

M E M O R A N D U M

Date: August 16, 2024

To: The Commission
(Meeting of August 22, 2024)

From: Lisa-Marie Clark
Public Utilities Counsel IV, Legal Division

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Program and Project Supervisor, Communications Division

Subject: Federal Communications Commission Eligible Services List for
Funding Year (FY) 2025 (DA 24-743)

RECOMMENDATION: Communications Division (CD) staff requests authority to file comments in support of the Federal Communications Commission's (FCC) proposed draft Eligible Services List (ESL) for the schools and libraries universal service support mechanism (also known as the E-Rate program).¹ Opening comments are due August 30, 2024, with reply comments due on September 16, 2024. Draft comments are appended to this memorandum.

BACKGROUND: When the FCC established the E-Rate program in 1996, only 14 percent of the nation's K-12 classrooms had access to the Internet. To close the nation's Digital Divide, E-Rate offered discounts for telecommunications, Internet access, and internal connections to eligible schools and libraries.² Discounts range from 20 to 90 percent and are based on the poverty level of the schools.

The FCC rules provide that all services that are eligible to receive discounts under E-Rate must be listed in the Eligible Services List (ESL).³ Eligible schools and libraries may

¹ FCC Public Notice, Wireline Competition Bureau Seeks Comments On Proposed Eligible Services List for The E-Rate Program, dated July 31, 2024 [WC Docket No. 13-184].)

² 47 USC § 254, et seq.

³ 47 CFR § 54.502(a).

seek E-Rate support for eligible *Category One* telecommunications services, telecommunications, and Internet access, and *Category Two* internal connections, basic maintenance, and managed internal broadband services.⁴

The FCC intended for E-Rate to complement the efforts of states and localities to bring advanced telecommunications and information services to schools and libraries. To this end, the CPUC established the California Teleconnect Fund (CTF) program, pursuant to Public Utilities Code Sections 280 and 884 and implemented by Decision (D.) 96-10-066, reaffirming California's commitment to universal service.⁵ Although there are differences in eligible services and discount rates, both programs aim to bridge the Digital Divide by offering participating schools and libraries significant savings on broadband and telecommunications costs when utilizing both E-Rate and CTF discounts.

The CPUC's CTF program provides a 50 percent discount on advanced communication services (e.g., the monthly recurring charges of eligible services, including Internet access and broadband services) to qualifying schools, libraries, community colleges, government-owned hospitals/health clinics, and community-based organizations. California ratepayers fund the CTF through a surcharge assessed on revenues collected by telecommunications providers for intrastate products and services. For Fiscal Year 2024-2025, the state adopted a CTF budget of \$108.5 million.

While most California schools and libraries in the CTF program also qualify for support from the E-Rate program, enrollment in E-Rate is not required to participate in CTF. Many of CTF's eligible services are also eligible for support under E-rate. The discount a CTF participant receives for eligible services depends in part on the level of support the participant receives from the E-rate program. Public Utilities Code Section 884.5 requires service providers to account for support a CTF participant may receive from the E-rate program when determining the CTF discount. If eligible for E-Rate, the CTF discount that a participant receives for a service cannot exceed the E-rate support the participant may receive for that service. Furthermore, the CTF discount applies only to the balance of eligible costs remaining *after* the application of any discounts or support the participant may receive from E-rate.⁶ Thus, if a participant is considered eligible for E-rate support by the CPUC and (a) has not applied for E-rate support *or* (b) has applied for E-rate but has not yet received a E-Rate Funding Commitment Decision Letter, service providers must impute the statewide average E-rate support level when

⁴ 47 CFR §§ 54.500, et seq.

⁵ See CPUC [Decision \(D.\) 96-10-066](#).

⁶ For example, if the monthly recurring cost of an Eligible Service is \$120 and the participant's E-rate support level is 80%, the CTF discount of \$12 is calculated as follows:

CTF Discount = 50% * (\$120 * (100% - 80%))

calculating the CTF discount.⁷ The Statewide Average E-Rate discount for the current fiscal year is 73 percent.⁸

On July 31, 2024, the FCC issued a Public Notice⁹ (Notice), regarding updates to the E-Rate program Eligible Services List (ESL) for funding year (FY) 2025.¹⁰ The Notice seeks comments on the Wireline Competition Bureau draft proposal to implement changes adopted by the FCC in the *Wi-Fi Hotspot Report and Order*.¹¹ The proposed changes include a revision of the description “wireless,” to reflect the FCC’s order making eligible the off-premises use of Wi-Fi hotspots and mobile wireless Internet access services.

