Before the
Federal Communications Commission
Washington, DC 20554

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

COMMENTS OF THE MINORITY MEDIA AND TELECOMMUNICATIONS COUNCIL, THE RAINBOW PUSH COALITION, AND THE LEAGUE OF UNITED LATIN AMERICAN CITIZENS

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EXECUTIVE SUMMARY

Since its creation, the E-rate program has been instrumental in ensuring that our schools and libraries have the connectivity necessary to enable students and library patrons to participate in the digital world. In undertaking a comprehensive reform of this program, the Federal Communication Commission's ("FCC" or "Commission") highest priority should be to target E-rate funding to support the deployment of high-speed, high-capacity broadband connections to schools and libraries and dissemination of broadband to classrooms and library computer labs. While a temporary increase in the E-rate funding cap may be appropriate to support these critical reforms, the Commission should only consider an increase in the Universal Service Fund ("USF") contribution rate as a last resort, and should ensure that E-rate reforms do not negatively impact the critical Lifeline/Link Up program. The Commission should also explore ways to strengthen existing public-private partnerships and develop new corporate alliances, to provide critical support to schools and libraries and ease the financial strain on the already overburdened E-rate fund. Further efficiencies with E-rate funds can be achieved by ending support for outdated technologies. Added benefits to the program as a whole will come with the elimination of the distinction between "priority one" and "priority two" services, which will increase the predictability of funding commitments and ensure that schools and libraries have access to funds to support the deployment of internal connections and for technical support.

Another priority for E-rate reform should be to ensure affordable access for high-capacity broadband connections, including support for poor urban and rural schools and libraries that is proportionate to their needs and costs. To this end, all schools and libraries would benefit from a simplified allocation of funds on a per-student basis.

One critical aspect of E-rate reform involves increasing the transparency of the competitive bidding process, which would benefit E-rate funding recipients and help minority and women-owned business enterprises ("MWBEs") take advantage of procurement opportunities and infrastructure buildout. The Commission should take this opportunity to incorporate anti-redlining terms and conditions for bidders for E-rate services that would ensure that schools and libraries serving minority, rural, and low-income communities are not unfairly excluded from access to high-capacity infrastructure.

Finally, if implemented, the Commission's proposal to streamline the administration of the E-rate program by mandating the electronic filing of FCC forms and correspondence would have the positive effect of reducing administrative costs and easing burdens on schools and libraries, but the FCC should temporarily maintain the traditional application methods for E-rate applicants that would be unduly burdened by an abrupt transition to electronic filing. Ultimately, increasing the transparency of the E-rate administrative process would benefit all participants, as would speeding the review of applications, commitment decisions, and funding disbursement.

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I. INTRODUCTION

The Minority Media and Telecommunications Council, the Rainbow PUSH Coalition, and the League of United Latin American Citizens (collectively "MMTC et al."), respectfully submit these comments in response to the July 23, 2013 Notice of Proposed Rulemaking ("NPRM") released by the Federal Communications Commission ("Commission" or "FCC") in the above-captioned proceeding.[1] In the NPRM, the Commission seeks comment on its review and update of the E-rate program, more formally known as the schools and libraries universal service support mechanism.[2] The NPRM builds on E-rate reforms previously adopted in 2010 as well as other universal service program reforms.[3] Specifically, the Commission seeks comment

[1] *Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, Notice of Proposed Rulemaking, FCC 13-100 (rel. July 23, 2013) ("*NPRM*").

[2] Three years ago, the Commission took important initial steps to modernize the E-rate program to improve its efficiency and respond to the increasing technological needs of schools and libraries, following recommendations made in the National Broadband Plan ("NBP"). These reforms, adopted in the Schools and Libraries Sixth Report and Order, focused on: (1) providing greater flexibility to schools and libraries in their selection of the most cost-effective broadband services; (2) streamlining the E-rate application process; and (3) improving safeguards against fraud, waste, and abuse. *See Schools and Libraries Universal Service Support Mechanism; A National Broadband Plan for Our Future*, Sixth Report and Order, 25 FCC Rcd 18762 (2010) ("*Sixth Report and Order*").

[3] *See id.*

on ways to modernize E-rate comprehensively, including by improving the efficiency and administration of the program. Reform of the E-rate program, in addition to being a valuable end in itself, provides an important path forward for meeting the goal established by the White House's ConnectED initiative of providing high-speed broadband and wireless connectivity to 99 percent of America's students within the next 5 years.[4]

MMTC has four main recommendations for improving the E-rate program: (1) focus the E-rate fund on providing affordable, high-capacity broadband for schools and libraries; (2) ensure equitable access to funds for low-income and rural schools; (3) increase the transparency of the competitive bidding process; and (4) streamline the administration of the E-rate program to reduce the complexity of the application process for under-resourced schools and libraries and heighten the transparency of the review and disbursement process by the fund administrator.

II. E-RATE SHOULD PROVIDE SCHOOLS AND LIBRARIES WITH AFFORDABLE ACCESS TO 21ST CENTURY BROADBAND

As the Commission has recognized, most schools and libraries in the U.S. today do not have sufficient bandwidth to take full advantage of the opportunities for digital learning.[5] In a study published by the Commission in 2011, nearly eighty percent of E-rate school and library participants surveyed reported that their broadband speeds did not fully meet their technology needs.[6] This disparity becomes even greater when community income is taken into account. A

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[4] "President Obama Unveils ConnectED Initiative to Bring America's Students into Digital Age," White House Press Release (June 6, 2013), *available at* http://www.whitehouse.gov/the-press-office/2013/06/06/president-obama-unveils-connected-initiative-bring-america-s-students-di (last accessed Sept. 5, 2013) ("ConnectED Press Release").

[5] *See* NPRM at ¶¶ 5-6; *see also* "ConnectED: President Obama's Plan for Connecting All Schools to the Digital Age," White House Fact Sheet, *available at* http://www.whitehouse.gov/sites/default/files/docs/connected_fact_sheet.pdf (last accessed Sept. 5, 2013) ("ConnectED Fact Sheet").

[6] Federal Communication Commission, 2010 E-Rate Program and Broadband Usage Survey: Report, 26 FCC Rcd 1, 2 (2011) ("*E-rate Program Survey*"); *see also* Acting Chairwoman Mignon Clyburn, "3-Step Plan to Speed Up Student Learning," USA Today (June 28, 2013), *available at*

2013 study conducted by the Pew Research Center found "striking differences in the role of technology in wealthier school districts compared with poorer school districts."[7] Not surprisingly, teachers of the lowest-income students were the least likely to say their students had "sufficient access to the digital tools they need, both in school and at home."[8]

Broadband connectivity at public libraries is also critical for minority and low-income communities. Sixty-two percent of libraries report that they are the only source of free access to computers and the Internet in their communities, and this figure climbs to seventy percent for rural libraries.[9] While seventy-two percent of White Americans feel that "free access to computers and the Internet" is a "very important service" of libraries, eighty-six percent of Hispanics, and ninety-two percent of African-Americans embrace that view.[10] Low-income households are also significantly more likely than their higher-income neighbors to say that libraries are "very important" to them.[11]

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http://www.usatoday.com/story/opinion/2013/06/28/mignon-clyburn-on-education-and-bandwidth/2459599/ (last accessed Sept. 5, 2013) ("3-Step Plan to Speed Up Student Learning"). A 2012 survey by the American Library Association found that forty-one percent of libraries reported "insufficient" broadband speeds. "Libraries Connect Communities: Key Findings 2011-2012," American Library Association (Summer 2012), 23, *available at* http://www.ala.org/research/sites/ala.org.research/files/content/initiatives/plftas/2011_2012/2012%20PLFTAS%20Key%20Findings.pdf (last accessed Sept. 5, 2013) ("Libraries Connect Communities").

