

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION**
Washington, DC 20554

In the Matter of)
)
Establishing the Emergency Connectivity Fund to) WC Docket No. 21-93
Close the Homework Gap)

COMMENTS OF VERIZON

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Since the start of the COVID-19 pandemic, Verizon has supported efforts in Congress to ensure connectivity and dedicated funding for the millions of students now learning remotely. By establishing the \$7.171 billion Emergency Connectivity Fund (ECF) in the American Rescue Plan Act of 2021,² Congress has provided the Commission with the necessary authority and funding to ensure that all students can engage in remote learning during the public health emergency. The ECF may also provide a model for a longer-term program to support broadband access for students outside traditional school buildings. As we explain below, the Commission should prioritize ECF support for students who would otherwise lack broadband service, and should also minimize the administrative burdens on schools and service providers.

¹ The Verizon companies participating in this filing are the regulated, wholly owned subsidiaries of Verizon Communications Inc.

² American Rescue Plan Act, 2021, H.R. 1319, 117th Cong., tit. VII, § 7402 (2021) (“ARP Act”).

I. Introduction and Summary

In March 2020, within days of the onset of the pandemic, Verizon implemented a program to provide schools with wireless connectivity for students. Working collaboratively with school districts, Verizon established new standalone contractual vehicles that allowed schools in 41 states and the District of Columbia, covering more than 38 million students, to rapidly take advantage of Verizon’s services and begin providing access to students, teachers, and school administrators. Verizon’s program includes unlimited wireless data, a virtual private network, and mobile device management capabilities that allow students to continue their learning remotely in a secure environment, at significantly discounted rates.

In addition to helping students continue learning during the pandemic, Verizon developed a proposal for a long-term permanent program to address broadband affordability, adoption, and access for all underserved populations.³ Verizon’s proposal calls for supplementing the Lifeline program with a directly-appropriated individual benefit that low-income households can use as an alternative to help pay for broadband service.⁴ Verizon’s proposal also recognizes that ongoing federal support is needed to ensure that students have access to broadband outside of school, at home, and in other settings.⁵

In its comments on the recent *Remote Learning Public Notice*,⁶ Verizon urged the Commission to provide emergency E-Rate support for remote learning during the pandemic.⁷

³ *Accelerating America*, <https://www.verizon.com/about/our-company/accelerating-america>.

⁴ *Id.*, at 5.

⁵ *Id.* at 17.

⁶ *Wireline Competition Bureau Seeks Comment on Petitions For Emergency Relief to Allow the Use of E-Rate Funds to Support Remote Learning During the Covid-19 Pandemic*, Public Notice, WC Docket No. 21-31, DA 21-98 (Feb. 1, 2021) (“*Remote Learning Public Notice*”).

⁷ Comments of Verizon, WC Docket No. 21-31, at 1-2 (Feb. 16, 2021) (“*Verizon Comments*”).

We supported a broad interpretation of the E-Rate provisions of the Communications Act, including the definition of “classroom,” to allow E-Rate support for remote learning.⁸ While we recognized that some increase in the contribution factor was likely necessary because of the challenges posed by the pandemic, we explained that the Commission should continue to balance the “demonstrated needs of the E-Rate program” against the impact of additional contributions on consumers.⁹

The \$7.171 billion ECF gives the Commission clear authority to support off-campus services, and provides far more support for remote learning than would have been available from the already-overburdened universal service contribution mechanism under the proposals discussed in the *Remote Learning Public Notice*. By using ECF support judiciously, the Commission will be able to support broadband access over an extended period of time for all students who would otherwise lack broadband at home.

The Commission should provide support from the ECF for only the eligible equipment and services enumerated in the ARP Act, and should adopt streamlined procedures to accelerate the provision of support to schools and libraries. In particular, the Commission should open a supplemental application window as soon as possible, should adopt streamlined application rules, and should not apply E-rate procedural requirements that would unnecessarily delay the provision of support during the COVID-19 emergency.

⁸ *Id.* at 6.

⁹ *Id.* at 7.

