



December 3, 2014

Ex Parte

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: Modernizing the E-rate Program for Schools and Libraries, WC Docket No. 13-184

Dear Ms. Dortch:

On December 1, 2014, Jonathan Banks, Kevin Rupy and David Cohen (all of USTelecom), Mary Henze (AT&T), Alan Buzacott (Verizon), Billy Jack Gregg (Frontier), Jeb Benedict (CenturyLink) and Malena Barzilai (Windstream), conducted a phone conference with Rebekah Goodheart in Commissioner Mignon Clyburn's office to discuss issues related to the above referenced docket. Also, on December 1, 2014, Kevin Rupy (USTelecom), Mary Henze (AT&T), Alan Buzacott (Verizon), and Malena Barzilai (Windstream), met with Amy Bender in Commissioner Michael O'Rielly's office to discuss issues related to the above referenced docket.

On December 2, 2014, Jonathan Banks and Kevin Rupy (both of USTelecom), Mary Henze (AT&T), Alan Buzacott (Verizon), and Jeb Benedict (CenturyLink) met with Priscilla Delgado Argeris in Commissioner Jessica Rosenworcel's office to discuss issues related to the above referenced docket. Also on December 2, 2014, Kevin Rupy (USTelecom), Mary Henze (AT&T), Alan Buzacott (Verizon), and Jeb Benedict (CenturyLink) met with Nicholas Degani in Commissioner Ajit Pai's office to discuss issues related to the above referenced docket.

In each meeting, the group reiterated its support for modernizing e-rate to focus on high speed broadband services and encouraged the Commission to take steps to target support to the schools and libraries that, for whatever reason, have been unsuccessful in obtaining fiber-based broadband services.¹ We urged the Commission to adopt a simple proposal recently submitted by USTelecom that would help service providers of all kinds respond to the needs of these specific schools and libraries.² The group also raised the question of the Commission's statutory authority to directly fund infrastructure.

¹ Report and Order, *Rural Health Care Support Mechanism*, 27 FCC Rcd 16678, FCC 12-150 (2012).

² See, Letter from Kevin G. Rupy, Vice President, Law & Policy, USTelecom, to Marlene Dortch, Secretary, Federal Communications Commission, WC Docket No. 13-184 (dated November 17, 2014).

The USTelecom proposal is designed to raise the profile of e-rate applicants who lack fiber connections. This could be done by adding a simple “check box” to the current Form 470 with instructions for the applicant to check the box if they do not currently have fiber-based broadband service but are interested in receiving bids to obtain such service. A multi-location applicant, such as a school district, could be eligible to check the box if at least one location within its purview did not have fiber-based broadband service. The Commission could require a separate self-certification for this check box or simply rely upon the certification that applies to the entire Form 470.

Through this simple self-identification process, schools and libraries would become part of a “Target Group” for that funding year, and could then be highlighted in a number of ways so that the attention of all potential providers is focused on them. For example, all Target Group applications could be flagged in the USAC database so that potential service providers could search on the flag and readily identify their 470s. Today there is no efficient way for potential providers to identify which applicants are in the “fiber gap.” This “check box” proposal solves that problem and would address the Commission’s concern about e-rate applicants who receive no response to their RFPs.

As we highlighted in our original *ex parte*, identifying a “target group” in this manner would also enable the Commission to apply certain rules or procedures to the applicants in the group. We specifically suggested that the self-construction proposal be limited to a target group of applicants who use the check box to self-identify as not having fiber-based broadband service. If the self-identified applicant is a school district we suggest that it could seek self-construction support for each individual school location that is currently unserved by fiber. This approach could be augmented for rural school districts by specifying that if less than 25% of a rural district’s schools are served by fiber, that district could seek self-construction support for the district as a whole (including the schools that already have fiber, but it must include all the schools without fiber).

In addition to proposing to limit the self-construction proposal to a targeted group of applicants, USTelecom urged the Commission to include all of the safeguards it applied to the Healthcare Connect program, including a cost-effectiveness showing, as well as dollar limits on both a per-site and total program basis. It would be irresponsible public policy to adopt a self-construction proposal for a program as large as e-rate without applying the same robust safeguards. In order to provide USAC with adequate guidance to effectively implement a self-construction program, the Commission should seek further comment (or delegate to the Bureau) in order to develop a clear definition of “cost-effectiveness,” the necessary parameters for making such a showing, as well as the appropriate dollar limits to apply in the e-rate context. The proposed self-identification process can be easily implemented, without any changes to the E-Rate funding cycle. Equally important, it represents an administratively efficient manner whereby schools lacking access to fiber broadband facilities can be quickly identified and highlighted so that they receive necessary attention of all potential providers.

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Pursuant to Commission rules, please include this ex parte letter in the above-identified proceeding.

Sincerely,



Kevin Rupy
Vice President, Law & Policy

cc: Rebekah Goodheart
Amy Bender
Priscilla Delgado Argeris
Nicholas Degani