**Before the**

**FEDERAL COMMUNICATIONS COMMISSION**

**Washington, D.C. 20554**

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| In the Matter of  Texas Carriers’ Petition to Prohibit  Use of E-Rate Fund to Build Fiber Networks Where Fiber Networks Already Exist | **)**  **)**  **)**  **)**  **)** | RM-11841  WC Docket No. 13-184  CC Docket No. 02-06 |

**COMMENTS OF**

**TEXAS EDUCATION SERVICE CENTER REGION 11**

Education Service Center Region 11 (ESC Region 11) respectfully submits these comments in response to the Public Notice in the above referenced proceeding.[[1]](#footnote-1) ESC Region 11 opposes the Petitioners’ request for rulemaking because it is unnecessary. In addition, the Petitioners’ proposal would alter the program towards an anti-competitive and monopolistic model that would not result in the most cost-effective solutions for applicants or the program. The additional burdens and bureaucratic oversight will increase delays in deployment, creating a time constraint on applicants in which to implement the services and would push applicants towards the selection of incumbent providers, even if they were not the most cost-effective, simply to avoid the second bite at the apple that would be afforded incumbents.

ESC Region 11 is one of 20 education service centers created by the Texas State Legislature. In order to serve the large number of individual school districts and charter schools in Texas, [Texas Education Agency](https://en.wikipedia.org/wiki/Texas_Education_Agency" \o "Texas Education Agency) (TEA) is divided into 20 regions, each containing an Educational Service Center, or ESC. ESC Region 11 provides professional development, technical support and management of educational programs. Region 11 serves the counties of Cooke, Denton, Erath, Hood, Johnson, Parker, Palo Pinto, Somervell, Tarrant, and Wise. ESC Region 11 serves 77 school districts, 66 charter school campuses, 70,699 educators, and 578,910 students.

Region 11 has sought E-rate support on behalf of its member school districts—to the benefit of both its members and the E-rate program. Region 11 believes the Commission’s E-rate rules currently promote competitive and cost-effective solutions that result in the best value services.

**I. Current rules provide for the most cost-effective solutions**

The Commission rules center around the concept of fair and open competitive bidding for services to procure the most cost-effective solution for both applicants and the E-rate program. Applicants are required to submit a vast amount of information as well as defend the decision by answering highly technical questions to ensure that funding for any services that include special construction are going to the most cost-effective solution..

The Petitioners’ state they “are particularly concerned about region-based consortia groups.” The Commission has no reason to share this “concern.” ESC Region 11 school districts have seen major benefits of the consortia model through cost savings and increased bandwidth. Beginning in funding year 2016, ESC 11 sought a consortium solution for its member districts. At that time, 20 districts within the region did not have fiber connectivity for internet access. It is important to note that membership in the consortium is voluntary, and not required by any state law. Therefore, each participating school district recognized the value of becoming a consortium member versus procuring services independently.

Prior to the consortium model, the **pre-discount** monthly average cost per megabit (Mbps) was $18.71 for school district with less than 1,000 Mbps. The **pre-discount** monthly average cost per megabit (Mbps) was $3.37 for school district with 1,000 Mbps to 5,000 Mbps. After the ESC 11 fiber WAN bid, the new **pre-discount** monthly average costs per Mbps for all consortium members dropped to $0.23 per Mbps, which is 93% lower than the pre-consortium model. In addition to the costs decrease, the bandwidth increased by 10 times, on average, from 907 Mbps to 10 Gbps for all consortium members.

**II. Limiting consortia formation hurts schools that need it most**

The overall goal of the ESC 11 consortium is to provide low-cost, high-bandwidth service to all schools regardless of their size and location. The 20 districts that were utilizing non-fiber connections, prior to the consortium model, were the most rural districts within the 7,843 square mile region. One particular district had seven full days of downtime during the 2018-19 school year due to weather issues affecting their non-fiber connectivity. This not only prevents access to online educational materials, it does not allow reliability for modern services such as VoIP and cloud-based backup services. The consortium model has been effective by providing reliable bandwidth, lowering costs, and even removing the administrative burden of individual E-rate applications.

As provided by Education Super Highway, there are currently 23 states that utilize a state-level consortium model for procuring services on behalf of school districts. Additionally, seven states utilize regional consortium models for local school districts. Based on the 2019 Form 471 filings, 43 percent of school districts have applied for Internet service as part of a consortium.

By adopting rules that would limit participation in regional and state consortia, local school districts, and especially those that have the most to gain, would be limited in their ability to meet their current and future bandwidth needs at a cost that is affordable.

**III. The petition contradicts the FCC’s commitment to foster competition within the E-rate program**

In the *Second E-rate Modernization Order*, the Commission stated, “It is our view that vibrant competition on an even playing field generally brings the lowest prices and best promotes ‘national broadband policy.”[[2]](#footnote-7)  
In reviewing the issue, the Commission went on to conclude:

*“We do not adopt NTCA’s proposals that we give existing providers a separate opportunity to demonstrate that they are able to provide service at the targeted speeds, because to do so would interfere with the competitive bidding process, which is the E-rate program’s primary tool for ensuring schools and libraries select the most cost-effective option. Moreover, because E-rate applicants’ requests for bids are publicly available, providers all have an equal opportunity to bid to provide E-rate services, and we expect that where there are existing providers and networks capable of providing service at the targeted speeds, they will be well situated to offer very competitive pricing through the competitive bidding process.”[[3]](#footnote-8)*

The petition seeks to limit competition and increase the bureaucratic oversight in the current equal opportunity bid process. The proposal includes a 60-day challenge period along with a 120-day negotiation phase. An additional 180 days added to process would extend the implementation window so far that it would be near impossible to complete the projects within the funding years of the application. This not only brings projects into E-rate funding window jeopardy, it can also encroach on state-match award deadlines for project completion.

**CONCLUSION**

For the reasons discussed herein, the Commission should dismiss the petition on the grounds that:

1. A rulemaking on competitive bidding rules is not necessary;
2. The Petitioners’ proposal would not foster competition in the E-rate process,
3. The Petitioners’ proposal would not result in the most cost-effective solutions;
4. The Petitioners’ proposal would harm small, rural districts that need services the most

**Thus, the Commission should reject the Petitioners’ request for rulemaking, and dismiss the petition as meritless**.

1. See, Public Notice, issued May 30, 2019, DA 19-493, available at<https://www.fcc.gov/document/wcb-seeks-comment-texas-carriers-e-rate-petition>. [↑](#footnote-ref-1)
2. Second E-Rate Modernization Order, Paragraph 41. [↑](#footnote-ref-7)
3. Second E-Rate Modernization Order, Paragraph 51. [↑](#footnote-ref-8)