

July 9, 2024

***Ex Parte* Notice**

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
45 L Street, N.E.
Washington, D.C., 20554

**RE: Permitting E-Rate Program Support for Off-Premises Use of Wi-Fi Hotspots and Services
WC Docket No. 21-31**

Dear Ms. Dortch:

On Monday, July 8, 2024, the undersigned and Brian Ford on behalf of NTCA–The Rural Broadband Association (“NTCA”)¹ met with Elizabeth Cuttner with the office of Chairwoman Jessica Rosenworcel of the Federal Communications Commission (the Commission”). The parties discussed the draft Report and Order (“*Draft Order*”) released by the Commission in its Universal Service Fund (“USF”) Schools and Libraries (“E-rate”) proceeding on June 27, 2024.² The *Draft Order* would permit eligible schools and libraries to request E-Rate support for Wi-Fi hotspots and wireless Internet services that can be used off-premises.

NTCA supports the Commission examining every tool in its toolkit to address concerns regarding the ability of all Americans to access the Internet, but those tools must be designed carefully and squarely within the toolkit authorized by Congress. In addition to raising questions regarding the scope of Section 254(h) of the Communications Act, as amended by the Telecommunications Act of 1996 (“Act”) consistent with prior comments,³ NTCA noted that if the Commission nonetheless proceeds as suggested in the *Draft Order*, it should adopt safeguards to make the most effective use of E-rate funds. The most effective use of E-rate funds would be to ensure that funded WiFi hotspots are not made available where service is already available as reflected in the National Broadband Map. Moreover, while the Commission devotes attention in the *Draft Order* to safeguards to protect the E-Rate program, the Commission should further consider coordination and safeguards to promote the integrity of *all* of its universal service programs. In particular, the Commission should not fund the distribution of WiFi hotspots in areas where its high-cost universal service program is already distributing support to promote connectivity – or, if the concern is that some locations may not be connected through these other programs for some time to come, at the very least, the Commission should certainly not permit the use of E-rate support for a hotspot at any location that is currently connected leveraging the use of high-cost USF support.

¹ NTCA represents approximately 850 providers of high-quality voice and broadband services in the most rural parts of the United States.

² *Addressing the Homework Gap through the E-Rate Program*, WC Docket No. 21-31, Draft Report and Order and Further Notice of Proposed Rulemaking, FCC-CIRC2407-02 (rel. Jun. 27, 2024).

³ Comments of NTCA–The Rural Broadband Association, WC Docket No. 21-31 (fil. Jan 16, 2024), pp. 5-8.

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Furthermore, to avoid potentially redundant and wasteful funding, the Commission should make clear that a school or library seeking to use E-Rate funds to subsidize the purchase of at-home WiFi equipment and services is precluded from structuring the bids for such equipment and services on a “district-wide” or consortia basis. This will help ensure smaller providers have a meaningful opportunity to bid on any such equipment and services requested by school districts or libraries in the communities they serve, and that funds only go to individual locations in communities where they are needed most. Moreover, smaller providers such as NTCA members are in the best position to work with schools and libraries to determine where a connection is in fact already available to a household with a student.

Finally, as NTCA noted in its initial comments in this proceeding,⁴ if the Commission chooses to allow schools and libraries to use E-Rate funds to subsidize the cost of home Internet service through the use of hotspot devices and services, the provider selected by the school or library to provide these should be required to adhere to the same cybersecurity requirements as other recipients of USF funding. Similar provisions were mandated for the High-Cost program “to ensure that the Enhanced ACAM program does not deprive rural consumers in high-cost areas of broadband service that is as secure as the service deployed pursuant to other federal funding initiatives, including through the BEAD Program.”⁵ It is unclear why differing logic would apply here.

Thank you for your attention to this correspondence. Pursuant to Section 1.1206 of the Commission’s rules, a copy of this letter is being filed via ECFS.



By: /s/ Michael R. Romano
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cc: Elizabeth Cuttner

⁴ *Id.*, pp. 4-5.

⁵ *Connect America Fund*, WC Docket No. 10-90, et al., Report and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, FCC 23-60 (rel. Jul. 24, 2023), ¶ 110.