II. The Commission Should Provide ECF Support Only for the Eligible Equipment and Services Enumerated in the Act

Verizon agrees that the ECF should provide support “only for equipment and services that are needed to provide the connectivity required to enable and support remote learning for students, school staff, and library patrons.”¹⁰ Section 7402(a) of the ARP Act specifically limits the use of ECF funds only for the purchase of specific types of equipment and services “for use by ... students and staff of the school at locations that include locations other than the school.”¹¹

Eligible equipment. Pursuant to the ARP Act, the Commission may provide ECF support only for the specific “eligible equipment” listed in section 7402(d)(6) of the ARP Act: Wi-Fi hotspots, modems, routers, devices that combine a modem and router, and “connected devices” such as laptops and tablets.¹² The Commission should make clear that mobile Wi-Fi hotspots are eligible because they meet the ARP Act’s definition of “Wi-Fi hotspot,” *i.e.*, they are capable of “receiving advanced telecommunications and information services” (4G LTE or 5G services) and “sharing such services with a connected device through the use of Wi-Fi.”¹³ The Commission should also make clear, as the *Public Notice* proposes, that wireless air cards are “modems” and thus eligible for support.¹⁴

Eligible services. Under the ARP Act, the Commission may only provide ECF support for “advanced telecommunications and information services” for use at locations other than a

¹⁰ *Wireline Competition Bureau Seeks Comment on Emergency Connectivity Fund for Educational Connections and Devices to Address the Homework Gap During the Pandemic*, Public Notice, WC Docket No. 21-31, DA 21-317, at 5 (March 16, 2021) (“*Public Notice*”).

¹¹ ARP Act, § 7402(a)(1)-(2).

¹² *Id.* § 7402(d)(6).

¹³ *Id.* § 7402(d)(11).

¹⁴ *Public Notice* at 5.

school or library.¹⁵ Consistent with that requirement, the Commission should adopt the proposal to limit eligible services to “those that can be supported by and delivered with the eligible equipment enumerated in the American Rescue Plan Act.”¹⁶

The Commission should provide ECF support for fixed broadband services, regardless of access technology (including fiber, fixed wireless, and cable modem services), and for mobile broadband services. Widespread use of off-campus wireless service by schools during the pandemic has proven that it is a critical way of meeting remote learning requirements in a cost-effective manner. It is reliable and secure; available to the vast majority of homes in both rural and urban areas, including areas with no fixed broadband service; and uniquely suited to serving students in temporary housing situations or who are experiencing homelessness. In its comments on the *Remote Learning Public Notice*, the Los Angeles Unified School District highlighted its “unprecedented agreement with Verizon, a contract on which districts across California have piggybacked to keep hundreds of thousands of households connected, and which provides exceptional low-cost pricing and has served as a blueprint for organizations across the nation.”¹⁷

Cost allocation. To minimize the burdens on schools and service providers, the Commission should avoid imposing complex cost allocation requirements. Particularly if the Commission determines that smartphones are “eligible equipment” because they incorporate Wi-Fi hotspot functionality,¹⁸ it should permit schools to obtain reimbursement for bundles of

¹⁵ ARP Act § 7402(a)(1)-(2).

¹⁶ *Public Notice* at 7.

¹⁷ Comments of Los Angeles Unified School District, WC Docket No. 21-31, at 3 (Feb. 12, 2021).

¹⁸ See H.R. Report No. 117-7, 306-307 (2021), <https://www.congress.gov/117/crpt/hrpt7/CRPT-117hrpt7.pdf> (noting that ECF funding will ensure access to reliable high-speed internet through

broadband, voice, and text messaging service without cost allocation, consistent with the treatment of such bundles in the *EBB Program Order*.¹⁹ Similarly, the Commission should either not apply the sections 54.504(e) and (e)(1) cost allocation rules to services provided for remote learning or find that any traditionally ineligible components provided as a part of or alongside those services, such as voice capability, private network/network management, and security, are ancillary in accordance with section 54.504(e)(2) and therefore do not require cost allocation.²⁰ Furthermore, if the Commission finds that Children’s Internet Protection Act (CIPA) requirements apply,²¹ it should consider permitting the use of ECF support to fund CIPA implementation.

Minimum service standards. The Commission should not adopt “minimum service standards or data thresholds” for ECF-eligible services.²² Schools are sophisticated purchasers that are capable of evaluating available remote learning services and determining whether those services meet the needs of their students. Not only has the Commission never adopted minimum service standards for the E-Rate program, but the reasons why the Commission recently declined to adopt minimum service standards for the EBB Program – the “vital need to maximize consumer choice and benefits in a short timeframe” and the absence of any indication of Congressional intent to apply minimum service standards²³ – apply equally to the ECF. If the

different technological solutions, including “Wi-Fi hotspots, either incorporated into mobile phone or provided on a standalone basis”).

