

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Modernizing the E-rate Program for Schools and Libraries)	WC Docket No. 13-184
)	
Connect America Fund)	WC Docket No. 10-90

**COMMENTS OF SOUTHERN COMMUNICATIONS SERVICES, INC
IN SUPPORT OF THE T-MOBILE AND ADTEC PETITIONS FOR
RECONSIDERATION**

Southern Communications Services Inc., d/b/a SouthernLINC Wireless (“SouthernLINC Wireless”), by its attorneys, respectively submits these comments in support of T-Mobile’s Petition for Reconsideration and Clarification¹ and AdTec’s Petition for Reconsideration² of the Second E-rate Reform Order in the above-captioned proceeding.³ Applicants for E-rate funding need (1) further guidance on demonstrating when mobile broadband services are cost effective, and (2) the flexibility to choose the mobile or fixed broadband solution that best suits their needs while achieving the goals of the E-rate program. The Federal Communications Commission (“FCC” or “Commission”) should also permit E-rate support for voice services to continue rather than imposing a phase down of this vital support.

¹ T-Mobile USA, Inc. (“T-Mobile”) Petition for Reconsideration and Clarification, WC Docket Nos. 13-184 and 10-90 (filed Mar. 6, 2015) (“T-Mobile Petition”).

² AdTec Petition for Reconsideration, WC Docket Nos. 13-184 and 10-90 (filed Feb. 16, 2015) (“AdTec Petition”).

³ *Modernizing the E-rate Program for Schools and Libraries; Connect America Fund*, WC Docket Nos. 13-184 and 10-90, Second Report and Order and Order on Reconsideration, 29 FCC Rcd 15538 (rel. Dec. 19, 2014) (“Second E-rate Reform Order”).

I. INTRODUCTION

SouthernLINC Wireless is committed to offering high-quality services to rural and underserved areas and offers the most comprehensive geographic coverage of any wireless provider in Alabama and Georgia, servicing extensive rural territories along with major metropolitan areas and highway corridors. As a result, a large percentage of the total handsets SouthernLINC Wireless serves are used by subscribers located outside of major metropolitan areas. Because of its extensive geographic coverage and its commitment to serving rural areas, SouthernLINC Wireless is widely used by local and statewide governmental institutions, public utilities and emergency services, and schools. SouthernLINC Wireless is also the wireless service provider to the state of Alabama, to many government agencies in Georgia, and to over 80 schools, which indicates how important the services of SouthernLINC Wireless are to students and communities in those areas, both on a day-to-day basis and in times of crisis. SouthernLINC Wireless has often been the only available means of communications during the emergency conditions created by the fifteen-plus named hurricanes and countless ice storms that have struck its service territory since it began operating in 1995. In the aftermath of Hurricane Katrina, for example, SouthernLINC Wireless services, in many instances, were the only immediate means of communicating in Mississippi and Alabama. Accordingly, SouthernLINC Wireless is the type of carrier from which Congress intended elementary and secondary schools, libraries, and health care providers to receive communications services at affordable rates.

As a regional wireless carrier that focuses primarily on rural markets, SouthernLINC Wireless has a vested interest in universal service and E-rate program reform. Although the FCC has taken significant steps to achieve further connectivity for beneficiaries of the E-rate program, the Commission needs to clarify its latest guidance and reconsider certain aspects of the Second E-rate Reform Order in order to fully realize the potential benefits of the program. Specifically,

SouthernLINC Wireless respectfully urges the FCC to grant the petitions filed by T-Mobile and AdTec.

II. THE COMMISSION SHOULD RECONSIDER AND CLARIFY ITS GUIDANCE ON DEMONSTRATING WHEN MOBILE BROADBAND SERVICES ARE COST-EFFECTIVE

SouthernLINC Wireless agrees with T-Mobile that the Second E-rate Reform Order does not provide the clarity needed to properly guide applicants in assessing and demonstrating the cost-effectiveness of mobile broadband solutions as compared to wireless local area network (“WLAN”) solutions. SouthernLINC Wireless urges the FCC to address the following issues in order to facilitate and encourage the most effective service choices.

