

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

In the Matter of)	
)	
Addressing the Homework Gap through the E-Rate)	WC Docket No. 21-31
Program)	
)	

ORDER ON RECONSIDERATION

Adopted: September 30, 2025

Released: September 30, 2025

By the Commission: Chairman Carr and Commissioner Trusty issuing separate statements; Commissioner Gomez dissenting and issuing a statement.

I. INTRODUCTION

1. Today, we revisit the Federal Communications Commission’s (Commission) E-Rate Wi-Fi hotspot and services rules adopted in July 2024.¹ Specifically, we grant the petition for reconsideration filed by Maurine and Matthew Molak² to the extent provided herein and find that the best reading of section 254 of the Communications Act of 1934, as amended, (the Communications Act) is that it does not permit funding of off-premises use of Wi-Fi hotspots and the associated wireless Internet services with E-Rate program support.³ In so finding, we rescind the rules adopted in July 2024. We also deny the two remaining petitions for reconsideration of the Commission’s *Hotspots Order*.⁴ Finally, we direct the Universal Service Administrative Company (USAC), the administrator of the Commission’s universal service programs, to deny pending applications for E-Rate support related to the off-premises use of Wi-Fi hotspots and services;⁵ and we direct the Wireline Competition Bureau (Bureau) to release a public

¹ See *Addressing the Homework Gap through the E-Rate Program*, WC Docket No. 21-31, Report and Order and Further Notice of Proposed Rulemaking, 39 FCC Rcd 8989 (2024) (*Hotspots Order*).

² Maurine and Matthew Molak Petition for Reconsideration, WC Docket No. 21-31 (filed July 31, 2024), <https://www.fcc.gov/ecfs/filing/10731704227591> (Molak Petition).

³ 47 U.S.C. § 254.

⁴ See Los Angeles Unified School District Petition for Reconsideration, WC Docket No. 21-31 (filed Sept. 19, 2024), <https://www.fcc.gov/ecfs/filing/1091990256972> (LAUSD Petition); Schools, Health & Libraries Broadband (SHLB) Coalition, Open Technology Institute at New America (OTI), Benton Institute for Broadband & Society, Consortium for School Networking (CoSN), and Common Sense Media Petition for Reconsideration, WC Docket No. 21-31 (filed Sept. 19, 2024), <https://www.fcc.gov/ecfs/filing/1091974883765> (SHLB Petition).

⁵ Due to pending petitions for reconsideration, USAC has not processed any funding year (FY) 2025 funding requests for the off-premises use of Wi-Fi hotspots and/or wireless Internet service. Wi-Fi hotspots and associated wireless Internet services were not eligible for E-Rate support until FY 2025 and as a result there are no pending requests from prior funding years. We also reject arguments that changes should be delayed until FY 2026. See Letter from Joseph Wender, Executive Director, Schools, Health & Libraries Broadband (SHLB) Coalition, et al. to the Honorable Brendan Carr, Chairman, FCC, et al., WC Docket Nos. 21-31 and 13-184 (filed Sept. 23, 2025) (arguing applicants and service providers relied on the inclusion of hotspots in the FY 2025 eligible services list and asking that the action be delayed until FY 2026). Inclusion of a service in the annual eligible services list does not guarantee that an applicant will receive a funding commitment for that service. Because the E-Rate program is subject to an annual cap, longstanding program rules have made it clear that not all funding requests for eligible

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notice with an amended funding year (FY) 2025 eligible services list that reflects the changes made in this *Order on Reconsideration*.

II. BACKGROUND

2. *E-Rate Program*. The E-Rate program was authorized by Congress in 1996, and created by the Commission in 1997 to enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for all public and nonprofit elementary and secondary school classrooms and libraries, among other things.⁶ Under the E-Rate program, eligible schools, libraries, and consortia comprised of eligible schools and libraries, may request universal service discounts for eligible services and/or equipment (collectively, eligible services).⁷ Eligible services are divided into category one services (which provide connectivity, including broadband connectivity, to eligible locations) and category two services (which provide connectivity *within* eligible locations).⁸ Historically, the E-Rate program has provided only limited support for off-premises uses of eligible services,⁹ and applicants are otherwise required to cost-allocate the costs of the portion of services used off-premises from their funding requests.¹⁰

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services will receive a commitment. *See* 47 CFR § 54.507. Similarly, “[w]hile applicants may enter into multi-year contracts, the E-Rate program is funded on a year-to-year basis. A multi-year contract does not insulate applicants and service providers from changes in program rules ... and an applicant has no guarantee that a multi-year contract will be funded for the duration of the contract.” *Petition for Waiver by the South Bay Union School District; Schools and Libraries Universal Support Mechanism*, CC Docket No. 02-6, 27 FCC Rcd 4176, 4177-78, para. 4 (WCB 2017). We further note E-Rate applicants have the ability to enter into contracts for services that are contingent on the availability of funding. *See, e.g.*, E-Rate Central, News of the Week (Jan. 6, 2025), *available at* <https://e-ratecentral.com/Resources/Newsletters/News-of-the-Week/ArticleID/8268/January-6-2025> (“Applicants applying for hotspots (or bus Wi-Fi) services for FY 2025 should make sure that related contracts are made contingent on E-Rate eligibility.”).

⁶ *See* Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (codified at 47 U.S.C. § 151 *et seq.*) (1996 Act); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9002-92, paras. 424-607 (1997) (*First Universal Service Report and Order*).

⁷ *See* 47 CFR § 54.501.

⁸ *See* 47 CFR § 54.502. Category one services generally include telecommunication services, telecommunications, and Internet access services, while category two services include internal connections (e.g., Wi-Fi, routers, switches), managed internal broadband services (e.g., managed Wi-Fi), and basic maintenance of internal connections. 47 CFR § 54.502(a)(1)-(2).

⁹ *See, e.g.*, *Federal-State Joint Board on Universal Service, Petition of the State of Alaska for Waiver for the Utilization of Schools and Libraries Internet Point-of-Presence in Rural Remote Alaska Villages Where No Local Access Exists and Request for Declaratory Ruling*, CC Docket No. 96-45, Order, 16 FCC Rcd 21511 (2001) (*Alaska Waiver Order*) (granting the state of Alaska a limited waiver to allow members of rural remote Alaskan communities to use E-Rate-funded satellite telecommunications and Internet services, when not being used by the schools, offsite where: (1) there is no local or toll-free Internet access available in the community; (2) the school or library has not requested more services than are necessary for educational purposes; (3) no additional costs will be incurred; (4) any use for non-educational purposes will be limited to hours in which the school or library is not open; and (5) the excess services are made available to all capable service providers in a neutral manner that does not require or take into account any commitments or promises from the service providers). *See also Schools and Libraries Universal Service Support Mechanism, A National Broadband Plan For Our Future*, WC Docket No. 02-6, GN Docket No. 09-51, Sixth Report and Order, 25 FCC Rcd 18762, 18778-79, paras. 31-32 (2010) (*Schools and Libraries Sixth Report and Order*) (finding that it served an educational purpose to let residential schools that serve unique populations use E-Rate-funded services in the residential areas of those schools after hours). Further, the Commission has determined that the following examples of offsite activities serve an educational purpose: a school bus driver’s use of wireless telecommunications services while delivering children to and from school, a library staff person’s use of wireless telecommunications service on a library’s mobile library unit van, and the use by teachers or other school staff of wireless telecommunications service while accompanying students on a field trip or sporting

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3. Section 254(h)(1)(B) of the Communications Act requires telecommunications carriers to provide services to schools and libraries for “educational purposes” at discounted rates.¹¹ As a result, our E-Rate rules require schools and libraries to use E-Rate-supported services “primarily for educational purposes.”¹² In the case of schools, the Commission has defined “educational purposes” as “activities that are integral, immediate, and proximate to the education of students.”¹³ Recognizing that the technology needs of E-Rate program participants are complex and unique to each participant, the Commission established a presumption that activities that occur in a classroom or on school property serve an educational purpose, and therefore, such services are eligible for E-Rate funding.¹⁴ Section 254(h)(2)(A) of the Communications Act directs the Commission to promulgate rules “to enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for all public and nonprofit elementary and secondary school classrooms . . . and libraries.”¹⁵

4. *Hotspots Order*. On July 29, 2024, the Commission released the *Hotspots Order*. In the *Order*, the Commission stated that section 254 of the Communications Act authorizes the Commission to provide E-Rate support for the off-premises use of Wi-Fi hotspots and associated wireless Internet services. Specifically, taking into consideration “the lack of a reliable broadband connection at some students’, school staff members’, and library patrons’ homes, the struggle for many households to afford high-speed broadband (particularly in light of the end of the Affordable Connectivity Program (ACP)), and the increasing need for connectivity in today’s technology-based educational environment that extends learning beyond a school or library building,” the *Hotspots Order* concluded that the off-premises use of wireless Internet services and the Wi-Fi hotspots needed to deliver such connectivity serves an educational purpose pursuant to section 254(h)(1)(B) of the Communications Act.¹⁶ Separately, the Commission concluded that section 254(h)(2)(A) of the Communications Act authorizes the provision of E-Rate support for the off-premises use of Wi-Fi hotspots and services because hotspots and associated wireless Internet services that connect students, school staff, and library patrons to digital learning will “enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for all public and nonprofit elementary and secondary school classrooms . . . and libraries.”¹⁷ The *Order* found that both conclusions were consistent with the *2023 School Bus Wi-Fi Declaratory Ruling*.¹⁸

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event. *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202, 9209-10, para. 19 & n.28 (2003) (*Schools and Libraries Second Report and Order*).

¹⁰ 47 CFR § 54.504(e) (detailing the requirement to cost-allocate ineligible services from requests); *Modernizing the E-Rate Program for Schools and Libraries*, WC Docket No. 13-184, Order, 39 FCC Rcd 11639, 11649 (WCB 2024) (*FY 2025 Eligible Services List Order*) (adopting the eligible services list for funding year 2025 and requiring that off-campus use generally be cost-allocated from a funding request, among other things).

