

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matters of	)	
	)	WC Docket No. 05-195
	)	
Schools and Libraries Universal Service Mechanism	)	CC Docket No. 02-6
	)	
NBP Public Notice #15	)	GN Docket Nos. 09-47, 09-51, 09- 137
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**COMMENTS OF AT&T INC.**

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Pursuant to the Public Notice of Inquiry released by the Commission on November 3, 2009, AT&T Inc. submits the following comments.<sup>1</sup>

**INTRODUCTION**

AT&T appreciates this opportunity to comment on the role the schools and libraries universal service support mechanism (“E-Rate program”) can play in advancing the federal goal of encouraging ubiquitous deployment of broadband. AT&T supports that objective, and believes that, with certain modifications, the E-Rate program could help reach it. E-Rate beneficiaries – schools and libraries – are quintessential “anchor institutions” that could be used to increase consumer awareness of the benefits of broadband and, thus, stimulate consumer demand for, and adoption of, broadband. They also could provide another venue for end-users to access the Internet.

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<sup>1</sup> Public Notice, *Comment Sought on Broadband Needs in Education, Including Changes to E-Rate Program to Improve Broadband Deployment*, NBP Public Notice #15, WC Docket No. 05-195, CC Docket No. 02-6, GN Docket Nos. 09-47, 09-51, 09-137 (rel. November 3, 2009) (*Public Notice* or *Notice*).

To play this role, however, the E-Rate program will need some fine-tuning. Most importantly, it will need to be re-targeted to increase its focus on broadband. In addition to modifying parts of the program to make it more broadband “friendly,” the Commission may want to consider gradually phasing out support for basic legacy, circuit-switched voice services so that limited resources can be directed to broadband deployment. In addition, the Commission will need to streamline and simplify some of the program’s backend administrative processes and regulatory requirements, which impose significant burdens and inefficiencies on service providers and applicants alike.

With these points in mind, AT&T submits the following responses to the Commission’s E-Rate Program-specific queries.<sup>2</sup>

## **RESPONSES TO INDIVIDUAL QUESTIONS**

### **I. QUESTION NO. 11.**

*As part of the national broadband plan, we seek comment on how the Commission can modify the E-rate program to more effectively meet the needs of applicants as well as whether the program can be a vehicle to stimulate the adoption of broadband throughout communities. For example, in Portugal researchers have found that the usage of broadband in schools creates a “spillover” effect that leads to greater broadband adoption in the community as students increase their Internet usage at home and transfer their technology skills to other family members.*

*Question 11.a. Currently, schools and libraries may obtain discounts on various services that provide high-speed access to the Internet as telecommunications and Internet access (priority 1) services. We are aware that applicants may characterize their funding requests according to terminology used on the eligible services list, such as DSL, “internet access via cable modem,” ATM, frame relay, T-1, T-3, Ethernet, OC-3, OC-12, ATM, “internet access via fiber optics,” etc. We seek information that would enable us to better understand at a more granular level what broadband services eligible applicants are buying today. Overall, what percentage of priority 1 funding is subsidizing broadband services at what speed levels, and what percentage is subsidizing basic voice service (wireline or wireless)? Can we*

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<sup>2</sup> The thrust of these comments, thus, is directed to Notice questions 11-13, which directly address aspects of the E-Rate Program and its suitability to advancing the goals of ubiquitous national broadband.

*segment the applicant community that receives discounts on higher capacity broadband services based on specific characteristics (such as number of students, rural vs. urban, discount level, etc.)?*

**Response to Question 11.a.** E-Rate service providers, such as AT&T, have access only to data regarding the discounted services they actually provide (or are solicited to provide) pursuant to the Program, and thus have only limited insight into what percentage of overall program funding is going to broadband rather than basic voice services. The Universal Service Administrative Company (“USAC”) probably is in the best position to assess overall demand for broadband services by particular types of applicants and the applicant pool generally. Nevertheless, AT&T’s extensive experience with E-Rate (although anecdotal and not necessarily representative of other program service providers) suggests that applicants increasingly are relying on the program to purchase discounted broadband products and services.