DISCUSSION: CD Staff recommends the Commission issue comments to the FCC in support of the modifications to *Category One* and *Category Two* identified in the draft *Eligible Services List for Funding Year 2025*. Key changes include:

Category One:

1. Updated description of “wireless” services. The current description of “wireless” is “wireless.” The proposed revision specifies “Wireless (e.g., fixed wireless; microwave; mobile service for use on school buses; or mobile service for use with Wi-Fi hotspots).” The rationale for the proposed change is to reflect the FCC’s decision to make Wi-Fi hotspots and mobile wireless Internet access services eligible for off-premises use under the E-Rate program.
2. Clarifications on eligibility for Wireless Services and Wireless Internet Access are as follows:

⁷ For example, if the monthly recurring cost of an Eligible Service is \$80 and the statewide average E-rate support level is 60%, the CTF discount of \$16 is calculated as follows:

$$\text{CTF Discount} = 50\% * (\$80 * (100\% - 60\%))$$

⁸ See, <https://www.cpuc.ca.gov/consumer-support/financial-assistance-savings-and-discounts/california-teleconnect-fund/ctf-program-statewide-average-e-rate>

⁹ FCC Public Notice, “Wireline Competition Bureau Seeks Comments On Proposed Eligible Services List for The E-Rate Program,” dated July 31, 2024 [WC Docket No. 13-184]. (<https://docs.fcc.gov/public/attachments/DA-24-743A1.pdf>)

¹⁰ E-Rate is administered by the Universal Service Administrative Company (USAC). See, 47 CFR § 54.5.

¹¹ *Addressing the Homework Gap through the E-Rate Program*, WC Docket No. 21-31, Report and Order and Further Notice of Proposed Rulemaking, FCC 24-76 (2024) (*Wi-Fi Hotspots Report and Order*).

- a. Off-premises use of Wi-Fi hotspots and mobile wireless Internet services is eligible for E-Rate support.
- b. Wi-Fi hotspots qualify as network equipment necessary for mobile wireless Internet services.
- c. Wireless services for use on school buses are eligible and this clarification is now more prominent.

Category Two:

1. Modifications to cost-allocation requirements state that the off-campus use of E-Rate-funded services must be cost-allocated.
2. Clarifications on cost-effectiveness tests are required to demonstrate cost-effectiveness for data plans and air cards. This applies only to on-campus use, such as in a library bookmobile.

CD Staff recommends the Commission issue comments in support of the proposals mentioned in *Category One* and *Category Two*. Specifically, the updated description of “wireless” services to include examples of eligible wireless services (such as fixed wireless, microwave, and mobile services for school buses and Wi-Fi hotspots) is a necessary clarification that both modernizes the program and helps increase access to broadband. CD Staff further supports clarifying eligibility for wireless services and wireless Internet access to ensure that E-Rate support is properly allocated to meet the needs of off-premises educational activities.

Bolstering access to education beyond the traditional campus or library is crucial to narrowing the Digital Divide as evidenced by the COVID-19 pandemic. When California’s physical school campuses closed in March 2020, distance learning revealed how unevenly educational resources were distributed. Particularly, as schools resumed classes online, these disparities disproportionately impacted students of color, students from low-income families, and students in rural communities. For students to effectively participate in remote learning, high-speed connectivity and computers had to be adequate enough to support video streaming to enable the engagement with teachers and peers, provide access to information, the ability to write and revise text, create spreadsheets, develop presentations, websites and other web tools. In a statewide effort, the CPUC and the California Department of Education launched the Distance Learning Initiative (DLI) to support student instruction and state testing. With \$25 million funded by the CTF, the initiative provided a 50 percent discount on mobile hotspots and Internet service for student households. The CPUC also approved an additional \$5 million of DLI support from the California Advanced Services Fund (CASF) to help cover the costs of

computing and hotspot devices.¹² From April to December 2020, the DLI awarded 110,370 connections to 1,286 school districts and charter schools in California.