¹¹ 47 U.S.C. § 254(h)(1)(B).

¹² *Schools and Libraries Sixth Report and Order*, 25 FCC Rcd at 18774, para. 22 (amending E-Rate program rules to require that services be used *primarily* for educational purposes and explaining that “[t]o primarily use services supported by E-rate, E-rate recipients must ensure that students always get first priority in use of the schools’ resources”).

¹³ *Schools and Libraries Second Report and Order*, 18 FCC Rcd at 9208, para. 17 (clarifying the meaning of “educational purposes”); 47 CFR § 54.500 (defining “educational purposes”).

¹⁴ *Schools and Libraries Second Report and Order*, 18 FCC Rcd at 9208, para. 17.

¹⁵ 47 U.S.C. § 254(h)(2)(A).

¹⁶ See *Hotspots Order*, 39 FCC Rcd at 9037-40, paras. 89-92; 47 U.S.C. § 254(h)(1)(B).

¹⁷ See *Hotspots Order*, 39 FCC Rcd at 9040-45, paras. 93-96; 47 U.S.C. § 254(h)(2)(A).

5. *Petitions for Reconsideration.* Pursuant to section 1.429 of the Commission’s rules, any interested party may petition for reconsideration of a final action in a rulemaking proceeding.¹⁹ A petition for reconsideration must state with particularity the respects in which the petitioner believes the action taken should be changed.²⁰ Following the release of the *Hotspots Order*, Maurine and Matthew Molak (the Molaks), Los Angeles Unified School District (LAUSD), and the Schools, Health & Libraries Broadband Coalition (SHLB), Open Technology Institute at New America (OTI), Benton Institute for Broadband & Society, Consortium for School Networking (CoSN), and Common Sense Media (collectively SHLB) filed timely petitions for reconsideration. In their petition, the Molaks assert that sections 254(h)(1)(B) and 254(h)(2)(A) of the Communications Act do not give the Commission the necessary authority to expand E-Rate subsidies for off-campus use of Wi-Fi hotspots.²¹ In their petitions, LAUSD sought reconsideration of the *Order*’s determination not to fund wireless services to long term evolution (LTE)-enabled computing devices, and SHLB sought reconsideration of the limits on funding for non-commercial wireless service options, as well as standalone hotspot equipment and wireless service to non-hotspot devices.²² Two parties filed oppositions to the Molak Petition.²³ There were five comments filed in response to the SHLB and/or LAUSD Petitions.²⁴

6. *Related Congressional and Commission Actions.* In addition to the three petitions for reconsideration, on May 8, 2025, the United States Senate passed S.J.Res.7, disapproving of the rules adopted in the *Hotspots Order* pursuant to the Congressional Review Act.²⁵ Congressional

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¹⁸ See *Hotspots Order*, 39 FCC Rcd at 9037, paras. 89 & 95 (referencing *Modernizing the E-Rate Program for Schools and Libraries*, WC Docket No. 13-184, Declaratory Ruling, 38 FCC Rcd 9943 (2023) (*2023 School Bus Wi-Fi Declaratory Ruling*)).

¹⁹ 47 CFR § 1.429(a).

²⁰ 47 CFR § 1.429(c).

²¹ Molak Petition at 1-2.

²² See LAUSD Petition at 2; SHLB Petition at 2.

²³ On August 12, 2024, the Commission published a notice seeking comment on the Molak Petition and set deadlines of August 27, 2024 for oppositions, and September 6, 2024 for reply comments. Petition for Reconsideration of Action in Rulemaking Proceeding, 89 Fed. Reg. 65576 (Aug. 12, 2024). Opposition to Petition for Reconsideration of SHLB, OTI, and the Benton Institute for Broadband & Society, WC Docket No. 21-31 (filed Aug. 27, 2024) (SHLB Opposition); Opposition to Petition for Reconsideration of T-Mobile USA, Inc., WC Docket No. 21-31 (filed Aug. 27, 2024) (T-Mobile Opposition).

²⁴ On September 30, 2024, the Commission published a notice seeking comment on both the LAUSD Petition and the SHLB Petition and set deadlines of October 15, 2024 for oppositions, and October 25, 2024 for reply comments. Petitions for Reconsideration of Action in Rulemaking Proceeding, 89 Fed. Reg. 79492 (Sept. 30, 2024). Letter from Amy E. Bender, Vice President, Regulatory Affairs, CTIA, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 21-31 (filed Oct. 25, 2024) (CTIA Reply) (supporting the LAUSD Petition); Letter from Erik Stromquist, Chairman, CTL, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 21-31 (filed Oct. 3, 2024) (CTL Reply) (supporting the LAUSD Petition); Letter from Jonathan Hurley, Assistant Superintendent of Technology, Dallas Independent School District, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 21-31 (filed Oct. 21, 2024) (Dallas ISD Reply) (supporting the LAUSD Petition); Letter from Katherine Primeau, Vice President, North American Catholic Educational Programming Foundation, Inc. (filed Oct. 25, 2024) (NACEPF Reply) (supporting the LAUSD Petition and the SHLB Petition); Letter from John W. Kuzin, Vice President of Spectrum Policy & Regulatory Counsel, Qualcomm Incorporated (filed Oct. 25, 2024) (Qualcomm Reply) (supporting the LAUSD Petition and the SHLB Petition).

²⁵ See S.J.Res.7 (119th Congress) (“Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress disapproves the rule submitted by the Federal Communications Commission relating to ‘Addressing the Homework Gap Through the E-Rate Program’ (89 Fed. Reg. 67303 (August 20, 2024)), and such rule shall have no force or effect.”). 5 U.S.C. § 801(f) (“Any rule that takes effect and later is made of no force or effect by enactment of a joint resolution under section 802 shall be treated as though such rule

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correspondence also relayed strong opposition to proposed off-premises expansions.²⁶ Relatedly, the Commission recently sought comment on whether there were any rules that needed to be revisited in light of changing legal frameworks.²⁷

III. DISCUSSION

7. On reconsideration, we restore the E-Rate program rules to those that existed before adoption of the July 2024 *Hotspots Order*. We grant the Molak Petition to the extent provided herein and determine here that extending E-Rate to fund the off-premises use of Wi-Fi hotspots and associated wireless Internet service is not consistent with the best reading of section 254 of the Communications Act. We therefore rescind the July 2024 rules.

8. As a procedural matter, the Commission may consider the petitioner’s arguments. Citing section 1.429(l)(1)-(2) of our rules, SHLB asserts that the Molak Petition should be dismissed because it does not raise new issues that were not already addressed by the Commission in the *Hotspots Order*, fails to address a material error, and its consideration is not in the public interest.²⁸ However, we find that consideration of the arguments in the Molak Petition is in the public interest and permitted by section 405 of the Communications Act and section 1.429 of our rules.²⁹ Reconsideration “is generally appropriate where the petitioner shows either a material error or omission in the original order or raises additional facts not known or not existing until after the petitioner’s last opportunity to respond.”³⁰ In this instance,

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 had never taken effect.”); *id.* § 801(b)(1) (“A rule shall not take effect (or continue), if the Congress enacts a joint resolution of disapproval . . . of the rule.”).

²⁶ See Letter from Senator Ted Cruz, Ranking Member, Senate Committee on Commerce, Science, and Transportation, and Representative Cathy McMorris Rodgers, Chair, House Committee on Energy and Commerce, to Chairwoman Jessica Rosenworcel, Federal Communications Commission, at 1-2 (July 31, 2023) (noting that “Congress has continuously maintained the structure of the E-Rate program originally established and deliberately limited its scope to school classrooms and libraries.”).

²⁷ See *In re: Delete, Delete, Delete*, Public Notice, 40 FCC Rcd 1601, 1604 (Mar. 12, 2025) (*In re: Delete, Delete, Delete Public Notice*) (citing *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024) (*Loper Bright*) and quoting “[c]ourts must exercise their independent judgment in deciding whether an agency has acted within its statutory authority, as the [Administrative Procedures Act] APA requires. Careful attention to the judgment of the Executive Branch may help inform that inquiry. And when a particular statute delegates authority to an agency consistent with constitutional limits, courts must respect the delegation, while ensuring that the agency acts within it. But courts need not and under the APA may not defer to an agency interpretation of the law simply because a statute is ambiguous.”). 47 U.S.C. § 161 (directing the Commission periodically to review rules applicable to telecommunications carriers to “determine whether any such regulation is no longer necessary in the public interest as the result of meaningful economic competition between providers of such service,” in which case it “shall repeal or modify” the regulation).

²⁸ See SHLB Opposition at 2-5 (stating the Molak Petition relies on “arguments that have been fully considered and rejected”, fails to “identify any material error, omission, or reasons warranting reconsideration”, does not meet the requirements of section 1.429(b)(1)-(3), and consideration is not required in the public interest); see also T-Mobile Opposition at 2-3.

²⁹ 47 U.S.C. § 405 (noting that “it shall be lawful for . . . the Commission . . . , in its discretion, to grant such a reconsideration if sufficient reasons therefor be made to appear”); 47 CFR § 1.429.

³⁰ *Amendment of Section 73.3555(e) of the Commission’s Rules, National Television Multiple Ownership Rule*, MB Docket No. 13-236, Order on Reconsideration, 32 FCC Rcd 3390, 3397, para. 16 (2017) (*UHF Discount Order on Reconsideration*); see also *Petition for Reconsideration by Acadiana Cellular Gen. P’ship*, WT Docket Nos. 04-70, 04-254, and 04-323, Order on Reconsideration, 20 FCC Rcd 8660, 8663, para. 8 (2005); *Universal Serv. Contribution Methodology, Fed.-State Joint Bd. On Universal Serv., Glob. Conference Partners, A+ Conference Ltd., Free Conferencing Corp., & The Conference Grp.*, WC Docket No. 06-122, CC Docket No. 96-45, Order on Reconsideration, 27 FCC Rcd 898, 901, para. 8 (2012) (*Universal Serv. Contribution Methodology Fed.-State Joint Bd. Order on Reconsideration*), *rev. dismissed in part and denied in part*, *Conference Grp., LLC v. FCC*, 720 F.3d

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we are persuaded that the Commission’s prior decision materially erred in adopting rules for the E-Rate program that are not consistent with the best reading of the Commission’s statutory authority.