[7] Pew Research Center, College Board & National Writing Project, "How Teachers Are Using Technology at Home and in Their Classrooms" (Feb. 28, 2013), at 2, *available at* http://www.pewinternet.org/~/media//Files/Reports/2013/PIP_TeachersandTechnologywithmethodology_PDF.pdf (last accessed Sept. 5, 2013).

[8] *Id.* at 3.

[9] "Libraries Connect Communities" at 1.

[10] Pew Internet & American Life Project, "Library Services in the Digital Age" (Jan. 22, 2013), 7, 41 *available at* http://libraries.pewinternet.org/files/legacy-pdf/PIP_Library%20services_Report.pdf (last accessed Sept. 5, 2013).

[11] *Id.* at 18-19; *see also* Pew Research Center, "Parents, Children, Libraries, and Reading" (May 1, 2013), 9, *available at* http://libraries.pewinternet.org/files/legacy-pdf/PIP_Library_Services_Parents_PDF.pdf (last accessed Sept. 5, 2013) (finding that parents living in households earning less than $50,000 a year were more likely than parents in higher income households to view almost all library services as important, including free access to computers and the Internet).

As Senator John D. Rockefeller, one of the original supporters of the E-rate program, has noted, "basic Internet connectivity is no longer sufficient to meet our 21st century educational needs."[12] Students and community members today need access to advanced technologies that allow them to train for the jobs of the future and be competitive in the global workforce. Without access to high-speed broadband services, students will "continue to be constrained by the limits of resources at their specific schools—limited by zip code when they could be exposed to global opportunities."[13] High-speed connectivity is also critical for libraries, with more than ninety percent of libraries opening doors for their patrons by offering formal or informal technology training.[14]

To ensure that schools and libraries have affordable access to technologies that will drive digital learning in the future, the E-rate program must sharpen its focus on funding access to high-capacity broadband, and couple that focus with a strong emphasis on deploying capacity to the un-served and underserved communities that need it the most.

A. E-rate Funds Should Support High-Capacity Broadband for Schools and Libraries

In announcing the ConnectED initiative, President Obama called for 99 percent of America's students to be connected to the Internet at their school through high-speed broadband and high-speed wireless connections by 2018.[15] As the motive for this new initiative, the President noted that "millions of students lack high-speed broadband access and fewer than 20

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[12] "Rockefeller Says E-rate Should Expand to Connect more Students to High-Speed Broadband," Press Release (June 6, 2013), *available at* http://www.commerce.senate.gov/public/index.cfm?p=PressReleases&ContentRecord_id=5cb24ad3-281e-4abd-acd0-afb699008e3e&ContentType_id=77eb43da-aa94-497d-a73f-5c951ff72372&Group_id=4b968841-f3e8-49da-a529-7b18e32fd69d (last accessed Sept. 5, 2013).

[13] *See* ConnectED Fact Sheet.

[14] *See* "Libraries Connect Communities: Full Report," American Library Association (Summer 2012), 6, *available at* http://www.ala.org/research/plftas/2011_2012#final report (last accessed Sept. 5, 2013).

[15] *See* ConnectED Press Release.

percent of educators say their school's Internet connection meets their teaching needs."[16] The Commission should establish and measure benchmarks for the effective use of E-rate funds based on President Obama's ConnectED initiative target.[17] However, the Commission should only implement any increase in the overall Universal Service Fund ("USF") contribution rate as a last resort, and should avoid any fund reallocation that could threaten the critical Lifeline/Link Up programs. Funding to pay for any expansion of the E-rate program should be accomplished through internal reforms to the USF, and by encouraging the formation and growth of public-private partnerships to meet the goals of the ConnectED initiative. The Commission can also achieve cost savings by ending support for outdated services. Eliminating the distinction between "priority one" and "priority two" services will also result in savings, as this will discourage applications for E-rate funds for services that are not critical to a school or library's technology mission, and instead allow these institutions to select from a menu of technologies to concentrate on their greatest needs.

1. E-rate Funds Should Be Targeted To Provide Broadband Connections To And Within Schools And Libraries

Fifteen years ago, the annual cap for the E-rate program was set at $2.3 billion; currently the Universal Service Administrative Company ("USAC"), administrator of the USF, receives requests for support for more than double that amount each year.[18] The intent behind the E-rate program was to provide "advanced services to schools and libraries across America."[19]

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[16] *Id.*

[17] *See id.*; *see also* ConnectED Fact Sheet.

[18] *See* Katie Ash, "FCC Commissioner Makes Pitch for Modernizing the E-rate," Education Week (June 27, 2013), *available at* http://blogs.edweek.org/edweek/DigitalEducation/2013/06/fcc_commissioner_outlines_her_.html (last accessed Sept. 5, 2013).

[19] *See* Statement of Commissioner Ajit Pai, NPRM at 172.

However, the multitude of demands on E-rate funds has diluted the program's focus at a time when schools and libraries' need for advanced services capacity is steadily increasing. In fact, according to statistics released by the ConnectED initiative, "[t]he average school has about the same connectivity as the average American home, but serves 200 times as many users."[20]

In the NPRM, the Commission seeks comment on the forms of technical architecture that should be supported by E-rate and asks if fiber connections are the most cost-effective and future-proof way to deliver high-capacity broadband to schools and libraries.[21] In a 2010 study of E-rate performance released by the Commission, forty-two percent of schools and libraries reported having fiber optic connections, with an additional fourteen percent reporting having T3/DS-3 connections.[22] However, urban schools were significantly more likely to report having access to fiber technology—forty-six percent of urban schools, compared to thirty-eight percent of rural schools.[23]

MMTC agrees that the Commission should prioritize funding for new fiber deployments that will drive higher speeds and long-term efficiencies. These reforms should include a strong emphasis on building out connectivity in the communities that need it the most, especially un-served and underserved communities. Increased fiber deployment is essential for the ultimate growth of high-capacity broadband in our nation's schools and libraries. However, as the Commission's own statistics show, many schools, especially those in low-income and rural

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[20] ConnectED Fact Sheet.

[21] *See* NPRM at ¶ 67.

[22] *See E-Rate Program Survey* at 4.

