

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

In the Matter of)
)
Schools and Libraries Universal Service) CC Docket No. 02-6
Support Mechanism)
)

COMMENTS OF VERIZON¹ AND VERIZON WIRELESS

The Commission proposes that schools be allowed to use their broadband facilities and Internet access services purchased with E-Rate funding “after hours” for community needs so long as schools do not fund general public access to these facilities with additional E-Rate support.² If this minor change to the E-Rate rules encourages broadband adoption in some communities without increasing the Universal Service Fund (USF), then the Commission should adopt its tentative conclusion to permit after hours public access to these school facilities. *E-Rate NPRM* ¶ 17. To ensure that the E-Rate program and all USF programs are sustainable in the broadband world the Commission should also replace the current revenue-based contribution system with a numbers-based system.

Through the E-Rate program, the Commission distributes to schools and libraries more than \$2 billion annually in federal support – a substantial portion of which is used by schools to purchase broadband Internet access services. 47 C.F.R. § 54.507(a). Under the current E-Rate rules it is sometimes the case that schools’ Internet facilities sit idle when not used by students

¹ In addition to Verizon Wireless, the Verizon companies participating in this filing (“Verizon”) are the regulated, wholly owned subsidiaries of Verizon Communications Inc.

² *Schools and Libraries Universal Service Support Mechanism*, Order and Notice of Proposed Rulemaking, 25 FCC Rcd 1740 (2010) (“*E-Rate NPRM*”).

and faculty. *E-Rate NPRM* ¶ 4. It is appropriate that services purchased with E-Rate funding be used primarily to serve the educational mission of the school beneficiary itself. The goal of the program is to ensure that schools have access to the modern communications tools they need in order to most effectively educate all students, wherever they live. However, if public access to a school’s broadband facilities and services can be arranged in a way that does not distract from the school’s educational mission, then it does not make sense to underutilize these facilities. The Commission’s overarching challenge in the early 21st Century is to put in place policies that support ubiquitous adoption of broadband services.³ If permitting schools to open their Internet access facilities to the public when these facilities are not being used by students and faculty facilitates broadband adoption gains in some communities, then the minor changes the Commission proposes to its E-Rate rules in the *E-Rate NPRM* serve that objective.

In moving forward with these rule changes, the restrictions that the Commission also proposes for any community use of E-Rate services – which the Commission tentatively concludes should be made permanent as well – are essential. *E-Rate NPRM* ¶ 19. In particular, the Commission should not permit applicants to draw additional E-Rate support in order to pay for open-ended public access to services purchased with E-Rate funding. *Id.* Allowing such additional support would inappropriately reduce the amount of E-Rate funding under the program cap that is available to all applicants for school needs. 47 C.F.R. § 54.507(a).

Moreover, consistent with the findings in the National Broadband Plan, in reforming the USF it is important not to overburden consumers who pay for the fund. National Broadband Plan at 149-50 (“Unrestrained growth of the USF, regardless of the reason, could jeopardize public support for the goals of universal service. . .the FCC should aim to keep the overall size of

³ FCC, Omnibus Broadband Initiative, *Connecting America: The National Broadband Plan*, <http://www.broadband.gov/plan>, at XI (March 16, 2010) (“National Broadband Plan”).

the fund close to its current size (in 2010 dollars). . .”). Next quarter’s universal service contribution factor will already set another new, disturbing record at 15.3 percent.⁴ This represents an increase in the factor of more than 35 percent from the same period just one year ago. The courts have held that the Commission has an affirmative obligation not to let the size of the fund get out of hand. *See, e.g., Rural Cellular Association, et al. v. FCC*, 588 F.3d 1095, 1102 (D.C. Cir. 2009) (finding that the Commission must “balance the risks of excessive subsidization with the principles set forth in § 254(b). . .the Commission must consider not only the possibility of pricing some customers out of the market altogether, but the need to limit the burden on customers who continue to maintain telephone service.”); *see also* National Broadband Plan at 150 (“The FCC needs to proceed with measured steps to assure that as it advances the nation’s broadband goals, it does not increase the USF contribution factor, which is already at a public historic high.”).

Related to the contribution factor, in the National Broadband Plan the Commission also acknowledged the need to fix the broken revenue-based contribution system itself. National Broadband Plan at 149 (“[The FCC] should adopt revised contribution methodology rules to ensure that USF remains sustainable over time.”). As the Commission begins the process of converting the USF into a broadband-focused program – including changes to E-Rate – we once again urge the Commission to abandon revenue-based contributions in favor of a more objective assessment mechanism such as a as a numbers-based system. In the all-broadband world that the Commission envisions in the National Broadband Plan and in the *E-Rate NPRM*, there is simply no workable revenue-based system. The assessable base of interstate revenues dropped \$600

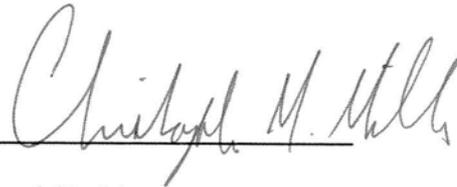
⁴ Proposed Second Quarter 2010 Universal Service Contribution Factor, Public Notice, CC Docket No. 96-45, DA 10-427 (March 12, 2010).

million since last quarter alone to its lowest level on record. Even if the Commission were to add additional services to the revenue base as a stop-gap measure, as long as some services contribute to the fund and some do not, the base will erode again.

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For these reasons, if broadband adoption in some communities can be enhanced through after-hours public access to schools' Internet facilities without increasing the USF, the Commission should move forward with its proposed changes to the E-Rate rules. The Commission should also replace the revenue-based universal service contribution mechanism with a numbers-based system.

Respectfully submitted,

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