



COMMONWEALTH OF MASSACHUSETTS

Department of Telecommunications and Cable

1000 Washington Street, Suite 600, Boston, MA 02118

(617) 305-3580

www.mass.gov/dtc

CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

MIKE KENNEALY
SECRETARY OF HOUSING AND
ECONOMIC DEVELOPMENT

EDWARD A. PALLESCHI
UNDERSECRETARY

KAREN CHARLES PETERSON
COMMISSIONER

November 5, 2020

Filed Via ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
45 L Street NE
Washington, D.C. 20554

In re Modernizing the E-Rate Program for Schools and Libraries, WC Docket No. 13-184

Dear Ms. Dortch:

The Massachusetts Department of Telecommunications and Cable (MDTC) writes in support of the State of Colorado's Petition for an Emergency Waiver of the Federal Communications Commission's (FCC) restrictions on the use of E-Rate funds and E-Rate-funded facilities, to allow schools and libraries to extend broadband access to unserved students during the Coronavirus pandemic.¹ Granting the requested Emergency Waiver would help mitigate the harms to our education system that the pandemic has caused.

Under normal conditions, lack of broadband access impairs students' ability to complete their homework, creating what is known as the "homework gap."² During the current Coronavirus pandemic, education has increasingly shifted to remote models. Accordingly, today,

¹ See *In re Modernizing the E-Rate Program for Schools & Libraries*, WC Docket No. 13-184, Colorado Petition for Waiver (Sept. 2, 2020).

² See, e.g., *In re Lifeline & Link Up Reform & Modernization*, Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report & Order, & Memorandum Opinion & Order, 30 FCC Rcd. 7818, 7952 (2015) (Statement of Comm'r Rosenworcel).

lack of access to a reliable Internet connection can mean not only a homework gap, but lack of access to an education at all. This is a critical problem that impacts 30% of K-12 public school students in the United States, meaning that 15-16 million school-aged children lack access to either an Internet connection or a device suitable for remote learning.³ In Massachusetts, over 200,000 students lack an adequate high-speed connection, representing 21% of students in the state.⁴ This has created a serious issue as 90% of Massachusetts school districts have made distance learning a central part of education for at least the fall semester.⁵

The FCC has recognized the dire need to stay connected and under Chairman Pai's leadership has launched multiple initiatives to help bridge the digital divide during our public health crisis.⁶ Regarding E-Rate, specifically, the FCC opened a second funding window for schools, citing an "increasing shift to 1:1 student-to-device ratios in classrooms, live streaming of classroom instruction to students at home, and expanding use of cloud-based educational tools and platforms," resulting in increased bandwidth needs.⁷ The MDTC commends the FCC for identifying and seeking to mitigate the increased strain that live streaming classes has put on schools. The MDTC similarly encourages the FCC to mitigate the increased strain that our new reality has put on students and their families, who in many cases cannot access Internet services,

³ Boston Consulting Group & Common Sense, *Closing the K-12 Digital Divide in the Age of Distance Learning*, https://www.common sense media.org/sites/default/files/uploads/pdfs/common_sense_media_report_final_7_1_3pm_web.pdf (2020) at 5.

⁴ *Id.* at 31.

⁵ See Massachusetts Department of Elementary and Secondary Education, *List of Reopening Models by District for Fall 2020 (as of noon, August 18, 2020)*, <https://www.doe.mass.edu/covid19/district-reopening-models.xlsx>.

⁶ For example, the FCC has waived Lifeline rules to ensure that no Lifeline subscribers are involuntarily de-enrolled from the program, while facilitating new enrollments by relaxing documentation requirements. See *In re Lifeline and Link Up Reform and Modernization*, Order, 35 FCC Rcd. 8791 (2020). In addition, the FCC has launched a new telehealth program to ensure healthcare providers can offer connected care services to patients at their homes. See *In re Promoting Telehealth for Low-Income Consumers*, Report and Order, 35 FCC Rcd. 3366 (2020).

⁷ FCC, *First Wave of Funding Through Second E-Rate Application Window Announced*, <https://docs.fcc.gov/public/attachments/DOC-367479A1.pdf> (Oct. 13, 2020) (implementing *In re Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 0-26, DA 20-1091, Order (WCB Sept. 16, 2020)).

either because they are unavailable or unaffordable. The FCC has begun to do this,⁸ but more must be done, beginning with granting Colorado’s Emergency Waiver.

Currently, the FCC prohibits schools from allocating E-Rate funding to assist student households in obtaining the service and equipment they need to attend classes remotely, because such use is considered “off-campus” and thus ineligible.⁹ Granting Colorado’s Emergency Waiver would fix this problem.¹⁰ Further, the waiver request is all the more reasonable and actionable considering that the existing E-Rate budget likely has a funding surplus that could help meet additional service and equipment demands.¹¹

The MDTC specifically endorses two main points in support of the Emergency Waiver. First, the MDTC agrees that it is overwhelmingly in the public interest to grant a waiver that would enable schools and libraries to utilize E-Rate funding to support remote education. Many school districts, libraries, and municipalities have begun establishing partnerships with service providers.¹² The MDTC applauds these partnerships, but they do not work for all students.¹³ In

⁸ See, e.g., *Wireline Competition Bureau Confirms that Community Use of E-Rate-Supported Wi-Fi Networks is Permitted During School and Library Closures Due to Covid-19 Pandemic*, Public Notice, 35 FCC Rcd. 2879 (2020); FCC, *Rural Broadband Providers Work With FCC To Meet Internet Needs Of Students In Low-Income Families*, <https://docs.fcc.gov/public/attachments/DOC-367268A1.pdf> (Oct. 1, 2020) (announcing the FCC’s work with the National Exchange Carrier Association to enable rural broadband providers to offer 25% discounts on certain broadband services and service upgrades to low-income student households).

