

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

In the Matter of:

Modernizing the E-rate Program for Schools  
and Libraries

WC Docket No. 13-184

**REPLY COMMENTS OF THE  
CALIFORNIA PUBLIC UTILITIES COMMISSION**

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## **I. INTRODUCTION**

The California Public Utilities Commission (CPUC) submits these Reply Comments in the Federal Communications Commission's (FCC or Commission) *Further Notice of Proposed Rulemaking (FNPRM), In the Matter of Modernizing the E-rate Program for Schools and Libraries*, regarding the FCC's E-rate program.<sup>1</sup> In the *FNPRM*, the FCC seeks comment on issues concerning modernization of the E-rate subsidy program benefiting schools and libraries.

The CPUC files these Reply Comments in order to inform the Commission about the CPUC's telecommunications subsidy program, the California Teleconnect Fund (CTF), and its nexus with the E-rate program. The CTF program serves a very similar purpose to the federal E-rate program by compensating communications service providers for discounts that they provide to schools and libraries for advanced communications services. The CPUC also responds to one issue raised by EducationSuperHighway in their opening comments.

## **II. DISCUSSION**

### **A. California Teleconnect Fund (CTF)**

The CPUC established the CTF program in 1996 consistent with the California Legislature's universal service policy of ensuring affordable, widespread access to telecommunications services and providing education, health

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<sup>1</sup> *In the Matter of Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184; rel. July 23, 2014.

care, and community-based institutions with access to advanced telecommunications at discounted rates due to their critical role in society and the state's economy. The Legislature codified the program in 1999 to provide discounts to qualifying schools, libraries, hospitals, health clinics, and community-based organizations (CBOs). It later expanded the program to include community colleges.<sup>2</sup>

The CPUC envisioned that “thousands of school children, who may not have access to such services at home, will have access to today's advanced telecommunications and information age technologies at their schools” as a direct result of the CTF program; that libraries would provide access to networks and resources to the public; and that CBOs would find it less costly to provide their constituencies with access to telecommunications and Internet access services.<sup>3</sup>

The CTF was intended to reduce the dichotomy between the information rich and the information poor. Discounts to qualifying CBOs in particular would enable them to provide the communities they serve with increased access to the telecommunications network, thereby decreasing the stratification between information rich and information poor communities. Finally, discounts to qualifying hospitals and health clinics were expected to bring the benefits of

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<sup>2</sup> California Public Utilities Code Section 280.

<sup>3</sup> CPUC Decision 96-10-066, *Rulemaking on the Commission's Own Motion into Universal Service and to Comply with the Mandates of Assembly Bill 3643; Investigation on the Commission's Own Motion into Universal Service and to Comply with the Mandates of Assembly Bill 3643*; p. 90.

advanced telecommunications to health care facilities serving those that could least afford it.<sup>4</sup>

## **B. Program Design**

The CTF provides a 50% discount, after any applicable E-rate discounts<sup>5</sup>, on telecommunications and Internet access services to institutions that play a pivotal role in California's economy and society: schools, libraries, government and hospital district-owned healthcare facilities, community colleges, nonprofit community-based organizations, and participants in the pilot California Telehealth Network (CTN). There are currently more than 10,000 CTF participants including almost 3,000 schools and over 300 libraries. It is the second-largest of the CPUC's six universal service subsidy programs and the largest universal service subsidy program that directly supports Internet access service.

Services eligible for CTF discounts are very similar to those that qualify for the E-rate discount: measured business service lines, switched 56 lines, ISDN, T-1, DS-3 up to and including OC-192 services, Internet Access, Multi-Protocol Label Switching, wireless data plans, laptop cards, and their functional equivalents. The CTF discounts apply to only monthly recurring charges and not to equipment.

Over the last five years, the CTF budget has grown from \$60 million in Fiscal Year (FY) 2009-10 to approximately \$108 million in FY 2014-15. The vast

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<sup>4</sup>*Id.*, pp. 90-91.

<sup>5</sup>California Public Utilities Code Section 884.5.

majority of the program budget -- more than 90% -- is for reimbursement to service providers for discounts provided to participants. Future fund growth will, in significant part, depend on the speed with which schools meet President's Obama's ConnectED goals, California Governor Brown's initiatives for technological improvements for the education sector, and the California's Common Core computerized testing for K-12 students. Since CTF discounts are determined residually after E-rate discounts, changes in the E-rate program, such as phase-out of voice service and exclusion of wireless data plans adopted in the E-rate *Modernization Report and Order (Order)*<sup>6</sup> may also have significant repercussions for the CTF.