First, the FCC should articulate a clear and consistent methodology for calculating cost-effectiveness so that applicants can compare all costs associated with potential connection options. Currently, applicants cannot fairly compare technologies because there is no approved means for accurately identifying all costs involved with the various options for achieving connectivity.⁴ As T-Mobile correctly observed, the best way to establish this methodology would be for the Commission to seek public comment on a proposed template for cost-comparison purposes so that the final template will contain the elements needed to determine the most cost effective option that meets applicants’ needs.

SouthernLINC Wireless also agrees with T-Mobile that the Commission should (1) clarify whether amortization applies to WLAN services (both with and without existing fixed broadband connections) and, in either case, (2) establish a clear amortization timeline for the various costs involved in installing, maintaining, and securing WLAN solutions.⁵ These clarifications would

⁴ T-Mobile Petition at 7.

⁵ *Id.* at 3-4.

enable applicants to compare costs more accurately, especially applicants comparing both WLAN and mobile broadband solutions.

As T-Mobile has demonstrated, the costs of installing WLAN solutions will vary significantly depending upon whether or not the applicant has an existing fixed broadband connection in place.⁶ Therefore, the FCC should clarify whether or not amortization is equally relevant both for applicants who have existing fixed broadband connections available and those who do not.⁷ This clarification is necessary to allow E-rate applicants without existing WLAN infrastructure to accurately compare costs between WLAN and mobile broadband options; without this clarification, applicants may make inappropriate comparisons and forgo the opportunity to utilize mobile broadband options when, in reality, mobile broadband may be the most cost-effective solution.

SouthernLINC Wireless also agrees with T-Mobile that the FCC should provide guidance on amortization for WLAN solutions so that applicants can establish a clear amortization timeline for the various costs involved.⁸ Cost assessments of potential network solutions will be inaccurate unless they entail lifespan-length maintenance and security considerations. Applicants need to identify and quantify the likely lifespan and requirements of their chosen systems in

⁶ *Id.* at 3.

⁷ As the T-Mobile Petition indicates, at this point the Second E-rate Reform Order only appears to apply amortization to situations where applicants already have existing fixed broadband connections in place:

“[In assessing cost-effectiveness of services,] Schools *with existing fixed broadband connections* should limit this comparison to the recurring cost of their current broadband connection plus the added cost of any upgrades to their broadband connections and any additional or updated internal connections needed to deploy a sufficiently robust WLAN *with all capital investments amortized over their expected lifespan.*” Emphasis added. Second E-Rate Reform Order, 29 FCC Rcd at ¶ 158.

⁸ T-Mobile Petition at 4-6.

order to apply amortization analysis. The FCC should, as T-Mobile suggests, open the record to public comment for parties to provide information on appropriate amortization periods based on the lifespan of relevant equipment.⁹

Finally, SouthernLINC Wireless agrees with T-Mobile that a mobile broadband solution should be an E-rate supported option in the event that either (1) no bids for WLAN solutions are received in response to a competitive bidding process, or (2) mobile broadband is the most cost effective option under any cost comparison.¹⁰ Currently, the Commission requires applicants either to demonstrate that installing a WLAN is not physically possible or to provide a cost comparison prior to seeking funding for mobile broadband solutions, but the Commission did not address how to meet these requirements when applicants receive no responses to a competitive bidding process.¹¹ As such, the Commission should clarify that a lack of responses to a competitive bidding process is clear evidence that installing a WLAN is not cost effective.¹² The Commission should also specify methods for comparing costs other than competitive bidding for use when applicants do not receive any responses to competitive bidding.¹³ Otherwise, applicants who do not receive any responses to competitive bidding are left without other recognized

⁹ *Id.*

¹⁰ *Id.* at 7-8.