[23] *Id*. In this regard, E-rate participants exhibit a significantly higher rate of access to fiber than the general population, as according to the FCC's most recent Broadband Statistics Report, fiber technology is available in 23.6% percent of urban areas, but only 7.5% percent of rural areas. National Broadband Map, "Broadband Statistics Report" (July 2013), 4, 9, *available at* http://www.broadbandmap.gov/download/Broadband%20Availability%20in%20Rural%20vs%20Urban%20Areas.pdf (last accessed Sept. 5, 2013).

communities, do not have ready access to fiber connections.[24] For some currently underserved urban neighborhoods, it may be possible to find ready opportunities to leverage public fiber assets that are currently dark or allocated to other uses and put them to work in schools and libraries.[25] However, institutions without the opportunity to access ready fiber connections should not have to wait for future fiber deployment to their campuses to realize improved broadband speed and performance for their students and patrons.[26] The National Broadband Plan recommended that the FCC "re-examine specific E-rate rules that appear to limit the flexibility of applicants to craft the most cost-effective broadband solutions based on the types of broadband infrastructure, services and providers available in their geographic areas."[27] E-rate applicants should thus be allowed to introduce ways to leverage available best technologies to expedite high-speed access and choose the best technologies that fit their needs. While fiber adoption should be encouraged, no school should be penalized for adopting a non-fiber based broadband infrastructure.

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[24] The National Broadband Plan suggested that the Commission consider giving additional E-rate funding to, or placing a higher priority on, schools and libraries using dial-up services or low-tier broadband services, to enable them to transition to high-capacity services. *See* FCC, National Broadband Plan (2010) at 337 ("NBP").

[25] This assumes that the school or library has the ability to immediately light the fiber and begin using it to meet their connectivity needs, as an applicant cannot receive E-rate funding for dark fiber until it is lit. *See* Sixth Report and Order at 18767 ¶ 9 n.13. To address this challenge, if the Commission declines to eliminate the distinction between priority one and priority two funding categories, MMTC supports the Commission's proposal to provide priority one support for the modulating electronics necessary to light leased dark fiber. *See* NPRM at ¶ 71. Additionally, the Commission should allow E-rate funds to be used for self-provisioning of dark fiber networks, so that schools are not necessarily tied to a service provider for their primary connectivity. *See, e.g.*, "High-Speed Broadband in Every Classroom: The Promise of a Modernized E-Rate Program," Cisco (Sept. 2013), *available at* http://images.politico.com/global/2013/09/04/cisco_e-rate_connected.html (last accessed Sept. 5, 2013).

[26] We note that E-rate does not support the cost of modulating electronics needed to light dark fiber, and although these costs may be "relatively small compared to the costs of deploying and installing the fiber," this expense may still be prohibitive for schools in low-income communities. Sixth Report and Order at 18773 ¶ 19 n.55.

[27] NBP at 237.

USF Funding Levels. In the NPRM, the Commission seeks comment on whether greater coordination of E-rate disbursements with funding from other universal service programs could multiply the impact that these other programs have in supporting the goals of the E-rate program,[28] as well as whether a temporary increase in the E-rate cap is necessary to meet the proposed connectivity goals.[29] MMTC supports a temporary increase in the E-rate cap, but asks that the Commission only consider an increase in the USF burden on carriers as a last resort. The Commission should similarly ensure that funding for E-rate does not negatively impact USF monies available to support the Lifeline/Link Up programs, which are critical mechanisms to ensure that the poorest members of our community have access to telecommunications services. MMTC believes that rather than weighing an increase in the USF contribution rate as a starting point, the FCC should focus on ways to improve its oversight of the USF program to find cost savings that will support the goals of the ConnectEd initiative and the overall health of the E-rate program.

The E-rate program has a troubled history of waste, fraud and abuse. The FCC's Office of Inspector General ("OIG") considers a program to be high risk if the erroneous payment rate exceeds 2.5 percent and the amount of erroneous payments exceeds $10 million, and in 2008 the OIG reported that the erroneous payment rate for E-rate was 13.8 percent, with erroneous payments of nearly $233 million.[30] In 2010, the Government Accountability Office ("GAO")

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[28] *See* NPRM at ¶ 167.

[29] *See id.* at ¶¶ 172-73.

[30] *See* "Office of Inspector General Releases Statistical Analysis of Audits of Universal Service Schools & Libraries Fund," FCC News Release (Dec. 12, 2008), *available at* http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-287311A1.pdf (last accessed Sept. 5, 2013). An "erroneous payment" is defined by the Office of Management and Budget as "any payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative, or other legally applicable requirements….An improper payment includes any payment that was made to an ineligible recipient or for an ineligible service, duplicate payments, payments for services not received, and payments that are for the incorrect amount." *Id.*

recommended, among other things, that the FCC conduct a "thorough examination" of E-rate's internal control structure and establish procedures to periodically monitor controls.[31]

Since the GAO's report, USAC has implemented operational improvements to the E-rate program that have resulted in a significant increase in both the number of commitment letters and the amount of funds committed, releasing 18,500 letters committing $398 million in 2011, and 23,800 letters committing $646 million in 2012.[32] Recently USAC has also worked with the FCC to identify $1.05 billion in unused E-rate funds from previous years, and the Commission gave its approval for USAC to carry this funding forward in FY2012.[33] MMTC believes that the Commission should be able to find sufficient funds to modernize the E-rate program through its ongoing reallocation and re-evaluation of the set funding levels for all USF programs, and through the continued, careful administration and oversight of the E-rate program to eliminate fraud, waste and abuse.[34]

If the Commission elects to temporarily increase the E-rate cap, the additional funds should first be targeted to support accelerated high-capacity broadband deployment in low-

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[31] "FCC Should Assess the Design of the E-rate Program's Internal Control Structure," United States Government Accountability Office Report to Congressional Requesters (Sept. 2010), GAO-10-908, *available at* http://www.gao.gov/new.items/d10908.pdf (last accessed Sept. 5, 2013) ("2010 GAO Report").

[32] *See* USAC Annual Report (2012), 12, *available at* http://www.universalservice.org/_res/documents/about/pdf/annual-reports/usac-annual-report-2012.pdf (last accessed Sept. 5, 2013).

[33] *See id.*

[34] As one example, the FCC's recent reform efforts of the Lifeline program, another USF beneficiary, generated more than $213 million in 2012, and are on track to save upwards of $400 million this year through the reformation of the recertification process alone. *See Wireline Competition Bureau Issues Final Report on Lifeline Program Savings Target*, WC Docket No. 11-42, Public Notice, DA 13-130, 1 (rel. Jan. 31, 2013); *Wireline Competition Bureau Announces Results of the 2012 Annual Lifeline Recertification Process*, WC Docket No. 11-42, Public Notice, DA 13-872, 1 (rel. Apr. 25, 2013). With the continued implementation of audit procedures, additional much-needed sources of USF monies are likely to be discovered that can be used to support the E-rate program without having to increase the USF contribution rate.

income and rural schools. An increased E-rate cap could additionally be channeled to fund new pilot programs following the model established by the E-rate Deployed Ubiquitously ("EDU") 2011 Pilot Program.[35] The EDU program, which provided approximately $9 million in E-rate funds to twenty projects that investigated the merits and the challenges of providing mobile learning devices to students for off-campus use, is an example of the kind of initiatives that could serve as proving grounds for future, innovative uses of E-rate funds and help the Commission further strengthen and develop the E-rate program as a whole. Of course, no increase in the E-rate cap should come at the cost of other critical universal service programs, such as Lifeline/Link Up, which support the same low-income communities that the E-rate program is designed to help.

