

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
E-rate Program Amortization Requirement)	WC Docket No. 19-2
)	
Modernizing the E-rate Program for Schools and Libraries)	WC Docket No. 13-184
)	

REPLY COMMENTS OF EDUCATIONSUPERHIGHWAY

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EducationSuperHighway respectfully submits these reply comments in response to the Notice of Proposed Rulemaking (NPRM) in the above referenced proceeding.

INTRODUCTION AND SUMMARY

EducationSuperHighway commends the Federal Communications Commission’s decision to continue the suspension of the amortization requirement through Funding Year 2019 and its proposal to permanently eliminate the requirement. We support the comments of the State E-Rate Coordinators Alliance (SECA), the Public School Facilities Authority (PSFA) of New Mexico, the American Library Association, and the SHLB Coalition which support the permanent elimination of the E-Rate amortization requirement. As outlined in the whitepaper entitled *Improving the Administration of E-Rate: Ensuring All Schoolchildren Get the High-Speed Broadband Connections They Need*, authored by Jonathan Sallet and filed previously in this docket,¹ the suspension of the amortization requirement, along with previous E-rate special construction rule changes, has led to important advances that have enabled schools to access the scalable infrastructure they need. Now the Commission has the opportunity to take an outdated amortization policy that it has already concluded was based on unfounded concerns², and permanently resolve it. In doing so, the Commission need not change its special construction rules as some commenters have proposed. The rules the Commission already has in place ensure that the most cost-effective solution is awarded, saving the E-rate program and ratepayers money over the long term, while also enabling schools, teachers, and students to obtain the speeds they need to take full advantage of digital learning opportunities.

¹ (“Sallet Paper”)

² Second Modernization Order, 29 FCC Rcd at 15555-56, ¶ 18 (“the concerns described by the Commission in 2000 that caused USAC to institute this restriction have proven to be not well-founded.”).

I. Positive impact of amortization cap suspension

In 2013, 22,958 schools did not have fiber internet connections. Today, thanks to E-rate modernization, only 1,056 schools lack fiber internet connections³, a decrease of 21,802 schools. Many of these schools that upgraded to fiber-based services required build costs that exceeded the \$500,000 amortization cap. At the same time, E-rate modernization has resulted in the cost of school broadband decreasing 85%, with the median cost per Mbps dropping from \$22 in 2013 to \$3.26 in 2018.⁴ A key driver of these connectivity and affordability improvements was special construction funded by E-rate.

As the Commission has found, suspension of the amortization rule has had positive impacts for the E-Rate program and its beneficiaries.⁵ Permanent elimination of the amortization cap is now necessary to deliver fiber connections to the remaining schools on unscalable infrastructure. Our analysis, which utilizes the same algorithms as the FCC's own construction cost model, shows that nearly 30%⁶ of the K-12 public schools in the continental US that require fiber special construction will require infrastructure investments that exceed \$500,000. These schools together serve approximately 70,225 students, primarily in rural and hard to reach areas. If the amortization suspension is not extended, these students will continue to fall behind their peers in the rest of the country that have the high-speed, scalable broadband connections required for digital learning.

One beneficiary of the amortization cap suspension is the Apache County School Consortium. In 2017, this Arizona consortium began a 174 mile fiber construction project in an effort to connect 17 different schools to high-speed Internet over leased lit fiber. Under the amortization cap rules, the \$7,557,000 special construction cost would have been required to be spread across multiple years, potentially delaying the project or discouraging the provider from bidding altogether due to the uncertainty of funding. Thanks to the cap suspension, this project is moving forward to connect thousands of students and the surrounding communities to scalable broadband infrastructure. As has been noted elsewhere in this docket, lack of action to suspend the amortization requirement could threaten other cost-effective special construction efforts that are underway or being planned in states that include Arizona, California, Colorado, Illinois, Nevada, North Carolina, and Texas (where at least ten projects are under consideration).⁷

³ 918 schools in the Continental United States and 138 in Alaska.

⁴ "The State of Connectivity in America's Schools." 2018 State of the States Report. EducationSuperHighway, <https://stateofthestates.educationsuperhighway.org/>, (October 5, 2018).

⁵ FCC E-Rate Program Amortization Requirement NPRM, adopted January 29, 2019, para 5: "[O]ur experience indicates that the suspension of the amortization requirement has encouraged the deployment of high-speed, low-cost broadband networks by eliminating administrative barriers and making E-Rate funding more predictable."

⁶ At least 273 of the 918 schools without fiber in the continental United States are estimated to require fiber construction that will cost in excess of \$500,000.

⁷ Sallet Paper page 22, and Letter from John Windhausen to Marlene Dortch, Secretary, FCC, at 2 (Oct. 30, 2018).

