

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

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

**REPLY COMMENTS OF COX COMMUNICATIONS, INC.**

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## TABLE OF CONTENTS

|      |  |    |
|------|--|----|
| I.   | The Overwhelming Majority of Comments Support Higher Funding Priority for Internal Connections .....               | 1  |
| II.  | The Record Shows a Need for Caution Regarding Funding Dark Fiber or New Construction.....                          | 4  |
| III. | Relying Solely on State or Local Competitive Bidding Rules May Complicate Rather Than Simplify E-Rate Bidding..... | 5  |
| IV.  | Commenters Support Strategic Changes to the ESL .....  | 7  |
|      | A.    The Comments Show a Need for Caution Regarding Voice Service .....   | 7  |
|      | B.    Cloud Services That Store Educational Material Should be Eligible for E-Rate Support.....                    | 8  |
| V.   | Commenters Propose useful administrative changes.....  | 8  |
|      | A.    Act Promptly on Requests for Clarification of Rules .....  | 8  |
|      | B.    Reimburse BEAR Applicants Directly .....   | 9  |
|      | C.    Release Annual Eligible Service List Earlier.....  | 9  |
|      | D.    Eliminate Form 486 .....   | 9  |
|      | CONCLUSION.....  | 10 |

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Cox Communications, Inc. (“Cox”) replies to the initial comments on the Commission’s notice regarding changes to the schools and libraries universal support mechanism (“E-rate”).<sup>1</sup>

**I. THE OVERWHELMING MAJORITY OF COMMENTS SUPPORT HIGHER FUNDING PRIORITY FOR INTERNAL CONNECTIONS**

The initial comments demonstrate that the real benefits of schools’ and libraries’ broadband connections are only realized if they provide a true end-to-end network to the students, teachers, and staff who use their classrooms and reading rooms.<sup>2</sup> As a result, there is strong support in the record for addressing the current disparity in priority that prevents many schools and libraries from receiving E-rate support for the internal Wi-Fi connections they need to deliver high-bandwidth services within their buildings. Some commenters support elevating

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<sup>1</sup> *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”).

<sup>2</sup> *See, e.g.*, ADTRAN comments at 22-23; City of Boston comments at 5; Cisco comments at 6-9; Comcast comments at 15; Cox comments at 8-10; Hewlett Packard comments at 15; Iowa Department of Education comments at 5-6.

internal connections to Priority One,<sup>3</sup> while others advocate eliminating the distinction between Priority One and Priority Two altogether.<sup>4</sup> As the Los Angeles Unified School District points out, the current system can lead some schools to “over-order voice and broadband access services and neglect the internal networks that are used to distribute those services among schools within a district and among classrooms within a school. In our experience, this is a significant factor contributing to the lack of adequate broadband capacity. In many cases, the issue is not the inability to obtain or afford adequate bandwidth into and out of the school or district; rather, it is that we cannot afford adequate bandwidth within the schools themselves.”<sup>5</sup>

Cox supports changes to the program rules that would equally support Internet connectivity to a school or library and Wi-Fi connectivity on that school or library property. As the NPRM and commenters observe, the current lower priority for internal connections can create uneconomic incentives for schools and libraries to purchase more expensive services, such as mobile wireless Internet access, when less expensive Wi-Fi connectivity or wiring would

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<sup>3</sup> See, e.g., Alabama Department of Education comments at 12-14; ALA comments at 13; California Department of Education comments at 6; Education Networks of America comments at 4; Illinois Fiber Resources Group comments at 5, 7; Iowa Department of Education comments at 5-6; Kansas Department of Education comments at 3; West Virginia Department of Education comments at 43.

<sup>4</sup> See, e.g., American E-rate Solutions comments at 2; City of Boston comments at 5; Cisco comments at 6-7; Council of the Great City Schools at 12; Hewlett-Packard comments at 14; ICLE/Tech Freedom comments at 3; Kellogg and Sovereign comments at 7; Los Angeles Unified School District comments at 11-12; Massachusetts Department of Telecommunications and Cable comments at 5; NEA comments at 7-8; NCTA comments at 7-8; Nebraska Office of the CIO comments at 9; New York City Department of Education comments at 4; PCIA comments at 4-5; Qualcomm comments at 13; SETDA comments at 19.