MMTC has concerns that an overall increase in the USF contribution rate could have a disparate negative impact on low-income communities. Currently, minorities and low-income people are disproportionately high consumers of mobile services, and any increases in the USF to fund expansion of the E-rate program could slow their adoption of and access to high-speed broadband. Numerous studies have shown that minority use of mobile broadband is in line with, or greater than, that of White Americans. According to the Pew Internet & American Life Project, while African Americans and Latinos "are less likely to have access to home broadband than Whites, their use of smartphones nearly eliminates that difference."[36] Similarly, the lowest income groups show the highest proportional rate of mobile broadband adoption; although only 54 percent of households earning less than $30,000 a year have broadband at home, 67 percent of

[35] *See* E-rate Deployed Ubiquitously 2011 Pilot Program, WC Docket No. 10-222, Order, DA 11-1181 (rel. July 11, 2011).

[36] *See* Kathryn Zickuhr & Aaron Smith, "Home Broadband 2013," Pew Internet & American Life Project (Aug. 26, 2013), 4, *available at* http://www.pewinternet.org/~/media//Files/Reports/2013/PIP_Broadband%202013_082613.pdf (last accessed Sept. 5, 2013).

the same households have home broadband or a smartphone, a significantly greater difference than among higher income groups.[37] The Joint Center for Political and Economic Studies reports similar statistics, finding that 52 percent of African Americans and 60 percent of Hispanic Americans access the Internet over cell phones, compared with 44 percent of White, non-Hispanic Americans.[38] The "access gain" due to smartphones is about 15 percentage points for African Americans, and nearly 20 percentage points for Hispanics.[39] These statistics show that, due to financial and other considerations, minority households are more likely than others to have only a single, wireless on-ramp for broadband access.[40] Increases to the USF contribution rate should not serve as the Commission's primary mechanism to offset new funding commitments arising from the ConnectED initiative. MMTC urges the Commission to look first to overall USF reform, rather than an immediate increase in the USF contribution rate, to support any heightened funding for the E-rate program.

Public-Private Partnerships. In the NPRM, the Commission asks whether steps can be taken to improve the private sector business case for deploying fiber to schools and libraries, or otherwise expand connectivity, that could reduce the need for E-rate funding.[41] MMTC believes that the Commission should encourage increased private sector involvement in expanding high-capacity connectivity and increasing digital learning by examining its gift rules to ensure that schools and libraries can take advantage of private philanthropy.

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[37] *See id.* at 5.

[38] *See* Jon P. Horrigan, "Recent Tech Adoption Trends and Implications for the Digital Divide," Joint Center for Political & Economic Studies (Aug. 2012), 10, *available at* http://ssrn.com/abstract=2031755 (last accessed Sept. 5, 2013).

[39] *See id.* at 8.

[40] *See* Comments of the National Organizations, *Preserving the Open Internet*, GN Docket No. 09-191, WC Docket No. 07-52, 18 (filed Jan. 14, 2010).

[41] *See* NPRM at ¶ 164.

As acting Chairwoman Clyburn has noted approvingly, the E-rate program is already an example of a "public-private partnership [that] has helped connect nearly every U.S. library and school to the Internet."[42] In launching the ConnectED initiative, President Obama also noted the importance of pairing USF reform and other government efforts with private sector innovation, such as educational devices enabled by high-speed networks that support interactive learning and personalized education software that adapts to the needs of individual students.[43] As the private sector will be the primary beneficiary of a workforce that is ready for the digital age, it only makes sense that corporate sponsors should join the Commission in investing in their future employees by creating cost-effective technologies, educational applications, and devices.

An example of a highly successful public-private partnership that fosters broadband adoption is the Comcast Broadband Opportunity Program, Internet Essentials.[44] Internet Essentials provides broadband connections for $9.95 a month for families with students that are eligible to participate in the National School Lunch Program. This program also enables families to purchase a computer at a substantial discount and provides free online, print, and in-person Internet training. Since the launch of Internet Essentials in August 2011, the program has enrolled more than 50,000 new families every six months, with 70,000 new families signed up between February and August 2013.[45] Overall, the program has connected more than 150,000

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[42] *See* Statement of Acting Chairwoman Clyburn, NPRM at 166.

[43] *See* ConnectED Fact Sheet; *see also* "What is ConnectED," The White House blog (June 6, 2013), *available at* http://www.whitehouse.gov/blog/2013/06/06/what-connected (last accessed Sept. 5, 2013) (describing opportunities for public-private partnerships).

[44] *See* Internet Essentials from Comcast, http://www.internetessentials.com/ (last accessed Sept. 5, 2013); *see also* "Second Annual Compliance Report on *Internet Essentials*, the Comcast Broadband Opportunity Program," attached to Letter from Lynn R. Charytan, Vice President, Legal Regulatory Affairs, Senior Deputy General Counsel, Comcast Corporation, to Marlene H. Dortch, Secretary, Federal Communications Commission, MB Docket No. 10-56 (filed July 31, 2013).

[45] "Comcast's Internet Essentials Continues to Gain Momentum, Connects More than 220,000 Families or 900,000 Low-Income Americans to the Power of the Internet at Home," Broadband & Social Justice

households or 600,000 individuals to broadband services.[46] With proper support by the Commission, the Internet Essentials program has the potential to grow exponentially, as 2.6 million families nationwide are currently eligible to participate.[47]

Other examples of successful public-private partnerships with a positive impact on schools and libraries include the Connect2Compete Program[48] and Verizon's Innovative Learning Schools ("VILS") Program.[49] Connect2Compete is a non-profit entity that works with six Internet service providers,[50] and partners with more than 10,000 libraries and nonprofits, including the American Library Association and the Institute of Museum and Library Services to provide free and low-cost technology and training. The Verizon Foundation launched VILS as a pilot program to provide math, science, and technology teachers with training and mobile devices with the goals of increasing proficiency in the use of mobile technologies by teachers and students, increased student engagement, and increased student achievement in math and science subjects.[51] The Commission should continue to demonstrate its commitment to

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(Aug. 13, 2013), *available at* http://broadbandandsocialjustice.org/2013/08/comcasts-internet-essentials-continues-to-gain-momentum-connects-more-than-220000-families-or-900000-low-income-americans-to-the-power-of-the-internet-at-home/ (last accessed Sept. 5, 2013) ("Comcast's Internet Essentials Continues to Gain Momentum").