II. Special construction has been enormously successful and necessary for extending infrastructure and reducing costs for E-rate

E-rate special construction rules have been enormously successful in bridging the digital divide in K-12 public schools and catalyzing broadband investment by states. Since adoption of the E-Rate Modernization Order, at least 226 school districts have used special construction funding to upgrade their non-fiber network to fiber. Recognizing the opportunity to close the connectivity gap, 23 states have stepped forward to amplify the E-Rate's impact by expressly passing matching fund programs for E-Rate special construction projects.⁸

In addition to bringing high-speed internet to schools, these special construction projects have saved school districts and the E-rate program money. For example, in 2018, Field Community Consolidated School District 3 in Illinois upgraded from a 25 Mbps fixed wireless connection that cost \$700 per month to a 1 Gbps lit fiber connection that costs just \$96 per month. With this upgrade, the district is now meeting the 1 Mbps per student long-term goal adopted by the Commission and the monthly cost per Mbps has dropped from \$28 to \$0.10. Because the special construction cost for the project was \$17,966, it means that in less than 3 years, the savings from the lowered monthly rate will be fully recovered, saving both the applicant and the E-rate program critical dollars while increasing student bandwidth and achieving program goals.

In another example, in 2017 West Valley Elementary School District 1 in Montana upgraded from 30 Mbps fixed wireless for \$724.25 per month to 100 Mbps lit fiber for \$199 per month. The special construction cost was \$46,998. With this upgrade, the district can now meet the minimum internet access goal adopted by the Commission of 100 kbps per student. Had the district upgraded its bandwidth to 100 Mbps on its fixed wireless connection, the district and the E-rate program would have had to spend \$2,215 more per month as compared to the \$199 per month cost of the new fiber connection. This represents an annual savings of \$26,580 and delivers a payback on the special construction costs in less than 2 years.

Both of these districts leveraged state matching funds. Examples like these illustrate how the E-rate program is saving money over the long term by funding special construction projects.

Rule changes to special construction are unnecessary and counterproductive

Competitive bidding and cost-effectiveness are cornerstones of the E-rate program. The special construction rules the Commission has in place have been crucial in bridging the digital divide and ensuring that the most cost-effective solution is awarded. The USF program should not provide additional funding to a provider, regardless of past funding, if the provider is not able to provide the most cost-effective service. NTCA's suggestion about a challenge process is

⁸ USAC, "Additional Discount to Match State/Tribal Funding for Special Construction," available at <https://www.usac.org/sl/applicants/beforeyoubegin/state-matching-provision.aspx>

unnecessary because all E-rate projects are competitively bid, and any provider that is able to deliver service has an opportunity to respond during the competitive bidding window. The Commission has previously rejected NTCA's proposed limitations on special construction projects because it would limit a school's choice to purchase more affordable broadband service.⁹ What NTCA calls "overbuilding," is also more commonly known by its more familiar term as price-reducing "competition." The E-Rate's special construction projects have proven to be more cost-effective than the existing services, thus saving the E-rate program and ratepayers money over the long term.

Special construction options have been critical in bringing fiber to schools while also significantly reducing costs for the E-rate program. In Texas, for example, over 1,000 schools lacked scalable, high-speed fiber optic connections in 2015.¹⁰ Since then, the combination of the E-rate program's special construction options and the Texas Governor's \$25 million special construction matching fund has reduced the number of schools without fiber optic connections to less than 50.¹¹ At the same time, providing school districts with the option of utilizing special construction to obtain the most cost-effective option for the E-rate program has helped lower the cost of bandwidth in Texas, and for the E-rate program, by 75% over the same period. This success has been repeated across the country and demonstrates that changes to the special construction rules, as proposed, and previously rejected by the Commission, are unnecessary and counterproductive. There simply is no reason to change something that is working, and working so well.

CONCLUSION

For the reasons discussed herein, the Commission should:

1. Permanently eliminate the amortization cap.
2. Resist the call to add additional administrative burdens to the special construction approval process when the E-rate program's existing competitive bidding requirements are ensuring that only the most cost-effective projects are being approved.

⁹ The Commission could have limited special construction projects, as suggested in par. 46 of the 2014 Modernization Order by NTCA, but declined to do so saying, "NCTA recommends that we only authorize funding for self-construction by schools and libraries where they can demonstrate that (1) there are no commercial alternatives [etc.] ... "we decline to limit the self-construction option to applicants without broadband and in rural areas because there are schools and libraries that currently have broadband access, including in non-rural areas, that may be able to purchase more affordable broadband services if they take advantage of the self-construction option."

¹⁰ EducationSuperHighway 2015 State of the States Report, November 19, 2015.

¹¹ EducationSuperHighway 2018 State of the States Report. See: <http://stateofthestates.educationsuperhighway.org/?postalCd=TX#state>

Respectfully submitted,

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