in any way limit the full participation of schools and libraries due to needless hurdles.

II. THE RECORD COMPILED IN THIS PROCEEDING DEMONSTRATES THAT A TARGETED AND CAREFULLY COORDINATED EFFORT IS NECESSARY TO ACHIEVE THE GOALS OF IMPROVING THE QUALITY OF BROADBAND CONNECTIONS BOTH TO AND WITHIN SCHOOLS AND LIBRARIES.

The record compiled in response to both the *Public Notice* and the *E-rate Modernization NPRM*³ makes clear that schools and libraries face varying challenges to obtaining access to, and making a full use of, high-capacity broadband connections. These include more than just obtaining access to a high-capacity connection to “the school building.” Specifically, as comments filed in response to the *Public Notice* indicate,⁴ a number of schools and libraries across the nation struggle to obtain adequate funding for the internal connections necessary to enable educators to take full advantage of their broadband connection. While the Commission is correct to focus on the quality of the external connection, failure to adequately fund internal connections as well would needlessly strand limited resources “at the school or library door.”

To address this critical issue, the Commission should consider an annual funding allocation for internal connections that would provide all eligible E-rate applicants some support for the internal connections that support broadband service.⁵ The *Public Notice* is correct that

³ *Modernizing the E-Rate Program for Schools and Libraries*, Notice of Proposed Rulemaking, WC Docket No. 13-184, FCC 13-100 (rel. Jul. 23, 2013) (“*E-rate Modernization NPRM*”).

⁴ Comments of the American Library Association, WC Docket No. 13-184 (fil. Apr. 7, 2014), p. 19; Comments of the Alliance for Excellent Education, WC Docket No. 13-184 (fil. Apr. 7, 2014), p. 4; Comments of Amplify Education, WC Docket No. 13-184 (fil. Apr. 7, 2014), pp. 5-6; Comments of the California Department of Education, WC Docket No. 13-184 (fil. Apr. 7, 2014), p. 4; Comments of the City of Boston, Massachusetts, WC Docket No. 13-184 (fil. Apr. 7, 2014), p. 3; Comments of the Comcast Corporation (“Comcast”), WC Docket No. 13-184 (fil. Apr. 7, 2014), p. 5; Comments of the Consortium for School Networking (“CoSN”), WC Docket No. 13-184 (fil. Apr. 7, 2014), p. 6; Comments of the Education and Library Networks Coalition (“EdLiNC”), WC Docket No. 13-184 (fil. Apr. 7, 2014), p. 10; Comments of EducationSuperHighway, WC Docket No. 13-184 (fil. Apr. 7, 2014), p. 2; Comments of the New America Foundation, WC Docket No. 13-184 (fil. Apr. 7, 2014), p. 4; Comments of The Quilt, WC Docket No. 13-184 (fil. Apr. 7, 2014), p. 3.

⁵ *Public Notice*, ¶ 20.

this would “prevent a small number of applicants from disproportionately using available funding and give all schools and libraries an opportunity to upgrade at least some of their facilities each year.”⁶ An annual allocation for each eligible E-rate applicant would not only result in a more equitable distribution of limited resources, it would also provide schools and libraries with greater certainty as to their ability to fund this critical need.

As an additional, and perhaps more immediate, measure to improve the quality of internal connections for schools and libraries, commenters also support⁷ utilizing a portion of the “\$2 billion down payment” that Chairman Wheeler recently proposed to enable the expansion of high-speed connections and directing it towards funding internal connections.⁸ This immediate “injection” of funds would provide schools and libraries that already have access to an affordable high-capacity broadband connection the ability to invest in the internal connections that deliver broadband right to the classroom and enable digital learning techniques. These funds should, however, go once again to where clear gaps exist – such as in the form of acknowledged shortfalls in the availability and capacity of internal connections – rather than being used to help finance duplicative outside plant builds that leave other schools and libraries with less to meet their needs.

⁶ *Id.*

⁷ Comments of Cox Communications, Inc., WC Docket No. 13-184 (fil. Apr. 7, 2014), p. 2; Comments of Verizon, WC Docket No. 13-184 (fil. Apr. 7, 2014), p. 2; The Quilt, p. 4; CoSN, p. 6; EdLiNC, p. 2; Comcast, p. 7.