[46] *See* "Comcast's Internet Essentials Connects More than 150,000 Families," Comcast (Mar. 5, 2013), *available at* http://corporate.comcast.com/news-information/news-feed/comcasts-internet-essentials-program-connects-more-than-150000-low-income-families-or-600000-americans-to-the-internet (last accessed Sept. 5, 2013).

[47] "Comcast's Internet Essentials Continues to Gain Momentum."

[48] *See* Connect2Compete, http://www.connect2compete.org/ (last accessed Sept. 5, 2013). Connect2Compete is "a national non-profit organization bringing together leaders from communities, the private sector, and leading foundations…to help Americans access technology through Digital Literacy training, discounted high-speed Internet, and low-cost computers." *See* About Us, Connect2Compete, http://www.connect2compete.org/about/ (last accessed Sept. 5, 2013).

[49] Verizon Innovative Learning Schools Program, http://www.verizonfoundation.org/vilssurvey/ (last accessed Sept.5, 2013) ("VILS Program").

[50] *See* Offer and Eligibility Overview, Connect2Compete, http://www.connect2compete.org/faq/eligibility-requirements.php (last accessed Sept. 5, 2013).

[51] *See* VILS Program.

supporting public-private partnerships through its Public-Private Initiatives program, and by encouraging the development of community-service oriented programming by private entities that would support and complement the high-capacity broadband services supported by the E-rate program.[52]

Some corporate citizens seeking to benefit schools and libraries through the formation of public-private partnerships have faced challenges arising from the E-rate gift rules.[53] Under the current rules, only *de minimis* gifts are permitted, and it is a violation "for any service provider to offer or provide any gift or other thing of value to…personnel of eligible entities involved with the E-rate program."[54] Although the Commission advised that the revised E-rate gift rule was not intended to discourage companies from making charitable contributions to schools and libraries, "as long as such contributions are not directly or indirectly related to E-rate procurement activities or decisions,"[55] in practice the rule has raised concerns in the philanthropic community.[56] The Commission should revisit its current E-rate gift rules and clarify that entities that enter into public-private partnership programs that incidentally rely on or complement services that are procured through E-rate funds are not in violation of the rules.

2. The FCC Should Phase Out Support For Outdated Services

Acting Chairwoman Clyburn has suggested that the Commission seriously consider eradicating support for outdated services,[57] and in the NPRM, the Commission seeks comment

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[52] *See* Public-Private Initiatives Program, Federal Communications Commission, http://www.fcc.gov/encyclopedia/public-private-initiatives-program (last accessed Sept. 5, 2013).

[53] *See* 47 C.F.R. § 54.503(c)(5).

[54] *Sixth Report and Order*, 25 FCC Rcd at 18801.

[55] *See id.* at 18802.

[56] *See* Letter from Alan Buzacott, Executive Director of Federal Regulatory Affairs, Verizon, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 02-6 (filed July 11, 2013).

[57] *See* Clyburn, "3-Step Plan to Speed Up Student Learning."

on phasing out support for specific services currently included on the Eligible Services List ("ESL") in order to be able to increase support for high-capacity broadband connectivity.[58] Specifically, the Commission notes that in funding year 2011, USAC committed $934,000 for paging services and also committed E-rate funds to pay for directory assistance, even though Internet searches have largely supplanted this service.[59] The Commission rightly questions the value of supporting such services at a time when many requests for support related to broadband connectivity go unfulfilled.[60]

MMTC agrees with the Commission that it should phase out financial support for services, including paging and directory assistance that make little or no contribution to the ability of schools and libraries to provide access to high-capacity broadband for their students and patrons. Eliminating support for these services would free up valuable funds implementing high-capacity networks in classrooms and library buildings. In contrast, continuing to fund these services would only encourage schools and libraries that are reluctant adopters of new technology, or that are not scrupulous reviewers of their applications for E-rate funding, to continue with past practices. In the light of the technological obsolescence of both pagers and directory assistance, MMTC sees no reason to continue supporting these services with valuable E-rate funds, and encourages the Commission to remove them from the ESL.

3. The Commission Should Eliminate the Distinction between "Priority One" and "Priority Two" Services

Currently, the Commission's rules divide requests for E-rate funding into priority one, for telecommunications, telecommunications services, and Internet connections, and priority two,

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[58] *See* NPRM at ¶¶ 90-94.

[59] *See id.* at ¶ 92.

[60] *See id.* at ¶ 90.

for internal connections and basic maintenance of internal connections.[61] In the event that priority one funding requests do not deplete the annual E-rate commitment, priority two requests are committed beginning with the most economically disadvantaged schools and libraries, as determined by the schools and libraries discount matrix.[62] In recent years, as noted by the FCC, "the vast majority of requests for priority two services have gone unfunded," and because of the constantly fluctuating discount matrix, schools and libraries have no way of knowing from one year to the next if they will be eligible for priority two funding.[63] This current funding structure has several negative implications for schools. First, under the current E-rate cap, the prioritized funding structure creates inherent uncertainty, as schools have no way of knowing if their priority two requests will be funded from year to year. In addition, because funding for internal connections is considered a priority two service, requests for this support is inconsistently granted, and then only to applicants at the highest discount rates.[64]

One proposal for E-rate reform discussed in the NPRM would be to eliminate the distinction between priority one and priority two funding, and instead allow schools to choose from a "menu" of services.[65] If a school already had good connectivity to the main school or library building but lacked broadband access in classrooms or labs, for example, it could forego applying for Internet access services and instead apply directly for E-rate funds for internal connections.[66] MMTC supports this proposal. The schools and libraries that participate in the E-

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[61] *See id.* at ¶ 61; *see also* NPRM Appendix B—2013 Eligible Services List.

[62] *See id.* at ¶¶ 60-61; *see also* 47 C.F.R. §§ 54.507(g)(1)(ii), 54.505(c).

[63] *See* NPRM at ¶ 62.

[64] *See id.* at ¶¶ 61-62.

[65] See *id.* at ¶¶ 146-48.

[66] The National Broadband Plan noted the challenges of receiving funding for priority two projects, and recommended that the FCC examine ways to provide E-rate support for internal connections to more schools and libraries. *See* NBP at 237.

rate program are each at a different phase of connectivity, and have different infrastructure and service needs. Urban schools, for example, may have access to high-speed broadband but be unable, under the current prioritized funding structure, to build it out to the classrooms or labs where it could be used by teachers and students. Removing the artificial distinction between priority one and priority two funding is the fairest way to address this challenge. As the Commission has previously noted, "[u]nlike priority one services, which are generally recurring services, internal connections are one-time upgrades that are designed to produce long-term benefits to schools and libraries."[67] If one of the goals of E-rate reform and the ConnectED initiative is to enable under-resourced schools and libraries to build out future-proof broadband access for their students and patrons, the Commission should eliminate as many barriers as it can for funding internal connection components, including cabling, routers, and servers, that transport information to the classroom and other public spaces. Merging priority one and priority two services into one technology menu will also give rise to additional cost savings, as it will take away any incentive for an institution to apply for non-critical priority one funding out of concern that its critical priority two funding requests will go unfulfilled.

