

**STATEMENT OF  
COMMISSIONER MICHAEL O'RIELLY,  
APPROVING IN PART AND DISSENTING IN PART**

Re: *Modernizing the E-Rate Program for Schools and Libraries*, WC Docket No. 13-184, Notice of Proposed Rulemaking

This rulemaking seeks to establish a more permanent and predictable category two budget approach for E-Rate applicants, and I approve of it to the extent that it would not disrupt the status quo. Nonetheless, I strongly objected to certain components of the five-year budgets adopted in 2014, as did many others, and I cannot endorse maintaining the elements that I have always considered problematic, including the flatly absurd idea devised by the previous Chairman to allocate libraries' E-Rate support on a square foot basis. We certainly could have pursued a rulemaking exploring the overall budget approach without having to endorse objectionable policies.

That being said, my misgivings over our category two approach pale in comparison to my concerns over our "special construction" policy. As I warned back in 2014, insufficient guardrails had the potential to create major USF-supported overbuilding problems, and this consequence has clearly been borne out. With recent examples of E-Rate-funded special construction builds directly competing against USF-funded fiber networks, we now know that flawed E-Rate rules are directly threatening rural broadband investment and robbing USF ratepayers of their hard-earned investments. Damage has already been done, and it is high time that we fix the gaping hole in our rules that has allowed for such inefficiency and waste. While I partially approve of our action today, this item missed an opportunity to take corrective steps. I am hopeful our next action with respect to E-Rate will be laser-focused on eradicating USF-funded overbuilding.