



October 22, 2018

Ex Parte

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

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

Dear Ms. Dortch:

On Thursday, October 18, 2018, Nick Alexander (CenturyLink), Raquel Noriega (AT&T), and the undersigned met with Ryan Palmer, Bryan Boyle, Stephanie Minnock, Aaron Garza, James Bachtell, Kate Dumouchel, Gabriela Gross and D’wana Terry of the Wireline Competition Bureau (Bureau) of the Federal Communications Commission (Commission). The purpose of the meeting was to discuss the proposed Eligible Services List (ESL) for the E-rate program for funding year 2019. The Schools and Libraries Universal Service Support Mechanism (the “E-Rate program”) is administered by the Universal Service Administrative Company (USAC), and our discussion focused on the need for clarification of the definition of, and/or treatment by USAC of, “Leased Lit Fiber,” as contained in the related Public Notice in the above referenced proceeding.¹

We explained that the Commission in its 2014 Second E-rate Modernization Order modified rules applying to dark fiber and self-provisioned network solutions. Subsequently, the Wireless Competition Bureau introduced “Leased Lit Fiber” as new category of services in the ESL. Further, subsequent decisions by USAC via its Program Integrity Assurance (PIA) review process require applicants and service providers to select the Leased Lit Fiber category of services in order to obtain certain types of funding (such as for “Special Construction” funding). However, we noted that this occurs even in instances where the services offered are managed end-to-end solutions or finished services and not necessarily “Leased Lit Fiber” services.

We pointed out that categorizing “managed end-to-end services” or “finished services” as “Leased Lit Fiber” is not the preferred course of action, since it creates inconsistencies, ambiguity and generates a source of needless confusion for E-Rate program applicants. For

¹ Public Notice, *Wireline Competition Bureau Seeks Comment on Proposed Eligible Services List for the E-rate Program*, DA 18-789, WC Docket No. 13-184, p. 2 (released July 30, 2018) (Notice).

example, we explained that companies delivering “finished services” do not “lease” access on fiber – whether lit or dark – or any other network element. They instead guarantee specified bandwidth (*e.g.*, 1 Gbps) and quality of service over a prescribed time period to E-Rate program recipient.

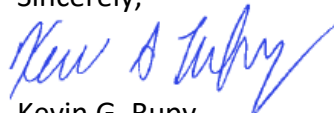
Moreover, we noted that such finished services may not even consist entirely of “fiber,” and could instead be deployed (in whole or in part) over upgraded copper, or wireless networks. We also noted that the technology used to deliver services to an applicant may change during the course of their contract, as providers invest in and upgrade their networks and bandwidth capacity. Given this reality, we noted that under the current ESL, end-to-end managed services are forcedly classified as “Leased Lit Fiber.” “Leased Lit Fiber” services inherently provide the lease of one or more network elements, but end-to-end managed services do not, and therefore are defined by a paradigm that simply does not apply to end-to-end managed services. As a result, the current ESL leads to confusion among all parties, and is fundamentally inconsistent with the E-Rate program’s technology neutral approach.

We noted that other stakeholders in this proceeding, such as the State E-Rate Coordinators’ Alliance (SECA), identified two similar Category One services that require clarification from the Commission, including “Leased Lit Fiber Solutions,” and “Leased End to End Lit Fiber Solutions.”² Given the disparate terms associated with these Category One services, we said that such clarification for “Leased Lit Fiber” would help to eliminate ambiguities and inconsistencies in the administration of the E-Rate program.

We therefore recommended that the Commission should establish an appropriate service category for Category One “Finished Services.” We suggested that the Commission could utilize various terminologies as a category of defined services on the ESL. For example, we proposed “End-to-end Category 1 Internet Access and/or Transport Services,” or possibly “Finished Category 1 Internet Access and/or Transport Services.” Although the current filing window for the upcoming funding year is open, and the Form 470 menu continues to show “Leased Lit Fiber” as an option, we nevertheless encouraged the Bureau to update the ESL for funding year 2019 accordingly.

Pursuant to Commission rules, please include this *ex parte* letter in the above identified proceeding.

Sincerely,



Kevin G. Rupy
Vice President, Law & Policy

² See, Initial Comments of State E-Rate Coordinators’ Alliance on the FY 2019 Draft Eligible Services List, WC Docket No. 13-184, pp. 1 – 2 (submitted August 29, 2018) (*SECA Comments*).

cc: Ryan Palmer
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