Another service that is currently designated as a priority two service is basic technical support. Eliminating the distinction between priority one and priority two funding would ensure that low-income and rural schools have access to technical support, a potentially critical factor in ensuring that the high-capacity broadband connections provided through E-rate can be effectively used. Many schools and libraries lack other forms of access to technical expertise, which is an essential component in the deployment of broadband in the classroom and labs, and its ultimate use by teachers, students and patrons. By eliminating the priority distinction between

[67] Sixth Report and Order, 25 FCC Rcd at 18792 ¶ 64.

funding categories and implementing a "menu" of services, the FCC would allow E-rate recipients who require such technical assistance to opt for such support, including troubleshooting of network components, repair and upkeep of eligible hardware, wire and cable maintenance, and changes to network configurations.

III. THE FCC SHOULD ENSURE EQUITABLE ACCESS TO E-RATE FUNDS FOR LOW-INCOME AND RURAL SCHOOLS

In the NPRM, the Commission asks for comment on whether to increase the amount of E-rate funds available for schools and libraries in rural or remote areas in recognition of the unique challenges of providing services in these less dense regions.[68] As the Commission points out, schools and libraries in rural areas that also have a high percentage of students that qualify for the free or reduced-school lunch program currently do not receive an additional discount rate, even though those schools may incur higher costs in providing high-capacity broadband services to their campuses than their urban counterparts.[69] The Commission also seeks comment on how to allocate funding to schools, with one option being to base funding on a per-student basis, with rural schools facing higher costs and schools serving low-income areas or student populations receiving additional funding per student.[70]

MMTC believes that "[r]ural students should receive more money than urban students, and low-income students should receive more money than their wealthier counterparts."[71] Any reform of the E-rate program should place a strong emphasis on ensuring that schools that have a significant number of low-income and minority students receive targeted support. As Commissioner Pai pointed out in a recent speech, the E-rate program "was specifically designed

[68] *See* NPRM at ¶ 133.

[69] *See id.*

[70] *See id.* at ¶ 150.

[71] Statement of Commissioner Pai, NPRM at 173.

to target poor schools and rural schools" that were most likely to be left behind by the "digital revolution," but today there is "little correlation between how poor or rural a state is and the E-rate funding it gets."[72] Given the goal of ensuring high-capacity access to all schools and libraries, the failure of E-rate to target funds for the least-resourced schools makes little sense. As the Commission observes, the support E-rate provides has been critical for rural schools and libraries,[73] and the most important role that the E-rate program can play is to enable low-income and rural schools to catch up to their better-funded peer institutions.

MMTC supports the provision of a minimum funding level for all schools, with special exceptions for low-income and rural schools. In addition, allocation of E-rate funds on a simplified, per-student basis would allow schools to create a technology budget at the beginning of the funding year based on student enrollment, and be able to commit to projects confident that they will be given funding for that project.[74] Any simplification of the complex E-rate application process will be advantageous for low-income and rural schools that lack extensive administrative support or expertise in analyzing E-rate program requirements and completing the necessary FCC forms.

IV. THE FCC SHOULD INCREASE TRANSPARENCY IN THE COMPETITIVE BIDING PROCESS

The Commission has suggested that one way to maximize the cost effectiveness of E-rate funds is to increase the transparency of the competitive bidding process.[75] MMTC believes that

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[72] *See* Remarks of Commissioner Ajit Pai, "Connecting the American Classroom: A Student Centered E-rate Program," American Enterprise Institute, Washington, D.C. (July 16, 2013), *available at* http://www.fcc.gov/document/commissioner-pai-speech-student-centered-e-rate-program (last accessed Sept. 5, 2013).

[73] *See* NPRM at ¶ 133.

[74] *See id.* at ¶ 138.

[75] *See id.* at ¶ 191.

heightened transparency requirements can have the added benefits of increasing participation in E-rate bidding by MWBEs and discouraging discriminatory redlining by bidders on service contracts.

A. The Competitive Bidding Process Should Facilitate MWBE Participation in Procurement Opportunities and Infrastructure Buildout

In the NPRM, the Commission seeks comment on whether it should require the public disclosure of bids for E-rate supported services, as well as the actual prices applicants pay for E-rate supported services.[76] MMTC supports the adoption of this requirement and believes that these disclosures would also provide a feedback mechanism that encourages E-rate bidders to actively recruit MWBEs for procurement and infrastructure buildout opportunities.

As U.S. Senator Kristen E. Gillibrand has observed, "promoting the talent of women and minority businesses leaders and foster[ing] the success of a new generation of entrepreneurs" is one key to maintaining and improving the strength of America's economy.[77] Just as MWBEs play a significant role in creating opportunities for women and minorities, they regularly invest in communities that other companies overlook or underserve.[78] Despite the critical role that MWBEs play in their own communities, and in the larger economy, minorities experience significant barriers in our economy[79] and in FCC-regulated industries such as communications

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[76] *See id.* at ¶¶ 194-197.

[77] *See* U.S. Senator Kristen E. Gillibrand, "A Guide to Women and Minority-Owned Business Funding Opportunities" (2013), 5, available at http://www.gillibrand.senate.gov (search for "A Guide to Women and Minority-Owned Business Funding Opportunities") (last accessed Sept. 5, 2013).

[78] *See id.* at pp. 3-4.

[79] In 2007, out of 27.1 million businesses, 1.9 million were African-American owned, 2.3 million were owned by Hispanic-Americans, and 7.8 million were owned by women. *See* U.S. Small Business Administration, Office of Advocacy, Frequency Asked Questions (Sept. 2012), 2, *available at* http://www.sba.gov/sites/default/files/FAQ_Sept_2012.pdf (last accessed Sept. 5, 2013).

and technology.[80] MWBEs often struggle with limited access to capital, the presence of discrimination, or the present effects of past discrimination.[81]

As one means to address this disparity, successful bidders on E-rate proposals should be encouraged to actively recruit MWBEs for procurement and infrastructure buildout opportunities. In recent years, corporate supplier diversity and procurement initiatives "have emerged as critical onramps to the achievement of successful minority business enterprises," and MMTC believes that E-rate is one way to ensure that MWBEs have access to these onramps.[82] The presence of MWBEs boosts competition and would benefit schools and libraries, particularly those in traditionally underserved communities, while allowing entrepreneurs to take advantage of service needs that are often unmet by large carriers.[83]

In addition to structuring the competitive bidding process to facilitate MWBE participation in procurement opportunities and infrastructure buildout, the Commission should act as a conduit to connect MWBEs and investing companies through networking events, such as

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[80] *See* Tiffany Bain, "Lawmakers Lend Their Solutions to Increasing Access to Capital for MWBEs," Broadband & Social Justice (July 15, 2013), *available at* http://broadbandandsocialjustice.org/2013/07/lawmakers-lend-their-solutions-to-increasing-access-to-capital-for-mwbes/ (last accessed Sept. 5, 2013).

