EASTEX TELEPHONE CO-OP., INC.

"A PHONE FOR EVERY FARM"

January 28, 2014

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45 WC Docket No. 03-109, WT Docket No. 10-208, WC Docket No. 13-184 *Ex Parte* Letter

Dear Ms. Dortch:

Eastex Telephone Cooperative, Inc. ("Eastex" or the "Company") hereby submits this letter as a follow up to discussions held with Wireline Competition Bureau staff on September 24, 2013.[1] One of the topics discussed in that meeting was comments filed by the Company[2] in response to the invitation of the Federal Communications Commission ("FCC" or "Commission") to comment on various proposed changes to the e-rate program.[3] Below, Eastex provides additional detail related to the discussions with FCC staff on this topic.

I. E-RATE FORMS; IMPROVING EFFICIENCIES

As indicated in its written and verbal comments, Eastex strongly supports the goal of streamlining the administration of the E-rate program and agrees with the FCC's proposed options to: move all FCC forms and correspondence to an electronic platform; increase transparency throughout the application process; speed review of applications and funding commitment decision letters; and improve invoicing and disbursement processes. Eastex offers the following suggestions specific to these proposed goals.

A. Form 470

Currently, Eastex monitors E-rate applications (Form 470s) between July and the application filing deadline, which is typically in February. For the 2013 funding year, half of the Form 470 applications submitted by Eastex area schools were submitted in December, 2012. Therefore, Eastex prepared bids using December rates and service information. As a member of the National Exchange Carrier Association (NECA),

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[1] *In the Matter of Modernizing the E-rate Program for Schools and Libraries,* WC Docket No. 13-184, Notice of Ex Parte Presentation (Sep. 26, 2013).

[2] *In the Matter of Modernizing the E-rate Program for Schools and Libraries,* WC Docket No. 13-184, Comments of Eastex Telephone Cooperative, Inc. and Riviera Telephone Company, Inc., (Sep. 16, 2013).

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

Eastex offers certain interstate access services, such as Ethernet Transport Service, in accordance with the NECA FCC Tariff No. 5. Between December 1, 2012 and July 1, 2013, NECA filed eight tariff filings with the FCC that effectively modified rates or services. In fact, NECA submits an annual rate filing each year in June (which takes effect in July) which typically affects all members' rates. At times, these tariff changes shift issuing members from one rate band to another, potentially causing dramatic rate changes.

While Eastex is careful to educate E-rate applicants on potential price changes, the applicants rely on accurate pricing information not only for the purpose of evaluating bids, but also for projecting budgets and E-rate funding needs each year. Therefore, Eastex proposes that the FCC attempt to modify the administrative timeline for E-rate application processing such that Form 470s or Form 471s, or both, are submitted closer to the start of the new funding year, or even after the funding year has begun, with E-rate funding being committed retroactively instead of prospectively.

B. Form 471

Eastex would agree with comments filed by Verizon and Verizon Wireless that suggest that applicants that are bound to term commitments for services should not have to file a new Form 471 each year of the term beyond the initial year.[4] Eastex suggest that a Form 471 can be submitted to USAC upon initial execution of the term commitment, and USAC can maintain that form on the applicant's online E-rate portal or E-rate dashboard. If material changes such as changes to rates occurred during the commitment period, Eastex suggests that the applicant could update that particular information for the new funding year. Any changes made to the Form 471 posted on the E-rate portal would trigger a notification to USAC staff so that the changes could be reviewed and properly addressed. However, where the majority of the information on the Form 471 stays accurate, it is a waste of applicant time and resources to have to resubmit the form in its entirety each year.

C. Form 472

Eastex agrees with the FCC's suggestions that reimbursements to school applicants associated with the Form 472 ("BEAR form") need not flow through the service provider.[5] Eastex supports the proposal that USAC can issue reimbursements requested on BEAR forms directly to school applicants.