<sup>5</sup> Los Angeles Unified School District Comments at 11-12.

achieve the educational purpose desired.<sup>6</sup> To ensure technology options are not constrained, the Commission should, at a minimum, place Wi-Fi connections and wiring in schools and libraries at an equal funding priority with wireless Internet access.

At the same time, the Commission can adopt recommendations to ensure that increasing support for internal connections does not adversely impact the sustainability of the fund. For example, the Commission should adopt the rules proposed by Cox (based on a State E-Rate Coordinators Alliance proposal) to place reasonable boundaries around internal connections support.<sup>7</sup> In addition, as the LEAD Commission points out, Wi-Fi connectivity has substantially reduced the cost of internal connections compared to hard wiring,<sup>8</sup> and the revised support rules should incorporate these savings. These actions will help ensure that the benefits of high-speed broadband flow all the way to students and teachers while ensuring the sustainability of the fund.

Finally, Cox urges the Commission to move cautiously in responding to proposals to expand the Learning-On-The-Go pilot program to provide more support for mobile broadband for use off school premises.<sup>9</sup> Indeed, at least one commenter who supports the concept also notes that it appears to be financially impractical and acknowledges that the Wi-Fi community hotspot proposal in the NPRM may be a more practical approach.<sup>10</sup> Given the existing demands on E-

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<sup>6</sup> NPRM at ¶ 215. *See, e.g.*, E-rate Provider Services comments at 4; Funds For Learning comments at 5-6; Los Angeles Unified School District Comments at 11.

<sup>7</sup> Cox comments at 8-10. *See also, e.g.*, Houston Independent School District comments at 3; Nebraska Office of the CIO comments at 8; Verizon comments at 17.

<sup>8</sup> LEAD Commission comments at 5-6.

<sup>9</sup> *See e.g.* Competitive Carriers Association comments at 2, 7-12; Connected Nation comments at 14-15; CTIA comments at 8-9.

<sup>10</sup> E-Rate Central comments at 4, 14; NPRM at ¶ 319.

rate funds and the push for higher funding priority for internal connections, if the Commission chooses to expand funding for off-campus broadband services, at a minimum, it should ensure that cost-effectiveness and technology neutrality is a key component of the program.<sup>11</sup>

## **II. THE RECORD SHOWS A NEED FOR CAUTION REGARDING FUNDING DARK FIBER OR NEW CONSTRUCTION**

Consistent with Cox's position and strong support in the initial comments, the Commission should approach with caution any funding for dark fiber or new construction of fiber in order to ensure support is spent in a cost-effective way.<sup>12</sup> As the South Dakota Department of Education succinctly summarizes:

Purchasing a statewide network rather than leasing the circuits from service providers would be cost prohibitive. In addition to considering the installation and ongoing maintenance costs of the circuits, the initial and ongoing investment in equipment needed to light the fiber would need to be considered. Then there is the cost of technical support currently provided by commercial vendors that would need to be included.... Moreover, rural schools already have many other competing priorities besides becoming network operations experts.<sup>13</sup>

Even those commenters who advocate making E-rate support available to light dark fiber or construct new fiber generally agree that such support only should be provided where the applicant can show that the proposal would be more cost-effective than purchasing a finished

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<sup>11</sup> If the Commission wants to further support off-campus broadband programs, it could also consider leveraging existing broadband adoption programs. As the Commission is well aware, Cox and other cable providers have already committed to programs to bring affordable broadband to low-income families through Connect2Compete and other similar initiatives. In doing so, cable providers work closely with school systems in doing outreach to potentially qualifying families.

<sup>12</sup> Cox comments at 6-8.

<sup>13</sup> South Dakota Department of Education comments at 9.

service.<sup>14</sup> These comments state explicitly or at a minimum imply that in determining whether dark fiber or new construction will be the most cost-effective option, the calculation must include the cost of operating and maintaining the fiber, which is substantial. Schools that plan to use in-house staff to operate and maintain the fiber should be required to allocate a reasonable share of staff expense in the calculation (depending on the scope of the project, this will always be at least one full-time equivalent (“FTE”) technical staff member, and often multiple FTEs). Schools that plan to out-source the operation and maintenance of the fiber must include this cost in the calculation.

