Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Modernizing the E-rate	)	WC Docket No. 13-184
Program for Schools and Libraries	)	

REPLY COMMENTS OF
CELLULAR SOUTH, INC. AND TELEPAK NETWORKS, INC.

Cellular South, Inc. (d/b/a C Spire Wireless)[1] and Telepak Networks, Inc. (d/b/a C Spire Fiber)[2] (collectively, "C Spire") submit these reply comments in response to the Further Notice of Proposed Rulemaking ("FNPRM") in the above-captioned proceeding.[3] C Spire commends the Commission for its efforts to comprehensively modernize the E-rate program to better provide broadband connectivity to schools and libraries. In particular, C Spire applauds the Commission for recognizing the vital importance of in-school connectivity, and for authorizing funding for managed internal broadband services.[4] The Commission took a bold and important step in eliminating its rigid system which had prioritized E-rate funding for connections *to* schools and libraries ahead of E-rate funding for connections *within* schools and libraries.

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[1] C Spire Wireless is the nation's largest privately-held, facilities-based wireless operator, offering the latest mobile broadband services and devices to millions of POPs across a network covering all of Mississippi as well as southern Alabama, northwestern Florida, and eastern Tennessee.

[2] C Spire Fiber offers Internet connectivity, data transport, and Fiber to the Home services to business, residential and public sector customers across nearly 5,000 miles of fiber-optic cable throughout Mississippi.

[3] *Modernizing the E-rate Program for Schools and Libraries*, WC Docket 13-184, Report and Order and Further Notice of Proposed Rulemaking, FCC 14-99 (rel. Jul. 23, 2014) ("*Modernization Order*").

[4] *Modernization Order* at ¶ 123

In its FNPRM, the Commission seeks comment on, among other things, the efficiency and appropriate length of multi-year contracts, and future E-rate program funding needs. C Spire agrees with the many commenters who support the Commission's proposal to authorize support for eligible services purchased under multi-year contracts of up to five years. However, in order for a five-year contract, particularly a five-year contract for Category 2 managed services, to be a viable, real-world option for schools and libraries, the Commission must make funding commitments for greater than the one-year period currently allowed. Thus the Commission should move from merely *permitting* multi-year contracts for Category 2 services – which puts schools and services providers at risk that funding will be both available and awarded in future years – to actually *supporting* such contracts through multi-year funding commitments. Doing so will ensure Category 2 managed services are treated comparably to Category 2 capital investments. (The Rural Health Care program's Healthcare Connect Fund currently allows multi-year funding commitments for eligible services of three-years.) The Commission should not permit contracts for services to exceed five years.

The Commission also seeks comment in the FNPRM on the appropriate future funding levels for the E-rate program. The *Modernization Order* set a target of $1 billion annually for Category 2 services (over the next five funding years), to be met within the overall E-rate program cap of over $2.4 billion annually.[5] C Spire supports this level of funding. At the same time, C Spire agrees with other commenters that E-rate funding should not be increased at the expense of continued support for other USF programs.

[5] *Modernization Order* at ¶¶ 14, 118. The overall E-rate cap is indexed to inflation. The $1 billion budgeted annually for Category 2 will come from unused carry-forward funding and through the phase-down of ineligible services such as voice. *See* Verizon Comments, filed Sept. 15, 2014, at 2.

I. THE COMMISSION SHOULD AUTHORIZE MULTI-YEAR FUNDING COMMITMENTS FOR TERMS OF UP TO FIVE YEARS IN ORDER TO ENSURE FUNDING IS AVAILABLE FOR ALL FIVE YEARS OF CATEGORY 2 MULTI-YEAR CONTRACTS

In its FNPRM, the Commission seeks comment on the efficiency and appropriate length of multi-year contracts. C Spire agrees with the many commenters who generally support the Commission's proposal to authorize support for eligible services purchased under contracts of up to five years.[6] A five year contract enables providers to offer lower prices per year (by providing sufficient time to recoup upfront capital expenditures), and increases administrative efficiencies for applicants by avoiding the need to re-bid contracts annually, or every two or three years.

At the same time, C Spire submits that the Commission should not permit contracts, particularly for Category 2 services, to exceed five years. C Spire agrees with CenturyLink that "[e]xtremely long terms can reduce competition and lock-in applicants to a provider, services, technology, or prices that may be improved upon."[7] Although longer term contracts may well offer lower prices per year, the rapid rate of change in connectivity technology almost ensures that new technologies, with much greater capabilities and far lower costs, will be available within five years. In its FNPRM, the Commission proposed to exempt from the five-year limit "contracts that require large capital investments to install new facilities expected to have a useful life of 20 years or more."[8] C Spire recommends that the Commission categorically prohibit contracts of more than

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[6] *See e.g.* AT&T Comments, filed Sept. 15, 2014, at 1 ("Five years is a typical term length for comparable enterprise services in business broadband markets."); CenturyLink Comments, filed Sept. 15, 2014, at 2 ("the Commission's proposed five-year limit … is consistent with commercial business practices and allows reasonable costs without unduly locking in applicants to technology, services, quantity, or price."); Comcast Comments, filed Sept. 15, 2014, at 8-9; and ITTA Comments, filed Sept. 15, 2014 at 5.

[7] CenturyLink Comments at 9. *See also* Concerned Mississippi Technology Coordinators Comments, filed Sept. 15, 2014 at 3 ("no E-rate eligible contract should be allowed to exceed 5 years except under extraordinary circumstances.").

