

# FCC Launches E-Rate 2.0 Proceeding

July 19, 2013

In the first major proceeding of Acting Chairwoman Clyburn's tenure, the FCC opened a rulemaking today to consider reforms to the Schools and Libraries program of its Universal Service Fund (better known as the "E-rate" program). The FCC pledged a comprehensive review and modernization of the E-rate program that will mark the most significant reexamination of E-rate policies in the program's 16 year history. In the presentation and individual Commissioner statements at the meeting, there was a clear consensus to refocus the types of services funded by the E-rate program toward broadband capacity and "advanced educational technologies" while also phasing out support for some services. In addition, the rulemaking will seek input on ways to reduce the administrative burdens of the E-rate program.

Despite common ground on many issues, there are several significant areas of disagreement among the Commissioners and expected within the record of the proceeding. Most significantly, there does not seem to be consensus on increasing the E-rate program cap, and it is not clear where funds could be obtained to do so even if all Commissioners supported it. In addition, while this proceeding is likely a positive development for broadband service providers and for wireless internal networking providers, paging services and traditional long distance services were specifically identified as possible targets for removal from the Eligible Services List. Finally, simplification of the funding process holds broad support as a goal, but the Commissioners appeared to take different approaches to how to change the competitive bidding and application process.

## "A Comprehensive Review and Modernization"

The rulemaking follows Commissioner Rosenworcel's April 2013 proposal to establish "E-rate 2.0" and President Obama's June 2013 announcement of a goal of deploying at least 100 Mbps of broadband to 99% of the schools and libraries within the next five years. These proposals would substantially increase the amount of funding available to schools and libraries and re-focus that funding on the deployment of broadband, both to the school and to the classroom.

A few days before the Commission's meeting, however, Commissioner Pai - the lone Republican commissioner at this time -- outlined a "student-centered" E-rate proposal. Commissioner Pai's proposal urges the allocation of support to all schools using a student enrollment formula, the adoption of a single discount amount (75%) and a simplified application process for schools to select services. Commissioner Pai's proposal eschews setting capacity goals and makes no mention of possible increases in funding for the program.

At the meeting, the Wireline Competition Bureau Chief promised a "comprehensive review and modernization" of the E-rate program. The Bureau's presentation of the item described three goals for a reformed E-rate program:

- Ensuring affordable access to 21st century broadband technologies;

- Maximizing the cost effectiveness of the program; and
- Streamlining program administration.

This proceeding will raise a number of key issues for schools and service providers alike, including:

## Shifting of Priorities to Broadband and Wireless Connections

The rulemaking will examine ways to support broadband deployment to schools and libraries. Specifically, the rulemaking will seek comment on several proposals to focus funds on supporting high capacity broadband deployment. Commissioner Rosenworcel emphasized that, in her view, this exercise should include establishing clear capacity goals for broadband access to schools, suggesting a minimum of 100 Mbps in capacity per thousand students and a goal of 1 Gbps in capacity per thousand students by 2020.

In addition, the rulemaking also will seek comment on re-prioritizing funding to support broadband access to individual classrooms as well as deployment to the school campus itself. Under current E-rate rules, this access – whether provided by wireline or wireless technologies – is classified as a "priority 2" service that receives funding only after telecommunications service and Internet access services are fully funded. In the past few years, little has been available for priority 2 services. The rulemaking proposal, however, would make funding for WiFi and other access technologies more widely available.

Further, two of the Commissioners mentioned the possibility of funding advanced technologies used for education, including cloud-based services. It is not clear whether the rulemaking proposes support for these services, however.

## Phase-out of Support for "Outdated Technologies"

At least part of any increased spending on broadband services would come from a reexamination of the services supported by E-rate discounts. The rulemaking will ask for comment on how to update the Eligible Services List for future E-rate disbursements. Services explicitly mentioned for elimination in the Commission's Public Notice or in Commissioner statements include paging, directory assistance and long distance services.

## Will the E-rate Fund Increase?

An unanswered question is whether the rulemaking will lead to an increase in support over the \$2.3 billion currently allocated to the E-rate program. President Obama's ConnectED proposal recommended additional spending on broadband deployment, although it did not say whether those funds could come from the Universal Service Fund or from other federal programs. Commissioner Pai expressed opposition to increasing the fund, noting in his statement that reform of the program was not synonymous with expansion of E-rate funding.

## Streamlining and Simplification of E-rate Administration

Finally, the rulemaking will address ways to streamline and simplify E-rate administration. At Commissioner Pai's request, the rulemaking will seek comment on the reforms he proposed, including allocating E-rate support on a per-student basis rather than allowing for requests of any size from eligible schools and libraries. In addition, the rulemaking will ask for comment on ways to encourage more applications submitted on a consortium basis or through bulk buying arrangements in order to reduce the cost of supported services. Further, the rulemaking will seek comment on

reforms to the competitive bidding process and streamlining the E-rate appeals process.

The FCC did not immediately release the text of its rulemaking proposal. Comments are expected to be due in the fall. Continue to check with the Kelley Drye [Communications](#) Practice Group for more information as the proceeding develops.