

Before the Federal Communications Commission
Washington DC 20554

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| Public Notice on |) | |
| Off-Campus Use of Existing E-Rate |) | WC Docket No. 13-184 |
| Supported |) | WC Docket 10-90 |
| Connectivity |) | CC Docket No. 02-6 |

Reply Comments of the Education & Libraries Networks Coalition (EdLiNC)

I. Introduction

The Education and Library Networks Coalition (EdLiNC), a group comprised of the leading public and private education associations and the American Library Association that was formed in 1995 to advocate for the interests of schools and libraries in the Telecommunications Act of 1996, is pleased to provide these reply comments to the Commission’s Public Notice on Off-Campus Use of Existing E-Rate Supported Connectivity.¹ Since the enactment of the E-Rate as part of the Act, EdLiNC has pursued a mission of promoting and improving the E-Rate to fulfill its mission of accelerating the deployment of advanced telecommunications and information services in schools and libraries and has filed in every Commission rulemaking related to the program. As is reflected in our comments below, EdLiNC supports the goals of the petitioners but urges the Commission to subject their and any similar future waiver requests to a strict test, the criteria for which are enumerated below.

II. EdLiNC Supported the Expanded Use of E-Rate Services During Non-School Hours but was Careful to Protect E-Rate’s Financial Resources

The two petitions before the Commission, one from the Boulder Valley School District (hereinafter Boulder Valley) in Colorado and the other from Microsoft Corporation, Mid-Atlantic Broadband Communities Corporation, Charlotte and Halifax County Public Schools in Virginia and Kinex Telecom (hereinafter referred to as Microsoft), seek to further expand the use

¹ See Appendix A for complete list of EdLiNC members.

of E-Rate services by extending E-Rate supported connectivity to student residences. Both petitions state that the projects for which they seek waivers from E-Rate rules would cause the E-Rate to incur no additional costs. In the Boulder Valley petition, Boulder Valley says: “If a housing authority or other entity is willing to pay for the equipment needed to connect a school district’s network to students living in low income housing, the school district can provide Internet service to those students at no additional cost to the USF”². Microsoft, in furtherance of its project to reach the residences of approximately 3,750 students in two southern Virginia counties using TV white spaces technology, states in its petition that:

“The pilot program will not impose additional cost on the E-Rate program. The Participating Schools’ E-Rate-supported internet access services are not usage metered. MBC (Microsoft’s telecommunications partner in the venture) therefore will not charge or increase the price of internet access to the Participating Schools to account for the extra usage. The project also will be undertaken with MBC’s cooperation and awareness. And Microsoft will provide the financial support for the specialized equipment necessary to convert, encrypt, transmit, and receive the signals.”³

This is not the first time that either the Commission or EdLiNC have addressed this topic. EdLiNC has always supported the leveraging of E-Rate connectivity where feasible but has always been careful to protect E-Rate’s scarce financial resources. An excellent example of this came in 2010, when the Commission approved the use of E-Rate services during non-school hours at school facilities. EdLiNC had advocated for this expansion during the public comment period preceding this order, saying:

“EdLiNC urges the Commission to allow schools to permit the public to use supported telecommunications and Internet services during non-school hours without requiring schools to engage in the cost allocation process. By relieving this burden on schools, they could focus on providing community broadband access to help advance online learning, stimulate economic growth, and increase demand for broadband. In making this recommendation, it is important to note that EdLiNC is not seeking additional capacity and/or services, or additional funding. Instead, we are simply asking that additional uses of services under the E-

² FCC, Modernizing the E-Rate Program for Schools and Libraries, Connect America Fund, Petition of Waiver, Boulder Valley School District, Samuelson-Glushko Technology Law & Policy Clinic (TLPC), (May 16, 2016), <https://ecfsapi.fcc.gov/file/60001843683.pdf>.

³ FCC, Modernizing the E-Rate Program for Schools and Libraries, Joint Petition for Clarification or, in the alternative, waiver of Microsoft Corporation, Mid-Atlantic Broadband Communities corporate, Charlotte County Public Schools, Halifax Public Schools, GCR Company, and Kinex Telecom, WC Docket No. 13-184, <https://ecfsapi.fcc.gov/file/60002098542.pdf>.

Rate program at eligible school facilities be allowed for community purposes after the E-Rate program requirements have first been met.”⁴

It is worth underscoring that we sought this expansion to more fully leverage E-Rate services for the entire community and did not seek to increase funding to the E-Rate program to pay for the additional costs of opening schools before or after school hours. The Commission’s final order in this matter conditioned its approval of this usage on the stipulation that it come at no additional cost to the E-Rate program and that students received priority in access to E-Rate supported services. For EdLiNC, this struck the right balance. Even today, with more funding available to E-Rate eligible recipients, wisely using the program’s limited resources remains an abiding priority for EdLiNC and should remain so for the Commission.

