Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
International Comparison and Consumer Survey Requirements in the Broadband Data Improvement Act	)	GN Docket No. 09-47
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	
Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act	)	GN Docket No. 09-137
	)	
Schools and Libraries Universal Service Mechanism	)	CC Docket No. 02-6
	)	
	)	WC Docket No. 05-195

REPLY COMMENTS OF CENTURYLINK

NBP PUBLIC NOTICE # 15

(BROADBAND NEEDS IN EDUCATION; CHANGES TO E-RATE PROGRAM)

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INTRODUCTION AND SUMMARY

Scores of parties submitted comments in response to the Commission's National Broadband Plan Public Notice #15.[1] Clearly, there is very broad interest in broadband's positive role in education, and in the schools and libraries universal service support mechanism ("the E-rate program").

[1] Public Notice, *Comment Sought on Broadband Needs in Education, Including Changes to E-rate Program to Improve Broadband Deployment, NBP Public Notice #15*, DA 09-2376 (rel. Nov. 3, 2009). Comments were filed November 20, 2009.

Parties widely agreed with the Commission and with Secretary of Education Duncan that "[b]roadband access and online learning ... present[] a huge opportunity" to improve education and extend learning opportunities for students nationwide.[2] Comments universally agreed that the E-rate program has succeeded in helping bring broadband access to the nation's schools and libraries, and they suggested the Commission should be cautious about making changes to the program. However, some rural schools and libraries lag in E-rate participation and in broadband access, chiefly because of the larger challenges frustrating broadband investment and deployment in the nation's low density, high cost areas.

CenturyLink serves cities, towns, and rural communities all across America. CenturyLink is especially noted for its commitment to rural America. Its average line density is a low 23 access lines per square mile, and it has entire study areas with average densities below 6 per square mile. It serves over 7 million access lines and more than 2 million broadband customers spread among 33 states, ranging from Texas to Minnesota and from Florida to Washington State. CenturyLink has invested heavily in its network, and remains committed to broadband investment wherever it can be justified. Already, it has made wireline broadband available to 89% of households within its service areas, and it continues to extend and upgrade its broadband network in the communities it serves.

CenturyLink agrees with many commenters that changes to the E-rate program should be kept to a minimum. The Commission should not expand eligibility to new services or beneficiaries at this time, and the Commission should not ask that the funding cap be raised.

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[2] Press Release, U.S. Department of Education, *U.S. Department of Education Study Finds that Good Teaching Can be Enhanced with New Technology* (June 26, 2009).

Instead, the program should focus on Priority 1 services, and it should emphasize meeting the particular needs of schools and libraries that are unserved or underserved today. At the same time, the Commission can and should take reasonable steps to simplify the E-rate application, review, and disbursement process. It should direct the Universal Service Administrative Company ("USAC") to simplify paperwork wherever possible. For example, when an applicant has a valid, signed multi-year contract, the program should allow multi-year applications and "evergreen" Form 471s. And the Commission should take service providers out of their current middleman role in the disbursements process, returning program beneficiaries and service providers to a more normal and efficient customer-carrier relationship.

I. BROADBAND DEPLOYMENT DATA (QUESTION 1)

A. The Commission should focus on network deployment to unserved and underserved areas.

The commenters all recognize, either explicitly or implicitly, that the E-rate program has been highly successful in promoting deployment and usage in schools and libraries around the country. The program has been highly popular with applicants, and it is reasonable to believe that deployment and usage today are higher than they would have been without the program's encouragement and service discounts.

CenturyLink agrees that some schools and libraries nevertheless fail to participate, or to maximize broadband opportunities. Budget uncertainty may constrain some applicants, and "program complexity" and the "voluminous and bewildering" process and regulations provide some discouragement.[3] By any measure, however, participation has been high and growing.

[3] Am. Library Ass'n at 3-4; Wisc. Dep't of Pub. Info. at 4.

Therefore, the most critical barrier to increased broadband deployment and usage for schools and libraries is the lack of availability of service, or adequate service, especially in rural areas.[4]

The American Library Association noted the need to encourage investment so that high-capacity infrastructure is widely available, and it recognized that service providers cannot justify constructing new high-capacity infrastructure on the needs of schools and libraries alone.[5] CenturyLink agrees that promoting network investment is critical. Some parties cited the American Recovery and Reinvestment Act ("ARRA"),[6] but those programs -- particularly with conditions as applied to date by NTIA and RUS -- will certainly be insufficient to address the network investment needs of most schools and libraries in unserved and underserved areas. Accordingly, the Commission should focus the E-rate program on overcoming the economic realities preventing broadband deployment in low density, high cost areas and the importance of network investment incentives.