⁸ Prepared Remarks of Tom Wheeler, FCC Chairman, National Digital Learning Day, p. 3 (Feb. 5, 2014), http://transition.fcc.gov/Daily_Releases/Daily_Business/2014/db0205/DOC-325447A1.pdf.

Beyond these immediate steps, NTCA reiterates its support for a targeted approach to achieving the goal of the ConnectEd initiative and, more specifically, solving the varying challenges that individual schools and libraries face in terms of obtaining access to the communications services they need to meet their educational missions (be that insufficient internal connections, a connection in the first place, or an affordable connection). “One-size-fits-all” solutions that do not, in the first instance, key in on the particular circumstances that E-rate beneficiaries face would fail to direct limited E-rate funds to where they are needed the most. For example, as NTCA has demonstrated, RLECs have done a commendable job of making high-capacity broadband connections available to a large percentage of the schools and libraries in their service areas.⁹ It would therefore make little sense for the Commission to expend limited resources to “solve” a connectivity issue that may not in fact exist when those resources could be used to support internal connections.

Thus, NTCA again urges the Commission to view E-rate modernization via an analytical framework that leverages available network assets and targets E-rate resources where needed most. Doing so requires distinguishing between the challenges of “availability” and “affordability,” tailoring solutions to the needs of each individual school or library and taking

⁹ Comments of NTCA, WC Docket No. 13-184 (fil. April 7, 2014), p. 4; Comments of NTCA and WTA, WC Docket No. 13-184 (fil. Sept. 16, 2013), p. 13. Specifically, a survey of the NTCA membership 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”). Of those connected schools, NTCA members reported offering maximum speeds of 912 Mbps (mean) and 100 Mbps (median), while the average speed purchased is 128 Mbps (mean) and 20 Mbps (median). Of the 484 libraries identified by NTCA members as located within their serving areas, 224 (46%) of those are connected by FTTP, and another 64 (13%) are connected by FTTN. Of those connected libraries, NTCA members reported offering maximum speeds of 248 Mbps (mean) and 40 Mbps (median), while the average speed purchased is 13 Mbps (mean) and 6 Mbps (median).

advantage of existing facilities to allow E-rate to extend the many benefits of broadband connections and services to as many students and library patrons as possible.

Taking a step back, NTCA also urges the Commission to isolate the “problem” – that is, accounting for the unique need that each individual school or library has in the first instance – with accurate data that presents a complete picture of where E-rate resources are most needed today. One common thread running among nearly all of the proposals for modernizing the program is a need to more effectively deploy existing resources to meet the connectivity needs of the thousands of schools and libraries all across the nation. But what is missing is granular data showing what schools and libraries actually need. Commissioner Rosenworcel correctly stated that the Commission needs to “take a hard look at the existing program” and collect better data from schools and libraries as to the capacity they have and need.¹⁰ Going forward, a “data-driven” process of reform is needed to ensure that the Commission is acting based on the “facts on the ground” rather than drawing centralized, high-level conclusions as to what individual schools and libraries in given jurisdictions actually need.

III. THE COMMISSION MUST ENSURE THAT CONSORTIUM PURCHASING DOES NOT LEAD TO A WASTEFUL OR INEFFICIENT USE OF E-RATE FUNDS.

As NTCA has previously stated, consortium purchasing may represent an opportunity for a group of schools or libraries to band together to obtain access to the communications services they need, in a cost-effective manner. To the extent that consortium purchasing can result in a more cost-effective use of E-rate funds, it should exist as one option open to E-rate applicants, at their discretion. However, it poses unique risks that the Commission must account for, and the

¹⁰ *E-rate Modernization NPRM*, Statement of Commissioner Jessica Rosenworcel.

Commission should not as a policy matter either encourage or preclude the use of such procurement initiatives, leaving such matters instead to the best judgment of local and state decision-makers with the best visibility into market choices and needs.