*Question 11.c. We seek comment on program modifications to maximize the use of broadband connections that are subsidized by the E-rate program. Recognizing that the statute requires that discounts be provided on services used for “educational purposes,” we seek information on whether, and if so, how, past interpretations of the “educational purposes” requirement have restricted demand aggregation at the community level to support higher capacity broadband. For example, the program could be modified to allow for use of broadband facilities at schools by the general community, rather than just by school faculty and students. We seek specific examples of whether and if so, how, expanding the permissible use of E-rate supported services could confer benefits to a larger community or encourage partnerships with private or public organizations to pool resources to maximize broadband utilization. What practical or operational impact would such a change have?*

**Response to Question 11.c.** AT&T believes that expanding the E-Rate program to support community access to broadband in an educational setting such as a school or library is a change that should be considered. Allowing the community to use E-Rate supported services installed in schools and libraries could increase community awareness of the benefits of broadband Internet access, and provide community training regarding the use of broadband equipment and technologies. In addition, these institutions could provide access to broadband facilities and services for those individuals who cannot afford to purchase their own computers or to subscribe

to broadband services. A broader interpretation of the “educational purposes” requirement could allow the community to utilize E-Rate services provided to the school or library in this manner.

Of course, expanding the E-Rate program in this way could raise other practical and operational issues. For example, E-Rate support for Internet access in schools is contingent upon establishment of appropriate filters to limit children’s access to inappropriate content.<sup>3</sup> This requirement, and the First Amendment implications it raises, may be more difficult to justify where E-Rate services are made available to the community at large and not just to children, a vulnerable group the government has a compelling interest in protecting. Also, the Commission should continue its restrictions preventing E-Rate program beneficiaries from becoming resellers of those services, since reselling is not the intent of the program.

***Question 11.d. We seek comment on any legislative changes that would expand the classes of eligible users. For example, the statute currently limits E-rate support to elementary schools and secondary schools, which are defined by each individual state. What would the impact be of modifying the statute to permit colleges, community colleges, pre-kindergarten, Headstart, or other entities to participate in the E-rate program?***

***Question 11.e. To what extent does the fact that the E-rate program does not currently fund computers and other end user equipment inhibit the use of broadband by schools and libraries? Likewise, to what extent does the fact that the E-rate program does not currently fund training for teachers or librarians in the use of technology inhibit the use of broadband by schools and libraries? We seek specific information regarding what types of services are not available to teachers, students and library patrons due to lack of funding for end user equipment and training. If the E-rate program were to fund computers and training, what would the projected demand be? From a policy perspective, what are the potential negative consequences if such a change were adopted?***

**Responses to Question 11.d. and 11.e.** As the Commission correctly recognizes, expanding the applicant pool for the E-Rate program would require a legislative change. In considering whether to propose such a change to Congress, the Commission must be sensitive to the limited size of the fund from which E-Rate support is drawn, as well as the narrow source of funding for that program (*i.e.*, from providers of end-user interstate telecommunications and their

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<sup>3</sup> Children’s Internet Protection Act, 47 U.S.C § 254(h)(6); 47 C.F.R. § 54.520.

customers). Additionally, in keeping with the government's broadband priorities, the E-Rate program's limited funds should be concentrated on those applicants that currently lack adequate broadband services. Thus, if the Commission determines that national broadband goals can be served by expanding the pool of eligible E-Rate applicants, it should seek to make funding available to applicants only to the extent they do not currently have broadband services and are unable financially to obtain broadband services without a subsidy, and such funding should be available only for the purchase of broadband services.

AT&T recognizes that subsidizing deployment of broadband infrastructure alone may not ensure that all Americans realize the benefits (or at least the full benefits) of broadband access if an applicant lacks computer equipment or proper training.<sup>4</sup> But modifying the E-Rate program to include these types of products and services is not the answer. Doing so would place additional pressure on the fund's already strained resources and divert Commission and industry attention from what should be their number one focus – deployment of next generation communications infrastructure necessary to provide broadband services. In addition, other government programs already provide funding for computer equipment and increased technological training for students and teachers.<sup>5</sup> Rather than stretch its limited Universal

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<sup>4</sup> See The Urban Institute, *The Integrated Studies of Educational Technology: A Formative Evaluation of the E-Rate Program*, at viii (2002), available at [http://www.urban.org/UploadedPDF/410579\\_ERATEFinalReport.pdf](http://www.urban.org/UploadedPDF/410579_ERATEFinalReport.pdf) (visited Nov. 13, 2009) (documenting that many rural E-Rate eligible schools lack general technology skills and technical support staff and that this impeded the incorporation of the Internet-in-the-classroom environment).