9. Section 254(h)(1)(B) of the Communications Act requires telecommunications carriers to provide “services that are within the definition of universal service under subsection (c)(3)” to “elementary schools, secondary schools, and libraries” for “educational purposes” at discounted rates.³¹ Today, we find that the off-premises use of Wi-Fi hotspots and associated wireless Internet services does not constitute an educational purpose under the Communications Act, given the multitude of non-educational ways such service could be used.³² We also find it is unlikely that a school or library official could certify with any actual knowledge or certainty that use of the Wi-Fi hotspots by its students and library patrons would be primarily for educational purposes as required by our rules.³³ However, even if we agreed that such use could serve an educational purpose, section 254(h)(1)(B) of the Communications Act also requires that the services be provided “*to elementary schools, secondary schools, and libraries.*”³⁴ In the *Hotspots Order*, the Commission stated that “because schools and libraries are the customers and recipients of the services they purchase, [] the services are therefore provided to them within the meaning of section 254(h)(1)(B), even if used elsewhere.”³⁵ We disagree. While entities operating schools or libraries may be *purchasing* the Wi-Fi hotspots and associated service, the schools and libraries are not the recipients of the connectivity provided to student or library patron homes, and we therefore find this reading to be inconsistent with section 254(h)(1)(B) of the Communications Act. Under the best reading of section 254(h)(1)(B) of the Communications Act, the services themselves must be provided *to* eligible locations—namely elementary schools, secondary schools, and libraries—to be eligible for support through the E-Rate program.³⁶ The Commission has limited statutory authority, and

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957, 958 (D.C. Cir. 2013) (“Reconsideration of a Commission’s decision may be appropriate when the petitioner demonstrates that the original order contains a material error or omission, or raises additional facts that were not known or did not exist until after the petitioner’s last opportunity to present such matters. If a petition simply repeats arguments that were previously considered and rejected in the proceeding, the Commission may deny them for the reasons already provided.”). “Even if a petition is repetitious, the Commission can, in its discretion, consider it.” *UHF Discount Order on Reconsideration*, 32 FCC Rcd at 3397, para. 16, n.56; *see also Universal Serv. Contribution Methodology Fed.-State Joint Bd. Order on Reconsideration*, 27 FCC Rcd at 901, para. 8 (Commission “may deny” repetitious petition); *Application of Paging Sys., Inc.*, FCC File No. 0002232564, Order on Reconsideration, 22 FCC Rcd 4602, 4604 n.23 (WTB Mobility Div. 2007) (considering repetitious petition on the merits, even though staff could dismiss it); *Sequoia Cablevision et al.*, CAC-1648 (CA544) et al., Memorandum Opinion & Order, 58 FCC 2d 669, 672 (1976) (partially granting a repetitious petition for reconsideration of an order denying reconsideration despite the alleged procedural defect because the language is permissive, and not mandatory).

³¹ 47 U.S.C. § 254(h)(1)(B).

³² *See, e.g.*, Comments of NCTA – The Internet & Television Association, WC Docket No. 21-31, at 6-8 (rec. Jan. 17, 2024) (explaining the challenges of limiting use to educational purposes given the potentially combined educational and non-educational uses of sites like YouTube, the temptation for students to use the wireless Internet services for non-educational uses, as well as the practical challenges of determining how Wi-Fi hotspots are used by students once distributed, monitoring who is using the Wi-Fi hotspots in a household, and establishing policies for use during school breaks).

³³ *See id.*

³⁴ 47 U.S.C. § 254(h)(1)(B) (emphasis added); *see also, e.g.*, NCTA NPRM Comments at 9; NTCA NPRM Comments at 5-6.

³⁵ *Hotspots Order*, 39 FCC Rcd at 9039, para. 91.

³⁶ *See, e.g., FY 2025 Eligible Services List Order*, 39 FCC Rcd at 11644 (describing category one services as those “needed to support broadband connectivity to schools and libraries. . . . [t]his category consists of the services that provide broadband to eligible locations including data links that connect multiple points, services used to connect eligible locations to the Internet, and services that provide basic conduit access to the Internet.”).

the rules permitting the off-premises use of Wi-Fi hotspot and associated wireless Internet services are not consistent with the best reading of section 254(h)(1)(B) of the Communications Act.³⁷

10. Our interpretation of the phrase “to elementary schools, secondary schools, and libraries” as referring to locations is strongly supported by the statutory context. For one, other provisions of section 254 reinforce that support for schools under section 254 is focused on support for services to schools as locations. Both section 254(b)(6) and (h)(2)(A) link together the references to schools and “classrooms.”³⁸ That broader context supports the view that the focus of section 254 is on service to schools as locations.³⁹ And interpreting the term “library” in context, insofar as schools refer to locations in the phrase “to elementary schools, secondary schools, and libraries,” the same should be true of libraries.

11. Our interpretation also is supported by the difference in section 254’s treatment of health care providers. The heading of section 254(h)(1)(A) refers to “Health care providers for rural areas” and section 254(h)(1)(B) refers to “Educational providers and libraries.”⁴⁰ But only in section 254(h)(1)(A) did Congress carry through that reference to “providers” in addressing services “to any public or

³⁷ We grant the relief sought in the Molak Petition, but we do not reach the specific argument raised in the petition regarding section 254(h)(1)(B).

³⁸ 47 U.S.C. § 254(b)(4) (“Elementary and secondary schools and classrooms, health care providers, and libraries should have access to advanced telecommunications services as described in subsection (h).”); *id.*, § (h)(2)(A) (“The Commission shall establish competitively neutral rules- (A) to enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for all public and nonprofit elementary and secondary school classrooms, health care providers, and libraries.”). Section 706 of the 1996 Act, which was enacted simultaneously with section 254(h), similarly directs the FCC to encourage deployment of advanced telecommunications capability “to all Americans (including, in particular, elementary and secondary schools and classrooms),” and to conduct periodic inquiries in that regard. 47 U.S.C. § 1302(a), (b). In addition, while recognizing the limits that many accord to legislative history, we nonetheless note that the Conference Report for the 1996 Act repeatedly refers to school “classrooms,” as well, when discussing section 254(h). H.R. Conf. Rep. 104-458, 144-45 (Jan. 31, 1996). As a possible indication of how Congress was using the terminology in section 254(h), that is directionally consistent with our interpretation here. Note that we rely here on references to “classrooms” as indicating that the specific language “to elementary schools[and] secondary schools” should be understood to refer to locations rather than organizational entities.

³⁹ The statutory definitions of “elementary school” and “secondary school,” drawn by section 254(h)(7)(A)’s cross-reference to another statute, does not require a contrary result. *See* 47 U.S.C. § 254(h)(7)(A) (referencing definitions in 20 U.S.C. § 7801). Insofar as those definitions refer to schools that “provide[]” elementary or secondary education, we find that terminology ultimately equivocal. In ordinary usage, we do not think it would be improper to refer to either a school building as a location where education is provided. *Cf.*, *e.g.*, Dept. of Veterans Affairs, Notice, 76 Fed. Reg. 3209 (Jan. 19, 2011) (explaining that “[t]he [VA’s West Los Angeles] campus provides a variety of medical services including inpatient and outpatient care, rehabilitation, residential care, and long-term care services”); Mass. Dept. of Health, Indoor Air Quality Assessment, at 3 (2011) (explaining that the Burlington Town Hall “building provides services to the public and hosts public meetings”) available at <https://www.mass.gov/doc/burlington-town-hall-may-2011-0/download>; Dept. of Labor, Notices, 64 Fed. Reg. 57656 (Oct. 26, 1999) (discussing a company and explaining that “[t]he Hanover, Pennsylvania location provides administrative support service”); Oxnard School District, CA, You’re Really Efficient and Effective: Does It Cost More?, at 19 (1994) (discussing year-round school as a way of “increasing the service one school building provides”) available at <https://files.eric.ed.gov/fulltext/ED434479.pdf>. And in any case, although there clearly are key aspects of the statutory definitions that Congress wanted to import into section 254, we are not persuaded that equivocal terminology drawn from a different statutory context should override what we see as stronger support for our interpretation drawn from the text of section 254 itself.

⁴⁰ Indeed, throughout section 254 Congress consistently used the “health care provider” terminology. *See, e.g.*, 47 U.S.C. §§ 254(b)(6), (c)(3), (h)(1)(A), (h)(2)(A), (h)(7)(B), (h)(7)(C).

nonprofit health care provider.”⁴¹ By contrast, Congress chose not to flow through the “provider” terminology used in the heading of section 254(h)(1)(B), instead addressing services “to elementary schools, secondary schools, and libraries.” Although the services “to” school and library locations would be purchased by educational providers or libraries as organizational entities,⁴² we conclude that our interpretation of the language of section 254(h)(1)(B) best accounts for Congress’s different textual choice as compared to the language used for health care providers in section 254(h)(1)(A).

12. Section 254(h)(2)(A) of the Communications Act directs the Commission to promulgate rules “to enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for all public and nonprofit elementary and secondary school *classrooms* . . . and libraries.”⁴³ The *Hotspots Order* found that providing support for Wi-Fi hotspots for students to do homework and access educational resources supports effective classroom instruction support, such that it satisfies the “for . . . classrooms” requirement.⁴⁴ It did so by noting that the statute uses the word “for,” rather than “at” or “in,” which might more clearly indicate the physical classroom.⁴⁵ However, we disagree that this language permits the Commission to authorize support for services that connect to educational resources at any location.⁴⁶ The Commission has long supported E-Rate funding for the services and equipment necessary to transport information to individual classrooms, including for equipment in non-instructional buildings that is essential for the effective transport of information to classrooms (e.g., a data center housing a network switch).⁴⁷ This is the best reading of the language in section 254(h)(2)(A) of the Communications Act directing the Commission to enhance access “for . . . classrooms.”⁴⁸ Under this reading, the services and equipment must ultimately transport information to school classrooms. Congress could not have intended the term “for . . . classrooms” to stretch to services transporting information to students’ homes, particularly in light of the statutory limitation of support to uses that are “technically feasible and economically reasonable.”⁴⁹ Similarly, we find that the statute limits our ability to fund services purchased by libraries to those that transport information to libraries, and not that transport information to library patrons at their homes or other non-

⁴¹ 47 U.S.C. § 254(h)(1)(A).

