



July 5, 2016

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
9300 East Hampton Drive
Capitol Heights, MD 20743

RE: WC Docket No. 13-184 – Modernizing the E-Rate Program for Schools and Libraries Comments to the FY 2017 E-Rate Eligible Services List

Dear Ms. Dortch:

For the FY2017 Eligible Services List page 11 section title Eligibility explanations for certain Category One and Category Two Services: subsection title Wireless services and wireless Internet access we respectfully request the expanded inclusion of cellular data service for key staff members without the requirement that such a service be directly compared to the cost of providing data service to devices through a building Wi-Fi service. We request this on the basis that the two services serve different purposes and do not violate the duplicative services FCC requirement and compliment the *Second E-rate Modernization Order* and other established FCC rules:

1. The building Wi-Fi's primary purpose is to support the day to day educational activities within the building by both staff and students.
2. The primary purpose of cellular data service provided to key staff members is to support them as they direct and supervise the overall educational experience of their students/patrons. This experience includes ensuring the general health and safety of students/patrons while they are within an eligible entity, with a heavy emphasis on controlling emergency situations and directing the response of administrative staff and first responders in such situations to protect the most precious possession families give a school and/or library, their child(ren).

It only seems reasonable to compare the cost effectiveness of the two services if the FCC does not consider the implications of various emergency situations. However, we believe Federal Regulation 47 USC §254(c)(1)(A) requires the FCC to consider these emergency situations when determining the eligibility of a service for E-Rate

support. The simple fact is building Wi-Fi networks are not reliable in emergency situations. Consider the simple example of a fire in a school building. The likelihood of the WLAN equipment remaining functioning and uncompromised by the combination of the fire and the fire suppression efforts is low. However, nearby cellular towers would remain unaffected by this emergency and the ability of a principal to use his cell phone to not only call for emergency responders but also email fellow district administrators for assistance is a lifesaving necessity. The same would be true for equipment that is not on the premise of a building under assault by an active shooter. It is important to note that FBI statistics indicated that 60% of active shooter incidents end before the police arrive, making the staff the first line of defense against such a threat (Blair, J. Pete, and Schweit, Katherine W. (2014). A Study of Active Shooter Incidents, 2000 - 2013. Texas State University and Federal Bureau of Investigation, U.S. Department of Justice, Washington D.C. 2014). I would also like to point out that the FCC's own advice in severe weather (posted on the FCC website under "Preparedness, Response and Recovery; How to communicate during a severe weather emergency) recommends the use of cellular service, voice, texting, and data usage. We do not believe it serves the public interest to eliminate the eligibility of tools like cellular data for schools and libraries that the Commission recommends to the general public.

In encouraging the FCC to include cellular data plans we provide two additional observations for the FCC to allow the inclusion of cellular data plans on the ESL for FY2017.

1. The FCC rule requirement for cost effectiveness and price as a primary factor has not been violated. 47§54.503(c)(vi)(2)(ii)(B) does require that "all bids submitted for eligible products and service will be carefully considered, with price being the primary factor, and the bid selected will be for the most cost-effective service offering (with further reference to 47§54.511, which reiterates that selection of a provider of eligible services must revolve around cost-effective offerings). Neither of these sections require that eligible services be put in competition with each other, only that, once a local agency has determined that they need a service that is eligible for E-Rate support, that they run a fair and open competitive bidding process to determine which of the service providers has the most cost-effective solution for their needs. The presumption in the Modernization Orders that Wi-Fi access is more cost-effective than cellular data service pits two types of service against each other, eliminating the local agency decision process and ignoring the inherent differences in the two services.

2. It is a commonly held belief that local decisions represent the best understanding of a community's goals and needs regarding student safety while being a prudent guardian of the public's resources and to allocate precious scarce resources where they do the most public good. This is a belief supported by long standing practice in the E-Rate program and we believe best described in the FCC's own words; "The Commission has recognized that the applicant is the best entity to determine what technologies are most suited to meet the applicant's specific educational goals." (paragraph 30 of FCC 03-313, The Ysleta Order). The FCC's usurpation of that responsibility has resulted in overly broad assumptions that do not fit the local situation. The FCC should allow the School District/Library to make the local determination to use a combination of Wi-Fi and cellular data as needed to best meet the needs of their students, staff, and patrons. By not allowing this the FCC is also in direct conflict with Federal Regulation 47 USC §254(c)(1)(A) which requires the FCC to support services that are essential to education, public health, or public safety. If the School District/Library has determined that these key staff members' job performance is enhanced by cellular connectivity, both voice and data, then the FCC should support this local decision by including cellular data on the FY2017 ESL. E-rate support allows eligible entities to supplement the cost of this tool to its staff largely due to the support from the FCC through the E-rate program.

Summary

The loss of cellular service due to the rollback of support for voice services and elimination of support for cellular data in buildings with existing Wi-Fi networks has compromised the safety of students/patrons while on eligible entity property. We find pitting public safety against cost effectiveness the most baffling conflict between two FCC rules. In this time of hyper awareness of public safety, we suggest it is difficult for the FCC to justify prioritizing cost effectiveness over safety. We understand that the FCC cannot support duplicative services but cellular data service IS NOT the same service as internet access over a building's Wi-Fi network.

We understand the history of why cellular data was eliminated and that one of the key factors in the FCC's decision to remove mobile data from the Eligible Services List was due to the strain on demand that was created when applicants would purchase hundreds – or even thousands – of mobile data plans for student use in the classroom. What we are proposing is to include cellular data for key staff only. This is a very defined population. Key staff (many of whom may be quite mobile throughout the day during the normal course of business while serving



students/patrons in different on-campus facilities) have substantially different usage patterns. We understand that delineating eligibility by user role is something of a new concept, admittedly, but approaching it this way does allow the FCC to be seen as a proactive partner with eligible entities in fulfilling their role with education, public health, or public safety. (47 USC §254(c)(1)(A))

It is important to remember that the FCC is required to direct USAC to run the E-Rate program within ALL of the federal rules governing the Universal Services Fund, and while the Modernization Orders of July 11, 2014 and December 11, 2014 both spell out the reasons why the current FCC Board presupposes supplying data service to devices on campus is most cost effectively supplied by Wi-Fi, neither of these orders address the necessity of supplying data service to the devices of limited number of key staff members while on campus during an emergency that shuts down the local network. Federal Regulation 47 USC §254(c)(1)(A) requires the FCC to support services that are essential to education, public health, or public safety and it is important to remember that this regulation predates both Modernization Orders and nothing in either Modernization Order amends, curtails, or in any way ameliorates the need to conform with 47 USC §254(c)(1)(A). As a result, we are requesting that the FY 2017 Eligible Services List include support for key staff members' cellular data without regard to the status of any eligible entities Wi-Fi network.

Thank you,

Charles F. Hobbs, President

Darsey A Carnal, Government Relations and Program Compliance Officer