

State of California

Public Utilities Commission  
San Francisco

MEMORANDUM

**Date** : September 4, 2014

**To** : The Commission  
(Meeting of September 11, 2014)

**From** : Sindy Yun, Public Utilities Counsel IV  
Legal Division

Roxanne Scott, Program and Project Supervisor  
Communications Division

**Subject:** Filing of Comments in Response to the FCC's Further Notice of Proposed Rulemaking on Modernizing the E-rate Program for Schools and Libraries

**RECOMMENDATION:** The Commission should file Reply Comments in the Federal Communications Commission's (FCC) *Further Notice of Proposed Rulemaking (FNPRM)*, which seeks comment on ways to continue to modernize and improve the federal E-rate program, which provides universal support to schools and libraries.<sup>1</sup> Reply Comments are due September 30, 2014.

**BACKGROUND:** Authorized by Congress as part of the Telecommunications Act of 1996, the FCC created the E-rate program in 1997 to, among other things, enhance access to advanced telecommunications and information services for all public and nonprofit elementary and secondary schools and libraries.<sup>2</sup> The E-rate program provides support for connectivity to and within schools, rural health care providers, and libraries, and is instrumental in providing students and patrons of libraries access to essential communication services.<sup>3</sup>

Since the inception of the program, the E-rate program provided first priority in funding for all telecommunications services and Internet connections (previously referred to as priority one services). The remaining funds were allocated to requests for support for internal connections and basic maintenance of internal connections (priority two services), beginning with the most economically disadvantaged schools and libraries.

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<sup>1</sup> Further Notice of Proposed Rulemaking, *In the Matter of Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, (FCC 14-99), rel. July 23, 2014. (FNPRM).

<sup>2</sup> Report and Order, *In the Matter of Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, rel. July 23, 2014, at ¶10. (Report and Order).

<sup>3</sup> *Id.*

At the outset of the program, the FCC established an annual funding cap of \$2.25 billion. Recently, in the *Schools and Libraries Sixth Report and Order*, the FCC directed that the cap be indexed to inflation beginning in 2010.<sup>4</sup> For funding year 2014, the E-rate fund is capped at just over \$2.4 billion.

Furthermore, in 2010, the FCC also updated the E-rate program by: (1) providing greater flexibility to schools and libraries in their selection of the most cost-effective broadband services; (2) streamlining the E-rate application process; and (3) improving safeguards against waste, fraud, and abuse.<sup>5</sup> At that time, the FCC recognized that modernizing the program would be a multistage process, and welcomed ongoing feedback from stakeholders on how to continue to improve the program.<sup>6</sup>

Last year, President Obama called on the FCC to modernize the E-rate program and to connect schools and libraries serving 99 percent of all students to next-generation high speed broadband (with speeds of no less than 100 Mbps and a target speed of 1 Gbps) and to provide high-speed wireless connectivity within those schools and libraries within five years.<sup>7</sup>

In July 2014, the FCC released the *E-rate Modernization Report and Order* in an effort to modernize and streamline the E-rate program.<sup>8</sup> The Report and Order adopted three goals for the program: (1) ensure that schools and libraries have affordable access to 21<sup>st</sup> Century broadband that supports digital learning; (2) maximize the cost-effectiveness of E-rate funds; and (3) streamline the administration of the program.<sup>9</sup> With respect to high-speed broadband, the Report and Order transitioned support away from legacy technologies and increased focus on the largest and most pressing need—closing the Wi-Fi gap. Next, the Report and Order adopted improvements to ensure E-rate money is spent smartly. Finally, the Report and Order enacted numerous changes to improve program administration. The FCC stated the changes implemented in the Report and Order ensured greater access to E-rate support for the Wi-Fi networks needed to connect 10 million students a year to 21st Century educational tools.<sup>10</sup>

The CPUC's CTF program serves a very similar purpose and complements the federal E-rate program by providing schools and libraries with a discount that is often supplemental to E-rate funds. The Commission established the CTF program in Decision 96-10-066 on October 25, 1996. In this decision, the Commission affirmed its commitment to universal service, and

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<sup>4</sup> *Schools and Libraries Sixth Report and Order*, 25 FCC Rcd., 2010 at 18764-65, ¶ 4.

<sup>5</sup> *Id.* at 18764-65, ¶ 6.

<sup>6</sup> *Id.* at 18765, ¶ 7.

<sup>7</sup> See The White House, Office of the Press Secretary, *ConnectED: President Obama's Plan for Connecting All Schools to the Digital Age*, [http://www.whitehouse.gov/sites/default/files/docs/connected\\_fact\\_sheet.pdf](http://www.whitehouse.gov/sites/default/files/docs/connected_fact_sheet.pdf) (last visited August 26, 2014).