Specifically, it is critical that the Commission does not encourage the inefficient use of consortium purchasing. In certain circumstances, consortium purchasing poses a risk of “bulk buying” translating into “bulk selling,” and in a manner that needlessly wastes limited resources that other schools and libraries could have desperately used but for consumption of those resources by the bigger buyer “down the road.” The attached “Declaration” submitted by a NTCA member highlights just such a scenario. More specifically, as the Declaration discusses, the consortium at issue (a state education network) typically purchases service from larger providers only, even in cases where the smaller local provider is better situated to meet the needs of the schools and libraries in its specific service area.¹¹ As described in further detail by the Declaration, the consortium at issue issued a Request for Quote (“RFQ”) for broadband service to be delivered to a local school district. Because of the design of this RFQ process, the local RLEC provider was given no opportunity to submit a proposal to compete against the larger provider that was ultimately awarded the contract. More problematically for the school and the E-rate program, the local provider had the ability to provide the school district at issue with a less costly alternative that would have better fulfilled their needs.¹²

Thus, the Commission should make clear that consortia not only should, but must, consider bids from all local providers of broadband service if E-rate resources will be used in

¹¹ Merten Declaration, ¶ 3.

¹² *Id.*, ¶¶ 5-6.

connection with the procurement, even if the smaller providers can fill only piece parts of larger projects or initiatives. As one commenter states, the Commission “could encourage consortia that cover large geographic areas, such as statewide consortia, to negotiate contracts with multiple service providers and then allow participating schools and libraries to purchase under the contract that most efficiently and cost-effectively meets their specific needs.”¹³ Local providers able to meet the needs of schools and libraries, at competitive rates, should not be artificially removed from the “competitive bidding” process simply because their size does not match the total size of the buying consortium footprint. The local provider discussed above was denied the ability to serve a local school district, resulting in an inefficient and wasteful use of E-rate funds.

To be clear, NTCA supports efforts to ensure that E-rate funds are used in the most cost-effective manner possible and, in many cases, a consortium may be the answer. Indeed, a number of NTCA members provide service to consortia today, and a number of RLEC-owned state networks provide service over large geographic areas encompassing dozens or more schools, school districts, and libraries that have banded together to seek out cost efficiencies. However, the drive to seek out such efficiencies should not inadvertently drive up costs or become a “one-size-fits-all” solution that crowds out local providers to the detriment of local schools and libraries. Local providers are often best situated to provide service to E-rate applicants in their service areas, and any consortium bidding that artificially excludes these providers should be prohibited.

¹³ Comcast, p. 17.

IV. THE COMMISSION SHOULD CONTINUE TO FOCUS ON STREAMLINING THE E-RATE PROGRAM.

If there is one issue on which parties from all industry segments agree, it is that the E-rate program is needlessly complicated and that the Commission should take steps to streamline the application and disbursement process.¹⁴ As the Commission moves forward, it should be careful to not lose sight of how streamlining the program can encourage more eligible schools and libraries to participate and can allow E-rate beneficiaries to better focus on their educational mission.

To be sure, any reforms to improve the speed with which applications for E-rate funding are approved must be balanced against the need to prevent waste, fraud, and abuse. With that in mind, the increased use of electronic filing offers one solution that can strike the necessary balance. The increased use of electronic filing will not only improve the efficiency with which the Universal Service Administrative Company (“USAC”) processes applications, it will also ensure that USAC continues to have access to all of the documentation it needs to prevent and detect the improper use of E-Rate funds. It will also reduce errors, as USAC staff will no longer be required to enter certain information manually. Each of these will lead to faster turn-around times for applications. In addition, the creation of an “online portal” would allow applicants to file and later access their applications and supporting forms and other material and allow USAC to keep applicants updated regarding the status of pending E-rate applications.

¹⁴ See, e.g., Comments of the Telecommunications Industry Association, WC Docket No. 13-184 (fil. Apr. 7, 2014), pp. 8-9; Comments of ITTA – The Voice of Mid-Size Telecommunications Carriers, WC Docket No. 13-184 (fil. Apr. 7, 2014), pp. 7-10; Comments of AT&T, WC Docket No. 13-184 (fil. Apr. 7, 2014), pp. 5-6; ALA, pp. 26-27; Comcast, pp. 17-20.