[8] *Modernization Order* at ¶ 272.

five years for Category 2 services, since the facilities required for such services would never be expected to have a useful life anywhere close to 20 years.

However, C Spire urges the Commission to take the appropriate steps to ensure that five-year contracts, *particularly for Category 2 managed services*, are a viable, real-world option for schools and libraries. To do so, the Commission must make funding commitments for greater than the one-year currently allowed. Such multi-year funding commitments will ensure funding is available in future years of the contract. C Spire's experience is that the small schools who often lack capital to invest in Category 2 equipment – making such schools the intended beneficiaries of managed services arrangements[9] – are highly reluctant to enter into five-year contracts for managed services if they are at risk for funding in future years.

Further, providers of cost-efficient managed internal broadband services will be at a distinctive disadvantage vis-à-vis providers that sell (rather than manage) the underlying facilities, because the latter will be able to front-load their contracts to ensure that most or all of the costs are incurred in 2015 and 2016. Verizon noted additional distortions that may occur:

> Pairing multi-year commitments with the ability to enter multi-year contracts will help ensure that a school or library that is comparing managed Wi-Fi services to other options does not choose what is otherwise a less-efficient offer because of perceived uncertainty about future funding.[10]

C Spire also agrees with Verizon that "support for managed Wi-Fi under the E-rate program should be continued beyond 2015-16, regardless of whether the Commission decides to

[9] *See, e.g., Modernization Order* at ¶ 124 ("managed Wi-Fi services can provide substantial benefits and cost savings to many schools and libraries, particularly small districts and libraries without a dedicated technology director available to deploy and manage advanced LANs/WLANs quickly and efficiently.").

[10] Verizon Petition for Reconsideration and/or Clarification, filed Sept. 15, 2014 in WC Docket No. 13-184, at 3 ("Verizon Petition").

continue with the same budgets."[11] C Spire agrees with SECA that more predictability is needed for Category 2 funding "especially considering that the new [Category 2] rules and funding commitments may only apply for FY 2015 and FY 2016."[12] Finally, C Spire further agrees with Verizon's assessment that:

> One of the primary benefits of using five-year budgets is that it eliminates the incentive for applicants to "overbuy" – *i.e.* request as much funding as possible at the first opportunity (even if not needed then) for fear that funding may not be available later …. The Commission should not … [create] uncertainty about whether schools' budgeted, but unused, support will in fact be available in later years of the five-year budget cycle.[13]

If managed services contracts are to be viable in the marketplace, the Commission must ensure that funding is available for each year of the multi-year term of such contracts.

II. FUNDING FOR THE E-RATE PROGRAM MUST NOT UNDERMINE OTHER UNIVERSAL SERVICE FUND PROGRAMS, PARTICULARLY CONTINUED SUPPORT FOR THE MOBILITY FUND

C Spire has long supported, and continues to strongly support, the E-rate program. The Commission seeks comment in the FNPRM on the appropriate future funding levels for the E-rate program. The *Modernization Order* set a budget of $1 billion annually for Category 2 services, (over the next five funding years), to be met within the overall E-rate program cap of over $2.4 billion annually (indexed to inflation).[14] C Spire supports that level of funding and urges the

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[11] Verizon Comments at 7.

[12] State E-Rate Coordinators Alliance ("SECA") Comments, filed Sept. 15, 2014, at 2.

[13] *Verizon Petition* at 2.

[14] *Modernization Order* at ¶¶ 14, 118. The $1 billion budgeted annually for Category 2 will come from unused carry-forward funding and through the phase-down of ineligible services such as voice. *See* Verizon Comments at 2 ("Indeed, the phase-out of support for voice and other services largely will be sufficient to free up the $1 billion targeted for internal connections by 2018, with Commission staff projecting that $968 million will be available from the phase-out by 2019. Accordingly, additional funding for internal connections is not needed at this time.") (citing Wireline Competition Bureau & Office of Strategic Planning and Policy, *Staff Report*, WC Docket No. 13-184, ¶¶ 35-36 & Figure 10 (Aug. 12, 2014); *Modernization Order*, n.166.).

Commission to take whatever action is necessary to ensure that budget is met for the next five years.[15]

At the same time, C Spire agrees with various commenters that overall E-rate funding should not be increased at the expense of continued support for other USF programs. For example, CenturyLink asserts that "E-rate funding demands … must not undermine support for the Connect America Fund, which will be critical to deliver broadband to rural and high cost areas …."[16] Likewise, C Spire urges that funding for the E-rate program not undermine support for the Mobility Fund, which is critical to delivering mobile wireless broadband service to rural and high cost areas.

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[15] For example, C Spire supports the Commission's decision to permit the Bureau to allocate any available carry forward funding to meet Category 2 demand. *Id.*

[16] CenturyLink Comments at 2; *see also* ITTA Comments, filed Sept. 15, 2014, at 4, and United States Telecom Association Comments, filed Sept. 15, 2014, at 3.

III. CONCLUSION

C Spire supports the Commission's general proposal to allow multi-year service contracts of up to five years. However, in order for a five-year contract, particularly for Category 2 managed services, to be a practical option for schools and libraries, the Commission must allow multi-year funding commitments which can ensure that funding is available for all five years of the contract.

C Spire also supports the target of $1 billion in annual funding for Category 2 services. At the same time, C Spire emphasizes that overall E-rate funding should not be increased at the expense of continued support for other USF programs, particularly the Mobility Fund.

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Respectfully submitted,

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