<sup>5</sup> See No Child Left Behind Act of 2001, Pub. L. No. 107-110, 115 Stat. 1445, 1623-31, 1646-47, 1671-75 (2001) (Part D: "Enhancing Education Through the Use of Technology"). There are other private and philanthropic programs with the same mission. Connected Nation's "No Child Left Offline Program" brings together public and private entities to help "children and their families join the Information Age . . . by placing computers in the hands of disadvantaged populations so that they have access to abundant technological resources." Connected Nation, *Every Child Online*, available at [http://www.connectednation.org/community\\_programs/](http://www.connectednation.org/community_programs/) (visited Nov. 15, 2009). In Kentucky, the program has delivered approximately 2,000 Internet-ready computers to people with lower incomes. *Id.* To the extent that some organizations associated with E-Rate service providers stand ready to donate equipment to schools and libraries, the Commission may consider clarifying the Free Services Advisory to ensure that these donations are not discouraged. Cf. Press Release, *Mayor Newsom Announces Expansion of San Francisco's Free Wi-Fi Network* (Jan. 15, 2009), available at [http://www.sfgov.org/site/mayor\\_index.asp?id=96789](http://www.sfgov.org/site/mayor_index.asp?id=96789) (visited Nov. 15,

Service resources, and expand into areas outside the Commission's and USAC's expertise, the Commission could use the National Broadband Plan to recommend the creation or enhancement of other government programs providing support for computer equipment and training.

***Question 11.f. Currently, WANs are not eligible for support “to the extent that states, schools, or libraries build or purchase a wide area network to provide telecommunications services.” Would modifications to this rule regarding WANs, which link schools and libraries within a district or link several school districts together, result in greater broadband deployment?***

**Response to Question 11.f.** The prohibition against funding WANs built or used by applicants to provide telecommunications services is prudent and should remain in place. Changing this prohibition could discourage investment in and deployment of public broadband infrastructure in unserved or underserved markets by service providers unable to compete with a government-funded competitor. Moreover, insofar as the federal USF continues to be funded by contributions from service providers based on their provision of interstate telecommunications and telecommunications services, as a simple matter of fairness those service providers should not be forced to subsidize a competitor – government-funded or otherwise. Doing so would suppress rather than stimulate broadband penetration.

The goal of universal broadband availability and adoption could be better served if schools, libraries and broadband service providers were encouraged to focus on wider-scale service requests that ultimately could result in deployment of community-wide, state-wide or even multi-state broadband networks. While consortia are permitted to apply for E-Rate funding today, the process is complicated by the fact the existing program was designed primarily for discrete contracts for individual projects.<sup>6</sup> The Commission should consider modifying the E-

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2009) (One Economy Corporation partnered with AT&T and the City of San Francisco to bring free Wi-Fi service, low-cost computers, free training and other support to over 2,200 residents in the Sunnydale Housing development).  
<sup>6</sup> See, e.g., 47 C.F.R. §§ 54.500(e), 54.501(d); Universal Service Administrative Company, *Library Consortium – Frequently Asked Questions*, available at <http://www.usac.org/sl/applicants/step05/library-consortium-faq.aspx>

Rate program to support more cooperative efforts among multiple institutions, perhaps through rule changes that would make it easier for joint applications for funding.

***Question 11.g. Are there any programmatic rules and policies that have the effect of deterring requests for broadband funding? For instance, we understand that some libraries have suggested that compliance with filtering requirements under the Children’s Internet Protection Act represents a deterrent to program participation. Are there other statutory provisions or Commission rules or policies that may reduce program participation by entities that otherwise would utilize discounts on broadband services? Commenters should be specific in identifying which current rules may create barriers to broadband deployment.***

***Question 11.h. We seek comment on these ideas and on other suggestions for changing E-rate eligibility to improve broadband deployment.***

**Responses to Questions 11.g. and 11.h.** The Commission could consider updating the E-Rate technology plan development and review process to ensure that applicants’ technology plans are consistent with national broadband goals. Under the current process, E-Rate recipients may draft technology plans based on their individual funding and service needs and thus, potentially, without regard to national broadband goals. Those plans then are reviewed in isolation by a certified approver, and possibly by USAC without regard to national broadband priorities. The Commission should consider re-examining the current standards for technology plan development and review to ensure that those standards promote technology plans that are consistent with national broadband objectives. In doing so, the Commission may consider revising 47 C.F.R. § 54.508(a) to specifically require applicants to include in their technology plan an assessment of how their plans comport with and further national broadband priorities.