¹⁹ *Emergency Broadband Benefit Program*, Report and Order, WC Docket No. 20-445, FCC 21-29, ¶¶ 76-77 (2021) (“*EBB Program Order*”).

²⁰ 47 CFR § 54.504(e).

²¹ *Public Notice* at 14-15.

²² *Public Notice* at 7.

²³ *EBB Program Order*, ¶ 74.

Commission nonetheless adopts minimum service standards for the ECF, it should establish separate fixed and mobile standards that recognize the “distinct characteristics” of those services and should also provide exceptions to the minimum service standards based on infrastructure availability, as in the Lifeline program.²⁴

Self-provisioning. The Commission may not provide support from the ECF for “dark fiber and the construction of new networks, including the construction of self-provisioned networks.”²⁵ Under section 7402(a) of the ARP Act, ECF support may be used only for the “purchase ... of eligible equipment or advanced telecommunications and information services.”²⁶ Self-provisioning is not eligible for ECF support because it does not involve the “purchase” of an “advanced telecommunications or information service” and because the equipment required for self-provisioning, e.g., fiber, transmission equipment, or antennas and towers, does not meet the ARP Act’s definition of “eligible equipment.”²⁷

III. The Commission Should Prioritize Support For Students Who Would Otherwise Lack Broadband Service

Pursuant to the ARP Act, the ECF must reimburse 100 percent of the costs associated with eligible equipment and services, except that any reimbursement for the costs associated with any eligible equipment “may not exceed an amount that the Commission determines ... is

²⁴ See *Lifeline and Link Up Reform and Modernization, et al.*, Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962, ¶¶ 74, 107-113 (2016).

²⁵ *Public Notice* at 7.

²⁶ ARP Act § 7402(a).

²⁷ *Id.* § 7402(d)(6) (defining “eligible equipment” as Wi-Fi hotspots, modems, routers, devices that combine a modem and router, and connected devices).

reasonable.”²⁸ The 100 percent reimbursement provision represents a significant difference from the traditional E-Rate program, which encourages schools to avoid “unnecessary and wasteful expenditures” by requiring them to pay part of the cost.²⁹ In the *Public Notice*, the Commission seeks comment on various methods of constraining or prioritizing schools’ ECF reimbursement requests.³⁰

If used judiciously, the \$7.171 billion appropriated to the ECF could address for an extended period of time the remote learning needs of all students who would otherwise lack broadband at home. Based on published estimates, as many as 10 million students (in about five million households) may lack broadband at home if they do not receive support.³¹ With \$7.171 billion in ECF support, the Commission could provide support for 10 million students for at least

²⁸ *Id.* § 7402(b).

²⁹ *Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, ¶ 493 (1997) (“Requiring schools and libraries to pay a share of the cost should encourage them to avoid unnecessary and wasteful expenditures because they will be unlikely to commit their own funds for purchases that they cannot use effectively.”).

³⁰ *Public Notice* at 10-12.

³¹ About 9.4 million children from households with annual income of \$50,000 or less (about 4.6 million households) lacked access to broadband in 2018. See John B. Horrigan, *Students of Color Caught in the Homework Gap*, 3 at Table B-2 (2020), https://futureready.org/wp-content/uploads/2020/08/HomeworkGap_FINAL8.06.2020.pdf (as cited in *Public Notice* n.39). Similarly, Common Sense Media estimates that about 8 million students from families with annual incomes of less than \$50,000 lacked access to broadband. Common Sense Media explains that \$50,000 in annual income is “aligned with the National School Lunch Program (NSLP) upper bound qualification.” Common Sense Media, *Looking Back, Looking Forward*, n.17 (2021), https://www.common Sense Media.org/sites/default/files/uploads/pdfs/final_-_what_it_will_take_to_permanently_close_the_k-12_digital_divide_vfeb3.pdf (households with income of less than \$50,000 represent 52 percent of an estimated 15-16 million unserved students).

two school years³² – the likely minimum duration of the Commission’s authority to use the funds appropriated to the ECF.³³

Funding caps. As the *Public Notice* suggests, the Commission could adopt funding caps to “assist the Commission in targeting the Emergency Connectivity Fund support to those students, school staff, and library patrons that are most in need.”³⁴ For example, the Commission could adopt per-school budgets based on the number of students eligible for free or reduced-price lunch through the National School Lunch Program (as an indicator of the number of students in the school who would lack home broadband in the absence of support), similar to the E-Rate program’s per-school budgets for Category 2 services. The Commission could also limit the share of the ECF that may be used for potentially costlier connected devices such as tablets and laptop computers. In the absence of such a limit, reimbursements for connected devices could consume a disproportionate share of the ECF and leave little or no support for connectivity.