⁴² Thus, we read section 254(h)(1)(B)’s reference to “parties” purchasing service “to elementary schools, secondary schools, and libraries” to refer to the organizational entities purchasing services to such locations. Consequently, we likewise read the subsequent reference to the ability of “such entities” to affordably access and use services covered by section 254(h)(1)(B) likewise to refer to the organizational entities purchasing services “to” the locations of “elementary schools, secondary schools, and libraries.”

⁴³ 47 U.S.C. § 254(h)(2)(A) (emphasis added).

⁴⁴ See *Hotspots Order*, 39 FCC Rcd at 9043-44, para. 96.

⁴⁵ See *id.*; SHLB Opposition at 6.

⁴⁶ See also Comments of ACA Connects, WC Docket No. 21-31, at 3 (rec. Jan. 16, 2024) (ACA Connects Comments) (“[FCC’s] proposal contravenes the text of the Communications Act . . . and Congress’s intent by construing ‘schools,’ ‘libraries,’ and ‘classrooms,’ to include virtually any location where a Wi-Fi hotspot could be used to receive wireless broadband connectivity.”); NCTA Comments at 3 (“[T]here are legal questions as to whether allowing E-Rate support for Wi-Fi hotspots that can be used in any location is consistent with section 254, which only authorizes support to elementary schools, secondary schools, and libraries for educational purposes.”).

⁴⁷ See *Federal-State Joint Board on Universal Service; Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket No. 97-21 et al., Fourth Order on Reconsideration and Report and Order, 13 FCC Rcd 5318, 5440-41, paras. 209-10 (1997) (*Fourth Order on Reconsideration*) (emphasizing that “a given service is eligible for support as a component of the institution’s internal connections only if it is necessary to transport information all the way to individual classrooms”) (quoting the *First Universal Service Report and Order*, 12 FCC Rcd at 9021); 47 CFR § 54.502(d)(6).

⁴⁸ 47 U.S.C. § 254(h)(2)(A) (emphasis added).

⁴⁹ *Id.*

library locations. Providing funding for the purchase of off-premises Wi-Fi hotspots and associated wireless Internet service—particularly for libraries—could extend E-Rate support with virtually no limits.⁵⁰ Instead, we find that the best reading of section 254(h)(2)(A) of the Communications Act does not permit the Commission to fund off-premises use of Wi-Fi hotspots and associated wireless Internet services.

13. Our decision to rescind the July 2024 rules is reinforced by Congress’s decisions regarding the Emergency Connectivity Fund (ECF) program. In creating the temporary ECF program, Congress expressly provided authorization for funding Wi-Fi hotspots for use by students, staff, and library patrons at locations other than a school or library.⁵¹ In particular, it directed the Commission to adopt rules “providing for the provision, . . . of support under paragraphs (1)(B) and (2) of section 254(h) of the Communications Act . . . to an eligible school or library” for the purchase of equipment or services “for use by—(1) in the case of a school, students and staff of the school at locations that include locations other than the school; and (2) in the case of a library, patrons of the library at locations that include locations other than the library.”⁵² This is relevant in two separate ways. First, it illustrates how Congress can and does address support off-premises from schools and libraries where it wants to do so. Unlike section 7402, section 254(h) authorizes funding to elementary schools, secondary schools, and libraries, and for classrooms.⁵³ This contrast underscores that the *Hotspots Order* was not based on the best reading of the Communications Act.⁵⁴ Second, in connection with a discussion of section 254(h)(1)(B) of the Communications Act, it used the terms “school” and “library” in a manner that clearly referred to locations and that equally clearly treated off-premises locations as distinct from “schools” and “libraries.” This reinforces our conclusion that the terms “schools” and “libraries” are best understood to refer to locations in the language “to elementary schools, secondary schools, and libraries” in section 254(h)(1)(B) and exclude off-premises locations. And while not necessary to our analysis of the implications of the ECF program, we further conclude that the forgoing suggests that Congress saw section 7402 as a necessary expansion to section 254(h) in order to fund service for off-premises locations.

14. Moreover, we do not agree, as a policy matter, with the decision the Commission reached. Unlike in the ECF program, there are no limiting principles to effectively limit the use of scarce E-Rate funding for the off-premises use of Wi-Fi hotspots and associated wireless Internet service. Specifically, there is no data or analysis regarding the amount of federal funding that has already been used to fund federal and state Wi-Fi hotspot lending programs or the impact of the Commission’s decision to use limited E-Rate funding for this purpose.⁵⁵ When Congress established the ECF program it

⁵⁰ See, e.g., Comments of the Competitive Enterprise Institute, GN Docket No. 25-133, at 3-5 (rec. Apr. 11, 2025) (calling for reversal of the *Hotspots Order*, arguing that it “would place no limits on how the Commission could use E-Rate funding at locations beyond classrooms and libraries”); Reply Comments of the Free State Foundation, GN Docket No. 25-133, at 7-8 (rec. Apr. 28, 2025) (arguing that the rules exceed the authority provided in section 254(h) of the Communications Act and noting that it could provide subsidies “potentially anywhere in the world”).

⁵¹ See American Rescue Plan Act, 2021, H.R. 1319, Pub. L. No. 117-2, 117th Cong., tit. VII, § 7402(a)(1)-(2) (2021).

⁵² *Id.*

⁵³ 47 U.S.C. §§ 254(h)(1)(B), (h)(2)(A).

⁵⁴ Nor did Congress, through its enactment of the ECF program, alter the ongoing scope of section 254(h)(1)(B) such that it subsequently must or should be interpreted differently than before. See, e.g., Comments of NTCA – The Rural Broadband Association, WC Docket No. 21-31, at 2-4 (rec. Jan. 16, 2024) (NTCA Comments) (explaining that Congress established the ECF program with a specific mandate and defined term, without suggesting that it be absorbed into the E-Rate program at the conclusion); Reply Comments of WISPA – Broadband Without Boundaries, WC Docket No. 21-31, at 3-4 (rec. Jan. 29, 2024) (WISPA Reply) (noting that Congress did not amend section 254(h) to expand the scope of the E-Rate program when it created the ECF program to enhance remote learning during the pandemic).

limited the size of the program by providing an appropriation in a definite amount available for a fixed time period limited to purchases during the emergency period,⁵⁶ which is not the case for this potentially massive expansion of the E-Rate program. The prior Commission's decision also did not adequately justify the decision to expend funding for this purpose in light of other spending programs that also covered the same or similar purposes. Nor did the Commission put sufficient guardrails in place to ensure that the expansion would operate in the public interest. It also did not explain its decision with sufficient reasoning how expanding the program would advance any legitimate Commission purpose.

15. Nor do we agree that the record in this proceeding supported the prior decision regarding off-premises use. Commenters explained the limits of section 254(h) and raised alarms about the E-Rate program reaching every location in the country.⁵⁷ Additional commenters expressed concern that inclusion of the off-premises use of Wi-Fi hotspots as an E-Rate-supported service contravened section 254 of the Communications Act.⁵⁸ We agree with those commenters. To fund Wi-Fi hotspots in the face of such robust opposition, and with no clear statutory basis, is inappropriate.

16. In its opposition, T-Mobile provides a number of policy arguments in favor of students having access to broadband Internet at home.⁵⁹ T-Mobile highlights that there are many strong arguments in favor of connecting students that are on the wrong side of the digital divide to make sure they can complete homework assignments, review lessons, or collaborate with fellow students.⁶⁰ But regardless of the potential policy benefits (or costs), Congress did not provide the Commission with the authority to use the E-Rate program to support programs that lend Wi-Fi hotspots to students and library patrons and provide wireless Internet service to such hotspots, and we are therefore unpersuaded by T-Mobile's arguments.

17. In conclusion, the Molak Petition urges the Commission to reconsider the rules adopted in the July 2024 *Hotspots Order* because the Commission lacks legal authority to take such an action.⁶¹ We agree that funding the off-premises use of Wi-Fi hotspots and associated wireless Internet services

(Continued from previous page) _____

⁵⁵ See, e.g., NTCA Comments at 7-8 (explaining that the ECF was created with a defined budget and term with an explicit charge to quickly provide students, teachers, and library patrons with technology and services necessary to engage in remote learning during the pandemic, none of which are included in section 254 of the Communications Act); WISPA Reply at 3-4 (explaining Congress created ECF to provide services for remote learning and could have amended section 254 if it intended to expand the scope of the E-Rate program to cover these services).

⁵⁶ American Rescue Plan (appropriating \$7,171,000,000 to the ECF to “remain available until September 30, 2030”). See also *Wireline Competition Bureau and Office of Managing Director Provide Guidance on Emergency Connectivity Fund Program Upon Termination of the Emergency Period*, Public Notice, 38 FCC Rcd 4282 (WCB 2023) (explaining that the end date of the program is based on the statutory definition of emergency period).

⁵⁷ See, e.g., ACA Comments at 4-5 (explaining that there is no legislative history to support that Congress intended for “classroom” under section 254(h)(2)(A) to “encompass any off-premises location where learning could potentially occur”); NTCA Reply at 5 (noting the statute’s limits).