The CPUC's support for the FCC's proposals underscores the importance of ensuring that E-Rate funding is effectively allocated to address educational quality and inequity and bridge the Digital Divide. If adopted by the FCC, the changes to the E-Rate eligible services list will be beneficial when the CPUC considers updating the CTF program in a proposed rulemaking planned in 2025. Due to this FCC ruling, CTF foresees better broadband connectivity and expansion of broadband services that will help students and the public stay connected.

CONCLUSION: CD staff recommends that the CPUC support FCC's proposed Eligible Services List for the E-Rate program (schools and libraries) for funding year 2025.

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¹² California's administers a total of six legislatively mandated universal service programs, which include both CTF and CASF.

APPENDIX

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of:

Modernizing the E-Rate Program of Schools
and Libraries

CG Docket No. 13-184

FCC-23-84

Wireline Competition Bureau Seeks
Comment On Proposed Eligible Services
List for the E-Rate Program

CG Docket No. 13-184

DA-24-743

**COMMENTS OF THE
CALIFORNIA PUBLIC UTILITIES COMMISSION**

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The People of the State of California

August 30, 2024

I. INTRODUCTION

The California Public Utilities Commission (CPUC or California) submits these comments on the Federal Communications Commission’s (FCC or Commission) July 31, 2024 Public Notice¹ (Notice), regarding updates to the Eligible Services List (ESL) for the schools and libraries universal service support mechanism (also known as the E-Rate program) for funding year (FY) 2025.² The CPUC supports the Wireline Competition Bureau’s draft proposal to implement changes adopted by the Commission in the *Wi-Fi Hotspot Report and Order*.³ The proposed changes include revision of the description “wireless,” to reflect the adoption of the Report and Order making eligible the off-premises use of Wi-Fi hotspots and mobile wireless Internet access services.

II. DISCUSSION

A. E-Rate and the CPUC’s California Teleconnect Fund

The FCC rules provide that all services that are eligible to receive discounts under E-Rate must be listed in the Eligible Services List (ESL).⁴ Eligible schools and libraries may seek E-Rate support for eligible *Category One* telecommunications

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³ *Addressing the Homework Gap through the E-Rate Program*, WC Docket No. 21-31, Report and Order and Further Notice of Proposed Rulemaking, FCC 24-76 (2024) (*Wi-Fi Hotspots Report and Order*).

⁴ 47 CFR § 54.502(a).

services, telecommunications, and Internet access, and *Category Two* internal connections, basic maintenance, and managed internal broadband services.⁵ The CPUC supports the adoption of the Category One and Category Two changes identified in the draft *Eligible Services List for Funding Year 2025*.

The FCC intended for E-Rate to complement the efforts of states and localities to bring advanced telecommunications and information services to schools and libraries. To this end, the CPUC established the California Teleconnect Fund (CTF) program as part of California’s commitment to universal service, in accordance with state and federal directives.⁶ Although there are differences in eligible services and discount rates, both programs aim to bridge the digital divide by offering participating schools and libraries significant savings on broadband and telecommunications costs when utilizing both E-Rate and CTF discounts.

The CPUC’s CTF program offers a 50 percent discount on advanced communication services (e.g., the monthly recurring charges of eligible services, including Internet access and broadband services) to qualifying schools and libraries.⁷ California ratepayers fund the CTF through a surcharge assessed on revenues collected by telecommunications providers for intrastate products and services. For Fiscal Year 2024-2025, the state adopted a CTF budget of \$ 108.5 million.

⁵ 47 CFR §§ 54.500 et seq.

⁶ See Cal. Pub. Util. Code §§ [280](#) and [884](#); CPUC [Decision \(D.\) 96-10-066](#).

⁷ Community colleges, government-owned hospitals/health clinics, and community-based organizations are also eligible to participate in CTF.