III. EdLiNC Supported Efforts to Address the Homework Gap in the Lifeline Modernization Order but Objects to Blurring Lines between Lifeline and E-Rate

The two petitions before the Commission seek to expand the use of E-Rate supported connectivity beyond the grounds of school buildings to reach students in their homes – individual residences in the petition led by Microsoft and a housing complex in the petition filed by the Boulder Valley School District. Both petitions cite a desire to help close the homework gap -- not a stated goal of the E-Rate program – as one of the core underlying aims of their work. In fact, both the Boulder Valley and Microsoft petitions incorrectly describe closing the homework gap as an E-Rate goal. Boulder’s petition states: “This waiver furthers the Commission’s goals for the E-Rate program by ensuring that more students have access to Internet connections at home to complete online homework...”⁵ Microsoft’s says something similar: “In practice, this clarification will allow the Participating Schools to extend E-rate-subsidized broadband service beyond school property to eligible students in their own homes to help close the homework gap.”⁶

EdLiNC strongly supported the inclusion in the Commission’s recent Lifeline Modernization Order of homework gap goals, as well as positive steps to begin to bridge that gap. In our

⁴ FCC, Broadband Needs in Education, Including Changes to E-Rate Program to Improve Broadband Deployment, NPB Public Notice #15, Comments of the Education and Libraries Networks Coalition, GN Docket Nos 09-47, 09-51, 09-57, CC Docket No. 02-6, WC Docket No. 05-195.

⁵ See Boulder p. ii.

⁶ See Microsoft p. 3.

Comments, we stated: “Access to broadband at home is absolutely essential for basic communications in the 21st Century, and has become particularly important to education and learning. EdLiNC believes that all students need and deserve on-demand access to broadband in their homes.”⁷ And we are deeply sympathetic and supportive to what both petitions endeavor to do – connect low-income students to the Internet to improve their education and their future. The description found in Microsoft’s petition of what low-income students in Charlotte and Halifax counties in Virginia face without Internet connectivity – “unlike their connected peers, they cannot use a home Internet connection to collaborate with their classmates on homework assignments, participate in discussion boards, research assignments online, apply to colleges or for scholarships, or otherwise develop the skills necessary to compete in the digital economy”⁸ – echo the comments that EdLiNC itself filed earlier this year in the Lifeline proceeding.

Still, while the ends are laudable, E-Rate is not the means of achieving them. For EdLiNC to countenance an E-Rate waiver in either or both petitions before the Commission, we would require assurances that such a waiver would hold no precedential value for either E-Rate or Lifeline, nor blur the line between the two programs’ separate and distinct goals and resources, and ensure that future waiver requests would be reviewed on a case-by-case basis and granted only in accordance with very strict conditions.

IV. EdLiNC Supports the Extension of Narrow Waivers to Petitioners Conditioned on Specific Principles

Based on the foregoing, EdLiNC supports the granting of waivers to petitioners from Microsoft and Boulder Valley School District but under strict conditions:

- 1) The waivers granted shall have no precedential value for the E-Rate program.
- 2) These waivers and future waiver requests on similar grounds shall be reviewed on a case-by-case basis, with the Commission basing its determination on whether each waiver request meets all of the following conditions:

⁷ FCC, Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order and Memorandum Opinion and Order, Comments of the Education & Libraries Networks Coalition (EdLiNC), WC Docket No. 11-42, WC Docket No. 09-197, WC Docket No. 10-90, (pages 1-2), https://www.nassp.org/Documents/nassp/Letters%20to%20Policymakers/2015.08.26_policy_edliinc_lifeline_comments.pdf?SSO=true.

⁸ See Microsoft pp 1-2

- a. The program or project for which a waiver is sought shall not cause any additional cost to the E-Rate program, including equipment and labor costs. Any additional costs engendered by E-Rate supported off-campus projects must be borne by the school districts, schools, providers or some other outside party. Both petitioners here aver that their projects will entail no additional costs to the E-Rate so EdLiNC sees no issue in these cases.
- b. The E-Rate eligible service providers providing Internet connectivity to the school or district that a petitioner seeks to redirect to student residences must affirmatively agree to this redirection of services. In the Microsoft petition, it appears that the service provider has consented to this redirection. It is not clear from the Boulder Valley petition that the service provider has signed-off on the district's proposal.
- c. School districts participating in future off-campus E-Rate supported service projects must agree to abide by all laws, E-Rate program rules and regulations in the redirection of these services, including the Children's Internet Protection Act's blocking and filtering requirements and the prohibition against schools reselling E-Rate supported services. According to the Microsoft petition, its project meets this standard as the TV White Spaces "base stations will enable students to connect from home to safe school district networks..."⁹ and the provider involved here will participate in providing service both to the schools and the residences. The Boulder Valley petition is silent on these issues.

V. Conclusion

EdLiNC appreciates the opportunity to comment on the matters raised in the Commission's Public Notice. We agree that the petitioners have profoundly good intentions but caution the Commission against granting a blanket waiver request now that could damage the E-Rate and Lifeline programs in the long-run. Instead, we recommend that the Commission grant narrow waivers to these petitioners and other future similar petitioners only insofar as their proposed projects meet specific criteria: 1) the projects will cause no additional cost to the E-Rate

⁹ See Microsoft pp 9-11.

program; 2) the eligible service providers serving the schools have consented to the redirections of their E-Rate supported services; and 3) the services redirected will continue to be subject to existing laws, rules and regulations governing the E-Rate program, including the Children's Internet Protection Act and the prohibition on resale of E-Rate supported services.

Appendix A

EdLiNC Member Organizations

AASA: The School Superintendents Association

Association of Educational Service Agencies (AESA)

Association of School Business Officials International (ASBO)

American Library Association (ALA)

Consortium for School Networking (CoSN)

International Society for Technology in Education (ISTE)

National Association of Elementary School Principals (NAESP)

National Association of Independent Schools (NAIS)

National Association of Secondary School Principals

National Catholic Educational Association (NCEA)

National Education Association (NEA)

National PTA (PTA)

National Rural Education Association (NREA)

National Rural Education Advocacy Coalition (NREAC)

National School Boards Association (NSBA)

United States Conference of Catholic Bishops (USCCB)