[81] Despite early attempts by the FCC, after the passage of the Civil Rights Act, to alleviate the dearth of minority participation in the industry, persistent structural discrimination continues to be reflected in the Commission's ownership data as a result of "discrimination in the capital markets, in communities, in the advertising history, and in the competitive marketplace; by the effects of deregulation and market consolidation precipitated by the 1996 Act; and by various actions and inaction on the part of the FCC, the courts, and Congress." Whose Spectrum Is It Anyway? Historical Study of Market Entry Barriers, Discrimination and Changes in Broadcast and Wireless Licensing 1950 to Present, Ivy Planning Group for the Office of General Counsel, LLC (Dec. 2000), 17, *available at* http://transition.fcc.gov/opportunity/meb_study/historical_study.pdf (last accessed Sept. 5, 2013).

[82] Mallory, "MMTC Supplier Diversity Event."

[83] *See* Reply Comments of the Minority Media and Telecommunications Council, WT Docket No. 13-135, 3 (filed July 25, 2013), citing Larry Myler, The Two-Step Method for Finding Your Entrepreneurial Niche, Forbes (Apr. 23, 2013), *available at* http://www.forbes.com/sites/larrymyler/2013/04/23/the-two-step-method-for-finding-your-entrepreneurial-niche/ (last accessed Sept. 5, 2013).

MMTC's Supplier Diversity Networking Forum[84] or the National Urban League's Procurement and Matchmaking Forum.[85] MMTC also encourages the Commission to continue the laudable efforts fostered by its own Angel Investors Form.[86]

B. The FCC Should Incorporate Anti-Redlining Terms for Bidders

Increasing the amount of public information regarding bids for services can also help prevent unlawful redlining of low-income communities, or communities with high minority populations, by service providers. In telecommunications, redlining is the practice of building, upgrading, and providing telecommunications services more rapidly in affluent neighborhoods than in low-income neighborhoods. Factors correlated with income often serve as a basis or proxy for economic redlining, such as race, household wealth, genders of heads of households, rental or home ownership status, local crime rates, or alleged creditworthiness.

Government participation in redlining is not new: the federal government engaged in state-sanctioned redlining when it created the Homeowners Loan Corporation and allowed it to use race and income as mechanisms to limit the disbursement of federally guaranteed housing loans.[87] While overt redlining in the telecommunications industry is rare today, several laws

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[84] *See* MMTC's Access to Capital and Telecom Policy Conference, http://mmtconline.org/accesstocapital/ (last accessed Sept. 5, 2013); *see also* Kenneth Mallory, "MMTC Supplier Diversity Event Puts Inclusion First, Gives Entrepreneurs Direct Access to Major Telecom Companies' Procurement Officers," Broadband & Social Justice (Aug. 5, 2013), *available at* http://broadbandandsocialjustice.org/2013/08/mmtc-supplier-diversity-event-puts-inclusion-first-gives-entrepreneurs-direct-access-to-major-telecom-companies-procurement-officers/ (last accessed Sept. 5, 2013) ("MMTC Supplier Diversity Event").

[85] *See* Mallory, "MMTC Supplier Diversity Event."

[86] "FCC Hosts a Power-Packed Conference on Angel Investing for Small, Minority- and Women-Owned Businesses," Federal Communications Commission (June 18, 2013), *available at* http://www.fcc.gov/blog/fcc-s-hosts-power-packed-conference-angel-investing-small-minority-and-women-owned-businesses (last accessed Sept. 5, 2013); *see also* Access to Capital Conference for Small Businesses (July 11, 2013), Federal Communications Commission, *available at* http://www.fcc.gov/events/access-capital-conference-small-businesses (last accessed Sept. 5, 2013).

[87] *See* Ira Katzenlson, *When Affirmative Action Was White: An Untold History of Racial Inequality in Twentieth-Century America* (2005).

containing anti-redlining provisions remain in effect, including the Cable Communications Policy Act of 1984 ("1984 Cable Act"), the Cable Television Consumer Protection and Competition Act of 1992 ("1992 Cable Act"), and the Telecommunications Act of 1996 ("1996 Telecommunications Act").[88] Partly as a result of these measures, today internal corporate initiatives, principle-driven civil rights advocacy, and regulation and oversight by the FCC and state public utility commissions have resulted in an improved corporate culture for the telecommunications industry.

Despite this progress, the risk of redlining for rural, low-income and minority neighborhoods has not been eliminated. The Commission should ensure that telecommunications and broadband service entities that would like to invest in a specific geographic area by bidding on an E-rate proposal are not allowed to deliberately avoid building out critical high-capacity broadband resources to rural, low-income, or minority communities. It is important that the FCC continue to monitor the availability of advanced services to low-income consumers and other groups that have historically suffered from redlining, regardless of whether the practice of diminishing or denying service to low-income or minority populations is motived by intentional discrimination or occurs simply as a result of economic shortsightedness.

To this end, MMTC recommends that the Commission consider what protections it can include in its revised transparency requirements to ensure that there is no redlining by E-rate suppliers based on location, community income level, or school performance, or some other redlining proxy metric. One suggestion would be to amend FCC Form 473 to require that

[88] For example, the 1984 Cable Act amended the Communications Act of 1934 to make certain that "[i]n awarding a franchise or franchises, a franchising authority shall assure that access to cable service is not denied to any group of potential residential cable subscribers because of the income or the residents of the local area in which such a group resides." In response, many local franchising authorities fashioned buildout schedules that required service to all sectors of the community as a way of satisfying the federal prohibition on redlining.

service providers certify that they will not engage in redlining in their provision of E-rate supported services.[89] Alternatively, the Commission could commit to compiling and publishing on a dedicated website statistics of the bids made for E-rate supported services, together with demographic information regarding these communities, which would allow independent observers to study the relationship between income and minority status and E-rate supported high-capacity broadband.

If underperforming schools are passed by, while already connected schools are rewarded for their technological superiority, the E-rate program will have failed to meet its goal of improving the status quo and bridging the achievement gap. The Commission should be vigilant in looking for providers that refuse to serve underperforming schools, or to bid on service requests for minority-majority institutions, giving rise to a disparate impact on those communities.

V. THE FCC SHOULD STREAMLINE THE ADMINISTRATION OF THE E-RATE PROGRAM

The Commission has proposed several means of streamlining the administration of the E-rate program, including by requiring the electronic filing of E-rate forms; increasing the transparency of USAC's process; and speeding the review of applications, commitment decisions, and funding disbursement. MMTC supports these proposals, but cautions against the sudden elimination of manual filing options for schools that lack the resources to file all FCC forms electronically.

[89] *See* FCC Form 473, Universal Service for Schools and Libraries Service Provider Annual Certification Form, *available at* http://www.usac.org/_res/documents/sl/pdf/forms/473.pdf (last accessed Sept. 5, 2013).