⁵⁸ See, e.g., NTCA Comments at 5-6 (arguing that the use of E-Rate funding for Wi-Fi hotspots runs counter to section 254 of the Communications Act because E-Rate funds are restricted to an “educational purpose” and to a place of instruction. “[Section 254(h)(1)(B)] makes clear that services are to be provided ‘to’ schools and libraries pursuant to the Act, and that such services are to be utilized by those institutions for ‘educational purposes.’”); NCTA Comments at 9-10 (explaining that by only funding wireless services, the Commission is running afoul of section 254(h)(2)(A)’s requirement that the Commission’s rules be competitively neutral (i.e., not favor one service provider or technology over another provider or technology); WISPA Reply at 1-3 (questioning whether the Commission has statutory authority to extend the definition of schools and libraries to mobile Wi-Fi hotspots that could be located virtually anywhere).

⁵⁹ See T-Mobile Opposition at 3-5.

⁶⁰ See *id.*

⁶¹ Molak Petition at 1-2 (citing 47 U.S.C. § 254(h)(2)(A)).

through the E-Rate program is not consistent with the best reading of the statutory authority provided to the Commission in section 254 of the Communications Act and therefore grant the petition for reconsideration for the reasons and to the extent provided in this *Order on Reconsideration*.⁶² We are convinced that the *Hotspots Order* was not premised on the best reading of the statute.

18. Because we find that the *Hotspots Order* is not consistent with the best reading of section 254 of the Communications Act, we also deny the petitions for reconsideration filed by LAUSD and SHLB, which sought to further expand the eligibility of off-premises broadband services to students, school staff, and library patrons. LAUSD and SHLB sought reconsideration of the *Hotspots Order* decision to not support wireless service to LTE-enabled devices,⁶³ and SHLB separately sought reconsideration of the decision to not extend E-Rate eligibility to alternative wireless technologies, such as private citizens broadband radio service (CBRS) networks or to standalone hotspots that could connect to private networks.⁶⁴ Consistent with our findings above, these additional off-premises requests to provide E-Rate support go beyond the best reading of section 254 of the Communications Act and are therefore denied.

19. We now rescind the 2024 rule amendments made in the *Hotspots Order* to the E-Rate rules as indicated in Appendix A.⁶⁵ In addition, we direct the Bureau to release a public notice with an amended FY 2025 eligible services list that reflects the changes made in this *Order on Reconsideration*. To effectuate this *Order on Reconsideration*, we direct USAC to deny all pending FY 2025 E-Rate funding requests for the off-premises use of Wi-Fi hotspots and wireless Internet services permitted pursuant to the July 2024 *Hotspots Order*.⁶⁶ In addition, we direct the Bureau, with the assistance of USAC, to modify the forms, procedures, and outreach materials to remove references to the eligibility of these services.

IV. PROCEDURAL MATTERS

20. *Regulatory Flexibility Act.* The Regulatory Flexibility Act of 1980, as amended (RFA),⁶⁷ requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.”⁶⁸ If an agency files a certification with a rulemaking, the certification must contain a statement that provides a factual basis for its conclusion that there will not be significant economic impact on a substantial number of small entities.⁶⁹ The Commission has prepared a Final Regulatory Flexibility Certification (FRFC) certifying that the rule and policy changes contained in the *Order on Reconsideration* will not have a significant economic impact on a substantial number of small entities. The FRFC is set forth in Appendix B.

21. *Paperwork Reduction Act.* This document does not adopt or propose new or

⁶² See also, e.g., Comments of NCTA—The Internet & Television Associations, GN Docket No. 25-133, at 12 (rec. Apr. 14, 2025) (arguing the Commission overreached its statutory authority in its *Hotspots Order*).

⁶³ See LAUSD Petition at 2-3; SHLB Petition at 8-9.

⁶⁴ See SHLB Petition at 3-7; 7-8.

⁶⁵ To the extent that any of the rules adopted in the *Hotspots Order* were not made final through publication in the Federal Register, they remain ineffective and we withdraw amendatory notes 4 and 9. Federal Communications Commission, Addressing the Homework Gap Through the E-Rate Program, Final Rule, 89 Fed. Reg. 67303, 67324-25 (Aug. 20, 2024) (delaying indefinitely changes to 47 CFR §§ 54.504(a)(1)(x)-(xii), (g); 54.516(e), (f), (g)).

⁶⁶ See *supra* note 5.

⁶⁷ 5 U.S.C. §§ 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

⁶⁸ 5 U.S.C. § 605(b).

⁶⁹ *Id.*

substantively modified information collections subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4). This document may contain non-substantive modifications to an approved information collection.⁷⁰ OMB approved those changes on December 20, 2024.⁷¹ Any such modifications will be submitted to the Office of Management and Budget for review pursuant to OMB's non-substantive modification process.

22. *Congressional Review Act.* The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs that this rule is "non-major" under the Congressional Review Act, 5 U.S.C. § 804(2). The Commission will send a copy of this *Order on Reconsideration* to Congress and the Government Accountability Office pursuant to 5 U.S.C. § 801(a)(1)(A).

V. ORDERING CLAUSES

23. Accordingly, IT IS ORDERED that, pursuant to the authority contained in section 405 of the Communications Act of 1934, as amended, 47 U.S.C. § 405, and section 1.429 of the Commission's rules, 47 CFR § 1.429, this *Order on Reconsideration* IS ADOPTED.⁷²

24. IT IS FURTHER ORDERED that the Petition for Reconsideration filed by Maurine and Matthew Molak on July 31, 2024 IS GRANTED to the extent provided herein.

25. IT IS FURTHER ORDERED that the Petitions for Reconsideration filed by Los Angeles Unified School District and the Schools, Health & Libraries Broadband Coalition, the Open Technology Institute at New America, the Benton Institute for Broadband & Society, the Consortium for School Networking, and Common Sense Media on September 19, 2024, ARE DENIED.

26. IT IS FURTHER ORDERED that, pursuant to section 1.103 of the Commission's rules, 47 CFR § 1.103, the amendments to the Commission's rules as set forth in Appendix A hereof ARE ADOPTED, effective thirty (30) days from the date of publication of this *Order of Reconsideration* in the Federal Register, which will not occur until after the Office of Management and Budget has completed review of any non-substantive change to an information collection under the Paperwork Reduction Act.

27. IT IS FURTHER ORDERED that the Wireline Competition Bureau SHALL RELEASE a Public Notice with an amended funding year 2025 eligible services list.

28. IT IS FURTHER ORDERED that the Universal Service Administrative Company is directed to deny all pending funding year 2025 E-Rate funding requests for the off-premises use of Wi-Fi hotspots and wireless Internet services requested pursuant to the *Hotspots Order*.

29. IT IS FURTHER ORDERED that the Commission's Office of the Secretary, SHALL SEND a copy of this *Order on Reconsideration*, including the *Final Regulatory Flexibility Certification*, to the Chief Counsel of the Small Business Administration Office of Advocacy.

30. IT IS FURTHER ORDERED that the Office of the Managing Director, Performance Management, SHALL SEND a copy of this *Order on Reconsideration* in a report to be sent to Congress and the General Accounting Office pursuant to the Congressional Review Act, *see* 5 U.S.C. §

⁷⁰ *See* Federal Communications Commission; Submission to the Office of Management and Budget Non-Substantive Change Memo, OMB 3060-0806 (Dec. 3, 2024).

⁷¹ *See* Notice of Office of Management and Budget Action - Approval, OMB 3060-0806 (Dec. 20, 2024).

⁷² Pursuant to Executive Order 14215, 90 Fed. Reg. 10447 (Feb. 24, 2025), this regulatory action has been determined to be not significant under Executive Order 12866, 58 Fed. Reg. 51735 (Oct. 4, 1993).

801(a)(1)(A).

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX A

Final Rules

For the reasons discussed above, the Federal Communications Commission amends 47 CFR part 54 as follows:

PART 54 – UNIVERSAL SERVICE

The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 229, 254, 303(r), 403, 1004, 1302, 1601-1609, and 1752, unless otherwise noted.

1. Section 54.500 is amended by removing the definitions of “Wi-Fi” and “Wi-Fi hotspot”.
2. Section 54.502 is amended by removing paragraph (e), redesignating paragraph (f) as (e), and revising paragraph (a) to read as follows:

§ 54.502 Eligible Services.

- (a) Supported services. All supported services are listed in the Eligible Services List as updated annually in accordance with paragraph (e) of this section. The services in this subpart will be supported in addition to all reasonable charges that are incurred by taking such services, such as state and federal taxes. Charges for termination liability, penalty surcharges, and other charges not included in the cost of taking such service shall not be covered by the universal service support mechanisms. The supported services fall within the following general categories:

* * * * *

3. Remove and reserve Section 54.506.
4. Section 54.507 is amended by removing paragraph (f)(5) and revising paragraph (f)(4) to read as follows:

§ 54.507 Cap.

* * * * *

(f) * * *

(4) For both paragraphs (f)(1) and (2) of this section, if the remaining funds are not sufficient to support all of the funding requests within a particular discount level, the Administrator shall allocate funds at that discount level using the percentage of students eligible for the National School Lunch Program. Thus, if there is not enough support to fund all requests at the 40 percent discount level, the Administrator shall allocate funds beginning with those applicants with the highest percentage of NSLP eligibility for that discount level by funding those applicants with 19 percent NSLP eligibility, then 18 percent NSLP eligibility, and shall continue committing funds in the same manner to applicants at each descending percentage of NSLP until there are no funds remaining.

5. Section 54.513 is amended by revising paragraph (b) to read as follows:

§ 54.513 Resale and transfer of services.

* * * * *

(b) ***Disposal of obsolete equipment components of eligible services.*** Eligible equipment components of eligible services purchased at a discount under this subpart shall be considered obsolete if the equipment components have been installed for at least five years. Obsolete equipment components of eligible services may be resold or transferred in consideration of money or any other thing of value, disposed of, donated, or traded.

* * * * *

6. Section 54.516 is amended by and revising paragraphs (a)(1) and (b) to read as follows:

§ 54.516 Auditing and inspections.