## **II. QUESTION NO. 12**

***We seek comment on how changing the E-rate disbursement and discount methodology might maximize the deployment of broadband.***

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(visited Nov. 15, 2009); Universal Service Administrative Company, *Cost Allocation Guidelines for Consortia Comprising Both Eligible and Ineligible Entities*, available at <http://www.usac.org/sl/applicants/step06/cost-allocation-guidelines-consortia-comprising.aspx> (visited Nov. 15, 2009).

*Question 12.a. One possible modification would be to create a new priority level for schools and libraries that do not have broadband or that have extremely slow Internet speeds to permit those entities to receive funding in advance of other eligible requests, which could enable such entities to “catch up.” An alternative would be to provide increased E-rate discounts for entities that wish to implement certain levels of connectivity. We seek comment on other methods by which the Commission could implement such changes, if they were proposed.*

**Response to Question 12.a.** We agree that the Commission should consider creating a mechanism that gives higher priority to the broadband service needs of schools and libraries that currently are unserved or underserved by broadband. For example, the Commission could consider addressing broadband needs by dividing the E-Rate program into two major sections. A “Facilities Section” could be designed to fund non-recurring costs for facilities design, engineering and deployment. A “Recurring Charges Section” could be designed to fund ongoing support of eligible recurring charges.

Under such a bifurcated approach the “Facilities Section” could be designed to better accommodate the application, discount, and disbursement mechanisms for services that require significant up-front network investment and would therefore serve as a catalyst for broadband deployment. The “Recurring Charges Section” could be designed specifically to address the unique, recurring features of ongoing broadband service contracts. This bifurcated approach would allow the Commission to consider providing higher funding priority within the “Facilities Section” to applicants with very limited or no existing broadband service. By doing so, the Commission could ensure funding for new broadband infrastructure in schools and libraries that currently are unserved or underserved by broadband, and thus allow them to catch up with institutions that already have access to broadband facilities and services. Any remaining E-Rate funds within the “Facilities Section” could be used to defray the non-recurring costs for facilities design, engineering and deployment by applicants that already have access to adequate broadband facilities and services, but which are seeking to upgrade them.

The Commission could further promote deployment of new broadband facilities and services, especially those requiring large, upfront investments in broadband infrastructure, by modifying the rule precluding applicants from recovering more than one-third of the total non-recurring charges of a project in any one funding year if those costs are \$500,000 or more. New broadband services, especially those that require large fiber installations, entail large upfront costs. In some, if not many, cases, service providers are unable to amortize particularly high upfront costs over the life of a contract because they cannot charge over the tariffed rate.<sup>7</sup>

Where program rules prevent a service provider from recovering upfront costs that cannot be amortized through recurring charges, the service provider will not be in a position to provide the service to a school or library.

***Question 12.b.*** *Currently, the program's funding varies for applicants based on the number of their students who qualify for free or reduced lunch and based on their geographic location. Using this measure, discounts range from 90 percent to 20 percent of the pre-discount price for eligible services, with the poorest schools receiving funding to pay for 90 percent of eligible services. Some rural schools receive additional discounts. The Commission could recalculate these E-rate discount levels to factor in not just poverty and whether the school is located in a rural area, but also whether the entity lacks broadband services. In addition, the Commission could change its priority structure to give preference for those schools that have not received funding for internal connections in several years. We seek comment on the extent to which schools that have not received funding for internal connections (Priority 2 funding) need to improve their internal connections in order to most efficiently use their broadband connections now and in the future.*

**Response to Question 12.b.** The Commission also could consider restructuring its rules regarding Internal Connections to be more broadband focused. As an initial matter, the Commission could determine that future funding for internal connections would be available only for internal connections capable of supporting broadband services.