⁹ See *In re Modernizing the E-Rate Program for Schools and Libraries*, Order, 34 FCC Rcd. 11,959 (2019); *Wireline Competition Bureau Seeks Comment on Proposed Eligible Services List for the E-Rate Program*, Public Notice, 35 FCC Rcd. 7211 (2020).

¹⁰ Similarly, the United States Department of the Interior (DOI) has requested that the FCC expand the Eligible Services List to include the services and equipment needed to allow students to learn safely from home. *In re Modernizing the E-Rate Program for Schools and Libraries*, WC Docket No. 13-84, U.S. Dep’t of Interior *Notice of Ex Parte* (Aug. 31, 2020) at 2.

¹¹ See *Wireline Competition Bureau Directs USAC to Fully Fund Eligible Category One and Category Two E-Rate Requests*, Public Notice, 35 FCC Rcd. 6756 (2020) (outlining that there is sufficient funding to meet all demand for category one and category two requests in Funding Year 2020 (FY2020)). The FY2020 funding cap was \$4.23 billion, while USAC’s demand estimate for FY2020 under current rules is \$2.6 billion, indicating a surplus that does not even take into account an additional \$500 million in unused funds that USAC identified from previous years. See USAC, *Federal Universal Service Support Mechanisms Fund Size Projections for Fourth Quarter 2020*, https://www.usac.org/wp-content/uploads/about/documents/fcc-filings/2020/fourth-quarter/financials/USAC-4Q2020-Federal-Universal-Service-Mechanism-Quarterly-Demand-Filing_Final.pdf (July 31, 2020) at 58.

¹² See Comcast, *Comcast Internet Essentials Partnership Program Builds Momentum in Massachusetts*, Sept. 28, 2020, <https://newengland.comcast.com/2020/09/28/comcast-internet-essentials-partnership-program-builds-momentum-in-massachusetts/>; Charter, *Charter Relaunches Free 60-Day Spectrum Internet & WiFi Offer to Help*

addition to program eligibility issues, funding is often an obstacle to successful partnership negotiations.¹⁴ A waiver of the “off-campus” rule would put schools and libraries in the best position to coordinate these efforts, allocate funding, and distribute resources through the existing E-Rate channels.

Second, the MDTC supports Colorado’s request that the FCC waive parts of the program’s application procedures and competitive bidding requirements. Normally, E-Rate applicants are required to wait a minimum of 28 days from the time a competitive bid is opened to the time they are allowed to pick a service provider.¹⁵ However, given that the school year has already begun, the need for services and equipment is urgent. The FCC should recognize this and allow for flexibility in the bidding requirements, just as it has allowed for flexibility in funding by opening a second application window.¹⁶ Further, given that this second window closed on October 16, the FCC should consider a third window, to allow schools and libraries to apply for additional funding on an updated Eligible Services List that includes equipment and services that cover student homes. Alternatively, the FCC could announce extended flexibility in granting waivers for applications filed outside the filing windows.

In conclusion, the FCC has long recognized the importance of connecting students by funding Internet connectivity in schools and libraries across America. Today, as our country

Connect New Households With K-12 and College Students or Educators, Sept. 21, 2020, <https://corporate.charter.com/newsroom/charter-relaunches-free-60-day-spectrum-internet-and-wifi-offer-to-help-connect-new-households-with-K-12-and-college-students-or-educators>.

¹³ Consider for example the requirements for a household to sign up for Internet Essentials. A household that had Comcast Internet service in the last 90 days is ineligible to apply for the program. See <https://www.internetessentials.com/apply>. This effectively excludes a household with a parent who recently became unemployed due to the pandemic, and that had to cancel its paid Internet service as a result.

¹⁴ See MassLive, *Worcester continues negotiating with Spectrum for student internet ahead of school year start*, Aug. 16, 2020, <https://www.masslive.com/worcester/2020/08/worcester-continues-negotiating-with-spectrum-for-student-internet-ahead-of-school-year-start.html>.

¹⁵ See USAC, *Step 1: Competitive Bidding*, <https://www.usac.org/e-rate/applicant-process/competitive-bidding/>.

¹⁶ See *In re Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 0-26, DA 20-1091, Order (WCB Sept. 16, 2020).

faces a public health emergency, access to broadband has become a necessity for the education of our youth. We must not leave millions of students behind because they lack access to equipment or broadband service that would allow them to attend school in a safe manner. The FCC granting Colorado's Petition for Emergency Waiver will help these students by unlocking available E-Rate funding that will enable schools and libraries to purchase the services and equipment needed, and to place the students in the new classrooms of America: their homes.

Respectfully submitted,

KAREN CHARLES PETERSON
COMMISSIONER

By: /s/ Marina Levy
Marina Levy
Competition Data Analyst

Massachusetts Department of
Telecommunications and Cable
1000 Washington Street, Suite 600
Boston, MA 02118-6500
(617) 305-3580

November 5, 2020