(a) *Recordkeeping requirements* —

(1) ***Schools, libraries, and consortia.*** Schools, libraries, and any consortium that includes schools or libraries shall retain all documents related to the application for, receipt, and delivery of supported services for at least 10 years after the latter of the last day of the applicable funding year or the service delivery deadline for the funding request. Any other document that demonstrates compliance with the statutory or regulatory requirements for the schools and libraries mechanism shall be retained as well. Schools, libraries, and consortia shall maintain asset and inventory records of equipment purchased as components of supported category two services sufficient to verify the actual location of such equipment for a period of 10 years after purchase.

* * * * *

(b) ***Production of records.*** Schools, libraries, consortia, and service providers shall produce such records at the request of any representative (including any auditor) appointed by a state education department, the Administrator, the FCC, or any local, state or federal agency with jurisdiction over the entity.

* * * * *

7. Section 54.520 is amended by revising paragraphs (c)(1)(iii)(C), (c)(2)(iii)(C), and (c)(3)(i)(C) to read as follows:

§ 54.520 Children's Internet Protection Act certifications required from recipients of discounts under the federal universal service support mechanism for schools and libraries.

* * * * *

(c) * * *

(1) * * *

(iii) * * *

(C) The Children's Internet Protection Act, as codified at 47 U.S.C. 254(h) and (l), does not apply because the recipient(s) of service represented in the Funding Request Number(s) on this Form 486 is (are) receiving discount services only for telecommunications services.

(2) * * *

(iii) * * *

(C) The Children's Internet Protection Act, as codified at 47 U.S.C. 254(h) and (l), does not apply because the recipient(s) of service represented in the Funding Request Number(s) on this Form 486 is (are) receiving discount services only for telecommunications services.

(3) * * *

(i) * * *

(C) The Children's Internet Protection Act, as codified at 47 U.S.C. 254(h) and (l), does not apply because the recipient(s) of service under my administrative authority and represented in the Funding Request Number(s) for which you have requested or received Funding Commitments is (are) receiving discount services only for telecommunications services; and

* * * * *

APPENDIX B

Final Regulatory Flexibility Certification

1. The Regulatory Flexibility Act of 1980, as amended (RFA),¹ requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.”² The RFA generally defines “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”³ In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.⁴ A small business concern is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).⁵

2. As required by the RFA,⁶ the Federal Communications Commission (Commission) incorporated an Initial Regulatory Flexibility Analysis (IRFA) in the *Addressing the Homework Gap through the E-Rate Program Notice of Proposed Rulemaking* (“NPRM”), released in November 2023.⁷ The Commission sought written public comment on the proposals in the NPRM, including comment on the IRFA. No comments were filed addressing the impact of the proposed rules on small entities. In July 2024, the Commission released the *Addressing the Homework Gap through the E-Rate Program Report and Order and Further Notice of Proposed Rulemaking (Hotspots Order)* and published a FRFA, as well as an IRFA for the *Further Notice of Proposed Rulemaking*.⁸

3. On July 31, 2024, Maureen and Matthew Molak filed a Petition for Reconsideration of the *Hotspots Order* (Molak Petition), which included issues impacting small entities.⁹ On September 19, 2024, Los Angeles Unified School District (LAUSD), and the Schools, Health & Libraries Broadband Coalition (SHLB), Open Technology Institute at New America (OTI), Benton Institute for Broadband & Society, Consortium for School Networking (CoSN), and Common Sense Media (collectively SHLB) filed timely petitions for reconsideration.¹⁰ On August 12, 2024, the Commission published a notice

¹ 5 U.S.C. §§ 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, (SBREFA) Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

² 5 U.S.C. § 605(b).

³ *Id.* § 601(6).

⁴ *Id.* § 601(3) (incorporating by reference the definition of “small business concern” in Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.”

⁵ Small Business Act, 15 U.S.C. § 632.

⁶ 5 U.S.C. § 603.

⁷ *Addressing the Homework Gap through the E-Rate Program*, WC Docket No. 21-31, Notice of Proposed Rulemaking, 38 FCC Rcd 10726, 10762, Appendix B (2023) (NPRM).

⁸ *Addressing the Homework Gap through the E-Rate Program*, WC Docket No. 21-31, Report and Order and Further Notice of Proposed Rulemaking, 39 FCC Rcd 8989, Appendices C and D (2024) (*Hotspots Order*).

⁹ Maurine and Matthew Molak Petition for Reconsideration, WC Docket No. 21-31 (filed July 31, 2024), <https://www.fcc.gov/ecfs/filing/10731704227591> (Molak Petition).

¹⁰ Los Angeles Unified School District Petition for Reconsideration, WC Docket No. 21-31 (filed Sept. 19, 2024), <https://www.fcc.gov/ecfs/filing/1091990256972> (LAUSD Petition); Schools, Health & Libraries Broadband (SHLB) Coalition, Open Technology Institute at New America (OTI), Benton Institute for Broadband & Society, Consortium for School Networking (CoSN), and Common Sense Media Petition for Reconsideration, WC Docket No. 21-31 (filed Sept. 19, 2024), <https://www.fcc.gov/ecfs/filing/1091974883765> (SHLB Petition).

seeking comment on the Molak Petition.¹¹ On September 30, 2024, the Commission published a notice seeking comment on both the LAUSD Petition and the SHLB Petition.¹² No comments were filed addressing the impact of these petitions on small entities.

4. The two statutorily-mandated criteria to be applied in determining the need for RFA analysis are: (1) whether the proposed rules, if adopted, would have a *significant economic impact*, and (2) if so, whether the economic effect would directly affect a *substantial number of small entities*.¹³ For the reasons discussed below, the Commission has determined that the rules and policy changes adopted in the *Order on Reconsideration* will not have a significant economic impact on a substantial number of small entities and has prepared this Final Regulatory Flexibility Certification (FRFC).

5. In the *Order on Reconsideration*, the Commission rescinds the rules adopted in the *Hotspots Order*. In so doing, we remove any potential burdens associated with the rules adopted in the *Hotspots Order* that would have required reporting, recordkeeping, or other compliance obligations for small E-Rate service providers, and do not create any new burdens in the process. In addition, we have determined that the impact on the entities affected by the rule change will not be significant because the *Order on Reconsideration* is not adopting any new rules. Thus, the Commission's actions have not created any new obligations. Further, FY 2025 funding requests for the off-premises use of Wi-Fi hotspots and/or wireless Internet service have not been processed by the Universal Service Administrative Company (USAC), the administrator of the Commission's universal service programs, and funding for the services permitted in the *Hotspots Order* has not been approved for any E-Rate entities.¹⁴ As no services or equipment have been provided as a result of the *Hotspots Order*, the *Order on Reconsideration* does not create a significant economic impact on these potential small service providers. Small and other entities will simply be required to comply with the rules that were effective prior to the adoption of the *Hotspots Order*.

6. Accordingly, based on our application of the two statutorily-mandated criteria to the rules adopted in the *Order on Reconsideration*, the Commission concludes that the removal of the rules adopted in the *Hotspots Order* will not have a significant economic impact on a substantial number of small entities. We therefore certify that the rules adopted in the *Order on Reconsideration*, eliminating compliance requirements in the *Hotspots Order*, will not have a significant economic impact on a substantial number of small entities.

7. The Commission will send a copy of the *Order on Reconsideration*, including a copy of this Final Regulatory Flexibility Certification, in a report to Congress pursuant to the Congressional Review Act.¹⁵ In addition, the *Order on Reconsideration*, and this final certification, will be sent to the Chief Counsel for Advocacy of the Small Business Administration, and will be published in the Federal Register.¹⁶

¹¹ Petition for Reconsideration of Action in Rulemaking Proceeding, 89 Fed. Reg. 65576 (Aug. 12, 2024).

¹² Petitions for Reconsideration of Action in Rulemaking Proceeding, 89 Fed. Reg. 79492 (Sept. 30, 2024).

¹³ 5 U.S.C. § 603, *et seq.* See also *Mid-Tex Electric Cooperative, Inc., v. FERC*, 773 F.2d 327, 342-43 (D.C. Cir. 1985) (*Mid-Tex Electric*).

¹⁴ *Order on Reconsideration*, para. 15, note 48.

¹⁵ 5 U.S.C. § 801(a)(1)(A).

¹⁶ *Id.* § 605(b).

**STATEMENT OF
CHAIRMAN BRENDAN CARR**

Re: *Addressing the Homework Gap through the E-Rate Program*, WC Docket No. 21-31, Order on Reconsideration (Sept. 30, 2025).

During COVID-19, Congress passed a law authorizing the FCC to use the newly-created Emergency Connectivity Fund to fund Wi-Fi hotspots for use outside of schools and libraries. At the time, I supported the initiative to maximize the program’s benefits during an unprecedented time when students were forced to undergo remote school. For the ECF program, Congress provided clear congressional authorization, set a specific cap on the amount of taxpayer dollars that could be used, and included a sunset provision that provided the program would expire when the COVID-19 emergency ended.

When that program ended, so did the FCC’s authority to fund Wi-Fi hotspots. Nonetheless, the Commission unlawfully chose to keep funding hotspots in plain violation of the limits Congress imposed. Specifically, Section 254 limits the FCC’s E-Rate authority to enhance the access of telecommunication services in “classrooms and libraries”—not any remote location at which people might want to learn.

The FCC is not alone in this conclusion. Earlier this year, Republicans in the Senate and House introduced a Congressional Review Act resolution to overturn the Biden administration’s overreach. Lawmakers have raised serious concerns about the FCC’s “unlawful and misguided” attempts to expand E-Rate support beyond what Congress intended.

Beyond its legal flaws, the FCC’s 2024 program lacks basic guardrails to ensure responsible use of funds. Unlike the temporary program created by Congress, those rules included no cap on spending, no limit on where hotspots could be used, no sunset date, and no protection against higher monthly bills for consumers. This was poor stewardship of scarce funds, and it opened the door to waste, fraud, and abuse.

The FCC’s 2024 decision also raised serious policy concerns. Using millions of taxpayer dollars to fund unsupervised Internet access was never Congress’s intent for E-Rate, especially in a time when students are struggling to socialize due to excessive screen time. What little data exists shows most hotspots that were implemented through these types of programs were quickly lost or stolen, wasting millions. The FCC has failed to demonstrate that these funding decisions would advance legitimate classroom or library purposes.