A. The FCC Should Gradually Institute Mandatory Electronic Filing of FCC Forms and Correspondence

In the NPRM, the FCC proposes to amend the E-rate program to require that all applicants and service providers file their documents with the FCC electronically, and to require USAC to make all notifications electronically.[90] In making this proposal, the Commission notes that currently some E-rate forms require paper submissions, which must be filled out by hand and then subsequently entered into an electronic database by a USAC employee.[91]

MMTC agrees that requiring the electronic filing of all E-rate forms and process documents will streamline the application process and lower the burden on applicants, and will have the additional benefit of reducing USAC's administrative costs. While the electronic filing of E-rate forms can be a cost-saving option for the E-rate program, and should pose no difficulty for schools that have the facilities to file online, not every school comes to the E-rate application process on the same footing. Rural and low-income schools in particular often lack the staff and infrastructure to monitor and assess the results of their participation in this administratively complex program. In its 2010 report on the E-rate program, the GAO found that some non-participating schools and libraries chose not to apply for support because they felt that the process was too complex, time-consuming, or resource-intensive.[92] The existence of an industry that offers paid assistance to schools and libraries during the E-rate application process suggests that completing the FCC's E-rate forms requires a considerable degree of sophistication that may not be possessed by all schools, especially those that are under-resourced.[93]

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[90] *See* NPRM at ¶ 227.

[91] *See id.* at ¶ 228.

[92] *See* 2010 GAO Report at 9.

[93] *See, e.g.*, The Erate Management Group, http://eratefunds.com/our_services.htm; E-rate Central, http://www.e-ratecentral.com/Services.asp; E-rate Exchange, http://www.erateexchange.com/ (all last accessed Sept. 5, 2013).

It is important that the Commission find a way to reduce the burden on low-income schools with minimal infrastructure while improving the efficiency of the E-rate administrative process. An abrupt transition to electronic filing could be a burden for these schools. To ensure that no school is excluded from the E-rate application process because they lack the ability to file electronically, the Commission should gradually shift to electronic filing, while maintaining the traditional application methods for those schools that would be burdened by the transition.

B. The FCC Should Increase the Transparency of USAC's Processes and Reform FCC Form 471

The Commission also seeks comment on ways to increase transparency throughout the application, commitment, and disbursement process, so that applicants can have a better understanding of the status of their funding requests.[94] In 2011 the State E-Rate Coordinators Alliance ("SECA") filed a whitepaper that highlighted the problem of E-rate applicants and service providers who become immersed in a situation where an application "has been pending for a very long time with little recent communication from USAC."[95] SECA recommended that the problem of communications disappearing into a "black hole" be remedied by imposing strict deadlines for USAC to provide feedback through its web portal on pending E-rate applications, and to require USAC to designate the category of review currently pending for each application.[96] MMTC believes that, regardless of the Commission's actions on other aspects of E-rate reform, SECA's common sense recommendations for requiring USAC to increase the transparency of its review process should be implemented quickly, as these changes would

[94] *See* NPRM at ¶ 232.

[95] *See* "Black Holes and COMADS: Issues and Recommendations, SECA White Paper—August 2011," 1, attached to Letter from the State E-rate Coordinators Alliance, to Gina Spade, Wireline Competition Bureau, Federal Communications Commission, CC Docket No. 02-6, GN Docket No. 09-51 (filed Aug. 1, 2011) ("SECA August 2011 White Paper").

[96] *See id.* at 4-5 (recommending the following status categories: normal review; selective review; policy review; investigative review; and "pending program decision on available internal connection funding").

provide schools with a simple mechanism for achieving a better understanding of the status of their application and the possible outcome of their E-rate funding request.

The Commission also seeks comment on whether USAC should be able to issue multi-year funding commitments.[97] Currently, although E-rate applicants are permitted to enter into multi-year contracts, applicants with multi-year contracts must file an FCC Form 471 application and go through the same review process every year.[98] Bureaucratic inconsistencies deter small and rural schools for applying for funding. The Commission should reform the E-rate program and institute multi-year applications as a means of reducing paperwork and administrative expenses for applicants.

C. Speed the Review of Applications, Commitment Decisions, and Funding Disbursement

The FCC invites comment on ways to reduce the time it takes the fund administrator to review applications for E-rate support, so that funding commitment decisions can be released more quickly, and specifically whether it should establish deadlines for USAC to issue funding decisions or complete other processing tasks.[99]

SECA has proposed that the Commission impose deadlines for USAC to govern the release of priority one funding and the payment of properly-submitted E-rate invoices.[100] As a justification for this requirement, SECA argues that "significant delays in E-rate funding

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[97] *See* NPRM at ¶ 239.

[98] *See id.*

[99] *See* NPRM at ¶¶ 233-34.

[100] *See* "E-Rate Goals and Performance Measures, SECA White Paper—September 2011," 2-3, attached to Letter from the State E-rate Coordinators Alliance, to Gina Spade, Wireline Competition Bureau, Federal Communications Commission, CC Docket No. 02-6, GN Docket No. 09-51 (filed Sept. 23, 2011) ("SECA September 2011 White Paper"); see also "Recommendations for E-rate Reform 2.0," attached to Letter from Gary Rawson, State E-rate Coordinators' Alliance, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 02-6 (filed June 24, 2013).

commitments" have made imposing such a requirement advisable.[101] SECA has also proposed that, absent an active criminal investigation, USAC should notify all affected parties of any concerns that are holding up a decision regarding an application within 90 days of filing, and supply detailed requests for additional documentation or other information as part of this notification.[102] Especially for low-income schools that may be unable to obtain alternate sources of funding if E-rate grants are delayed or denied, it is critical that USAC be held accountable by strict deadlines at every stage of the application and disbursement process. MMTC joins SECA in advocating for strict deadlines for USAC to review applications for E-rate funding and to issue funding decisions, as deadlines would not only assist schools and libraries in budgeting their technology expenditures and deployments, but would also help prevent waste, fraud and abuse in the application process.

VI. CONCLUSION

MMTC strongly supports the Commission's commitment to sharpening the focus of the E-rate program to ensure that its basic goal of providing high-capacity broadband to schools and libraries is met. The Commission has a special obligation to rural and low-income participants in the E-rate program to bring 21st century services onto their campuses and into their classrooms, and to increase the transparency and predictability of funding decisions while expediting the disbursement of E-rate funding. MMTC urges the Commission to encourage the participation of MWBEs in the E-rate program and the continued growth of public-private partnerships, and to take action to ensure that E-rate funds do not support discriminatory redlining practices. The electronic filing of all FCC forms and documents would be a welcome amendment to the E-rate program, but provisions must be made for schools and libraries that lack the infrastructure to

[101] *See* SECA September 2011 White Paper at 3.

[102] *See* SECA August 2011 White Paper at 5.

transition to such a format. With the commitment of the FCC to these reforms, the E-rate program can help schools meet the goals established by the Administration's ConnectED initiative, and improve public access to high-capacity broadband across the country in the future.

Respectfully submitted,

MINORITY MEDIA AND TELECOMMUNICATIONS COUNCIL
THE RAINBOW PUSH COALITION
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