The CTF is funded by a surcharge on intrastate telephone service, one of the six surcharges supporting California's universal service programs. The surcharge rate is adjusted periodically based on forecasted expenses. The current CTF surcharge rate of 0.59% will increase to 0.93% on October 1, 2014.

### **C. CPUC Open Proceeding**

On January 31, 2013 the CPUC issued an Order Instituting Rulemaking 13-01-010 (OIR) proceeding to examine whether the CTF program is fulfilling its intended purpose and whether the program's current structure and administrative process are adequate to further the program goals. In the OIR, the CPUC reaffirmed its commitment to bringing the benefits of advanced communications

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<sup>6</sup> Report and Order, *In the Matter of Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, rel. July 23, 2014 (Order).

services to all Californians, while ensuring that California ratepayer money is spent prudently. The overarching issues being examined in the OIR are: (1) Whether the CTF program has been successful in bringing access to advanced communications to Californians who would otherwise not have access; and (2) Whether additional refinements are needed for CTF eligibility criteria to ensure that any discount provided to an entity advances the CTF's goals. In the OIR, CPUC staff has proposed new rules for the program, such as limiting the discount for each participant to a flat amount and placing some boundaries on CBO eligibility, in order to better manage the CTF Fund.

**D. Response To EducationSuperHighway's Comments Regarding Price Transparency**

The CPUC supports the comments of the EducationSuperHighway (ESH) with respect to strengthening price transparency for E-rate services to reduce the cost of broadband.<sup>7</sup> ESH comments are consistent with the Order which acknowledges that “[d]etailed pricing information is essential to our goal of maximizing cost-effectiveness as well as ‘affordability’ under our first goal.”<sup>8</sup>

The CPUC recommends that the FCC require all service providers to publish the same set of price parameters for all services receiving E-rate subsidies. The price data set and detailed service descriptions should be at the most granular level and cover all aspects of the transaction. The current E-rate forms, e.g. Form

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<sup>7</sup> ESH Comments, p.10

<sup>8</sup> Order, ¶ 51.

471 and Item 21 and instructions, are inadequate because they lack specificity and standardization requirements. They do not achieve the level of price transparency that is needed in order to be an effective force in maximizing cost-effectiveness. The CPUC recommends that the Commission modify the current forms or add new forms to obtain the necessary detailed data.

In addition to publishing the detailed data on the FCC/USAC website, the CPUC recommends that the Commission post on its website a tool to facilitate price comparisons. For example, in supermarkets, there is unit cost pricing for most products. Customers can compare the unit price and cents per sheet of a package of 12 rolls of store brand paper towels against one roll of paper towel or a package of 2 rolls of national brand paper towels to determine which type of paper towel product is best suited to meet their needs. Surely, if this can be done for paper towels which are a small expenditure in a household budget, it should and can be done for the billions of dollars that are spent on communications services for the education sector.

The publication of comprehensive and detailed data coupled with quick comparison measures would have multiple benefits:

- 1) Availability of prevailing prices and terms provides schools and libraries with the requisite knowledge to effectively negotiate reasonable prices for services, especially since there is no price regulation for many of the E-rate eligible services;

2) The detailed data will assist the FCC in assessing whether it is meeting its cost-effectiveness goals;

3) Specific price and service information will make it easier to exclude ineligible services from bundles and packages; and

4) The detailed data will enhance the FCC's ability to verify if service providers are complying with the requirement that E-rate providers must provide the supported service at the lowest corresponding price (i.e., the lowest price that a service provider charges to non-residential customers who are similarly situated to a particular school, library, or consortium for similar services.)<sup>9</sup>

Both detailed data and quick comparison measures should be provided; they are not substitutes for each other.

The CPUC would also benefit from having more detailed information about service prices and descriptions. The CPUC's CTF program provides discounts on services that are similar to E-rate eligible services. (The CTF discounts do not apply to equipment or usage.) Having detailed pricing information would allow the CTF participants to assess which components of the service are eligible for CTF discounts. It would also allow the CPUC to determine if the correct E-rate discount is applied to the appropriate service. As stated above, the CPUC has a statutory obligation to apply the CTF discounts to costs net of the E-rate discount. The detailed information will significantly help the CPUC to determine if the service providers are complying with the CTF program rules, thus reducing fraud,

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<sup>9</sup> Order, ¶ 138 and footnote 319.

waste, and abuse. Finally, in its pending CTF OIR, the CPUC is re-evaluating which services should be eligible for CTF discounts. A detailed description of E-rate services and their cost components will also assist the CPUC in its service eligibility assessment.

### **III. CONCLUSION**

The CPUC submits these Reply comments to address the issues raised in the *FNPRM* in the above-captioned docket. The CPUC hopes that the FCC will work closely with the states to craft and implement the new E-rate regime.

Respectfully submitted,

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