¹¹ *In the Matter of Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 8870, 8933 ¶ 153 (rel. July 23, 2014) (“First E-rate Reform Order”) (indicating only that cost comparison *could* be demonstrated through competitive bidding, but it did not specify any other methods for comparing costs).

¹² *See T-Mobile Petition* at 8 (“Just as the Commission found in the self-construction [of broadband facilities] scenario, the lack of responsive bids is conclusive evidence that ‘installing a WLAN is not physically possible,’ thus justifying the use of a mobile solution.”).

¹³ *First E-rate Reform Order*, ¶ 153 (indicating only that cost comparison could be demonstrated through competitive bidding, but not specifying any other methods for comparing costs).

methods of undertaking cost comparisons, which may lead to inefficient decisions and results that are inconsistent with the goals of the E-rate program.

III. THE COMMISSION SHOULD RECONSIDER AND CLARIFY ITS GUIDANCE ON WHEN MOBILE BROADBAND SERVICES ARE DUPLICATIVE

SouthernLINC Wireless agrees with T-Mobile that mobile broadband can be necessary within a building or on a campus that has existing WLAN connectivity, and is not duplicative when the WLAN network is not robust enough to meet the school's needs. Allowing schools and libraries the option of providing both WLAN and mobile broadband solutions as needed depending on the specific circumstances of the school or library falls in line with the FCC's longstanding view regarding E-rate that "schools and libraries should have maximum flexibility to purchase the package of services they believe will most effectively meet their communications needs."¹⁴ The FCC would maximize both cost-effective analyses and confidence in the E-rate program by allowing schools and libraries to determine how best to use available support, especially where building infrastructure and other criteria may dictate that WLAN works in some locations, but mobile broadband is best for others.

SouthernLINC Wireless also agrees with AdTec that mobile broadband solutions have significant advantages over WLAN solutions in instances involving fire, severe weather, or active shooter scenarios.¹⁵ In certain situations, including the situations AdTec identified, mobile broadband solutions offer schools and libraries vital, literally life-saving, options for communication that WLAN solutions cannot. These examples demonstrate situations where both WLAN and mobile broadband solutions can and should co-exist without raising any concerns of

¹⁴ *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9002 ¶ 425 (rel. May 8, 1997).

¹⁵ *See, e.g.*, AdTec Petition at 2 (describing how mobile broadband solutions are more viable sources of communication than WLAN services in emergency situations).

inefficiency or waste. To limit E-rate support out of concern for “duplicative services” overlooks the individual circumstances of many schools and libraries to potentially troublesome results.

IV. THE COMMISSION SHOULD RECONSIDER AND CLARIFY ITS GUIDANCE REGARDING THE CONSIDERATION OF THE LIKELIHOOD OF RECEIVING CATEGORY TWO SUPPORT IN THE COST-EFFECTIVENESS CALCULATION

SouthernLINC Wireless agrees with T-Mobile that the likelihood of receiving category two support is a reasonable and important factor for schools and libraries to consider in choosing between WLAN and mobile broadband solutions. Category two support will be critical to the installation, maintenance, and security costs associated with WLAN solutions. However, category two support is not assured, and if not received, schools and libraries may be unable to adequately support a robust WLAN. Permitting applicants to consider the likelihood of receiving category two support is in line with the Commission’s rules permitting applicants to “consider relevant factors other than pre-discount prices submitted by providers, [so long as] price [remains] the primary factor considered.”¹⁶ Overall price and availability of WLAN services or mobile broadband services would still remain the primary consideration for applicants, but the likely presence or absence of category two support itself becomes an important cost consideration for long-term maintenance, especially as the Commission proceeds in increasing the E-rate budget and category two allocations.¹⁷ Therefore, the uncertain availability of category two support must be part of any reasoned evaluation of a broadband solution.

¹⁶ 47 C.F.R. § 54.511(a).

¹⁷ Second E-rate Reform Order at ¶ 97.