B. Sensible universal service and intercarrier compensation reform would promote broadband availability for schools and libraries in unserved and underserved areas.

Several parties recognized that the Commission's priority should be to ensure deployment of broadband capability in areas that do not have broadband.[7] This goal can be achieved most readily through universal service reform that would change the distribution of high-cost support to target areas where network support is most needed, and through intercarrier

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[4] Am. Library Ass'n at 2. *See also* AT&T at 10.

[5] Am. Library Ass'n at 3.

[6] Pub. L. No. 111-5, 123 Stat. 115 (2009).

[7] SECA at 33; AT&T at 10; Am. Library Ass'n at 3.

compensation reform that does not starve carriers serving rural areas of revenue that is especially necessary to fund broadband investment in an era of declining access lines. Together with four other mid-sized carriers serving rural America, CenturyLink has proposed in these dockets a comprehensive reform plan that would support all these goals: the Broadband Now Plan.[8] Among the many benefits of the Broadband Now Plan are the added opportunities it would bring to schools and libraries in unserved and underserved communities, created by promoting prompt and sustainable broadband investment and cost-effective offerings in areas where deployment is otherwise uneconomic.

C. The National Broadband Plan could consider proposing an independent study of broadband adoption in education.

The comments as a whole suggest broadband is being successfully incorporated into the education system, and some parties described examples.[9] However, like AT&T, CenturyLink is not aware of any comprehensive national study of schools and libraries about what applications are being incorporated into the education system.[10] The Commission could propose an independent study as part of the National Broadband Plan. Even without such a study today, the general benefits of broadband access are widely acknowledged.

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[8] CenturyLink, Consolidated, Frontier, Iowa Telecom and Windstream jointly submitted the plan in the National Broadband Plan dockets. *See* Letter to Marlene Dortch (Secretary) from David Bartlett (CenturyLink), Michael Shultz (Consolidated), Michael Anderson (Iowa Telecom), and Eric Einhorn (Windstream), filed December 7, 2009.

[9] CenturyLink is skeptical, however, of Sprint's claims that cell phone usage in the classroom offers truly meaningful improvement in public education. Sprint at 2-3.

[10] AT&T at 16.

II. E-RATE MODIFICATIONS (QUESTION 11)

A. School computer facilities should be open to reasonable community use after school hours, without requiring cost-allocation.

Many parties joined Funds for Learning to suggest that schools should be allowed to use their subsidized computer facilities for public services after school hours.[11] Current rules limit school funding to education purposes, and limit educational purposes to school instruction. Applicants that allow public access today are expected to cost-allocate usage, leading to a reduction in E-rate support.

CenturyLink agrees that the definition of education may appropriately be broadened to allow community use of E-rate subsidized school facilities, after school hours, in the same manner as public libraries. In rural communities, in particular, school libraries may provide an important supplement to potentially more distance public libraries, and school facilities are often underutilized after hours. Parties agreed that the Commission should allow this public educational use, subject to reasonable guidelines and to the prohibition of resale of supported services, without cost allocation.

B. WANs should remain eligible only when leased from service providers.

Many parties addressed wide area networks. CenturyLink agrees with many parties that the E-rate program should not subsidize applicants' purchase and operation of their own wide area networks ("WANs"). The Oregon Department of Education cites benefits of WANs, and Dell questions the current rule that prohibits beneficiaries from purchasing and operating WANs

[11] Funds for Learning at 2-3. *See also* SECA at 11; AT&T at 5; Wisc. Dep't of Pub. Info. at 2-3; Dell at 3.

themselves.[12] Sensibly, other commenters generally opposed adding applicant-owned WANs to the eligible services list.[13] The Commission has already found that the law precludes adding them.[14]

Regardless, WANs are readily available today from telecom providers on a leased basis. Modifying the rules to allow support for applicant-owned WANs would inflate Priority 2 spending and ultimately displace more important E-rate priorities. It would lead to dual use, with E-rate subsidized WANs inevitably used for ineligible purposes. Most seriously, it would undermine the National Broadband Plan's key goal of promoting broadband deployment where it is most needed. As AT&T explained, funding applicants' own WANs "would discourage investment and deployment of public broadband infrastructure in unserved and underserved markets by service providers unable to compete with a government-funded competitor."[15]

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[12] Ore. Dep't of Educ. at 3; Dell at 4.