In addition, the Commission could modify its funding priority structure to promote broader deployment and availability of broadband in schools and libraries. In this regard, the

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<sup>7</sup> See *In re Universal Service Adm'r by Brooklyn Public Library*, 15 F.C.C. Rcd 18598, 18605-07 (2000).

Commission asks whether applicants that have not received funding for internal connections for several years should get priority. But, rather than basing priority on how recently an applicant received internal connections funding, the Commission arguably should focus instead on giving priority to those schools and libraries that still lack internal connections of any sort – let alone those capable of supporting broadband services. Only once all applicants have internal connections adequate to support broadband services should applicants that currently have such internal connections (but want to upgrade them) receive funding.

*Question 12.e. We seek comment on these issues as well as other ideas to modify E-rate disbursements and discounts to maximize the deployment of broadband.*

**Response to Question 12.e.** As AT&T and others have proposed, the Commission should simplify the E-Rate program and make the program more efficient by removing service providers from the middle of the fund disbursement process.<sup>8</sup> That proposal, if adopted, would simplify the disbursement process significantly, reduce the error and waste that is almost unavoidable in the current system, and return schools/libraries and service providers to a normal commercial relationship.

Currently, schools and libraries either get an E-Rate discount on their service-provider bills or pay their service provider in full and subsequently obtain reimbursement from the Universal Service Fund, again, *via* their service provider. In either case, the applicants' receipt of USF funding is largely dependent upon extensive and ongoing coordination among three parties - the applicant, the service provider and USAC. It is an artificial, time and resource intensive method for providing schools and libraries with what should only be a benefit (savings on their communications purchases) not a burden. Requiring coordination among these

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<sup>8</sup> See, e.g., Comments of AT&T Inc., In re Matter of National Broadband Plan for Our Future, GN Docket No. 09-51 (FCC June 8, 2009), at 90; Mary L. Henze, AT&T Ex Parte Re: WC Docket No. 05-195, Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight; CC Docket 02-6, Schools and Libraries Universal Service Support Mechanism (Sept. 14, 2007).

organizations not only is costly and inefficient but also increases the risk of error, further increasing the costs of all concerned.

Instead of granting applicants a “promise” to fund, the FCC should permit USAC to provide funding directly to schools and libraries, and let them pay their service providers directly. For example, USAC could place E-Rate funds into dedicated accounts for applicants that receive funding approval through the current process. Successful applicants could then draw on this account to pay for E-Rate services in a manner akin to a regular market transaction. The goal of the Act, that Universal Service subsidize schools’ and libraries’ purchase of communications services (*i.e.*, discounted), would still be achieved. This simplified process would place schools and libraries directly in control of their E-Rate funding and make the entire E-Rate process less cumbersome and time consuming for these often resource-strapped institutions.

The current process of competitive bidding, application and discount formulation could still be used to size the funds provided to each applicant, to identify the services that will be funded, and the service provider selected. Streamlining the program as we propose will lower administrative costs and allow the Commission and USAC to concentrate more program resources on ensuring that the E-Rate program encourages the Commission’s broadband goals.

While a direct disbursement methodology is being implemented, the FCC should immediately allow USAC to begin reimbursing applicants directly when they file Billed Entity Applicant Reimbursement (BEAR) Forms. Sending checks to service providers to forward to applicants is another artificial requirement that adds no value but has generated numerous administrative processes that create more opportunity for error and delay. For example, taking the service providers out of the flow of BEAR reimbursements removes the cumbersome need

for dual certification of BEAR forms (to which service providers are only certifying to meet the deadline to forward payments to applicants) and speed applicant reimbursements. Applicants know what they have purchased and paid for and thus their certification is the only one relevant to the funding process.

### **III. QUESTION NO. 13.**

*We seek comment on the implications of modifying E-rate funding to support additional broadband deployment and how changes to the E-rate program would improve the ability of the program to meet applicant needs for broadband.*

*Question 13.a. To what extent does the annual E-rate funding cap of \$2.25 billion limit the extent of broadband deployment by eligible schools and libraries? What are the financial or programmatic implications of increasing the cap to fund additional services not currently covered by E-rate? What are the implications of indexing the cap to inflation? Would there be specific implementation issues that would arise related to such changes?*

**Response to Question 13.a.** Before determining whether the funding cap needs to be increased or indexed to inflation, the Commission must determine whether and how shifting the focus of the E-Rate program to broadband will affect funding demand. For example, how many schools and libraries have no broadband capability today? The Commission will have to answer this question, and determine how much it will cost to provide that capability, before the Commission can determine whether it should modify the funding cap.

