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September 21, 2016

Marlene Dortch, Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

**Re: CC Docket No. 02-6, WC Docket No. 13-184  
Notification of *Ex Parte* Presentation  
Electronic Classroom of Tomorrow**

Dear Ms. Dortch:

Pursuant to §1.1206(b)(1) of the Commission's rules, Electronic Classroom of Tomorrow ("ECOT"), by its undersigned counsel, hereby submits this notice of an *ex parte* presentation in the referenced proceedings.

On September 21, 2016, Greg Spencer, a representative on behalf of ECOT, and ECOT's counsel, Mark Palchick and Rebecca Jacobs of this firm, attended separate meetings at the FCC with Amy Bender, Legal Advisor, Office of Commissioner O'Rielly and Travis Litman, Senior Legal Advisor, Office of Commissioner Rosenworcel to discuss ECOT's concerns that recent actions by USAC would effectively disqualify virtual schools from receiving Internet access funding for their virtual classrooms.

Mr. Spencer provided an overview of ECOT and the educational services that they provide to K-12 students across Ohio. Specifically, Mr. Spencer explained that ECOT provides K-12 education to over 16,000 students in the state of Ohio and is established pursuant to Ohio law as a "community school" that is part of the state's education program. Accordingly, ECOT is an educational institution eligible for E-rate funding. Mr. Spencer further explained that ECOT's virtual school is attended by a variety of students, including high-risk students and students with medical issues. ECOT provides these students with curriculum that meets standards set by the Ohio Department of Education and all students are required to take state-issued tests and pass the Ohio Graduation Test in order to receive their high school diploma. To illustrate his points, Mr. Spencer provided staff with the attached maps and diagram.

Counsel for ECOT discussed the USAC actions in greater detail and provided an overview of the bases for the actions. Specifically, counsel explained that while funding had been provided in years' past for ECOT's Internet access, in the 2015 Funding Year ECOT was instructed by USAC to no longer seek support for its Internet access service under ECOT's billed entity number, but rather to establish a new billed entity number for the data center utilized by

ECOT's service provider to provide Internet access for its virtual school. USAC then proceeded to deny funding for the new billed entity number, because the data center was not a school, administrative office or non-instructional facility and no students were located on the premise. In addition to asserting that the data center should never have been assigned a billed entity number separate from ECOT, counsel explained that USAC's application of rules designed specifically for brick and mortar schools effectively disqualify a virtual school from obtaining E-rate funding. In the funding denial, USAC insisted that ECOT did not qualify for funding because there were no students located "on premise." However, such a notion runs contrary to the very nature of a virtual school where students and teachers meet in a virtual classroom environment.

Counsel for ECOT also discussed USAC's refusal to fund pop-up testing facilities that used wireless data plans to obtain connections to the Internet solely during the period that the pop-up facilities were used as testing sites. One of the requirements for ECOT to be treated as a K-12 school under Ohio law is that all testing sites be located within a 50-mile radius of any ECOT student. USAC supported its action by asserting that: (1) more than 30% of the funding request was for "off-campus" use; and (2) ECOT had failed to show that individual data plans and air cards were either the only physically available option or were the most cost-effective. With regard to the off-premise issue, ECOT asserted in the meeting that the state-required testing facilities were "on premise" locations, as they were locations where students met their teachers for testing purposes. ECOT argued that the temporary nature of the locations should not affect their eligibility for funding, especially considering the requirements for virtual schools in Ohio. In addition, ECOT explained that utilizing wireless Internet access in these pop-up testing locations, which are often located in unoccupied strip mall store fronts that may be leased for as few as three days, is not only the most cost-effective option for obtaining Internet access, but also often the only available option for spaces where ECOT is not the owner of the facility and does not have the ability to seek wired Internet access for a three-day lease.

ECOT concluded the meeting by stating that it was considering filing an appeal of USAC's actions with the Wireline Competition Bureau. Please direct any questions regarding this ex parte letter to the undersigned.

