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April 7, 2014

Via ECFS

Marlene Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

**Re: *Ex Parte* Filing of the American Cable Association (ACA) on Modernizing
the E-rate Program for Schools and Libraries; WC Docket No. 13-184**

Dear Ms. Dortch:

On April 3, 2014, James Funkhouser, Shentel; Josh Barstow, Metrocast; Ross Lieberman, ACA;¹ and the undersigned, Thomas Cohen, Kelley Drye & Warren LLP, Counsel to ACA, met with Patrick Halley and Mark Walker of the Commission staff to discuss the Notice of Proposed Rulemaking on modernizing the E-rate program and the Public Notice seeking focused comment

¹ In its comments in the E-rate modernization proceeding, ACA has advocated and provided support for two main policies: require schools and libraries to use support to procure services from existing service providers to the maximum extent before using support to construct their own dedicated facilities; and simplify and amend the application process to facilitate and encourage greater participation by service providers, particularly smaller providers. See Comments of the American Cable Association, WC Docket No. 13-184 (filed Sept. 16, 2013) and Reply Comments of the American Cable Association (filed Nov. 8, 2013), available at: <http://apps.fcc.gov/ecfs/document/view?id=7520943994>, <http://apps.fcc.gov/ecfs/document/view?id=7520957213>.

ACA asked Mr. Funkhouser and Mr. Barstow to meet with Commission staff because of their substantial experience in dealing with schools and libraries that access E-rate support. In the meeting, they expressed their own experiences and views of the E-rate program.

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on E-rate modernization.² Both Shentel, an incumbent local exchange carrier and cable operator, and Metrocast, a cable operator, provide services to schools and libraries participating in the E-rate program largely in rural areas, and Mr. Funkhouser and Mr. Barstow are involved for their companies in overseeing those efforts.

In his presentation and in follow-up discussions with the FCC staff, Mr. Funkhouser made the following points about the E-rate program:

- While rural areas present specific network deployment challenges because they are less dense, most schools and libraries served by Shentel have migrated from lower speed broadband Internet access services and dedicated T-1 services to much higher speed Ethernet services, which are provided over all-fiber connections. Speeds for Ethernet services may begin at less than 1 Gbps, but schools and libraries are increasingly subscribing to 1 Gbps services to meet growing demand. Shentel is capable of providing even higher speed services. At the same time, cable HFC networks with DOCSIS 3 technology can provide connections at speeds over 100 Mbps, and this service has proven most useful in more rural areas where fiber has yet to be deployed. In addition, elementary schools, which have somewhat lower bandwidth needs, tend to be in these areas.
- Shentel's prices for services to schools and libraries participating in the E-rate program vary considerably, but the trend is clear: prices for all services are decreasing, with transport prices declining much faster than last-mile prices. Higher prices are found in more remote (less dense) areas because they are more costly to serve. Prices also are driven higher because certain pole owners, especially those not subject to the pole attachments statutes, charge high attachment fees or take too long to "make ready" their poles. The alternative to pole attachments often is for Shentel to undertake expensive builds to bury fiber. As a result, the monthly recurring price per Mbps in more remote areas (where the cost of providing service is shared over fewer locations) may be closer to \$10/Mbps/month, while in closer-in areas the price is approximately \$1/Mbps/month. The higher costs in less dense areas justifies the E-rate program's rule giving these schools and libraries in these areas a higher discount.

² See *Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, Notice of Proposed Rulemaking, FCC 13-100 (rel. July 23, 2013); *Wireline Competition Bureau Seeks Focused Comment on E-Rate Modernization*, WC Docket No. 13-184, Public Notice, DA 14-308 (rel. Mar. 6, 2014).

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- Competition to provide E-rate supported services has grown intense. Shentel almost always faces multiple competitors in responding to bids from schools and libraries. For instance, all incumbent providers in a rural Virginia market just lost a bidding process to a new entrant for the provision of services to 10 sites in a school district. Even though the current providers had existing facilities that could be used as a base to provide services, the new entrant offered a price substantially lower. Shentel expects this trend to continue, and even accelerate, as more providers learn about the E-rate program.
- From Shentel's perspective, schools and libraries should ensure that any provider they select is capable of performing pursuant to the bid and that, should non-performance occur, they can readily replace that entity with a qualified provider. This includes ensuring that supported services (and their transmission technologies) meet standards generally accepted by hardware and software vendors and are not considered experimental or still undergoing testing.
- Rather than focusing on obtaining discrete facilities and services, Shentel believes schools and libraries should seek to obtain "solutions" for their communications needs – all the way to the student's desk and library carrell. In Shentel's experience, that is how other large customers obtain communications services, and schools and libraries are in no different position. In effect, this means requirements should be based more on performance objectives. In addition, providers of metro transport and last-mile connectivity should be able to team with entities specializing in providing in-building connectivity to provide these solutions.
- In providing communications solutions to schools and libraries under the program, there are many reasons to prefer using incumbent communications providers or other entities that are in the business of providing communication services as opposed to enabling schools and libraries to have their own networks and provide their own services. The reasons include – these providers have greater expertise in designing, constructing, and operating networks; they can integrate services from all customers over shared facilities and therefore provide them more efficiently; and they can upgrade services most readily with more advanced technology.

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Mr. Barstow, in his presentation and follow-up discussions, made the following points:

- Metrocast currently has dozens of agreements to serve schools and libraries. In many of these agreements, schools and libraries begin by taking cable modem service for Internet access and then move to higher-speed Ethernet services. Currently, the “sweet spot” for schools is a 150/200 Mbps Ethernet service that permits bursting during periods when students are taking standardized tests. This type of creative solution meets the bandwidth needs of schools and libraries while fitting within their limited budgets.
- Prices and terms and conditions vary among schools and libraries, depending on a great many factors, including requirements in state statutes and regulations, whether sufficient facilities already exist, and the presence of other funding sources. In addition, schools and libraries often have different reasons for paying recurring and non-recurring prices, which may make it difficult to compare prices among them and conclude that prices are not at competitive levels.
- The level of competition to provide E-rate supported services has ramped up in the past several years. Metrocast just participated in five bids and only won two, despite having extensive facilities in place. It is clear that winners are selected on price. Metrocast believes competition would become even more intense if schools and libraries were required to notify providers, particularly local incumbent providers, when a “470” is posted (versus having providers continuously peruse the USAC website).
- While the cost of providing connectivity to an individual school or library can differ greatly because so many factors are in play, the provision of Wi-Fi within an institution largely turns on coverage and throughput. Thus, the cost can be more easily determined and is more consistent. This may enable the Commission to provide more predictable, longer-term support to drive Wi-Fi deployments.

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This letter is being filed electronically pursuant to section 1.1206 of the Commission's rules.

Sincerely,



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