

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of
Schools and Libraries Universal Service
Support Mechanism

A National Broadband Plan for Our Future

CC Docket No. 02-6

GN Docket No. 09-51

**COMMENTS OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION AND
THE PEOPLE OF THE STATE OF CALIFORNIA**

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The California Public Utilities Commission and the People of the State of California (CPUC or California) submit these comments in response to the Federal Communications Commission's (FCC or Commission) Notice of Proposed Rulemaking (NPRM) seeking comments on proposed modifications to the E-rate program.¹ The NPRM seeks comment on various reforms of the program consistent with the goal of the National Broadband Plan for comprehensive universal service fund reform.² In the comments that follow, we concentrate on those proposals we consider of most importance given California's experiences with the schools and libraries universal support mechanism, as the E-rate program is formally called, and to California's comparable program, the California Teleconnect Fund (CTF).³

I. INTRODUCTION

As the NPRM notes, the E-rate program is the second largest component of the Universal Service Fund (USF), currently capped at \$2.25 billion annually.⁴ Proposed reforms include streamlining the application and competitive bidding process, revising the way applicants calculate their discount percentage rate, changing the definition of "rural" area, supporting wireless broadband access services away from schools, allowing the leasing of dark fiber from municipalities and other non-carrier sources, reassessing

¹ *In the Matter of Schools and Libraries Universal Service Support Mechanism, A National Broadband Plan for Our Future*, Notice of Proposed Rulemaking, CC Docket No. 02-6, GN Docket No. 09-51, rel. May 20, 2010. (NPRM)

² Federal Communications Commission, *Connecting America: The National Broadband Plan*, (rel. March 16, 2010) (NBP).

³ <http://www.cpuc.ca.gov/PUC/Telco/Public+Programs/CTF/>. The CTF program provides a 50% discount on selected telecommunications and advanced services to qualifying entities.

⁴ NPRM, ¶¶ 1, 7.

the services and funding of Priority One versus Priority Two services, indexing the E-rate disbursements to inflation, and allowing schools and libraries to dispose of obsolete equipment without violating the current prohibition against reselling E-rate funded equipment.

In the comments that follow, we concentrate on those reforms that have particular importance and urgency for California. Silence on other proposed reforms does not indicate disagreement or opposition.

II. DISCUSSION

A. Application Process

We applaud the FCC's request for comments on simplifying and streamlining the E-rate program application process for schools and libraries. We concur with the FCC that it is especially critical to simplify the application process so that rural communities, as well as urban areas, can readily participate in the E-rate program that funds high bandwidth Internet access services, which support advanced applications.

The CPUC's California Teleconnect Fund (CTF) provides discounted telecommunications and advanced services to qualifying K-12 schools, libraries, government-owned and operated hospitals and health clinics, community-based organizations, community colleges, and California Telehealth Network participants. The 50% CTF discount on monthly recurring charges applies after the FCC's E-rate discount is applied. If a school or library does not participate in the federal E-rate program, the statewide average E-rate discount will be applied prior to the CTF discount.

Based on our experience administering the CTF, we have found that an appreciable number of schools and libraries do not participate in the E-rate program because of its complex application process. In order to request E-rate funding for advanced services, applicants must maneuver through several difficult steps, including developing a technology plan,⁵ establishing a competitive bidding process and then seeking competitive bids, and filing complicated application forms. The technology plan alone consists of five elements and represents a formidable challenge for many schools and libraries to develop even if they receive guidance from the Universal Service Administrative Company (USAC) in preparing the plan.⁶ This is especially so for small rural districts where, E-rate assistance may be most needed. As a result, some schools that are most in need of advanced services are so overwhelmed by the process that they forgo applying for E-rate funding rather than subject themselves to the expense of completing the convoluted application process. Other prospective applicants have concluded that the discounts they would receive by participating in the E-rate program would not offset the costs of hiring a consultant or consultants to guide them through the application process.

Thus, in order to encourage schools and libraries to apply, especially those in rural areas, the Commission should simplify and streamline the E-rate process. Schools and

⁵ A technology plan is not required for basic telecommunications services.

⁶ We are pleased that the FCC is “working with the USAC in developing an improved online system that provides applicants with the tools and access to data necessary to participate more effectively and efficiently in the program. All forms should be available for online submission, and applicants should be able to upload requested information electronically. Applicants also should be able to save, retrieve, and edit previously filed applications and use these forms as the basis for future funding requests....” NPRM, ¶ 32.

libraries should be able to fill out independently the E-rate application forms without fear of hardship or challenge on the grounds that they have missed a minor matter in the application process unrelated to the overall integrity of the program.

B. Off-School Premises Use of Supported Wireless Internet Access Services

The FCC seeks comments on its proposal “to adopt the National Broadband Plan recommendation to provide full E-rate support for wireless Internet access services used with a portable learning devices [sic] that are used off premises.”⁷ It also seeks comment on what other safeguards, if any, it should consider imposing to mitigate the risk of non-educational use at home that is not directly supervised by the recipient of the funding.⁸ Currently, full E-rate support is provided only when the device remains on campus. If the device is used off campus, the wireless Internet connection discount is subject to cost-allocation, resulting in a reduction in the discount. The FCC further seeks comment on “whether we should implement this proposal on an interim basis for funding year 2011, and subsequently evaluate how to implement a permanent rule”.⁹

California supports the expansion of the E-rate program’s full funding of Internet access wireless services for devices that can be taken off campus on an interim or pilot basis for the funding year 2011. An interim program would allow the FCC to evaluate the potential impact of wireless broadband off-campus usage on the E-rate program as a whole and to make any necessary adjustments to assure a successful permanent program.

⁷ NPRM, ¶ 45.

⁸ *Id.*, ¶ 49.