In sum, while Cox has no objection to schools and libraries lighting dark fiber or constructing new fiber where it is the most cost-effective means to provide Internet access, the Commission should not burden the fund with these costs in situations where the purchase of a finished service would be less expensive.

### **III. RELYING SOLELY ON STATE OR LOCAL COMPETITIVE BIDDING RULES MAY COMPLICATE RATHER THAN SIMPLIFY E-RATE BIDDING**

The Commission should strive to ensure that all E-rate contracts are subject to fairly uniform competitive bidding requirements and should reject suggestions made by commenters who urge the Commission to eliminate E-rate competitive bidding rules or to allow applicants to ignore them in favor of only state and local rules. The current process, which requires E-rate bidding to comply with FCC rules as well as state and local rules, is preferable because it provides important uniformity to the bidding process.

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<sup>14</sup> See, e.g., Mississippi Educational Technology Leaders Association comments at 14; The Quilt comments at 8; Utah Education Network comments at 5-7; Washington State Office of Superintendent of Public Instruction comments at 3; Weslaco Independent School District comments at 5.

Although some commenters advocate simplification through reliance only on state or local competitive bidding requirements where they apply,<sup>15</sup> elimination of the E-rate competitive bidding rules for many applicants could lead to balkanization of the bidding process and reduced competition for contracts. More specifically, elimination of a unified E-rate competitive bidding process may lead to greater disparity in state and local competitive bidding rules. Currently, the existence of the E-rate competitive bidding rules creates a nationwide standard. The loss of such a standard creates the risk that different state and local requirements could begin to differ more from one another and from the E-rate competitive bidding rules. The need to navigate these varying requirements would create greater burdens on service providers, which could lead to the unintended consequence of deterring provider participation and potentially reduce competition for E-rate contracts – which would run directly counter to the goals of this proceeding. Further, it is doubtful E-rate competitive bidding rules could be eliminated as a practical matter.<sup>16</sup>

In addition, even if any applicants are exempted from the FCC’s competitive bidding process, the Commission should continue to require all E-rate bidding opportunities to be listed on a consolidated website, such as the one where Forms 470 currently are posted. This will maximize providers’ opportunity to identify bidding opportunities for E-rate contracts. Providers’ ability to locate E-rate bidding opportunities readily will maximize competition in the program, and therefore increase cost-effectiveness.

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<sup>15</sup> See, e.g., Alaska Department of Education comments at 16; American Library Association comments at 24; Bureau of Indian Affairs comments at 2, 8; Clark County School District comments at 13; Iowa Department of Education comments at 9-10; City of Philadelphia comments at 7; South Dakota Department of Education comments at 22; State Consortia Group comments at 3; Utah Education Network comments at 8, 15; West Virginia Department of Education comments at 80; Wisconsin Department of Public Instruction comments at 12-13.

<sup>16</sup> There will always be some schools and libraries that are not subject to state or local requirements (e.g., small private and parochial schools).

#### **IV. COMMENTERS SUPPORT STRATEGIC CHANGES TO THE ESL**

##### **A. The Comments Show a Need for Caution Regarding Voice Service**

In light of certain compelling demonstrations in the record, and consistent with Cox’s initial comments, the Commission should consider retaining support for voice services. If the Commission after careful deliberation decides to eliminate support for voice services, it nevertheless should establish a predictable phase-down process over a reasonable period of several years.

A number of educational commenters urged the Commission to retain support for voice service, pointing out the importance of such services for educational purposes.<sup>17</sup> For instance, the State of Arkansas states squarely that “funding for voice services should not be eliminated.”<sup>18</sup> Many schools rely on E-rate supported voice services for access to emergency services, such as 911. Even commenters that favored elimination of support for voice services observe that it will be necessary to phase support out over a reasonable period of years to give educational entities time to adjust.<sup>19</sup> Others observe that they cannot afford this transition and will need time to find alternative funding for the services they need.<sup>20</sup> Thus, the Commission

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<sup>17</sup> *See, e.g.*, Arkansas comments at 15; CenturyLink comments at 11; Clark County School District comments at 1, 6, 10; Council of the Great City Schools comments at 10-11; Education Networks America comments at 1-2; E-rate & Educational Services comments at 2; Kansas Department of Education comments at 4-5; Kentucky Department for Libraries comments at 6; Philadelphia School District comments at 8; City of Philadelphia comments at 3; South Dakota Department of Education comments at 10-12.