*Question 13.b. To the extent the Commission modifies its E-rate rules to encourage additional requests for funding for broadband services under priority 1, how would that change likely impact the availability of funding for priority 2 services?*

**Response to Question 13.b.** AT&T believes it is time for the Commission to refocus the E-Rate program on the provision of broadband services to schools and libraries that do not have any, or adequate, broadband services today. Hopefully, the responses to this Notice and data analysis by USAC will assist the Commission in determining the size of the potential applicant community that falls into the unserved category. This should help the Commission estimate how

much, in any funding, will remain for funding internal connections. Assuming Priority 2 funding will be available, it could be stretched further by directing it solely to schools that have no broadband-capable internal connections today. If the Commission anticipates that no Priority 2 funding will remain, it could consider modifying the Priority rules to set aside a certain amount of funding for Priority 2 requests solely from “unwired” schools and libraries.

***Question 13.d. The Commission could decrease the discount levels for basic telecommunications, or otherwise modify the existing discount levels, to increase the amount of E-rate funds available for broadband deployment. What would be the effect of such a change?***

***Question 13.e. Would eliminating some of the services currently eligible and expanding eligibility to other services result in greater levels of broadband connectivity? Commenters should specifically articulate how proposed changes in the eligible services list would enable greater broadband deployment.***

**Responses to Questions 13.d. and 13.e.** AT&T agrees that it would be reasonable for the Commission to consider gradually reducing the allowable discounts for basic telecommunication services in order to increase the funds available for broadband deployment. However, any changes in the discount and or eligibility of non-broadband products and services should be phased in gradually (*e.g.*, over five years) to allow schools and libraries to plan for and transition to broadband services in a rational manner.

***Question 13.g. Additionally, we seek comment on suggestions for coordinating with federal or state agencies on grant programs that could supplement the Commission’s E-rate program. For example, the United States Department of Education’s Enhancing Education Through Technology State Program (Ed Tech) provides grants to state educational agencies to improve student achievement through the use of technology in elementary and secondary schools. Money from grants such as this, in combination with E-rate funds, could greatly increase a school’s broadband connectivity.***

***Question 13.h. Alternatively, E-rate funds could be used in conjunction with funds from other entities to support broadband projects. For example, upon a state’s recommendation, a particular project might be funded by having the state pay for the computers and training, and providing E-rate discounts for the broadband connection. Are there other specific ways the Commission could better leverage the benefits of E-rate funding through coordination with other federal, state, local or non-profit programs that seek to advance broadband deployment?***

**Responses to Question 13.g and 13.h.** AT&T encourages the Commission to coordinate with other agencies and government programs to supplement the reach of the E-Rate program by eliciting support for the non-communications service elements of broadband use and adoption. Other federal, state and grant programs are the appropriate entities to assist schools and libraries that adopt broadband service to obtain any secondary products or services that are not eligible for E-Rate support. While it may be premature to adopt wholesale changes to the program that link E-Rate funding directly to, for example, state recommendations or commitment of funds (as noted above), such an approach certainly warrants further study and potentially experimental or pilot projects to test the concept.

*Question 13.i. We seek comment on these suggestions and other ideas to increase the amount of E-Rate funds available for broadband technologies, or to more effectively use E-rate funding to improve broadband deployment.*

**Response to Question 13.i.** The E-Rate program has dispensed billions of dollars to schools and libraries over the course of the last decade. Through the program, many applicants have purchased broadband service. As the Commission undertakes to bring broadband service to the remaining schools and libraries that are unserved or underserved and to refine funding priorities under the program, AT&T is not aware of any comprehensive study of schools and libraries regarding what broadband applications are being incorporated into the education system. As part of its National Broadband Plan, the Commission could recommend that such a study be conducted by an appropriately expert agency or entity.

An assessment of actual need, particularly with regard to schools and libraries that do not currently have broadband service, would assist policymakers in multiple agencies in more effectively improving broadband deployment and use in schools and libraries.

Respectfully submitted,

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