

December 4, 2014

VIA ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: *Notice of ex parte communications*
Cox Communications, Inc. - E-rate Reform (WC Docket No. 13-184)

Dear Ms. Dortch:

Cox Communications, Inc. (“Cox”) met with Commission staff regarding reform of the universal service program for schools and libraries (“E-rate”) in the above-referenced docket. On December 2, Cox met individually with Nicholas Degani of the Office of Commissioner Pai and Amy Bender of the Office of Commissioner O’Rielly. In these meetings Cox was represented by Barry Ohlson, Jenny Prime of Cox and the undersigned. On December 3-4, Cox met individually with Rebekah Goodheart of the Office of Commissioner Clyburn and Priscilla Argeris of the Office of Commissioner Rosenworcel. In these meetings Cox was represented by Jenny Prime and by the undersigned.

Cox’s advocacy in these meetings was consistent with its prior filings. We applauded the FCC’s efforts to focus on schools and libraries that do not have access to high-speed broadband services. We encouraged the Commission to carefully implement changes to the program to ensure these schools and libraries are able to obtain high-speed broadband. We also suggested ways the Commission could make sure that funding for new infrastructure, special and self-construction benefits the rural schools that need it most and does not impinge on the E-rate funding schools and libraries already receive for recurring costs.

To address these concerns, the Commission should limit new infrastructure, special and self-construction to schools and libraries that lack access to high-speed broadband today. To identify these scenarios readily, the Commission could provide for a simple two-step process that USAC could easily implement. Schools and libraries could become eligible for new infrastructure, special and self-construction funding after they seek funding for high-speed broadband finished services and do not receive any bids to provide such services.

Marlene H. Dortch, Secretary

December 4, 2014

Page 2

If the Commission does not take these steps to target funding to schools and libraries without access to high-speed broadband, we suggested the Commission establish a budget for new infrastructure, special and self-construction funding that would ensure enough funding remained available to fund recurring costs. We advocated that the Commission should commit no more than \$200 million to new infrastructure, special and self-construction projects. This is twice the amount committed to the Rural Broadband Experiments. We urged the Commission to determine a budget that factored in the current and projected demand for recurring services as well as funding committed to Wi-Fi.

We also urged the Commission to adopt safeguards for self-construction projects comparable to those the Commission adopted in the rural healthcare program. These safeguards include a demonstration that self-construction is the most cost-effective solution. Schools and libraries that seek funding for self-provisioning also must include a request for bids for finished services for comparison purposes. In making this comparison, the Commission must ensure that applicants conduct an apples-to-apples comparison of the costs of self-provisioning versus purchasing provider-offered services. The comparison should take into account all of the costs associated with the project, including the costs associated with activating, maintaining and managing high-speed broadband connections. We also suggested that self-construction projects should be presumed cost-effective only if they are less expensive than finished services. This approach will account for any cost overruns or delays that can occur in self-construction.

We encouraged the Commission to continue to ensure that E-rate participants pay some portion of the costs of E-rate funded services. If state funds and E-rate matching funds are used to pay the entire service costs the Commission will eliminate an important safeguard that helps ensure schools and libraries make cost effective choices. As the Commission has recognized, requiring a contribution from USF recipients “provide[s] incentives for [funding recipients] to choose the most cost-effective form of connectivity, design their networks efficiently, and refrain from purchasing unneeded capacity. Vendors will also have an incentive to offer services at competitive prices, knowing that [funding recipients] will be unwilling to increase unnecessarily their out-of-pocket expenses.”¹ We also discussed the need to ensure that any state matching funds that are given to E-rate recipients do not preclude potential service providers from bidding on the project or favor particular types of companies. States should not be able to impose additional requirements on the E-rate program.

Cox also advocated that private sector entities should not be permitted to participate in E-rate funded networks that school or libraries self-provision. The presence of private entities in E-rate funded networks would increase the opportunities for waste, fraud, and abuse, and increase the burdens of preventing it.

¹ *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Report and Order, 27 FCC Rcd 16678, para. 82 (2012).

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Marlene H. Dortch, Secretary
December 4, 2014
Page 3

This letter is submitted consistent with the Commission's ex parte rules.

Respectfully submitted,

WILKINSON BARKER KNAUER, LLP

/s/

L. Charles Keller

cc: Rebekah Goodheart
Priscilla Argeris
Nicholas Degani
Amy Bender