<sup>18</sup> Arkansas comments at 15.

<sup>19</sup> *See, e.g.*, Alaska Department of Education comments at 5, 7-10; ACA comments at 12; ALA comments at 4-5, 14-15; Hawaii comments at 9-10; NCTA comments at 10-11; Weslaco Independent School District comments at 8.

<sup>20</sup> *See, e.g.*, Philadelphia School District comments at 8.

should carefully consider the comments before eliminating support for voice service and, if support is withdrawn, ensure a reasonable transition period reflecting the importance of this service.

**B. Cloud Services That Store Educational Material Should be Eligible for E-Rate Support**

Cox supports providing E-rate support for cloud storage for educational content, to the extent feasible within contribution levels.<sup>21</sup> The record supports this approach, with several commenters pointing out that these services not only are increasingly prevalent, but also directly aligned with the Commission's vision for a digital connected learning environment.<sup>22</sup>

**V. COMMENTERS PROPOSE USEFUL ADMINISTRATIVE CHANGES**

**A. Act Promptly on Requests for Clarification of Rules**

The E-rate process is complex and requires participants to manage many rules and administrative requirements addressing which services and equipment are funded, how competitive bidding is to be conducted, gift rules, and pricing of services. Often there are ambiguities that create uncertainty and may place either applicants or service providers (or both) at a disadvantage if clarification is not provided in a timely fashion. The consequences of incorrectly interpreting the rules may place funding in jeopardy years after the funding is approved. Cox agrees with Comcast that USAC and the Commission should act as promptly as possible to address requests for clarification of rules.<sup>23</sup>

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<sup>21</sup> See Cox comments at 9 n.12.

<sup>22</sup> See, e.g., San Diego County Office of Education comments at 3; CenturyLink comments at 8.

<sup>23</sup> Comcast comments at 36.

**B. Reimburse BEAR Applicants Directly**

Cox supports AT&T's suggestion that reimbursements for applicants using Billed Entity Applicant Reimbursement ("BEAR") forms should be sent directly to the applicant instead of being sent to the service provider.<sup>24</sup> Presently, the service provider is sent the full amount of support and must then forward reimbursement to the applicant. This creates an unnecessary extra step in the process. Even though the reimbursement must be sent within 20 days, it still introduces delay into the process as well as administrative complexity.

**C. Release Annual Eligible Service List Earlier**

The Commission annually updates the Eligible services list and just recently issued the ESL for the current funding year which already has begun.<sup>25</sup> Cox agrees with Edline, LLC that it would serve all E-rate participants, particularly the schools and libraries who must rely on it to prepare the 470 request for bids, to issue the ESL early in the year rather than in early fall. This would allow both applicants and service providers more time to become familiar with any changes, additions and deletions so that the bidding process can be conducted accurately.

**D. Eliminate Form 486**

Form 486 serves no function other than containing the Children's Internet Protection Act ("CIPA") certification, which could be added to the Form 471.<sup>26</sup> Further, it is confusing to applicants<sup>27</sup> as it comes after they have filed the Form 470 choosing the service provider and after they have received the funding commitment letter. Yet even though funding has been

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<sup>24</sup> AT&T comments at 14.

<sup>25</sup> Edline, LLC comments at 24-25.

<sup>26</sup> AdTec comments at 2.

<sup>27</sup> *See, e.g.*, State of Arkansas comments at 28.

approved, the Form 486 can hold up invoicing and receipt of funding and failure to meet the deadline can result in decreased funding. Cox urges the Commission to eliminate the form.

### CONCLUSION

Cox urges the Commission to reform the E-rate program consistent with its initial comments and these reply comments.

Respectfully submitted,

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