

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Petition for Rulemaking to Amend and Modernize Part 54 of the Commission’s Rules to Prevent Waste in the Universal Service Fund E-Rate Program	)	RM-11841
	)	
Modernizing the E-rate Program for Schools and Libraries	)	WC Docket No. 13-184
	)	
Schools and Libraries Universal Service Support Mechanism	)	CC Docket No. 02-6
	)	

**Comments of  
WTA – Advocates for Rural Broadband**

WTA – Advocates for Rural Broadband (“WTA”) responds to the Wireline Competition Bureau’s Public Notice<sup>1</sup> and files these comments in support of the Petition<sup>2</sup> filed by the Petitioners, collectively known as the “Texas Carriers” (Central Texas Telephone Cooperative, Inc., Peoples Telephone Cooperative, Inc., and Totelcom Communications, LLC) on May 22, 2019. In their Petition, the Texas Carriers request the Commission to initiate a rulemaking to review and amend Part 54 of the Commission’s rules for the narrow purpose of requiring additional review and scrutiny of E-rate special construction projects that would overbuild and duplicate existing fiber facilities that that have been constructed and are being operated with the assistance of substantial federal high-cost support.

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<sup>1</sup> *Public Notice*, Wireline Competition Bureau Seeks Comment on Texas Carriers’ Petition to Prohibit Use of E-Rate Funds to Build Fiber Networks in Areas Where Fiber Networks Already Exist, RM-11841; CC Docket No. 02-6; WC Docket No. 13-184, released May 30, 2019.

<sup>2</sup> Petition for Rulemaking of Central Texas Telephone Cooperative, Inc. et al., RM-11841; CC Docket No. 02-6; WC Docket No. 13-184, filed May 22, 2019.

WTA's membership resembles the Texas Carriers. WTA represents 340 small rural local exchange carriers ("RLECs") that offer voice and broadband to some of the hardest to serve areas in our country and are providers of last resort in their communities. In order to offer reliable voice service and high-speed broadband to their communities, WTA members are recipients of Universal Service funding via the High Cost Fund, which allows them to offer services in areas where there would otherwise not be a business case to do so.

As the Texas Carriers noted in their Petition, they fully support the E-Rate program and its efforts to connect schools and libraries. Similarly, WTA supports the E-Rate program and is not advocating for any funding to be taken away from the program.

The Petition seeks to correct a problem that WTA raised earlier in this proceeding.<sup>3</sup> Specifically, WTA warned that allowing E-Rate funds to be used for special construction projects would lead to the overbuilding of USF-supported carriers that have already used federal high-cost support to deploy state-of-the-art fiber connections to schools within their local exchange service areas. According to the Petition, this is now occurring in the Texas Carriers' service territories. As a result, WTA supports the Petition and believes the Commission should reconsider the current rules and make the narrow adjustment recommended by the Texas Carriers to ensure that USF funding isn't being used to build duplicative networks.

**THE PROPOSED REVISION OF THE E-RATE RULES WOULD DISCOURAGE THE BUILDING OF DUPLICATIVE FIBER NETWORKS AND WOULD BE IN THE BEST INTEREST OF THE UNIVERSAL SERVICE FUND**

WTA members are dedicated to serving their communities. They understand the importance of serving their customers with high-speed broadband so they have access to cutting-

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<sup>3</sup> Comments of WTA – Advocates for Rural Broadband, WC Docket No. 13-184, filed on April 7, 2014, at 6-8.

edge technologies and services just like residents of urban areas. In particular, WTA members are well aware of the critical importance of schools and libraries to the economic and social life of their communities. To that effect, they have made an effort to ensure that anchor institutions like schools, libraries, hospitals, and public safety entities have fiber connections allowing them to have high download and upload speeds with minimal latency. In their Petition, the Texas Carriers note that they have done just that.

