

First, the Commission should allow multi-year commitments of funding – up to five years – for managed Category 2 services, to ensure that schools and libraries can fairly compare managed services to other options. Second, the Commission should clarify that Category 2 support is \$150 per student, not \$30 per student per year. Third, the Commission should clarify that wireless data plans are a Category 1 internet service. Fourth, the Commission should clarify that circuits that are not used exclusively for voice services should be categorized as data circuits. Fifth, the Commission should restore the document retention requirement to five years; ten years is unnecessary and unduly burdensome.

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

C Spire strongly supports Verizon’s Petition asking the Commission to reconsider paragraphs 125 and 196 of the *Modernization Order* and “allow multi-year commitments of funding (up to five years) for managed Wi-Fi services.”⁴ Likewise, C Spire strongly supports Verizon’s requests that (1) \$1 billion in “Category 2 support be available not just in 2015 and 2016, but in 2017 and beyond;”⁵ and (2) that “applicants that received Category 2 support in 2015 or 2016 will have priority to the available Category 2 funds, up to their unused budget amount.”⁶ No oppositions were filed to Verizon’s position on these issues.

⁴ Verizon Petition for Reconsideration and/or Clarification (“Verizon Petition”), filed Sept. 18, 2014 in Docket 13 - 184, at p. 3.

⁵ Id.

⁶ Id.

In order for 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 more similarly to Category 2 capital investments.

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 often lack capital to invest in Category 2 equipment – making such schools the intended beneficiaries of managed services arrangements⁷ – 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. C Spire agrees with Verizon’s assessment that:

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.⁸

C Spire also agrees with Verizon’s assessment that:

⁷ 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.”).

⁸ Verizon Petition at 3.

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.⁹

Significantly, five year budgets also function as spending cap on individual applicants, thereby providing assurance that multi-year commitments will not become a “constraint on funding available for other applicants in the fund.”¹⁰ 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. THE COMMISSION SHOULD CLARIFY THAT CATEGORY 2 SUPPORT IS \$150 PER STUDENT, NOT \$30 PER STUDENT PER YEAR

C Spire agrees with Verizon that the Commission should confirm that the budget for Category 2 support is \$150 per student, not \$30 per student per year.¹¹ It is important that applicants have flexibility to plan their spending on Category 2 services, including managed Wi-Fi, over the five year period. No oppositions were filed to Verizon’s position on this issue.

III. THE COMMISSION SHOULD CLARIFY THAT WIRELESS DATA PLANS ARE A CATEGORY 1 INTERNET SERVICE

C Spire agrees with Verizon that wireless data plans “are a Category 1 Internet access service, providing devices in the school with external connectivity to the Internet.”¹² Further,

⁹ Verizon Petition at 2.

¹⁰ See *Modernization Order* at ¶ 196 (distinguishing multi-year funding commitments in the Healthcare Connect Fund where funding is not yet constrained by the cap as it is in E-rate).

¹¹ Verizon Petition at 1 – 2.

¹² *Id.* at 4.

C Spire agrees with Sprint that “an appropriate comparison between a wireless data plan and a WLAN should reflect the value of Internet access functionality.”¹³ C Spire urges the Commission to follow Verizon’s request to “clarify that the term ‘wireless local area network solution’ includes not only the cost of the Wi-Fi connectivity **within** the school ... but also the connectivity **to** the school”¹⁴ No oppositions were filed to Verizon’s position on this issue.

IV. THE COMMISSION SHOULD CLARIFY THAT CIRCUITS THAT SUPPORT INTEGRATED DATA AND VOICE SERVICES SHOULD BE CATEGORIZED AS DATA CIRCUITS

C Spire agrees with Verizon that “the Commission should clarify its approach to the circuit capacity associated with voice services ... [b]ecause it is unclear whether and to what extent the *[Modernization] Order* imposes a cost allocation requirement on circuits that may carry both voice and broadband traffic.”¹⁵ Specifically, the Commission should clarify that data transmission services supporting integrated service offerings which include video or voice are 100% eligible for support. In all events, C Spire agrees with Verizon that “the Commission should make clear that service providers are not expected to monitor usage of circuits leased by an applicant or conduct traffic studies.”¹⁶ No oppositions were filed to Verizon’s position on this issue.

¹³ Comments of Sprint Corporation (in response to Petitions for Reconsideration and/or Clarification), filed Oct. 22, 2014 in Docket 13 – 184, at 2.

¹⁴ Verizon Petition at 4 (emphasis in original).

¹⁵ Id. at 7.

¹⁶ Id. at 8.

V. THE COMMISSION SHOULD RESTORE THE DOCUMENT RETENTION REQUIREMENT TO FIVE YEARS; TEN YEARS IS UNNECESSARY AND UNDULY BURDENSOME

C Spire agrees with USTelecom and CenturyLink that a ten-year document retention requirement is unduly burdensome and unnecessary to support litigation under the False Claims Act (“FCA”).¹⁷ Because the document retention period begins only after the contract ends, a five year contract entered into in 2015 would have to be retained until 2030 if the ten-year rule is not reconsidered.

USTelecom and CenturyLink have set forth compelling reasons why the ten-year requirement should be reconsidered. C Spire will not repeat those arguments here except to note that the FCA was a central reason for the Commission’s extension of the retention period.¹⁸ The fact that the Fifth Circuit recently held the False Claims Act does not apply to the universal service fund¹⁹ should weigh heavily as the Commission reconsiders this burdensome change. No oppositions were filed to USTelecom’s position on this issue.

¹⁷ Petition for Reconsideration of the United States Telecom Association (“USTelecom”), filed Sept. 18, 2014 in Docket 13 – 184, and Comments of CenturyLink on Petition for Reconsideration of USTelecom, filed Oct. 22, 2014 in Docket 13 – 184.

¹⁸ See *Modernization Order* at ¶ 262 (“the current five-year document retention requirement is not adequate for purpose of limitation under the [FCA]”).

¹⁹ *United States ex rel. Shupe v. Cisco Systems, Inc.*, 759 F.3d 379 (5th Cir. 2014).

VI. CONCLUSION

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 order to best implement the modernization of the E-rate program, C Spire urges the Commission to clarify or reconsider several aspects of its *Modernization Order*, as follows: (1) the Commission should allow multi-year commitments of funding – up to five years – for managed Category 2 services; (2) the Commission should clarify that Category 2 support is \$150 per student, not \$30 per student per year; (3) the Commission should clarify that wireless data plans are a Category 1 internet service; (4) the Commission should clarify that circuits that are not used exclusively for voice services should be categorized as data circuits; and (5) the Commission should restore the document retention requirement to five years; ten years is unnecessary.

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Respectfully submitted,

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