

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

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

**REPLY COMMENTS OF THE CITY OF BOSTON, MASSACHUSETTS**

The City of Boston, Massachusetts, files these reply comments to encourage the Commission to proceed to modernize the E-rate program in a manner consistent with the City’s comments.<sup>1</sup> Specifically, the Commission should refrain from linking E-rate to classroom performance metrics; fund dark-fiber electronics and constructions charges; phase out funding for certain outdated services; ensure that the program’s resources reach internal connections; raise the overall funding cap while increasing transparency; utilize electronic filing and eliminate undue burdens; allow off-premises use of wireless hotspots; and not tie E-rate funding to local permitting practices. The record strongly supports this approach.

- 1. The record provides no support for measuring E-rate based on classroom performance.***

The record provides no basis for the FCC to measure E-rate’s effectiveness based on classroom performance. The Massachusetts Department of Telecommunications and Cable and the International Association for K-12 Online Learning have it right: the Commission should

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<sup>1</sup> Comments of the City of Boston, Massachusetts, WC Docket No. 13-184 (Sept. 16, 2013).

refrain from using student achievement data in this fashion.<sup>2</sup> No commenter demonstrates otherwise.

**2. *The comments support funding dark-fiber electronics and construction charges.***

The record also supports the Commission’s proposal to provide priority-one support for the modulating electronics necessary to light leased dark fiber,<sup>3</sup> and for “special construction charges” for leased dark fiber beyond an entity’s property line.<sup>4</sup> As NATOA explains, although dark-fiber networks have led to substantial savings, many lack financial resources to “light” the fiber.<sup>5</sup> Equalizing the treatment of lit and dark-fiber services will increase service options and can decrease future E-rate funding requests.<sup>6</sup>

The record provides no legitimate reason for the Commission not to make this change. USTA claims that dark fiber is not and should not be eligible for support,<sup>7</sup> but the Commission has repeatedly concluded otherwise.<sup>8</sup> NCTA argues that “do-it-yourself builds are likely to be a

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<sup>2</sup> Comments of International Association for K-12 Online Learning, WC Docket No. 13-184, at 20 (Sept. 16, 2013); Comments of the Massachusetts Department of Telecommunications and Cable, WC Docket No. 13-184, at 10 (Sept. 16, 2013).

<sup>3</sup> *In re Modernizing the E-rate Program for Schools and Libraries*, Notice of Proposed Rulemaking, WC Docket No. 13-184, FCC 13-100, at ¶ 71 (July 23, 2013).

<sup>4</sup> *Id.* at ¶ 72.

<sup>5</sup> Comments of the National Association of Telecommunications Officers and Advisors, WC Docket No. 13-184, at 3-5 (Sept. 16, 2013).

<sup>6</sup> NATOA Comments at 6; Comments of the Schools, Health & Libraries (SHLB) Broadband Coalition, WC Docket No. 13-184 at 7 (Sept. 16, 2013).

<sup>7</sup> Comments of the United States Telecom Association, WC Docket No. 13-184, at 15-16 (Sept. 16, 2013).

<sup>8</sup> *In re Sch. & Libraries Universal Serv. Support Mechanism A Nat'l Broadband Plan for Our Future*, 25 FCC Rcd. 18762, 18769 ¶ 12 (2010) (“Commission precedent refutes the contention that leasing dark fiber is not a “service.”).

cost effective solution only in the rarest of cases,”<sup>9</sup> but it provides no support for this view. And contrary to AT&T’s suggestion, the FCC’s proposed equal treatment of dark and lit fiber would not assume that fiber networks are “the only way” that schools can obtain broadband;<sup>10</sup> it would merely give schools another service option.

**3. *The record supports phasing out funding for certain outdated services.***

The record reflects broad support for the Commission’s proposal to phase out funding for certain outdated services, including paging services and directory-assistance services.<sup>11</sup> The Commission should do so. It should not, however, phase out or deprioritize support for Internet access service provided via cellular data plans,<sup>12</sup> as these are often used for educational purposes.<sup>13</sup>

**4. *The comments demonstrate E-rate funds must address internal connections.***

The comments underscore that funding internal connections at schools and libraries is critical. As the Leading Education by Advancing Digital (“LEAD”) Commission explained, “the most immediate and expensive barrier to implementing technology in education is inadequate

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<sup>9</sup> Comments of the National Cable & Telecommunications Association, WC Docket No. 13-184 at 12 (Sept. 16, 2013); *see also* Comments of the Independent Telephone and Telecommunications Alliance, WC Docket No. 13-184 at 15-16 (Sept. 16, 2013).