V. THE COMMISSION SHOULD CLARIFY THAT THE COST-EFFECTIVENESS SHOWING REQUIREMENT FOR MOBILE BROADBAND APPLIES NO EARLIER THAN THE 2015 FUNDING YEAR

SouthernLINC Wireless agrees with T-Mobile that the Commission and USAC should not apply new rules and requirements from the Second E-rate Reform Order to applications submitted in Funding Year 2014 and earlier, because the competitive bidding and service provider selection for these previous funding years occurred prior to the adoption of the Second E-rate Reform Order. The Commission should make clear that the new rules from the Second E-rate Reform Order (specifically the requirements obligating applicants to demonstrate that mobile broadband services is the most cost-effective option prior to choosing the service) apply only prospectively (*i.e.*, to applications for Funding Year 2015 and subsequent years.)¹⁸ Applicants should not be penalized for selecting a mobile broadband service provider prior to the effective date of the new cost-effectiveness requirements.

VI. IF THE COMMISSION DECLINES TO ISSUE THE REQUESTED RECONSIDERATIONS AND CLARIFICATIONS, THE COMMISSION SHOULD THEN RECONSIDER THE E-RATE CAP INCREASE

SouthernLINC Wireless agrees with T-Mobile that the Commission should not increase the E-rate cap if the changes described in the T-Mobile and AdTec Petitions are not adopted. Mobile broadband service is often the most cost effective solution for schools and libraries, yet without the reconsiderations and clarifications requested, applicants will face roadblocks in determining and selecting the solutions to meet their needs. Without the clarifications and reconsiderations, too much uncertainty remains regarding the Commission's rules, and USAC's

¹⁸ The Administrative Procedure Act only permits independent agencies to apply new substantive rules prospectively, and prohibits those agencies from applying the same rules retroactively. *See, e.g., Bowen v. Georgetown*, 488 U.S. 204, 221-225 (1988) (Scalia, J., concurring) (“Adjudication *deals* with what the law was; rulemaking deals with what the law will be.”) (emphasis in original) (*citing SEC v. Chenery Corp.*, 332 U.S. 194, 202 (1947)).

interpretation of those rules, which prevents applicants from (1) making fully-informed, cost-effective decisions and demonstrations, or (2) maximizing the effectiveness of available E-rate funding.

VII. THE COMMISSION SHOULD CONTINUE E-RATE SUPPORT FOR VOICE SERVICES

SouthernLINC Wireless agrees with AdTec that there is no reason to eliminate support for voice services. As AdTec's Petition demonstrates, voice services are essential to student education and security, and provide the most direct and effective method for communicating generally throughout school campuses, with government offices, and with parents.¹⁹ Allowing schools and libraries to utilize support for both expanding broadband capabilities and maintaining voice services as needed is the best way to further the goals of the E-rate program: such permission allows recipients to increase connectivity and maintain the flexibility to purchase those services vital to their individual communications needs. To balance these goals, SouthernLINC Wireless supports AdTec's proposal to limit the phase down of voice support to a floor of 40% support and maintain the 20% support for those applicants at that discount level,²⁰ and also echoes AdTec's request that the Commission not eliminate the use of data plans, air cards, and texting for mobile devices, and continue to support those devices at the 40% discount level while maintaining the 20% support for those applicants at that discount level.²¹

¹⁹ AdTec Petition at 2-3.

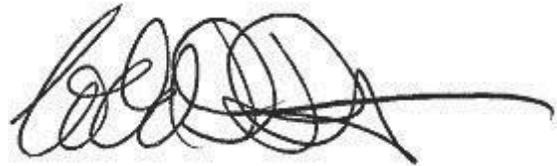
²⁰ *Id.* at 3.

²¹ *Id.*

VIII. CONCLUSION

For the reasons set forth above, SouthernLINC Wireless respectfully urges the Commission to grant the T-Mobile and AdTec Petitions for Reconsiderations. SouthernLINC Wireless supports these Petitions as reasonable and necessary to bring clarity to certain aspects of the Commission's Second E-rate Reform Order.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Todd D. Daubert', with a long horizontal flourish extending to the right.

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