

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of	)	
	)	
Schools and Libraries	)	CC Docket No. 02-6
Universal Service Support Mechanism	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
Modernizing the E-rate Program for	)	WC Docket No. 13-184
Schools and Libraries	)	

To: Chief, Wireline Competition Bureau

**COMMENTS OF  
THE WIRELESS INTERNET SERVICE PROVIDERS ASSOCIATION**

The Wireless Internet Service Providers Association (“WISPA”)<sup>1</sup> hereby briefly comments on the two petitions for clarification and waiver<sup>2</sup> of E-rate rules that would allow school districts to, directly or indirectly, provide Internet access to off-campus locations.<sup>3</sup>

**Introduction**

In the Virginia Petition, the joint petitioners seek clarification or, alternatively, waiver of Commission rules to allow broadband services supported by E-rate to be provided in the homes

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<sup>1</sup> WISPA is the trade association that represents the interests of wireless Internet service providers (“WISPs”) that provide IP-based fixed wireless broadband services to consumers, businesses and anchor institutions across the country. WISPA’s members include more than 800 WISPs, equipment manufacturers, distributors and other entities committed to providing affordable and competitive fixed broadband services. WISPs primarily use unlicensed spectrum in the 600 MHz (unlicensed TV white space), 900 MHz, 2.4 GHz and 5 GHz bands and the “lightly-licensed” 3650-3700 MHz band to deliver last-mile broadband and voice services. WISPA estimates that WISPs serve more than 3,000,000 people, many of whom reside in rural, unserved and underserved areas, like those in Charlotte and Halifax Counties in Virginia, where wired technologies like FTTH, DSL and cable Internet access services may not be available.

<sup>2</sup> See Joint Petition for Clarification or, in the Alternative, Waiver of Microsoft Corporation, Mid-Atlantic Broadband Communities Corporation, Charlotte County Public Schools, Halifax County Public Schools, GCR Company, and Kinex Telecom, WC Docket No. 13-184 (filed June 7, 2016) (“Virginia Petition”); and Petition for Waiver on behalf of Boulder Valley School District, WC Docket Nos. 13-184 and 10-90 (filed May 16, 2016) (“BVSD Petition”) (collectively, “Petitions”).

<sup>3</sup> See *Public Notice*, “Wireline Competition Bureau Seeks Comment on Petitions Regarding Off-Campus Use of Existing E-rate Supported Connectivity,” CC Docket No. 02-6, WC Docket No. 10-90 and WC Docket No. 13-184, DA 16-1051 (rel. Sept. 19, 2016) (“*Public Notice*”).

of eligible students using TV white space spectrum under a pilot project.<sup>4</sup> The joint petitioners note that the low income, low population density and the high cost to deploy wireline broadband in rural Charlotte and Halifax Counties justify the use of cost-effective fixed wireless technology, which can then be extended to off-campus residences.<sup>5</sup> Under the proposed pilot project, service to homes would be provisioned by Mid-Atlantic Broadband Communities Corporation, which would not charge or increase the price of Internet access to the participating school districts.<sup>6</sup> The BVSD Petition seeks a blanket waiver for *any* school district to provide Internet service to students at home where student families lack access.<sup>7</sup> Both Petitions indicate that grant of the requested relief would not impose any additional costs on the Universal Service Fund (“USF”).<sup>8</sup>

### **Discussion**

The Petitions point out that “[o]ff-campus use, even if used for an educational purpose, is ineligible for support and must be cost allocated out of any funding request.”<sup>9</sup> In WISPA’s view, support already allocated for eligible E-rate services should be permitted to provide Internet service to off-campus locations, with certain important limitations described below. As the Petitions make clear, there are many communities around the country where student families cannot access fixed Internet services in their homes. By using E-rate supported Internet access for in-home educational purposes, those students can enjoy the benefits of educational content and civic participation that consumers with Internet service receive every day.

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<sup>4</sup> See Virginia Petition at 3.

<sup>5</sup> See *id.* at 7-12.

<sup>6</sup> See *id.* at 13.

<sup>7</sup> See BVSD Petition at 1, 2 and 9.

<sup>8</sup> See Virginia Petition at 13; BVSD Petition at 1.

<sup>9</sup> *Modernizing the E-rate Program for Schools and Libraries*, 30 FCC Rcd 9923, 9936 (2015).

WISPA agrees with the Virginia Petition that TV white space spectrum – and, indeed, all spectrum useable for fixed services – should be permitted to be used for the pilot project it proposes.<sup>10</sup> More generally, and to the extent necessary, the Commission should make clear that any fixed wireless technology, not just TV white space spectrum, can be used to extend service to off-campus locations. In crafting rules for the Connect America Fund (“CAF”) program, the Commission wisely imposed no technology restrictions on support recipients, and its rules for the CAF Phase II reverse auction encourage eligible private parties to deploy cost-effective technologies that meet specific performance criteria.<sup>11</sup> Because the requested waiver and the CAF rules are both intended to support Internet service to unserved locations, the same policy objectives should apply.

The Bureau should not, however, grant the blanket waiver apparently requested by BVSD, but should instead make clear in a declaratory ruling that individual school districts can request waiver if they thoroughly explain the need for E-rate subsidized fixed broadband in a given area and demonstrate the lack of any affordable Internet service, whether from wireless, wireline, satellite or other technology platforms.<sup>12</sup> E-rate funding, whether part of the cost allocation or not, should not be used to supplement, undermine or discourage private investment by wireless Internet service providers or others. Accordingly, any waiver the Bureau may approve must ensure that an off-campus location is not already served by any “unsubsidized competitor”<sup>13</sup> or by any competitor subsidized through the CAF program, and that no CAF support has been designated for such locations. These safeguards would be consistent with the objectives described in the *ICC/USF Transformation Order* where the Commission eliminated

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<sup>10</sup> See Virginia Petition at 4.

<sup>11</sup> See *Connect America Fund*, 31 FCC Rcd 5949, ¶ 16 (2016) (“*CAF Auction Framework Order*”).

<sup>12</sup> WISPA is willing to meet with other stakeholders to develop appropriate waiver requirements and criteria.

<sup>13</sup> See 47 C.F.R. § 54.5.

funding to multiple providers and laid the groundwork for challenge processes designed to ensure that only eligible private entities can receive the benefits of CAF funding.<sup>14</sup>

### **Conclusion**

The Bureau should conditionally grant the relief requested in the Petitions to the extent described above.

Respectfully submitted,

### **WIRELESS INTERNET SERVICE PROVIDERS ASSOCIATION**

November 3, 2016

By: /s/ *Alex Phillips*, President  
/s/ *Mark Radabaugh*, FCC Committee Chair

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<sup>14</sup> See *Connect America Fund*, 26 FCC Rcd 17663 (2011, *aff'd sub nom.*, *In re FCC 11-161*, 753 F.3d 1015 (10<sup>th</sup> Cir. 2014).