

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Modernizing the E-rate Program for Schools and Libraries	)	WC Docket No. 13-184
	)	
Wireline Competition Bureau Seeks Comment on Proposed Eligible Services List for the E-rate Program	)	

**REPLY COMMENTS OF CENTURYLINK**

Several parties filed comments in response to the Wireline Competition Bureau’s Public Notice about the proposed Eligible Services List (“ESL”) for funding year 2017.<sup>1</sup> CenturyLink<sup>2</sup> shares the Commission’s interest in helping to advance the Universal Service goals for education.

**Leased Dark Fiber/IRU should not be treated as “special construction.”**

CenturyLink respectfully disagrees with the recommendation made by the Illinois Department of Innovation and Technology (“Illinois DoIT”) that leased dark fiber or indefeasible rights of use (“IRU”) should be re-classified as “special construction” if the applicant or the provider chooses to substitute them in the midst of a project.<sup>3</sup> Although Illinois DoIT’s suggestion is doubtless well-intentioned, the Commission must especially be cautious with

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<sup>1</sup> *Wireline Competition Bureau Seeks Comment on Proposed Eligible Services List for the E-Rate Program*, Public Notice, DA 16-615 (rel. June 3, 2016).

<sup>2</sup> This filing is made on behalf of CenturyLink, Inc. and its subsidiary entities that are incumbent local exchange carriers.

<sup>3</sup> Comments of the Illinois Department of Innovation and Technology, a State Agency of Illinois Regarding Funding Year 2017 Proposed Eligible Services List for the E-rate Program (filed July 1, 2016) (“Illinois DoIT Comments”) at 2-3.

applications for self-provisioning. There can be no back door exceptions to program rules that require competitive procurement and responsible estimation of project costs. Giving parties the advance option – mid-project – of substituting leased dark fiber or IRUs for special construction could undermine the program by enabling parties to bypass or give short shrift to Commission rules requiring cost-effectiveness showing fair and competitive procurement for these self-provisioned services.

CenturyLink continues to believe that the Commission was mistaken to presume it has statutory authority to fund dark fiber or self-construction, when the statute authorizes only “discounts” on “telecommunications services” provided by “carriers.”<sup>4</sup> CenturyLink has cautioned that funding for dark fiber and self-provisioning in E-rate is demonstrably a bad idea.<sup>5</sup> As a general rule, building, operating, managing and maintaining networks for schools and libraries is very difficult, made even more so by the growing demand for bandwidth and the highly dynamic nature of broadband usage and applications. With too few exceptions, publicly operated broadband systems have a poor track record for both cost and performance. Commercial enterprises that certainly could afford to build their own networks – banks, airlines, major retailers, and others – almost invariably do not. And self-provisioning can only very rarely be cost effective. Additionally, public-owned or –operated facilities undermine market competition and broadband investment by leading to overbuilding of existing capacity and introducing nonmarket pricing by publicly subsidized entities.

To its credit, the Commission incorporated important initial safeguards in the *Second E-rate Reform Order*. They include (1) allowing E-rate support for self-construction only when it

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<sup>4</sup> See, e.g., Further Comments of CenturyLink (filed April 7, 2014) at 7-8 (explaining limits of Commission authority under 47 U.S.C. § 254(h)(1)(B)).

<sup>5</sup> *Id.* at 8-10.

is “demonstrated to be the most cost-effective option after competitive bidding” and requiring sufficient detail in FCC Form 470 “so that cost-effectiveness can be evaluated based on the total cost of ownership over the useful life of the facility,” (2) requiring “the facilities [to be] built and used within the same funding year,” subject to limited exceptions, and (3) requiring that applicants secure the resources necessary to make effective use of their purchased services.<sup>6</sup>

Giving applicants advance freedom to substitute leased dark fiber and IRUs for special construction would undermine these protections to the program’s cost-effectiveness and its fairness to commercial competitors. At most, where extraordinary circumstances warrant, the Commission could address requests for waiver on a case-by-case basis under its existing rules.<sup>7</sup>

**Redundant Facilities Are Appropriately Ineligible.**

Illinois DoIT also asked that redundant connections be eligible for E-rate funding under Category 1.<sup>8</sup> CenturyLink appreciates Illinois DoIT’s concern about the importance of service reliability and resiliency. However, allowing funding for purely redundant facilities – especially when self-provisioned – would pose an unreasonable and potentially vast new burden on the E-rate fund. Moreover, funding redundant facilities would almost invariably render self-provisioning non-cost-effective if fairly compared to commercially provided services. It would also mark a sharp departure from substantive Commission policy, one inappropriate for the ESL process.

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<sup>6</sup> *Modernizing the E-Rate Program for Schools and Libraries*, Second Report and Order and Order on Reconsideration, 29 FCC Rcd 15538 at 15557-58 (2014) ¶¶ 47-50.

<sup>7</sup> See 47 C.F.R. § 1.3 (providing that Commission rules may be waived in response to a petition if good cause is shown).

<sup>8</sup> Illinois DoIT Comments at 4.

A drastic policy change is probably unnecessary, regardless. Many applicants and providers already have a far more cost-effective approach to reach the same goal. Under existing E-rate policy, where an applicant needs two circuits for load balance, provisioning in that manner provides redundancy and is fully eligible for E-rate funding. Additionally, one of the advantages of commercially procured finished services is the higher level of redundancy, resiliency, and security that they typically provide.

Respectfully submitted,

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