V. CONCLUSION

The record compiled in this proceeding demonstrates that a lack of sufficient funding for internal connections plagues schools and libraries all across the nation. NTCA urges the Commission to ensure that any E-rate modernization does not overlook this critical input due to an overly narrow emphasis on connectivity to the school or library itself. In most RLEC service areas, and in many other areas across the nation, high-capacity connections to schools and libraries are available, and failing to account for this will only needlessly waste funds that could be better spent elsewhere – such as ensuring that those robust connections are not wasted by landing at the “schoolhouse door” and going no further. Ultimately, improving the quality of broadband both to and within schools and libraries requires isolating the need that each institution has and targeting resources to solve that need in a cost-effective manner.

In that regard, the Commission should not artificially incent the use of consortium purchasing. Schools and libraries must be encouraged to purchase services from the provider that can best meet their needs, and must be directed that E-rate resources shall not be used in a manner that results in ever-bigger buyers looking to a handful of big sellers for every possible solution.

Finally, NTCA urges the Commission to streamline the E-rate mechanism to enable schools and libraries to better focus on their educational mission.

Respectfully Submitted,



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DECLARATION OF DALE MERTEN, Chief Operating Office of ToledoTel

1. My name is Dale Merten, Chief Operating Office of ToledoTel, a family owned Local Exchange Carrier headquartered in Toledo, Washington. ToledoTel provides facilities-based telecommunications and broadband services to Toledo and other communities in Washington State. I submit this Declaration in support of the Reply Comments of NTCA–The Rural Broadband Association submitted in the above-captioned proceeding.
2. This declaration is being submitted to share with the Commission my concerns with the increased emphasis on consortium bidding in the E-rate program. In some circumstances, consortium buying can actually drive up the cost of high speed connectivity for schools and libraries. For example, Washington state schools and libraries have historically contracted with K-20, the state education network in Washington state, to provision high speed connectivity, even though these same institutions work directly with the local telecom provider for phone service.
3. In my experience, consortia often believe, mistakenly, that the best way to drive costs down is to limit the number of preferred providers to the largest companies within the state or region. In Washington, small local rural providers typically have no opportunity to provide pricing or options that may be available for broadband service.
4. For example, K-20 recently issued a Request for Quote (“RFQ”) for a 100 MB dedicated point-to-point Ethernet connection for the Toledo School District to replace the existing DS-1’s that have been in service for many years. CenturyLink responded that Ethernet was not available in Toledo and was awarded a contract for a DS-3 (45 MB). I received the D-S3 ASR (“Access Service Request”) for the School and contacted K-20 to assure them ToledoTel has served the schools with fiber for almost 20 years and we can provide up to 1 Gigabit Ethernet. I also pointed out we should “right size” the connection because the school’s current broadband needs require less than 10 MB, thereby saving the District (and E-rate program) thousands of dollars per year. At this juncture, the school’s bandwidth requirements did not warrant the cost of a DS-3. K-20 stated they would prefer not to deal with the small companies.
5. Consortia tend to order dedicated point-to-point circuits which are much more costly and more difficult to provision. For example, under the National Exchange Carrier Association (“NECA”) tariff, the DS-3 for the Toledo School District is approximately \$5100.00 per month. The NECA tariff on a dedicated 100 MB Ethernet circuit is \$2,584.00, or \$25.84 per MB. The

school district only requires approximately 10 MB today. Therefore, all of these options provide far more speed and cost than is required.

6. ToledoTel offers a “right-sized” non-dedicated 20 MB (20 down 10 up) Ethernet connection for \$124.95 or \$6.25 per MB. The annual savings over their current consortium DS-3 option is \$59,700.60. The consortium has, so far, has shown no desire to explore this cost saving opportunity.

7. ToledoTel met with the district superintendent and IT staff, we determined that a non-dedicated 20 Mbps internet connection provides the same functionality with no loss in quality. The school district has elected to break away from the consortium to lower their costs.

8. The vast majority of small, medium and large businesses do not spend the extra money for dedicated circuits. One of the larger employers in our area, Braun Northwest, manufactures Emergency Response Vehicles. Their manufacturing process is highly computerized. They have many employees working across the country with the need to share information. However, their corporate headquarters requires only a 25 MB non-dedicated internet connection for less than \$200.00 per month.

9. The FCC should encourage “right-sizing” and require all consortiums and or E-rate recipients to maximize savings to the E-rate program at the local level.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my information and belief.

Executed By Dale Merten on April 21, 2014