Eastex also recommends that if this proposal is adopted, then the requirement for the service provider to certify BEAR forms submitted by schools should be eliminated as such certification is then unnecessary. The sole purpose of the service provider's certification on the BEAR form is to indicate that the service provider will provide funds

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[4] *In the Matter of Modernizing the E-rate Program for Schools and Libraries,* WC Docket No. 13-184, Comments of Verizon and Verizon Wireless., (Sep. 16, 2013), page 19.
[5] NPRM at 259.

received from USAC for a particular school to that school within twenty-one days of the service provider receiving the funds. Certainly if the BEAR form processing is altered such that USAC issues funds directly to schools, then this certification is unnecessary.

Even if the reimbursement process does not change, this certification could easily be moved to another form, such as the Form 473, or deleted altogether. Service providers must comply with E-rate program rules regardless of certifications contained on forms, so Eastex suggests that the added activity of having to certify BEAR forms does not serve a meaningful purpose, and in some cases, can slow down the invoicing process to USAC.

II. NECA PRICING ISSUES

During the Ex Parte meeting, FCC staff requested additional information concerning Eastex's provisioning of special access services and how the NECA tariff affects Eastex's special access service pricing. As mentioned above, Eastex is an issuing carrier of the NECA FCC Tariff No. 5, which governs the rates, terms and conditions for the interstate access services Eastex offers in its regulated service territory. Many schools request digital transmission services such as high capacity DS1 circuits or Ethernet Transport Services ("ETS"), both of which Eastex offers in accordance with Section 7 of the NECA FCC Tariff No. 5, at rates that are often determined according to rate band assignment. Eastex is currently assigned to Special Access Rate Band 10, out of 22 possible rate band assignments. This means that when Eastex sells an interstate special access service, it must rate that service in accordance with the Rate Band 10 prices outlined in the NECA FCC Tariff No. 5.

As explained above, NECA makes periodic changes to its tariff which can shift issuing members from one rate band to another. Given the length of time that it takes to process E-rate applications, a tariffed rate that was quoted in an application could differ dramatically from the tariffed rate when the funding is finally approved. Furthermore, NECA pricing changes can occur throughout the year, causing rate changes to occur after funding commitments have been approved. Even if a school has entered into a term commitment for a particular service, if the tariffed rate changes in the middle of the E-rate funding year, Eastex is bound to charge the tariffed rates in effect. Therefore, pricing changes issued by NECA, whether influenced by rate band assignment changes or not, cause price fluctuations for schools throughout the year, regardless of bid pricing, and regardless of term commitments.

III. VARIABLES IN COSTS OF PROVIDING SERVICE TO SCHOOLS

As indicated in its prior comments, Eastex serves 8 school districts in its service territory in east Texas. The smallest school district, Goodrich ISD, hosts only 235 students total, while the largest school district, Livingston ISD, hosts approximately 4,098 students altogether.[6] However, the variables that affect the cost of providing service to these school districts have little to do with the respective size of student

[6] See Texas Education Agency "School and District File" (http://mansfield.tea.state.tx.us/tea.askted.web/Forms/Home.aspx) (last accessed Jan. 13, 2014).

populations. The greatest factor in determining the cost of provisioning service to a school is the location of the school and its distance from the service provider's central office equipment and facilities. Costs of construction vary significantly based on the length of the construction route and scope of work involved, while equipment costs are fairly static. If Goodrich ISD is 100 miles from Eastex's central office and Livingston ISD is only 10 miles from Eastex's central office, Eastex could theoretically provide the same new service to Livingston ISD for far less than it could provide the service to Goodrich ISD. The Commission should ensure that changes made to e-rate rules take these variables into account.

IV. CONCLUSION

Eastex appreciates the FCC's time and interest in better understanding Eastex's unique perspective as a rural carrier offering E-rate services to varying schools in east Texas. As a member-owned cooperative, Eastex is committed to helping all of its members, including schools and libraries, attain the best and most reliable services and technology that is available in the industry, at affordable prices. While some of Eastex's services are governed by the NECA tariff which limits pricing flexibility, Eastex believes that certain program changes could help alleviate hurdles caused by mid-year pricing adjustments. Further, because Eastex understands that school resources are badly limited, any methods for reducing the administrative burden on schools for participating in the E-rate program would be beneficial. Finally, it is imperative that the FCC refrain from making any E-rate program changes that could reduce current E-rate funding to rural schools.

Respectfully Submitted by

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