As WTA understands the situation in Texas, a state consortium has selected a single large provider to connect all the schools in certain portions of the state via a very large amount of E-Rate funding.<sup>4</sup> In doing so, it has disregarded the fact that many of the participating schools are already served by fiber connections that have been deployed by the Texas Carriers and other rural telephone companies using federal high-cost support. Moreover, the Texas Carriers and other rural telephone companies were effectively denied the ability to bid on the special construction projects because the size of the projects and since most of the schools are outside their service territories.<sup>5</sup> The final result is that many rural Texas schools will have two fiber connections paid for by Universal Service dollars: one via the High Cost program and the other via the E-Rate program.<sup>6</sup>

To be very clear, both WTA and the Texas Carriers fully support the E-Rate program and its success at connecting schools and libraries. However, where rural schools and libraries are currently served by high-speed broadband facilities built in whole or significant part with federal high-cost support dollars, it makes sense for the Commission to require state and regional

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<sup>4</sup> Petition at 2. “In at least three cases, the selected provider for these RFPs sought special construction costs, totaling over \$100 million dollars, to lay fiber to schools that already have fiber connections which were at least partially subsidized by USF.”

<sup>5</sup> Id.

<sup>6</sup> Petition at 3.

educational consortia to make use of such existing facilities rather than overbuilding them, or at least to refuse to provide E-Rate funding for duplicative facilities.

Recipients of Universal Service funding both under the High Cost and E-Rate programs are familiar with audits from the Universal Service Administrative Company (“USAC”), and all undoubtedly go to great lengths to ensure that every precious dollar is well-spent. Every year, the E-Rate program is only able to fund a limited number of services that can advance education while the High Cost program is only able to connect so many rural locations with high speed broadband. It makes little sense for funding to be spent on duplicative networks because every dollar spent on a duplicative network diverts funding that could go to another worthy need. In this case, for example, E-Rate funding saved from not building a duplicative network could go towards funding additional services.

WTA understands the stated reasoning behind the special construction rules – that in some cases, allowing schools to construct their own network may be the most cost-effective option.<sup>7</sup> However, this reasoning is not applicable where the federal government has already provided high-cost support to construct the existing fiber connection to that school. It is not cost-effective for the federal government to support the construction of two separate fiber connections serving a single school.

The recommended changes in the Petition are narrow and reasonable. The revision would not strip the E-Rate program of funding nor would it force schools to overpay for broadband service. The revision would only give high-cost support recipients the opportunity to show that they offer an existing and adequate fiber connection financed via such support to a school before a special construction project can be approved and funded with USF dollars. If the local carrier

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<sup>7</sup> Radha Sekar, CEO of Universal Service Administrative Company, Letter to Commissioner Michael O’Rielly, dated April 1, 2019, at 2.

demonstrates that fiber deployed with the use of federal high-cost support is already installed to the school, that carrier would then have 120 days to negotiate in good faith with the school and come to reasonable, market based terms for the lease of the fiber. If a reasonable agreement cannot be reached for the use of the existing fiber, the consortium and school would be able to renew their request for Commission or USAC approval of that portion of their special construction project that would overbuild or duplicate the subject fiber facilities.

### **CONCLUSION**

The Commission should not stand idle as its current rules allow and encourage the construction of duplicative fiber networks. Here, the Texas Carriers have effectively utilized the High Cost program to connect schools with fiber only for them to be potentially overbuilt with E-Rate funding, diverting funds from other worthy E-Rate needs. Accordingly, WTA supports the Petition and believes the Commission should release a Notice of Proposed Rulemaking that proposes rules requiring additional review and scrutiny of the use of E-Rate funding to overbuild fiber connections previously deployed with federal high-cost support.

Respectfully submitted,

WTA – Advocates for Rural Broadband

By: /s/ Derrick B. Owens  
Derrick B. Owens  
Senior Vice President of Government & Industry Affairs  
400 Seventh Street, NW, Suite 406  
Washington, DC 20004  
(202) 548-0202

By: /s/ Bill Durdach  
Bill Durdach  
Director of Government Affairs  
400 Seventh Street, NW, Suite 406  
Washington, DC 20004  
(202) 548-0202

By: /s/ Gerard J. Duffy  
Gerard J. Duffy  
Regulatory Counsel  
Blooston, Mordkofsky, Dickens, Duffy & Prendergast, LLP  
2120 L Street NW, Suite 300  
Washington, DC 20037  
(202) 659-0830

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