<sup>10</sup> Comments of AT&T Inc., CC Docket No. 13-184, at 4 (Sept. 16, 2013).

<sup>11</sup> Comments of Comcast Corporation, WC Docket No. 13-184, at 24 (Sept. 16, 2013); Comments of Sprint Corporation, WC Docket No. 13-184, at 16 (Sept. 16, 2013); NATOA Comments at 3.

<sup>12</sup> NPRM at ¶ 102.

<sup>13</sup> Sprint Comments at 17 (taking issue with assumption that cellular data plans and air cards are not cost-effective and should not be eligible for E-rate support). *See also* Comments of Hewlett-Packard Company, WC Docket No. 13-184, at 15 (Sept. 16, 2013) (urging the phase out of “cellular data plans and air cards *that are not used directly for student education*”) (emphasis added).

infrastructure.”<sup>14</sup> 80% of K-12 schools report that they lack sufficient broadband and 83% indicate that they have outdated Wi-Fi networks.<sup>15</sup> As a result, “in many cases, even if a school or library can obtain a high-speed broadband connection to its building, that connection is useless because inside wiring and electronics or internal wireless connections are missing or inadequate.”<sup>16</sup>

Funding internal connections would lead to substantial benefits, including those that Comcast describes:

While Comcast generally provides schools with broadband services ranging from 10 Mbps to 10 Gbps, more than half of the schools and libraries that Comcast currently serves employ bandwidth speeds of 100 Mbps or less. Nevertheless, the fiber connections that Comcast deploys to serve most of its school and library customers are scalable to 10 Gbps. If schools are given greater opportunities to upgrade their internal networks with high-capacity inside wiring and Wi-Fi to provide students with access to robust broadband service in their classrooms, Comcast readily can increase the transmission capacity of its fiber connections to the school to meet the demand for greater bandwidth in classrooms.<sup>17</sup>

The FCC therefore should revise the E-rate program to ensure that schools and libraries can fund these important internal connections.

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<sup>14</sup> Comments of the Leading Education by Advancing Digital (LEAD) Commission, WC Docket No. 13-184, at 6 (Sept. 16, 2013).

<sup>15</sup> *Id.*

<sup>16</sup> AT&T Comments at 3-4.

<sup>17</sup> Comcast Comments at 10.

**5. *The record supports raising the funding cap, but also increasing transparency.***

The record supports the view that the Commission should raise the E-rate funding cap.<sup>18</sup> The Commission established the cap based on projections it made over 15 years ago; these projections no longer accommodate schools' and libraries' broadband needs. The Commission itself has recognized the problem: “[F]or the first time in E-rate program history, in funding year 2012, estimated demand for priority one funding alone exceeded the funding cap.”<sup>19</sup> Given this serious shortfall, the FCC should raise the cap immediately—not after it makes other changes in this proceeding.<sup>20</sup>

As the Commission increases the cap, it should also create a website detailing how any recipient has used its funds.<sup>21</sup> USTA argues that the Commission should not do so, because prices turn on unique variables, may include proprietary information, and are often available elsewhere

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<sup>18</sup> Comments of the City of Philadelphia, WC Docket No. 13-184 at 1 (Sept. 16, 2013) (“The needs of our nation’s schools and libraries have clearly outstripped the Commission’s 1997 projections, and minor 2010 prospective inflation index adjustment to the cap has also proven wholly inadequate to provide sufficient funding. . . .”); NATOA Comments at 2 (“[W]e also support calls to create, *in addition to increasing* the current E-rate fund, a one-time, short-term capital investment fund aimed at bringing high-capacity broadband infrastructure to schools and libraries.”); Joint Comments of The GE Foundation, National Public Education Support Fund, Nellie Mae Education Foundation, Robert R. McCormick Foundation, The Sandler Foundation, and William and Flora Hewlett Foundation, WC Docket No. 13-184, at 2; Comments of the National Association of Elementary School Principals, WC Docket No. 13-184, at 3.

<sup>19</sup> NPRM at ¶ 63.

<sup>20</sup> *Contra* USTA Comments at 12.