Opponents of today’s decision claim that many Americans lack Internet access for homework, telemedicine, online banking, and job searches. But E-Rate was never designed to solve those broader challenges. The FCC is advancing multiple initiatives as part of our “Build America Agenda” aimed at expanding Internet access. Those initiatives are appropriate vehicles to get Americans connected. E-Rate, however, was not created for the purpose of funding connectivity efforts outside the school. Unlawfully expanding E-Rate to fund Wi-Fi hotspots is not a legitimate or effective use of FCC authority.

Today we are putting an end to the unlawful use of E-Rate funding for Wi-Fi hotspots and instead focusing on lawful ways to connect Americans while being good stewards of federal dollars.

For their great work on this item, I’d like to thank Allison Baker, Bradley Craigmyle, Kate Dumouchel, Joel Graham, Gabby Gross, Andrea Kelly, David Konczal, Richard Mallen, Molly O’Conor, Nick Page, Christopher Santini, Johnnay Schrieber, Derek Yeo, and Chin Yoo.

**DISSENTING STATEMENT OF
COMMISSIONER ANNA M. GOMEZ**

Re: *Addressing the Homework Gap through the E-Rate Program*, WC Docket No. 21-31, Order on Reconsideration (September 30, 2025).

First, I want to address process. Participation, transparency, and accountability are critical to the Commission's process. As the item before us today says "[i]t is longstanding practice for the Commission to seek public input and collect information" before making decisions with regard to the E-Rate program's eligible services list.¹ That is why the process failure before us is so concerning.

The Commission generally releases copies of draft items scheduled for the monthly open meeting to the public 3 weeks before such meeting² in order to allow stakeholders and interested parties to read the item and voice any concerns they may have. This process was implemented during former Chairman Pai's administration serving the goal of transparency.³ Instead of following this well-functioning, longstanding practice, the Order on Reconsideration regarding Wi-Fi hotspots and the Declaratory Ruling regarding Wi-Fi on school buses were added to the September meeting agenda without releasing public drafts and just hours before the Sunshine notice, the deadline after which parties can no longer meet with Commissioners' offices. As a result, stakeholders and interested parties were not afforded the chance to read the items impacting their constituencies and were not afforded the chance to weigh in on the substantive details in each item.

Public input is integral to the Commission's decision-making process—as it should be. That input is all the more critical when dealing with items that propose to strip funding from services on which schools and libraries currently rely. Removing E-Rate funding for hotspots and Wi-Fi on school buses will force cutbacks in service and undoubtedly impact the way that schools and libraries are providing educational support to students. Decisions of this magnitude—decisions that take resources away from people across the country—should never be made in the dark, behind closed doors. The Commission is supposed to serve the public, not sideline it. When we shut out the very communities our decisions affect, we fail in that responsibility.

Now, I want to turn to the policy and the law. Broadband is the infrastructure of opportunity. Across the political spectrum, lawmakers have acknowledged the existence of the digital divide—the gap between those who have access to affordable, reliable broadband and those who do not.⁴

For more than 25 years, the FCC's E-Rate Program has helped us narrow the digital divide by making telecommunications and information services more affordable for schools and libraries.⁵ It has connected library patrons, empowered teachers, and equipped students with digital skills.

Specifically, Section 254(h)(1)(B) of the Communications Act tasks the Commission with providing E-Rate support "to elementary schools, secondary schools, and libraries for educational

¹ *Modernizing the E-Rate Program for Schools and Libraries*, WC Docket No. 13-184, Declaratory Ruling, FCC 25-63, para. 14, (adopted Sept. 30, 2025) (*2025 School Bus Wi-Fi Declaratory Ruling*).

² Press Release, FCC Chairman Ajit Pai, Announces Pilot Program to Release Commission Documents to the Public (Feb. 2, 2017), https://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db0202/DOC-343303A1.pdf.

³ *Id.* at 3.

⁴ *Addressing the Homework Gap through the E-Rate Program*, WC Docket No. 21-31, Report and Order and Further Notice of Proposed Rulemaking, 39 FCC Rcd 8989 (2024) (*Hotspots Order*).

⁵ *Id.*

purposes.”⁶ Schools and libraries understand best what their students and patrons need and how to reach them. Teachers, librarians, and parents alike understand that education is not confined to the four walls of a classroom or a library. The pandemic made this painfully clear. It showed us that learning occurs in all kinds of places – from the parking lot of a McDonald’s to the steps outside of a public library. It would be incredibly naïve for us to think that in our post-pandemic world learning has returned to solely in-person and on-paper instruction. The era of homework by quill and candlelight is long gone and will never return.

Technology and telecommunications services change year after year. And that’s why Congress expressly authorized the Commission to update the E-Rate program over time by “designat[ing] additional services for support.”⁷ In doing so, Congress gave the FCC permission to expand the applications of E-Rate funding as the technologies used to educate children evolve. When the E-Rate program was implemented, dial up Internet was the standard,⁸ and today, September 30th, 2025, AOL is discontinuing dial up service.⁹ It is safe to say the landscape of communications technology has changed dramatically throughout the life of the E-Rate program. As underscored during my visit to the High School for Environmental Studies in New York a couple of weeks ago, students are now using Chromebooks in classrooms on a regular basis, and they are expected to submit homework assignments online using platforms like Google classroom. These changes are made possible with support from E-Rate funding.

The Commission has long recognized this reality and expanded E-Rate funding to cover new services, including those that provided off-site connectivity. For example, as early as 2003 the Commission expanded E-Rate support to cover internet access for bookmobiles.¹⁰ It also clarified that E-Rate funding could cover a school bus driver’s use of wireless services while transporting students, a librarian’s use of wireless services on a library’s mobile library unit van, and teachers’ use of wireless services while accompanying students on a field trip.¹¹ Expanding E-Rate support to cover hotspots and Wi-Fi on school buses was consistent with that precedent.

These services matter most for students who would otherwise be left behind, such as students in rural areas who spend more time on school buses than most.¹² For example, in the state of Arkansas, the longest school bus commute is 2 hours and 47 minutes each way, and the average school bus commute is nearly 50 minutes each way.¹³ Moreover, as of 2023, one in three rural students still had inadequate

⁶ 47 U.S.C. § 254(h)(1)(B).

⁷ 47 U.S.C. §§ 254(c)(3), 254(h)(1)(B).

⁸ John Wells & Laurie Lewis, *Internet Access in U.S. Public Schools and Classrooms: 1994-2005*, U.S. Dept. of Ed., Nat’l Center for Ed. Stats., at 4–5 (Nov. 2006); *id.* at 14, 18.

⁹ AOL, *Dial-up Internet to be discontinued*, <https://help.aol.com/articles/dial-up-internet-to-be-discontinued> (last visited Sept. 29, 2025).

¹⁰ *Request for Review of the Decision of the Universal Service Administrator by Montgomery County-Norristown Public Library, Norristown, PA et al.*, Order, 18 FCC Rcd 1775 (WCB 2003).

¹¹ *Schools and Libraries Second Report and Order*, 18 FCC Rcd at 9208–09, para. 19 n.28

¹² See, e.g., Beth Spence, *Long School Bus Rides: Their Effect on School Budgets, Family Life, and Student Achievement*, Rural Educ. Dig. (2000), <https://files.eric.ed.gov/fulltext/ED448955.pdf>; Sarah A. Cordes, et al., *Do Long Bus Rides Drive Down Academic Outcomes?*, Annenberg Brown Univ., EdWorking Paper No. 21-504, at 2 (Dec. 2021), <https://files.eric.ed.gov/fulltext/ED616857.pdf> (“Cordes”).

¹³ Memorandum from Richard Wilson, Assistant Dir. for Rsch. Servs., Ark. Bureau of Legis. Rsch. (Aug. 12, 2014) (reporting on K-12 Student Transportation Survey per Act 1288 of 2013).

internet access at home.¹⁴ For these students, having access to hotspots at home or Wi-Fi on school buses can mean the difference between completing their homework and falling behind.

Importantly, the characterization of these uses of funding as unsupervised screen time fails to acknowledge that the E-Rate program has guardrails to ensure childrens' safety when using both hotspots and Wi-Fi on school buses.¹⁵ Those who receive E-Rate funding are subject to the Children's Internet Protection Act which requires that they employ technology protection measures to block or filter obscene and otherwise harmful content online.¹⁶ These are protection measures that are not even guaranteed for children using a home Wi-Fi connection paid for by their family. Similarly, schools and libraries provide hotspot recipients with an acceptable use policy (AUP) that makes clear that hotspots must be used for primarily educational purposes under the Commission's definitions.¹⁷

Let's zoom out and look at the big picture. Across the political spectrum, policymakers have identified global leadership on artificial intelligence as a national priority.¹⁸ But we cannot expect to lead if we fail to equip today's students, who will be tomorrow's innovators and technologists, with the digital skills they need to succeed. Without support for connectivity, that pipeline dries up—and in the long run, we—and the communities—lose out.

We learned the same lesson from the Affordable Connectivity Program. It was the most successful tool our country has ever had to address the digital divide. When funding for the program lapsed last year, millions of households lost support.¹⁹ And without it, the struggle to afford reliable, high-speed broadband continues to loom large. I strongly believe that Congress should establish another affordability program. If the Commission votes to take away funding for hotspots today, the need for a new affordability program will only become more urgent.

The Commission's move to roll back federal funding for hotspots and Wi-Fi on school buses ignores our nation's educational landscape today and the need to equip students with digital skills for the future. Let me be clear, these decisions benefit no one. Funding for hotspots and Wi-Fi on school buses comes from the existing E-Rate budget.²⁰ It will however make it harder for students to learn, harder for libraries to serve their community, and harder for us to close the digital divide. Because I cannot support turning the digital divide into a digital chasm, I dissent.

I do, however, want to acknowledge the hard work and dedication of the Wireline Competition Bureau.