[13] *E.g.,* Am. Library Ass'n at 15. SECA (at 18) opposes adding applicant owned WANs unless the E-rate cap were raised by $1 billion and tight restrictions were imposed on their use. Leased WANs meet

[14] *Federal-State Joint Board on Universal Service, Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charge*, CC Docket No. 96-45; CC Docket Nos. 96-262, 94-1, 91-213, 95-72, Fourth Order on Reconsideration, 13 FCC Rcd 5318 at ¶193 (1997) (subsequent history omitted) ("[F]rom a legal perspective, wide area networks purchased by schools and libraries and designed to provide telecommunications do not meet the definition of services eligible for support under the universal service discount program.").

[15] AT&T at 8.

C. The Commission should consider careful streamlining of the application, review, and disbursement processes.

Many applicants called on the Commission to encourage streamlining and simplifying of the E-rate program. The rules and processes are, in many respects, needlessly complex.[16] CenturyLink agrees that the Commission should carefully review the entire E-rate process to suggest simplifying processes and streamline paperwork wherever reasonably possible. For example, for Priority 1 services only, applicants with valid, signed multiyear contracts should be allowed to submit multiyear applications, instead of reapplying each year. CenturyLink also agrees that an "evergreen" Form 471 makes sense with such multi-year service agreements.[17]

The Commission also should encourage USAC to reach out to applicants more promptly when an error has been discovered, as the State E-rate Coordinators Alliance ("SECA") suggested.[18] Having USAC identify applicants' errors early reduces administrative costs for all parties -- beneficiaries, service providers, and USAC. Moreover, smaller schools and libraries, especially in rural communities, lack the larger administrative staffs to help manage the E-rate program's complexity. More proactive assistance from USAC's skilled staff would help reduce uncertainty that can serve only to discourage the most deserving applicants, giving the program an unintended institutional bias toward larger school and library districts, including those that have less need for E-rate funding support.

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[16] The American Library Association (at 3) believes "complexity" prevents some libraries from "participating fully" in the E-rate program.

[17] *E.g.,* Wisc. Dep't of Pub. Info. at 5-6; Dell at 4-5.

[18] SECA at 27-28. To its credit, the Commission has taken some reasonable steps in recent years to make the E-rate program more applicant-friendly.

Simplifying the program through carefully fashioned process reforms would improve efficiency for everyone -- for applicants, service providers, and USAC -- while fully complying with statutory requirements and the Commission's broadband goals.

III. E-RATE DISBURSEMENT (QUESTION 12)

A. Higher priority should extend to schools and libraries in areas unserved or underserved by broadband.

Many parties agreed that the Commission should consider some means of extending higher priority to schools and libraries that are unserved or underserved by broadband.[19] As SECA proposed, the Commission can coordinate with states to help identify and prioritize those individual facilities.[20] The Commission would need to ensure standard measures so that all such applicants are evaluated fairly and treated equally.

However, the Commission cannot simply "require" that service providers must construct high-speed facilities to schools and libraries, as the American Library Association suggests,[21] to guarantee they have access to advanced services. Where schools and libraries remain unserved or underserved, the problem is one of economic realities, not an unwillingness to provide advance services. The Commission cannot expect to solve this larger economic problem within the E-rate program itself. Ultimately, it must be addressed through a comprehensive, broadband, USF, and intercarrier compensation reform plan. CenturyLink and other mid-sized rural carriers have proposed a reasonable solution in the Broadband Now Plan.[22]

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[19] *E.g.,* Verizon at 9; AT&T at 10; Wisc. Dep't of Pub. Info. at 4-5.

[20] SECA at 33.

[21] Am. Library Ass'n at 11.