⁹ *Id.*, ¶ 51.

This position is consistent with California's concerns, as stated in our filing of April 19, 2010, regarding the FCC proposal to permit schools receiving E-rate funding to allow public use of E-rate funded equipment during non-school hours.¹⁰ In those Reply Comments, California recommended that "[t]he FCC should evaluate the experience gained from the temporary waiver before deciding whether to permanently amend its rules." The CPUC also stated that [w]e do not support adoption of the public use waiver as a permanent change to the program at this time. The FCC should first evaluate the results under the temporary waiver before making such a decision."¹¹

Change as significant as opening up access for the public to school/library sites or off-campus use of wireless Internet access services should have a period of evaluation before becoming permanent fixtures of the E-rate program. A pilot program would allow the FCC to determine if its interim rules adequately protect against fraud, waste, and abuse. It also may provide an opportunity for the FCC to determine which policies are more effective in ensuring program integrity by comparing the various policies adopted by different schools, yet which fall within the FCC's general guidelines. For example, are monetary penalties more effective than non-monetary penalties, e.g., suspension from the program for using the Internet for non-educational purposes?

An interim program will also allow the FCC to assess the magnitude of the increase in demand for off-site wireless Internet service and its impact on other aspects of the E-rate program, including those it proposes to reform in the NPRM. Full funding for

¹⁰ Reply Comments of the California Public Utilities Commission, *In the Matter of Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, April 19, 2010, p. 2.

¹¹ *Id.*, p. 3.

wireless Internet access services, even if those services are used off-premises, effectively lowers the price to the schools and libraries, which in turn will likely translate to a higher demand for the service and associated Priority One funding. The increase in demand will be further strengthened if federal grants are made available to purchase laptops that use this service. Even without full E-rate funding for off-site use of wireless Internet connectivity, California expects to see strong demand for the service.

The increased demand from expanded funding of off-site wireless Internet connectivity could complicate the FCC's ability to address another issue in the NPRM: "to ensure that schools and libraries receive funding for internal connections (priority two services)"¹². Priority Two services are supported only after Priority One services have been funded.¹³ The poorest schools receive Priority Two funding first.¹⁴ Hence, the increase in off-site Internet Priority One funding may crowd out other schools -- which have a substantial percentage of students at the poverty level, but are not the poorest schools -- from receiving Priority Two services.

In fact, funding for off-campus wireless Internet connectivity may even affect Priority One funding. As the NPRM notes, for funding Year 2010, requests for Priority One support was almost \$2 billion.¹⁵ With an increase in demand for off-site wireless Internet services, coupled with normal program growth, in Year 2011 the demand for Priority One support alone may exceed the \$2.25 billion cap. Furthermore, it is not clear

¹² NPRM, ¶ 68

¹³ *Id.*, ¶ 60

¹⁴ *Id.*, ¶ 61

¹⁵ *Id.*, ¶ 7

how funding for Priority One would be allocated if the demand for Priority One support exceeds the program cap. We seek clarification from the FCC on this issue.

In addition, the interaction of simplified application procedures with an expansion of the services being supported needs to be carefully considered given the complexity of the numerous moving parts to the NPRM's reform proposals and the numerous parts of a transformed E-rate program.

C. Targeting Support for Broadband Services -- Migration of E-rate Funding from Traditional Voice Services to Broadband Access Services

The NPRM asks whether the FCC should give a higher priority to advanced telecommunications and broadband services than to voice telecommunications services. As the NPRM makes clear, its new objective "in managing this finite program is to achieve the maximum benefits of access to the full range of content and applications that the Internet can deliver" not to fund the usual voice telephone services that were the staple of schools and libraries before the E-rate program and for much of the time since.¹⁶

California agrees that higher priority should be accorded to advanced telecommunications and broadband services. Broadband connectivity is a good vehicle for achieving the FCC's objective, because it can provide access to numerous advanced applications such as video streaming and distance or on-line learning that will likely have a more significant impact on our children's education than voice telephony or dial-up internet access.

¹⁶ *Id.*, ¶ 59.

Based on California's experience with the CTF we know that there is a strong demand for advanced broadband services such as high-speed DSL broadband connections and cell phone data plans. In Fiscal Year 2009-10, approximately 75% of CTF funding was spent on advanced services. The CTF program expects this figure to increase in the next fiscal year. Even though approximately 25% of funding is still allocated to measured business lines or other voice telephone services, we anticipate that this percentage will decrease as more and more entities are able to migrate to high bandwidth access.

Thus, given a finite E-rate program, California generally supports migrating E-rate support from voice telephone service to broadband services, if that migration can be gradual for those participants who do not have access to high bandwidth connectivity. California recommends that a longer transition period – three to five years -- should be given to those entities that cannot yet subscribe to higher bandwidth Internet connectivity, typically schools and libraries in rural areas. A longer transition period is appropriate until the FCC can focus its efforts on which schools and libraries need to be converted to advanced broadband services and provide the necessary funding to make these advanced services available to these entities. However, for those schools and libraries that currently subscribe to advanced broadband services, a shorter transition period of one to two years may be appropriate.

It should be noted that a broadband platform can provide voice services through Voice over Internet Protocol (VoIP). Therefore, in shifting resources to support

broadband services, there is still funding for voice, albeit indirectly, should participants choose to use VoIP rather than traditional telephony.

III. CONCLUSION

California agrees that reform to the E-rate program is integral to achieving the National Broadband Plan's goal of extending broadband to as many people as possible. As set forth in the above, California supports reforms that include streamlining the application process, adopting a pilot program for full funding of off-site wireless Internet service with results evaluated prior to implementing a permanent program, and re-directing funding from voice services to broadband services with a transition period.

Respectfully submitted,

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