While most California schools and libraries in the CTF program also qualify for support from the E-Rate program, enrollment in E-Rate is not required to participate in CTF. Many of CTF's eligible services are also eligible for support under E-rate. The discount a CTF participant receives for eligible services depends in part on the level of support the participant receives from the E-rate program. California Public Utilities Code Section 884.5 requires service providers to account for support a CTF participant may receive from the E-rate program when determining the CTF discount. If eligible for E-Rate, the CTF discount that a participant receives for a service cannot exceed the E-Rate support the participant may receive for that service. Furthermore, the CTF discount applies only to the balance of eligible costs remaining *after* the application of any discounts or support the participant may receive from E-Rate.⁸ Thus, if a participant is considered eligible for E-Rate support by the CPUC and (a) has not applied for E-Rate support *or* (b) has applied for E-Rate but has not yet received a E-Rate Funding Commitment Decision Letter, service providers must impute the statewide average E-Rate support level when calculating the CTF discount.⁹ The Statewide Average E-Rate discount for the current fiscal year is 73 percent.¹⁰

⁸ For example, if the monthly recurring cost of an Eligible Service is \$120 and the participant's E-rate support level is 80%, the CTF discount of \$12 is calculated as follows:

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¹⁰ See, <https://www.cpuc.ca.gov/consumer-support/financial-assistance-savings-and-discounts/california-teleconnect-fund/ctf-program-statewide-average-e-rate>

B. Modifications to the Eligible Services List

The FCC proposes to make modifications in Category One and Category Two, as indicated in the draft *Eligible Services List for Funding Year 2025*, which is appended to the July 31, 2024 Notice. Key changes include:

Category One:

1. Updated description of “wireless” services. The current description of “wireless” is “wireless.” The proposed revision specifies “Wireless (e.g., fixed wireless; microwave; mobile service for use on school buses; or mobile service for use with Wi-Fi hotspots).” The rationale for the proposed change is to reflect the FCC’s decision to make Wi-Fi hotspots and mobile wireless Internet access services eligible for off-premises use under the E-Rate program.
2. Clarifications on eligibility for Wireless Services and Wireless Internet Access are as follows:
 - a. Off-premises use of Wi-Fi hotspots and mobile wireless Internet services is eligible for E-Rate support.
 - b. Wi-Fi hotspots qualify as network equipment necessary for mobile wireless Internet services.
 - c. Wireless services for use on school buses are eligible and this clarification is now more prominent.

Category Two:

1. Modifications to cost-allocation requirements state that the off-campus use of E-Rate-funded services must be cost-allocated.
2. Clarifications on cost-effectiveness tests are required to demonstrate cost-effectiveness for data plans and air cards. This applies only to on-campus use, such as in a library bookmobile.

The CPUC agrees with the proposed changes and recommends the FCC adopt the modifications to the ESL list. The updated description of “wireless” services that includes examples of eligible wireless services (such as fixed wireless, microwave, and mobile services for school buses and Wi-Fi hotspots) is a necessary clarification that both modernizes the program and helps increase access to broadband. In addition,

clarifying eligibility for wireless services and wireless Internet access also ensure that E-Rate support is properly allocated to meet the needs of off-premises educational activities.

Bolstering access to education beyond the traditional campus or library is crucial to narrowing the Digital Divide as evidenced by the COVID-19 pandemic. When California's physical school campuses closed in March 2020, distance learning revealed how unevenly educational resources were distributed. Particularly, as schools resumed classes online, these disparities disproportionately impacted students of color, students from low-income families, and students in rural communities. For students to effectively participate in remote learning, high-speed connectivity and computers had to be adequate enough to support video streaming to enable the engagement with teachers and peers, provide access to information, the ability to write and revise text, create spreadsheets, develop presentations, websites and other web tools. In a statewide effort, the CPUC and the California Department of Education launched the Distance Learning Initiative (DLI) to support student instruction and state testing. With \$25 million funded by the CTF, the initiative provided a 50 percent discount on mobile hotspots and Internet service for student households. The CPUC also approved an additional \$5 million of DLI support from the California Advanced Services Fund (CASF) to help cover the costs of computing and hotspot devices.¹¹ From April to

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December 2020, the DLI awarded 110,370 connections to 1,286 school districts and charter schools in California.

III. CONCLUSION

The CPUC supports the FCC’s proposed changes to the Eligible Services List for the E-Rate program as they represent a significant step forward in addressing the digital needs of off-premises educational activities. With the ever-increasing reliance on remote learning, such initiatives are crucial in ensuring equitable access to educational resources for all students.

Respectfully submitted,

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