July 1, 2019

Marlene H. Dortch, Secretary

Federal Communications Commission

445 12th St. SW, Washington, DC 20554

Re: RM-11841;

CC Docket No. 02-6;

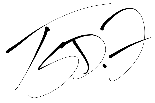
WC Docket No. 13-184

Dear Ms. Dortch:

I would like to submit comments in opposition to the Petition for Rulemaking by the Texas Carriers to prohibit use of E-rate funds to build fiber networks in areas where fiber networks already exist.

I thank you for your time and consideration of these comments.

Respectfully,



Tim Jones

E-rate Specialist

**INTRODUCTION**

After reading the petition proposed by the Central Texas Telephone Cooperative, INC., Peoples Telephone Cooperative, INC. and Totelcom Communications, LLC (Texas Carriers) several things stuck out to me as going against the fundamental principles of the E-rate Program. The proposed changes could:

1. limit applicant’s abilities to find and choose the most cost effective option;
2. increase the complexity of the process while placing the burden on applicants;
3. increase the time it will take to issue a funding commitment;
4. create the possibility for applicants to not receive funding for fiber in a given funding year;
5. and weaken the competitive bidding process.

**LIMITING THE APPLICANT’S ABILITY TO FIND THE MOST COST EFFECTIVE OPTION**

Existing fiber facilities are not always the most cost effective option for applicants looking to meet the bandwidth goals set under the E-rate Modernization Order. If an applicant chooses to leave their incumbent provider and finds that a new provider can provide a more cost effective option utilizing special construction, or the applicant can themselves provide a more cost effective option pursuing self-provisioned fiber, then the applicant should be able to pursue that option. Always choosing the most cost effective option lowers the out of pocket costs for districts and frees up E-rate funding.

**INCREASING THE COMPLEXITY OF THE PROCESS**

The Texas Carriers proposed that applicants should post “Special Construction Exhibits” during a “Challenge Period” which contain proposed fiber lines and locations. Since the applicant submits this information to USAC as part of the review process, this creates a redundant step in the process that could potentially be overlooked or completed incorrectly resulting in a loss of funding. I think it is unfair to add additional requirements to applicants who are already overburdened by an overly complex process.

**INCREASING THE TIME IT WILL TAKE TO ISSUE A FUNDING COMMITMENT**

The proposal from the Texas Carriers also includes a sixty day waiting period before special construction costs can be approved by USAC. This would be followed by a 120 days period where the selected service provider and owner of existing fiber could negotiate leasing the existing fiber. This alone could result in a 6 month delay in a funding commitment. The Carriers’ also requests that all challenges are reviewed by USAC which could cause further delays in a commitment. Delays in funding approvals, especially for special construction and self-provisioned fiber, hurt districts as they will have to pay a non-discounted rate for interim services while they wait for a funding approval.

**CAUSING APPLICANTS TO NOT RECEIVE FUNDING**

The proposed changes could cause applicants to pay more for services and/or be denied funding. Applicants will have already gone through the process to determine that Special Construction of Fiber is the most cost effective method for receiving fiber service. If it is then determined that there are already existing facilities, the cost may increase if the lease of this existing fiber is not more cost effective than the construction of the new fiber. If there was an increase it would happen after the application window is closed and the applicant would have to pay out of pocket for any increase in costs in its entirety. An even more troubling aspect of this is that if the winning service provider and the owner of existing fiber are unable to reach an agreement, or if they reach an agreement that is not viable for the applicant, then the applicant will lose E-rate funding for their fiber service for that year. This could be catastrophic for a district.

**WEAKENING THE COMPETITIVE BIDDING PROCESS**

The proposal set forth by the Texas Carriers may create a way for service providers to bypass the competitive bidding process by providing an avenue for carriers to force their way in to the process after the bid has been awarded. If these rules are changed and you cannot purchase fiber from another service provider if you have a carrier with existing fiber in your area, it negates the need for the competitive bidding process which has been a hallmark of the E-rate Program. This change could also put applicants at risk of breaking state and local laws. An example would be that if an applicant puts out RFPs for both lit and self-provisioned fiber, they may ultimately be forced to lease Dark Fiber from an incumbent carrier without going through the competitive bidding process, putting them out of compliance with state and/or local laws.

**CONCLUSION**

I worry about the way the term “overbuild” is used in regards to fiber. If there is existing fiber but the carrier is not meeting the needs of the district, it makes sense to build new fiber so the districts needs can be met. In a free market you would never force someone to continue to purchase services from company when their needs are not being met, or force someone to not provide a service just because another company already provides that service. The Texas Carriers stated that they want to specifically safeguard against overbuilding where there are existing USF-supported fiber networks, but I would ask why the providers own these fiber networks funded using E-rate funds? It would be a better use of Universal Funds to provide ownership of these E-rate funded special construction networks to the applicants who then contracts with a provider to manage the network. This could eliminate waste and save applicants and the E-rate Program money and allow for districts to change providers in the event that their needs are not being met.

I thank you for taking my concerns into consideration and ask that you deny the Texas Carriers’ petition for rulemaking.