<sup>8</sup> Report and Order.

<sup>9</sup> *Id.* at ¶ 5.

<sup>10</sup> *Id.* at ¶ 78.

created the CTF program in accordance with state directives. The CTF provides a 50% discount on select communications services to schools, libraries, hospitals, and other community-based organizations within California. The subsidy is funded through a surcharge assessed on telephone customers' bills for intrastate telecommunications services, currently set at 0.93%.

The CTF program is one of the Commission's six universal service public purpose programs. There are currently more than 9,000 participating entities, including 3,284 schools and libraries. Program expenditures are projected at approximately \$107.98 million for fiscal year 2014-15, representing more than 20% of the Commission's total universal service fund budget and almost 8% of the Commission's total agency budget proposed for fiscal year 2013-14.

On January 31, 2013 the Commission issued the Order Instituting Rulemaking 13-01-010 (OIR) to examine whether the CTF program is fulfilling its purpose and whether the program's current structure and administrative process are adequate to further the program goals. The Commission, in the OIR, also reaffirmed its commitment to bringing the benefits of advanced communications services to all Californians, while ensuring that California ratepayer money is spent prudently.

### **DISCUSSION:**

In this FNPRM, the FCC acknowledges and embraces its responsibility to ensure that the E-rate program evolves as the needs of schools and libraries evolve. The FCC recognizes that modernizing the E-rate program cannot be accomplished at once, and so it continues to seek public input and additional ideas to bring 21st Century broadband Internet access service to libraries and schools throughout the country.

The FCC seeks comment on several issues, including the following:

- Whether the FCC should limit the maximum term of multi-year contracts and how a five-year maximum contract length would affect schools' and libraries' ability to purchase from state master contracts;<sup>11</sup>
- Whether the FCC should grant a waiver to applicants if their state's contracting duration requirements conflict with the FCC's;<sup>12</sup>
- Whether the FCC should consider the substantial reduction in the real purchasing power of the E-rate budget since the program's creation because the E-rate cap was not adjusted for inflation between 1998 and 2010. This resulted in an approximately \$800-900 million reduction in the real purchasing power of E-rate funding; and <sup>13</sup>

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<sup>11</sup> FNPRM, ¶ 272.

<sup>12</sup> FNPRM, ¶ 274.

<sup>13</sup> FNPRM, ¶ 270.

- Whether the FCC should require consortia with only schools or school districts to use a weighted average formula that would account for the number of students in each member school or school district as well as the individual discount levels for funding allocation purposes.<sup>14</sup>

**RECOMMENDATION 1:** Staff recommends filing Replies on any proposals put forth in the Comments that may substantially impact California or the CTF program. If Staff determines no Comments warrant a Reply, the Commission should convey the issues and facts expressed below to the FCC through an *Ex Parte* letter.

**RECOMMENDATION 2:** Staff recommends that the Commission inform the FCC about the CPUC's CTF program, including program objectives, rules, and recent accomplishments, and explaining that the CPUC is also currently undergoing a review to modernize and improve our state program. In the ongoing OIR, the Commission is examining the CTF program's goals, whether the goals should change, whether the initial program goals have been met, and how success should be measured. The Commission is investigating various specific issues, such as: the program's eligibility criteria, the level of subsidy, the overall funding level of the program, what services should be subsidized, and whether or not to more closely align the CTF program with the E-rate program.<sup>15</sup>

**RECOMMENDATION 3:** Staff recommends that the Commission relay to the FCC the impacts of the E-rate Report and Order on the CTF program.

**RECOMMENDATION 4:** Additionally, Staff recommends that the Commission urge the FCC to explore ways in which it can remove barriers that discourage eligible entities, especially libraries, from applying for E-rate funding. For example, the CTF program provides a 50% discount on select communications services to schools, libraries, hospitals and other non-profit organizations. The CTF discount of 50% applies to only the balance remaining after an actual or statewide average E-rate discount is applied. If the organization does not have an actual E-rate funding commitment, then the statewide average E-rate discount is applied prior to the CTF discount. Even with this financial incentive, less than 50% of eligible libraries have chosen to participate in E-rate. The FCC should adopt streamlined reporting and application process for small, rural libraries where internet deployment is often limited.

**Assigned Staff:** Legal Division: Sindy Yun (3-1999);  
Communications Division: Adam Clark (3-5212), Fay Fua (3-1989),  
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<sup>14</sup> FNRPM, ¶ 287.

<sup>15</sup> *Order Instituting Rulemaking to Conduct a Comprehensive Examination of the California Teleconnect Fund* (Rulemaking 13-01-010), rel. January 31, 2013. (OIR).