<sup>21</sup> NPRM at ¶ 192.

anyway.<sup>22</sup> This is unpersuasive. Easing access to this information—with appropriate safeguards—will only help ensure that limited funds are used efficiently.<sup>23</sup>

**6. *The Commission should require electronic filing, and eliminate undue burdens.***

The record shows broad support for moving to a system of electronic filing.<sup>24</sup> We urge the Commission to do so. Boston may also have been one of the few commenters to address the challenges of allocating funding between preschool and other classrooms.<sup>25</sup> In some states, including Massachusetts, preschool classrooms are not classified as “elementary schools” and therefore cannot receive funding under the existing rules.<sup>26</sup> The Commission asks whether this imposes an undue burden.<sup>27</sup> It does. The Commission should eliminate the burden.

**7. *The Commission should allow off-premises use of wireless community hotspot.***

In 2010, the Commission revised its rules to allow schools to permit the general public to utilize E-rate-supported services on school premises when classes are not in session.<sup>28</sup> The Commission now asks whether it should allow students and the general public to use wireless hot

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<sup>22</sup> USTA Comments at 15.

<sup>23</sup> Comments of Hewlett-Packard Company at 16 (noting that “the increased accountability should help reduce fraud and abuse”).

<sup>24</sup> Comments of the Telecommunications Industry Association, WC Docket No. 13-184, at 8 (Sept. 16, 2013).

<sup>25</sup> NPRM at ¶ 238.

<sup>26</sup> USAC, Eligibility Table for Non-Traditional Education, <http://www.usac.org/sl/applicants/beforeyoubegin/non-traditional/eligibility-table.aspx>.

<sup>27</sup> NPRM at ¶ 238.

<sup>28</sup> *Schools and Libraries Sixth Report and Order*, 25 FCC Rcd. 18762, 18773-77 ¶¶ 20-27 (2010).

spots off campus as well.<sup>29</sup> It should. As the International Association for K-12 Online Learning notes, this would benefit our most disadvantaged students:

When schools and libraries close for the evening, it is our nation's most disadvantaged students whose academic progress suffers the most. As the Wall Street Journal reported earlier this year, an alarming number of students must resort to studying and completing assignments at fast food restaurants with free wireless Internet because they lack Internet access at home.<sup>30</sup>

Concerns about allowing off-premises use can be addressed through technical and other fixes. The Independent Telephone & Telecommunications Alliance argues that allowing hotspot access would “spread the already limited E-rate fund too thin” because it would require “deployment of additional facilities and equipment.”<sup>31</sup> But any additional facilities and equipment would only serve a valuable educational purpose, both within a school’s walls and beyond them. ITTA further argues that Wi-Fi hotspots could “interfere with usage by students during school hours due to bandwidth and capacity constraints.”<sup>32</sup> But this could be addressed by barring off-premises use during school hours, and by conditioning off-premises access on appropriate terms of service. We urge the Commission to move ahead with this proposal.

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<sup>29</sup> NPRM ¶ 320.

<sup>30</sup> Comments of International Association for K-12 Online Learning, at 17.

<sup>31</sup> Comments of Independent Telephone & Telecommunications Alliance, at 16.

<sup>32</sup> *Id.* at 17.

**8. *The record provides no support for conditioning E-rate funding on changes in local permitting practices.***

Finally, the record provides no support for conditioning E-rate funding on changes in local permitting practices or policies.<sup>33</sup> Indeed, Verizon's statement about the procurement process applies just as well to the permitting process:

The Commission is not in a position to monitor or enforce state and local procurement laws. Compliance with state and local procurement law is a matter best left to state and local authorities, and the Commission should not look to take on a new role for which it is not well-suited and that would require it to expend additional program resources.<sup>34</sup>

Instead of confusing local permitting protections with the needs of our schools and libraries, the FCC should continue to partner with State and local governments to further the broadband deployment that we all seek.<sup>35</sup>

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<sup>33</sup> NPRM at ¶ 164.

<sup>34</sup> Comments of Verizon and Verizon Wireless, WC Docket No. 13-184, at 25 (Sept. 16, 2013).

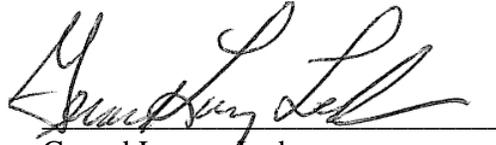
<sup>35</sup> See Comments of the National Association of State Chief Information Officers, WC Docket No. 13-184, at 2 (Sept. 13, 2013).

## CONCLUSION

The City welcomes the Commission's effort to modernize the E-rate program. We respectfully ask the Commission to closely consider the City's comments as it completes work in this important proceeding.

Respectfully submitted,

William F. Sinnott  
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A handwritten signature in black ink, appearing to read "Gerard Lavery Lederer", written over a horizontal line.

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