Reasonable support amount. The *Public Notice* seeks comment on whether the Commission should establish a range of costs or a maximum price that it deems reasonable to reimburse for each category of equipment and service eligible for funding through the ECF.³⁵

³² With \$7 billion in support, the ECF could provide \$700 for each of 10 million students (equivalent to about \$1,400 for each of 5 million households). Comments filed report that schools are purchasing wireless broadband service at a cost of \$10-25 per month, or \$120-\$300 per year. See Reply Comments of Verizon, *Addressing the Homework Gap Through the E-Rate Program Remote Learning Public Notice*, WC Docket No. 21-31, at 3 (Feb. 23, 2021).

³³ Under the ARP Act, the Commission may provide ECF support for purchases during a “COVID-19 emergency period” that ends on the June 30th that first occurs after the date that is one (1) year after the end of the public health emergency. See the ARP Act §§ 7402(a), (d)(5). Given that the public health emergency is unlikely to terminate before the end of June 2021, the Commission will be able to use ECF support during at least the 2021-22 and 2022-23 school years.

³⁴ *Public Notice* at 12.

³⁵ *Public Notice* at 11-12.

Because of the ARP Act’s requirement that the Commission determine a “reasonable” reimbursement amount specifically applies to “eligible equipment,”³⁶ the Commission should adopt reimbursement limits for eligible equipment, especially for connected devices. The reimbursement limits for connected devices should be set at a level that permits schools to purchase LTE- or 5G-enabled tablets or computers, not just Wi-Fi enabled connected devices.

Connection limits. The *Public Notice* proposes to prohibit schools from providing more than one supported connection and more than one connected device per student.³⁷ It also asks whether the Commission should adopt a one-per-household limit for fixed broadband services or impose any location limit on Wi-Fi hotspots.³⁸ It would be reasonable for the Commission to adopt a one-per-student limit for mobile broadband services, including mobile Wi-Fi hotspots, and a one-per-household limit for fixed broadband services. However, those limits should apply independently; for example, schools should have the flexibility to provide a Wi-Fi hotspot or LTE-enabled tablet to a student in a household that also has a fixed broadband connection.

Duplicate support. The Commission should adopt its proposal to allow ECF reimbursements only for equipment and services for which the school has not received funding from other federal programs (i.e., EBB Program, the CARES Act, or other provisions of the American Rescue Plan), state programs, other external sources of funding, or gifts.³⁹ Particularly if the Commission decides to permit reimbursement for eligible equipment and services

³⁶ ARP Act § 7402(b) (“except that any reimbursement of a school or library for the costs associated with any *eligible equipment* may not exceed an amount that the Commission determines, with respect to the request by the school or library for the reimbursement, is reasonable”) (emphasis added).

³⁷ *Public Notice* at 8.

³⁸ *Id.*

³⁹ *Public Notice* at 15.

purchased since the start of the pandemic,⁴⁰ the Commission should ensure that those purchases have not already been funded by other federal and or state programs. By minimizing ECF support for prior purchases, the Commission will maximize the support that it can use to connect unserved students during the upcoming school year and beyond.

Non-usage. The *Public Notice*'s proposal to require service providers to "report and validate usage of the supported services" and "remove the cost of any non-used service from the invoice" would be burdensome for service providers to implement.⁴¹ To impose a blanket prohibition on the application of funding to connections that might not be used in a given month misunderstands the manner in which school districts and other agencies maintain service. It is a common and recommended practice for schools and other organizations responsible for managing a supply of connections to procure some percentage of extra connections to be able to expediently address their organization's changing demands. Additionally, schools always have the ability to suspend connectivity to devices for periods of time when their needs change. Rather than adopt such a blunt instrument as the proposed non-usage rule, the Commission could recommend best practices to schools in how to best manage their funding. Existing contracts between service providers and schools do not include non-usage provisions, and service providers' existing systems are not set up to monitor usage and remove the cost of non-used services from invoices. The proposed non-usage rule could increase the overall cost of service due to the additional support services needed to manage implementation of the non-usage rule. In addition, service activations typically include a fully or partially subsidized device that may require a minimum term commitment in exchange for discounted service or subsidized device.