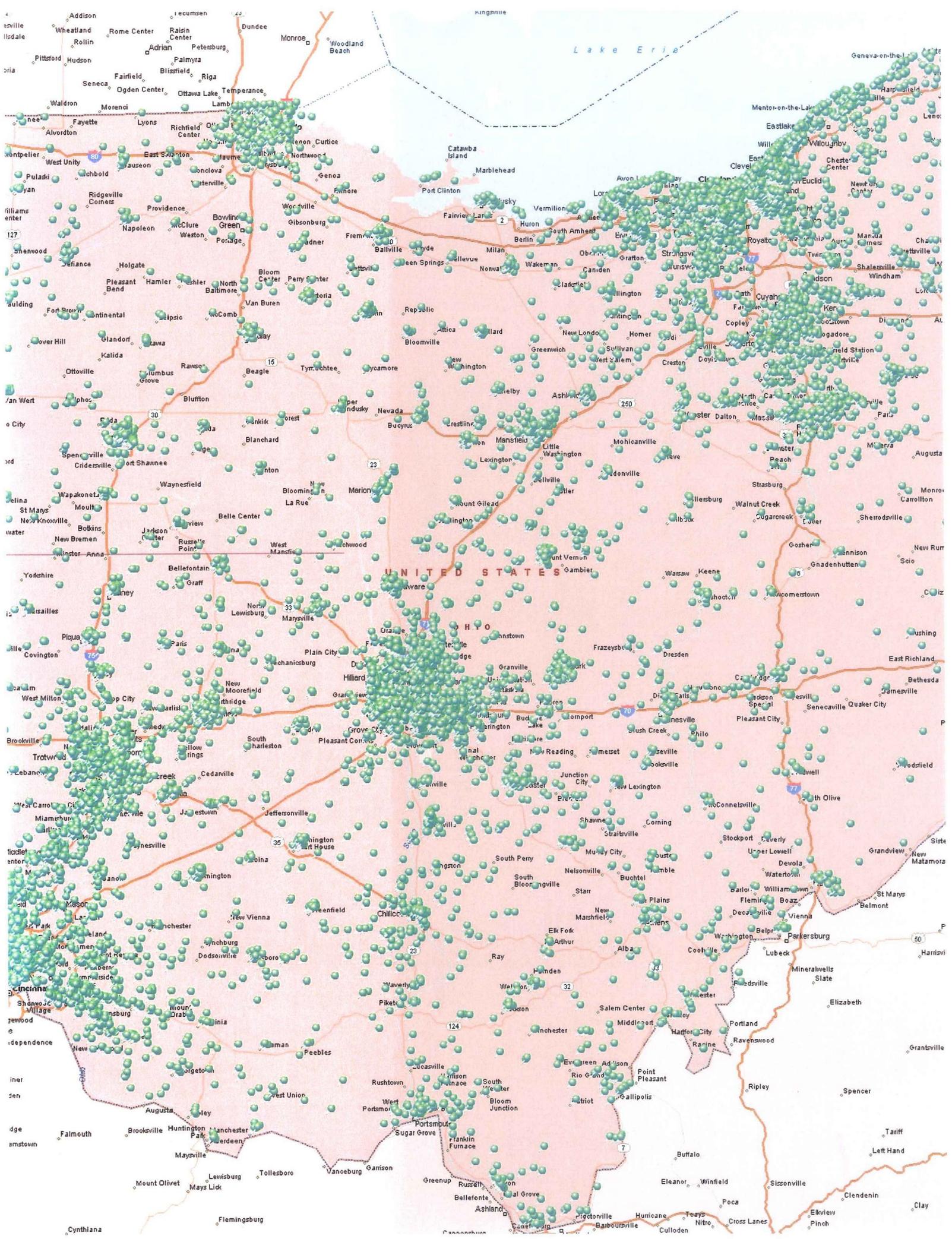
Respectfully submitted,

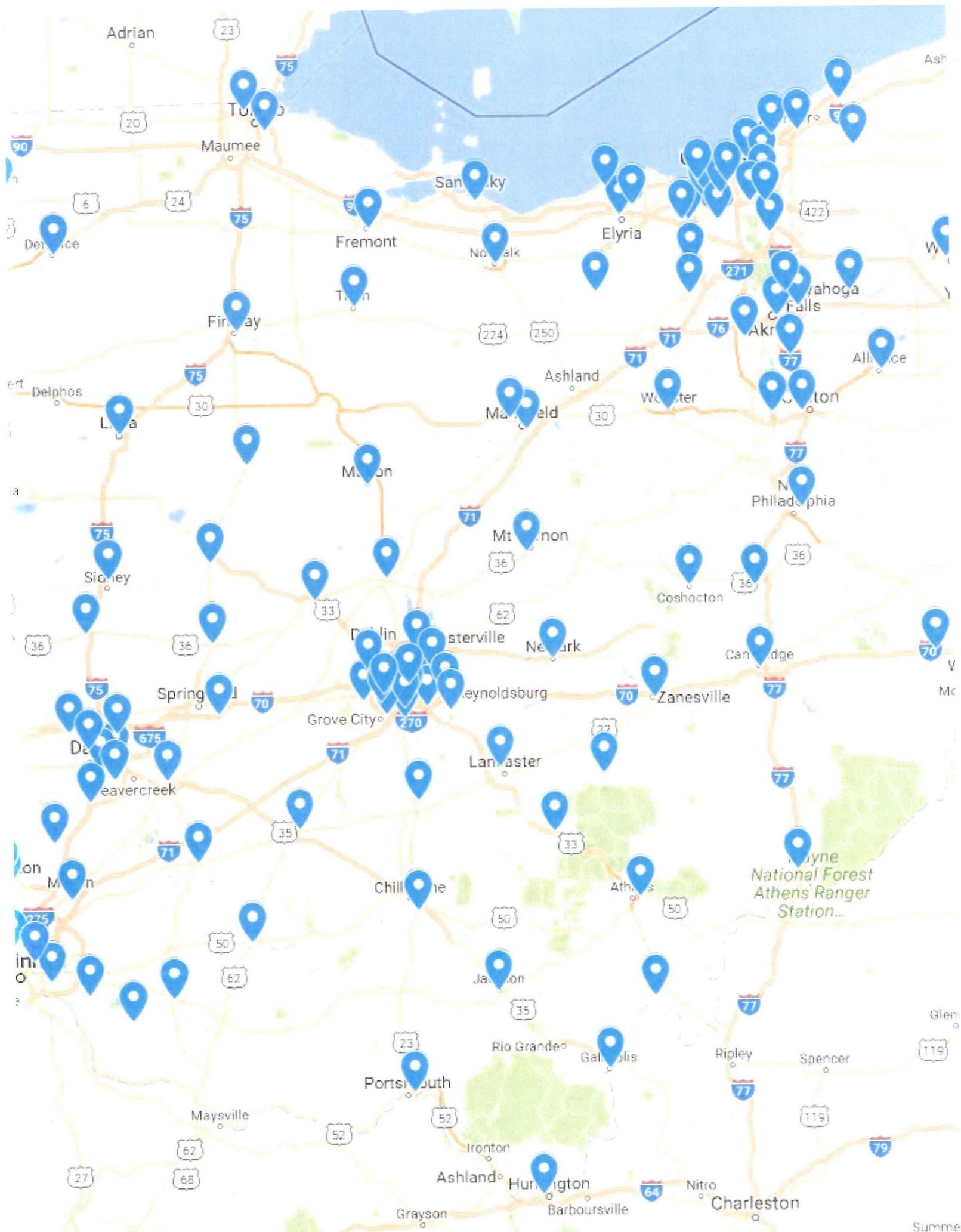


Rebecca Jacobs  
*Counsel to the Electronic Classroom of Tomorrow*

cc (all via electronic mail): Amy Bender, Legal Advisor, Office of Commissioner O'Rielly  
Travis Litman, Senior Legal Advisor, Office of Commissioner  
Rosenworcel

Attachments





# Basic ECOT Network