[22] *See* n. 8, *supra.*

B. Priority 2 requests should receive less of the E-rate program's funding.

CenturyLink agrees with most parties that the E-rate program must remain focused on Priority 1 services, not Priority 2 requests. Priority 2 applications, chiefly for internal connections, take funding away from Priority 1 services.[23] Accordingly, CenturyLink disagrees with Dell (a major supplier of Priority 2 services) that internal connections should receive greater priority or that the cap should be raised to substantially increase internal connections funding.[24]

C. Any Priority 2 funding should target applicants that lack connectivity today.

CenturyLink also agrees with the SECA, AT&T, and other leading commenters that Priority 2 funding should be directed to schools and libraries that have not received such funding before, or, more appropriately, to those that have no broadband connectivity today.[25] However, CenturyLink is not convinced by SECA's suggestion that a higher, flat 90% discount on internal connections should be adopted for schools lacking broadband today. The key barrier to broadband in unserved schools and libraries is not internal connections expense, but the availability of service in rural areas.

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[23] Wisc. Dep't of Pub. Info. at 5.

[24] Dell at 3.

[25] SECA at 22-23; AT&T at 12, 14-15.

D. The Commission should remove service providers from their current "middleman" role in the disbursement process.

AT&T encouraged the Commission to rationalize and simply the E-rate program by removing service providers from the middle of the disbursement process.[26] CenturyLink's Embarq companies were among service providers endorsing just such a process reform.[27] Today, applicants either receive a discount on the bill from the service provider on their bill, or they pay for service in full and secure reimbursement from USAC, also through the service provider. This process requires extensive coordination between the applicant, the service provider, and USAC. It is plainly inefficient, increasing burdens on applicants and service providers, and often on USAC as well. It generates more errors and increases costs for everyone.

As AT&T explained, the Commission should ask USAC to provide funding to applicants directly, instead of through their service providers.[28] USAC could place E-rate moneys in dedicated accounts, from which applicants could draw to pay for approved E-rate services. This simplified approach would put applicants in better control of their E-rate funds, provide greater certainty, reduce errors, and ease the administrative burdens on schools and libraries. This streamlining measure would require no changes in the existing process for competitive bidding, submission of applications, or calculation of discounts.

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[26] AT&T at 12-13.

[27] *See, e.g.,* Letter to Marlene Dortch (Secretary) from Mary Henze (AT&T), WC Docket No. 05-195, *Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight*; CC Docket No. 02-6, *Schools and Libraries Universal Service Support Mechanism* (filed Sept. 14, 2007). *See also* Comments of AT&T, *In the Matter of National Broadband Plan for Our Future*, GN Docket No. 09-51 (filed June 8, 2009) at 90.

[28] AT&T at 13-14.

IV. E-RATE FUNDING (QUESTION 13)

A. The size of the program should not be increased at this time.

Some commenters endorsed raising the cap on E-rate program funding. Dell suggested raising the annual cap to "$4 or $5 billion" to generate more money for Priority 2 internal connections.[29] Wisconsin Department of Information proposed adding an extraordinary one-time $5.57 billion program, spread over three years, to fund fiber connections to every school and library.[30] Funds for Learning propose increasing the fund size by indexing it to inflation, retroactively to 1997 and prospectively from today; Dell wants to increase the fund cap and index it to inflation going forward.[31] The American Library Association also would like more E-rate money.[32] The Oregon Department of Education even asks (unreasonably, in CenturyLink's view) that the E-rate program be expanded to provide money to states to cover their costs of "administering" the program.[33]

All commenters, however, acknowledge that the E-rate program is working "successfully" even with the fund limited by statute to its current $2.25 billion level.[34] Many parties overlook that raising the cap or modifying how it is funded would require federal legislation, and few pause to note the already-high USF contribution burden on service providers

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[29] Dell at 3.

[30] Wisc. Dep't of Educ. at 7.

[31] Funds for Learning at 13; Dell at 3.

[32] Am. Library Ass'n at 19.

[33] Ore. Dep't of Educ. at 2.

[34] Verizon at 7; Sprint at 6. AT&T (at 14) also agrees it is premature to suggest increasing or indexing the E-rate funding cap.

and their consumers.[35] Parties endorsing a bigger fund have not adequately shown that raising it is necessary to meet the programs goals, particularly given the likely tradeoffs with reductions or forgone increases in other parts of the Universal Service Fund. CenturyLink agrees that the fund size should not be increased, certainly not at this time.

