



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON DC

Mike O'Rielly
Commissioner

March 7, 2019

Ms. Radha Sekar
CEO
Universal Service Administrative Co.
700 12th Street, NW, Suite 900
Washington, DC 20005

Dear Ms. Sekar,

During my tenure at the Federal Communications Commission, I have repeatedly voiced concerns over the use of Universal Service Fund dollars to overbuild existing networks, particularly when those networks subject to overbuilding were themselves built with Universal Service Fund support. In addition to wasting ratepayer money, USF-supported overbuilding undermines the ability of existing network providers to bring service to unserved areas in their communities. I have regularly identified potential overbuilding risks in the E-Rate program, especially in view of the Commission's problematic decision in 2014 to allow self-provisioned and dark fiber networks to be eligible for special construction subsidies.

Likewise, I became very concerned when it recently came to my attention that E-Rate dollars are currently being used to overbuild USF-supported providers' fiber networks in certain Texas school districts. According to accounts from existing providers,¹ at least three regional-based consortia (representing "Educational Service Centers") have sought proposals, via the Form 470, for the construction of Wide Area Networks (WANs) to provide Internet access to entire school regions, each covering well over ten thousand square miles, even though multiple fiber-based providers are already capable of serving the individual schools within each region.

Those consortia have in turn sought via the Form 471, and have largely been approved for, over \$100 million in subsidies to lay new fiber to schools already served by fiber networks that were themselves already partially paid for with federal funds. This number does not even include the subsidies requested for connecting individual schools within the WAN that were already connected to existing fiber networks. In one particular case, a winning bidder was approved to receive over \$40 million in special construction costs for a fiber build, even though most of the district already has fiber connectivity. In addition to raising troubling overbuilding concerns, it is also likely that support for these fiber builds will also subsidize warehousing of fiber capacity not needed for E-Rate purposes.

To understand the scope of the overbuilding risk due to consortia structuring their RFPs in this manner, please provide responses to the following requests to my office no later than April 1, 2019.

1. Does USAC understand the E-Rate rules to permit funding for special construction projects, whether self-provisioned networks or networks owned by a commercial provider, that would duplicate, in whole or in part, fiber networks that have been built using federal funds?

¹ Letter from Donald L. Herman, Jr. and Clare C. Liedquist, Counsel to Central Texas Telephone Cooperative, Inc., Peoples Telephone Cooperative, Inc. and Totelcom Communications, LLC, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 13-184 (filed Nov. 19, 2019).

2. Does USAC understand the E-Rate rules to permit a consortium to receive funding for the construction of a WAN to provide Internet access to the entire consortium, even where existing fiber-based providers are already capable of serving individual consortium members?
3. Since the 2014 E-Rate Orders, how many applicants have requested E-Rate funding for special construction of consortium-wide WANs, and how much funding was requested by these applicants?
4. How many requests for consortium-wide WAN projects have received funding commitments, and what is the total amount of funding committed for such requests?
 - a. How many of those WAN projects would result in overbuilding another provider's network, in whole or in part?
 - b. How many of those WAN projects would result in overbuilding, in whole or in part, providers that receive funds from the High Cost or Rural Health Care programs?
5. How many consortium-wide WAN projects have been denied on cost-effectiveness grounds?
6. How many consortium-wide WAN projects are currently awaiting a funding decision by USAC?
7. To the extent that USAC has approved funding requests for the construction of consortium-wide WANs that partially or fully overbuild existing fiber providers, and considers such projects, whether self-provisioned or owned by a commercial provider, to be eligible for funding under current E-Rate rules, has USAC alerted the FCC of the overbuilding risk created by such projects? Has USAC alerted the FCC of an apparent gap in current program rules that permits USAC approval of such projects?

Thank you for your assistance with this concerning matter and your timely responses.

Sincerely,



Michael O'Rielly