

July 15, 2019

Ms. Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Comments on the Matter of Petition for Rulemaking to Amend and Modernize Part 54 of the Commission's Rules (RM-11841; WC Docket No. 13-184; CC Docket No. 02-06)

Dear Ms. Dortch,

On behalf of the undersigned organizations and entities, representing Texas public schools, education service centers, superintendents, school leaders, educators and parents, we write to express our deep concern with a petition for rule making pending before the Federal Communications Commission (FCC), one that would undermine state and local education agency leadership on their critical work in school connectivity, compromise the cornerstone principles of equity and competition within the Universal Service Fund's School and Libraries (E-Rate) program, and use federal policy to establish monopolistic protections for incumbent providers.

When the E-Rate program was updated in 2014, supporting policy priorities that incentivized access to broadband, consortium applications and state funding support, it represented an excellent opportunity for Texas education. Governor Abbott and Education Commissioner Mike Morath announced the Classroom Connectivity Initiative, a new set of E-Rate matching funds. Coupled with local education agencies increasingly looking for—and asking education service centers (ESCs) to provide—expanded broadband service, it represented a catalyst for the ESCs to pursue a region-wide approach to broadband connectivity. As the districts the ESCs serve continued to exceed the demand that the previous wireless networks could deliver, they asked the ESCs to create a fiber consortium and modernize the utilized infrastructure. In response, Texas ESCs responded—out of responsibility and obligation—to meet the need and demand of the LEAs, as required by Texas law.

In navigating a request for proposal (RFP) process carefully regulated by both E-Rate rules and state and local procurement requirements, ESCs were diligent in executing a thorough, fair and transparent process. Winning bids were announced and the E-Rate applications were submitted. Missing from these RFP processes was the submission of a bid from the petitioners, the groups behind the petition for rulemaking. They failed to submit a bid—even though required to participate in all E-Rate processes, given their status as a high-cost recipient—and are now using federal policy to establish a competitive advantage to secure access to additional federal support, to win a provision for which they never even applied.

While the focus of this petition is E-Rate, it is important to understand and acknowledge the systemic nature of ESCs and the supports they provide, and how the path they pursued in providing regional access to broadband had broad state and local support. Outside of serving as an applicant for E-Rate, ESCs perform additional services for school districts, some of whom do not have dedicated technology staff, or whose staff may not have the skillset to manage all aspects of a complex modern network. Outside of explicit E-Rate services, school districts consider the coordinated set of system supports they need to run a fully functional network, including providing a firewall, web filter, wireless access point management, identity management, information security, backup and disaster recovery, and more. A consortium network makes many of these things possible at scale, drastically lowering costs for the participating districts. In addition to savings on the E-rate eligible costs, there are also savings outside of E-Rate. It is absolutely critical to consider these additional savings, including overall technology plans and system planning, when examining the benefits of these networks; to consider E-Rate in a

silo completely disregards the reality of administering system technology and the overlapping considerations of connectivity and other network needs, both in terms of cost and full implementation.

One disconnect with the petition as drafted is that the petitioners are claiming harm, when the reality is that the fiber they own—laid with federal support—is currently not used by districts because it is either not available (since the providers have not submitted bids) and/or may not be the most cost effective option. If implemented as drafted, the petition would ignore the market forces of participation and price competition to provide a stand-alone monopolistic opportunity for providers to bypass initial RFP engagement to respond to, challenge, and outbid competing applications who were able to submit an application in normal order and process. This petition disregards these critical concepts of fairness and a level playing field among applicants. This petition is the epitome of federal overreach, a remedy in search of a (non existent) problem.

The reasonable middle ground in this scenario already exists: providers/carriers which are recipients of high cost funds must participate in any E-Rate competitive bidding opportunity in which they have existing fiber. There is flexibility in how they engage: they could form selling consortia and partnerships in a manner they have done in the past and as the ESCs have done more recently; they could pursue wholesale opportunities to lease existing facilities—including dark fiber and unbundled network elements—to competitors; or some combination of the two. These options can only be utilized if providers participate in the competitive bidding process, but the petitioners, instead of proposing bids, would rather propose unnecessary rules that allow them to remain on the sidelines without consequence.

Sincerely,

Texas Association of Community Schools
Texas Association of Midsized Schools
Texas Association of School Administrators
Texas Association of School Business Officials
Texas Elementary Principals and Supervisors Association
Texas K-12 CTO Council
Texas Rural Education Association
Texas School Coalition

Texas Education Service Center Region 1
Texas Education Service Center Region 2
Texas Education Service Center Region 3
Texas Education Service Center Region 4
Texas Education Service Center Region 5
Texas Education Service Center Region 6
Texas Education Service Center Region 7
Texas Education Service Center Region 8
Texas Education Service Center Region 9
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Texas Education Service Center Region 11
Texas Education Service Center Region 12
Texas Education Service Center Region 13
Texas Education Service Center Region 14
Texas Education Service Center Region 15
Texas Education Service Center Region 16

Texas Education Service Center Region 17
Texas Education Service Center Region 18
Texas Education Service Center Region 19
Texas Education Service Center Region 20

CC: Texas Congressional Delegation *listed below*
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Office of FCC Commissioner Carr
Office of FCC Commissioner O’Rielly
Office of FCC Commissioner Rosenworcel
Office of FCC Commissioner Starks

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Sen. Ted	Cruz
Rep. Louie	Gohmert
Rep. Dan	Crenshaw
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