B. E-rate funding must not undermine universal service support for high-cost areas.

CenturyLink particularly opposes the Oregon Department of Education's casual suggestion that high cost USF support could be capped and its funds reallocated to expand the E-rate program.[36] The high cost USF mechanisms are essential to meet section 254's mandate to ensure that universal service is available in high cost, rural, and insular areas.[37] Those high cost USF mechanisms make service available to rural areas, and they remain essential to maintain, let alone extend and upgrade, telecommunications network in those areas.

Rather than short-changing the more critical high cost USF mechanisms, the Commission should be taking steps to ensure adequate, sufficient, and predictable high cost support is available to carriers in high cost areas. Reducing high cost support would undermine the statutory mandate for universal service, while frustrating the policy goal of making broadband available to unserved and underserved communities -- including schools and libraries in those most deserving areas. CenturyLink agrees with several parties that, if and when the cap becomes a concern, the Commission should reduce funding for Priority 2 internal connections.

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[35] The Commission announced today that the contribution factor for the first quarter of 2010 will reach an extraordinary 14.1%. Public Notice, CC Docket No. 96-45, DA 09-2588 (rel. Dec. 11, 2009).

[36] Ore. Dep't of Educ. at 10.

[37] 47 U.S.C. § 254.

C. Eligibility should not be extended to new classes of applicants, such as community colleges, pre-K schools, and Headstart programs.

Most parties opposed expanding the E-rate program to new services or groups, especially if there are not very substantial increases in E-rate funding.[38] Many filers agreed with the New York State Office of Children and Family Services and SECA agreed, the Commission's first principle should be "to do no harm" to the existing, successful E-rate program.[39] Consequently, a wide range of parties opposed adding community colleges, pre-Kindergarten schools, and Headstart programs to E-rate. Congress specified that E-rate support was solely for qualifying public and non-profit elementary schools, secondary schools, and public libraries -- and limited to educational purposes.[40]

The CPUC offered data about California's spending on community colleges through its state support subsidy program.[41] Just one year after making community colleges eligible for discounts through the California Teleconnect Fund ("CTF"), they are expected to consume 13% of the program's budget. That figure that underscores the substantial funding burden that community colleges alone would add to the E-rate program. Expanding the E-rate program to other institutions would risk displacing the K-12 institutions and public libraries. K-12 schools and libraries were the stated priority of Congress and, most people would agree, serve the most essential educational purposes.

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[38] *E.g.,* Verizon 8-9; Sprint at 6; SECA at 16; Ore. Dep't of Educ. at 6.

[39] N.Y. State Off. of Children & Family Servs. at 1; SECA at 4.

[40] 47 U.S.C. § 254(h).

[41] Cal. PUC at 2. Community colleges are allocated $7.874 million of the CTF's FY2009-2010 budget of $60.34 million.

D. Eligibility should not be extended to end user equipment or training.

Parties also widely agreed that E-rate eligibility should not be extended to end user equipment and training. Adding these elements to the program would be very difficult to administer. Equipment tracking, for example, already has proven a problem area in E-rate audits, and isolating computer instruction for E-rate purposes from other professional development is highly impractical. CenturyLink disagrees with Common Sense Media's suggestion that teachers in underserved areas often fail to recognize the educational benefits of broadband access.[42]

Adding end user equipment and training to the E-rate program would ultimately displace more important services. Fortunately, the lack of eligibility for computers and staff training has not been a problem for the E-rate program, and there is no evidence that "lack of discounts for end user equipment or staff development in any manner inhibits use of broadband."[43] Funding for computers and training may be available from other programs.[44]

CONCLUSION

The E-rate program has helped promote broadband adoption in education across the country. Now, the Commission should give higher priority to unserved and underserved schools and libraries, and ensure Priority 2 applications do not shortchange Priority 1 needs. It should

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[42] Common Sense Media at 5.

[43] Wisc. Dep't of Pub. Info. at 3.

[44] AT&T at 7-8; Verizon at 9; SECA at 16-17 (noting, for example, that support for training is available through the Enhancing Education Through Technology program).

look for opportunities to simplify and streamline the program where reasonably possible, including by removing service providers from their current middle-man position in the disbursement process. Most importantly, the National Broadband Plan's focus should be on promoting private investment and deployment in unserved and underserved areas, and it should not endorse increased E-rate funding at this time.

Respectfully submitted,

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