¹⁴ Keith N. Hampton et al., *Broadband and Student Performance Gaps After the COVID-19 Pandemic*, Quello Center, Mich. State Univ., at 6 (2023), <https://quello.msu.edu/wp-content/uploads/2023/08/Broadband-and-Student-Performance-Gaps-After-the-COVID-19-Pandemic.pdf>.

¹⁵ See 47 U.S.C. § 254(h)(5).

¹⁶ *Hotspots Order*, para. 97.

¹⁷ Universal Serv. Admin. Co., *Off-Premises Wi-Fi Hotspots Overview*, <https://www.usac.org/e-rate/applicant-process/before-you-begin/off-premises-wi-fi-hotspots-summary-overview/> (last visited Sept. 29, 2025).

¹⁸ See, e.g., Sorelle Friedler & Andrew D. Selbst, *5 points of bipartisan agreement on how to regulate AI* (Aug. 15, 2025), <https://www.brookings.edu/articles/five-points-of-bipartisan-agreement-on-how-to-regulate-ai/>.

¹⁹ *Hotspots Order*, para. 15.

²⁰ *Hotspots Order*, para. 5.

**STATEMENT OF
COMMISSIONER OLIVIA TRUSTY**

Re: *Modernizing the E-Rate Program for Schools and Libraries*, WC Docket No. 13-184, Declaratory Ruling; *Addressing the Homework Gap through the E-Rate Program*, WC Docket No. 21-31, Order on Reconsideration.

Ensuring that all Americans can access the benefits of advanced communications is one of my highest priorities. The issues raised by the *School Bus Wi-Fi Order* and the *E-Rate Hotspots Order* are significant. We need only look at Congress’s decision to establish the Emergency Connectivity Fund, a temporary program to provide broadband devices and services offsite from schools and libraries, to see how important these issues are.

With the Emergency Connectivity Fund now ended, the Commission must determine how to proceed. My support for both Orders today rests on my commitment to apply what I see as the best interpretation and application of the law.

As the Supreme Court has reminded us, “an agency literally has no power to act . . . unless and until Congress confers power upon it.”¹ And after *Loper Bright*, the Commission cannot approach statutory interpretation with a thumb on the scale in its own favor. Our role is to apply the law using the same ordinary tools that a court would.²

That doesn’t mean everyone will agree on what a statute requires. But in this position, I am bound to follow the law in each decision I make. In my judgment, the interpretation reflected in these orders best reflects the statutory text, its context, and the broader legal and regulatory framework. I recognize that some of my predecessors among others see the law differently. I respect their views and do not question their good faith. But I must act in good faith myself, based on what I believe is the best understanding of Congress’s direction.

The Commission has a special responsibility to adhere to the limits Congress has set when spending public money through the universal service fund. Under our constitution, Congress’s “power of the purse” is central to the system of checks and balances.³ For us that means two things: first, that we must never exceed the limits Congress has placed on universal service support,⁴ and second, that we must carefully evaluate the financial consequences of our decisions to ensure they are consistent with our statutory authority. In this way, we respect Congress’s constitutional role while fulfilling our own.

The Supreme Court’s recent decision upholding the constitutionality of the universal service fund reinforces my approach. Every universal service dollar ultimately comes from consumers, and the challengers in that case argued that Congress had failed to place sufficient limits on how the FCC spends those dollars. The majority disagreed, concluding that “[t]he policy” expressed in section 254 “is clear and limiting,” and any discretion exercised by the FCC must be “tethered to legislative judgments.”⁵ Justice Gorsuch, in dissent, pointed to the very *Hotspots Order* before us as an example of unbounded

¹ *Louisiana Pub. Serv. Comm’n v. FCC*, 476 U.S. 355, 374 (1986).

² *Loper Bright Ent. v. Raimondo*, 144 S. Ct. 2244, 2273 (2024).

³ See, e.g., GAO, *Principles of Federal Appropriations Law*, 4th ed., 2016 rev., ch. 1, GAO-16-463SP, at p. 1-6, available at <https://www.gao.gov/assets/2019-11/675699.pdf>.

⁴ See *id.* at pp. 1-23 - 1.24.

⁵ *FCC v. Consumers’ Research*, 145 S. Ct. 2482, 2508 (2025).

FCC discretion.⁶ My takeaway: staying firmly within the heartland of our authority both honors the majority’s reasoning and avoids the concerns that led the dissenters to a different conclusion.

This approach reflects not only my legal commitments but also my background working on Capitol Hill. Congress creates agencies like the FCC and defines their mandates. For government to work well, agencies must abide by those laws. In my view, the Commission risks missed opportunities when it attempts to go it alone rather than working collaboratively with Congress.

When the FCC goes it alone, it risks narrowing its focus. We have seen this before, as the Commission has sought to do more and more through universal service, even as the contribution base shrinks. Collaboration with Congress may not produce identical outcomes on identical timelines, but it could support modernized, more sustainable programs. It could also open the door to valuable dialog. For example, when Congress enacted the Emergency Connectivity Fund, it provided limited funding for a limited time.⁷ And in 2024, Congress rescinded nearly \$1.8 million in remaining funds.⁸ Congress clearly recognized the value of offsite support, but just as clearly chose to bring the program to an end. By proceeding alone, the Commission missed the chance to better understand Congress’s reasoning, insights that could have informed our statutory framework and program oversight.

Closing the digital divide requires an “all hands on deck” approach that also includes private industry. By working with the private sector, the Commission can broaden its thinking, learn from real-world experience, and pursue creative solutions beyond regulation alone, whether through infrastructure deployment of wired or wireless facilities, affordability initiatives, or digital literacy efforts. This kind of collaboration complements, rather than substitutes for federal programs like universal service.

I understand that not everyone will be satisfied with today’s outcome. But I want to be clear: I remain fully committed to addressing the digital divide and ensuring that all Americans share in the benefits of broadband connectivity. I thank the Wireline Competition Bureau for its hard work on these items, and I look forward to working with the Chairman and other Commission staff, with Congress, and with other public and private stakeholders in the collective effort this mission demands.

* * *

In this written statement, I also want to take the opportunity to elaborate on a few of my views regarding the interpretation of section 254(h). As explained in the *Hotspots Reconsideration Order*, the best reading of the statutory text and context of section 254(h)(1)(B) limits support to services provided to eligible locations—namely elementary schools, secondary schools, and libraries. The *Hotspots Reconsideration Order* and *School Bus Wi-Fi Declaratory Ruling* also explain why the best interpretation of section 254(h)(2)(A) does not authorize the 2023 and 2024 decisions at issue here. In my view, today’s interpretations are further reinforced by the Commission’s historical approach to E-Rate, which has consistently focused on the location being served.⁹

⁶ *Id.* at 2531 (Gorsuch, J., dissenting).

⁷ American Rescue Plan Act of 2021, Pub. L. No. 117-2, § 7402 (2021).

⁸ Further Consolidated Appropriations Act, 2024, Pub. L. No. 118-47, § 639 (2024).

⁹ See, e.g., *Schools and Libraries Universal Service Support Mechanism*, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202, 9209, para. 20 (2003) (*Schools and Libraries Second Report and Order*) (emphasizing that the clarification of the “educational purpose” standard remained “consistent with statutory mandates”—including section 254(h)(1)(B)—“that the purpose for which support is provided be for educational purposes in a place of instruction”); *Request For Review of the Decision of the Universal Service Administrator By Rockwood School District R 6 Eureka, Missouri, et al.*, 16 FCC Rcd 5277, 5278-79, para. 4 (CCB 2001) (using a location-focused approach in early decisions that cellular service would be eligible for discounts only

(continued....)

By contrast, decisions sometimes cited as precedent for extending E-Rate support to offsite locations do not, in my view, establish that authority. For example, some of those orders do not directly address the interplay between the precedent being set and the statutory language in section 254(h) that is central to our analysis here.¹⁰ Other precedent did not involve any additional E-Rate support for services to offsite locations.¹¹ And still another example appears to be limited to the location of the school itself.¹²

In sum, I believe the interpretation of section 254 reflected in these orders is the one most consistent with the statutory text, its context, and the broader legal and regulatory framework.

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when “1) provided for use at a place of instruction, and 2) used for an educational purpose,” and citing section 254(h)(1)(B)).

¹⁰ See, e.g., *Schools and Libraries Second Report and Order*, 18 FCC Rcd at 9208-09, para. 19 & n.28 (stating that “reasonable requests for any supported service - over any technology platform - to be used by any school or library staff while in a library, classroom, or on school or library property, shall be eligible for discounts,” and going on to clarify that certain “offsite” uses of services nonetheless could fit the “educational purpose” standard, but without addressing the distinct criteria about whether and to what extent a “place of learning” must be involved – primarily, even if not exclusively); *Schools and Libraries Universal Service Support Mechanism, A National Broadband Plan For Our Future*, WC Docket No. 02-6, GN Docket No. 09-51, Sixth Report and Order, 25 FCC Rcd 18762, 18784-87, paras. 41-50 (2010) (*Schools and Libraries Sixth Report and Order*) (adopting a temporary pilot program without analysis demonstrating why the action was justified under the text of section 254(h)).

¹¹ *Federal-State Joint Board on Universal Service, Petition of the State of Alaska for Waiver for the Utilization of Schools and Libraries Internet Point-of-Presence in Rural Remote Alaska Villages Where No Local Access Exists and Request for Declaratory Ruling*, CC Docket No. 96-45, Order, 16 FCC Rcd 21511 (2001) (*Alaska Waiver Order*) (granting the state of Alaska a limited waiver to allow members of rural remote Alaskan communities to use E-Rate-funded satellite telecommunications and Internet services, when not being used by the schools, offsite where, among other things, the school or library has not requested more services than are necessary for educational purposes and no additional costs will be incurred).

¹² *Schools and Libraries Sixth Report and Order*, 25 FCC Rcd at 18778-79, paras. 31-32 (finding that it served an educational purpose to let residential schools that serve unique populations use E-Rate-funded services in the residential areas of those schools after hours).