⁴⁰ See *Public Notice* at 10.

⁴¹ *Id.* at 16.

IV. The Commission Should Adopt Streamlined Procedures

The Commission should use existing E-Rate procedures and USAC systems whenever doing so would speed up the provision of ECF support to schools, but it should not apply any E-Rate requirements that would unnecessarily delay support. Many of the processes and rules that schools must follow to obtain traditional E-Rate support are more complex and burdensome than the regulations that apply to federal agencies' procurement of services, and make particularly little sense in the context of an emergency situation like the pandemic. Under current circumstances, the Commission must minimize the administrative burdens imposed on schools.

Application window. Rather than create a new application process for the ECF, the Commission should leverage the existing FCC Form 471 application process to the greatest extent possible. The Commission should open a special 30-day application window in which schools can apply for ECF support for the 2021-2022 school year. If the Commission decides to permit reimbursement for equipment or services purchased since the start of the pandemic, it should require schools to submit separate funding requests for prior purchases and 2021-22 purchases during the same application window. If total demand exceeds the available support, the Commission should prioritize support for the 2021-22 school year.⁴²

Procedural requirements. The Commission should adopt its proposal to allow schools to seek reimbursement for the cost of eligible equipment and services without having to conduct a Commission-mandated competitive bidding process, as long as the school certifies that it has complied with all state, tribal, or local procurement requirements applicable to the contracts that they used to purchase eligible equipment and services.⁴³ In particular, the Commission should

⁴² *Public Notice* at 13.

⁴³ *Id.* at 10.

not apply the procedural E-Rate requirements, including the FCC Form 470 posting requirement, the 28-day waiting period requirement, the section 54.511(a) bid evaluation rule, and the section 54.511(b) lowest corresponding price rule.⁴⁴ All of these rules are intended to serve the important public interest of ensuring good stewardship of limited E-Rate funding, but they are ill-suited to the emergency needs of students who lack connectivity during the pandemic. Instead, the Commission should rely on state and local governments to manage their procurements consistent with their own procurement regulations, which include competitive bidding requirements or documented justifications for alternative procedures.

The Commission should take this approach not only for schools with existing contracts,⁴⁵ but also for schools entering into new contracts to purchase eligible equipment and services.⁴⁶ At a minimum, the Commission should not apply the E-Rate procedural requirements to services purchased pursuant to existing contracts or services purchased pursuant to state master contracts.⁴⁷

Reimbursement. The Commission should adopt its proposal to require applicants (rather than service providers) to submit invoices for reimbursement.⁴⁸ Because off-campus services have not been eligible for E-Rate support, carrier systems are not currently set up to apply E-

⁴⁴ 47 CFR § 54.511(a); *id.* § 54.511(b).

⁴⁵ *See Public Notice* at 10. As the Commission recognizes in the *Public Notice*, many schools and libraries have already entered into contracts to purchase eligible equipment and services. If the Commission were to retroactively apply complex and burdensome E-Rate procedures, it could disrupt schools' ability to continue leveraging these agreements. The Commission should not require schools to start the procurement process over again in order to obtain ECF support for remote learning.

⁴⁶ *See id.* at 11.

⁴⁷ *See id.*

⁴⁸ *See id.* at 13.

Rate support to bills for those services or submit reimbursement requests for those services to USAC. Service providers likely would not have time to make the necessary system changes to begin applying discounts before ECF support begins.

Gift rule waiver. The Commission should continue to waive the E-rate gift rules until the end of June 2022. Extension of the gift rule waiver is in the public interest because it would allow service providers to offer or provide, and E-Rate program participants to solicit or accept, improved capacity, networking gear, or other things of value that could assist students and teachers during the pandemic.⁴⁹

V. **Conclusion**

For the reasons stated herein, the Commission should provide support from the Emergency Connectivity Fund only for the specific eligible equipment and services enumerated in the ARP Act, and should adopt streamlined procedures to accelerate the provision of support to schools and libraries.

Respectfully submitted,

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⁴⁹ See *Rural Health Care Universal Service Support Mechanism, Schools and Libraries Universal Service Support Mechanism*, Order, 35 FCC Rcd 14,544, ¶ 7 (2020).