FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 21–93; DA 21–317; FRS 17586]

Wireline Competition Bureau Seeks Comment on Emergency Connectivity Fund for Educational Connections and Devices To Address the Homework Gap During the Pandemic

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Wireline Competition Bureau seeks comment on the provision of support from the Emergency Connectivity Fund consistent with section 7402 of the American Rescue Plan Act of 2021.

DATES: Comments are due April 5, 2021, and reply comments are due April 23, 2021.

ADDRESSES: All filings should refer to WC Docket No. 21–93. Comments may be filed by paper or by using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

- *Electronic Filers:* Comments and replies may be filed electronically using the internet by accessing ECFS: *http://www.fcc.gov/ecfs.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.
- Filings can be sent by commercial overnight courier or by first-class or overnight U.S. Postal Service mail. Filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L St. NE, Washington, DC 20554.

People With Disabilities. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530.

Effective March 19, 2020, and until further notice, the Federal Communications Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19.

FOR FURTHER INFORMATION CONTACT: Molly O'Conor, Wireline Competition Bureau, (202) 418–7400 or by email at *Molly.OConor@fcc.gov.* The Federal Communications Commission asks that requests for accommodations be made as soon as possible in order to allow the agency to satisfy such requests whenever possible. Send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530.

SUPPLEMENTARY INFORMATION: This is a summary of the Wireline Competition Bureau's Public Notice in WC Docket No. 21–93; DA 21–317, released on March 16, 2021. Due to the COVID–19 pandemic, the Federal Communications Commission's headquarters will be closed to the general public until further notice. See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy, Public Notice, DA 20–304 (March 19, 2020). *https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy.* The full text of this document is available at the following internet address: *https://www.fcc.gov/document/wcb-seeks-comment-emergency-connectivity-fund-close-homework-gap.*

Synopsis

1. The Commission's E-Rate program is a vital source of support for connectivity to—and within—schools and libraries. In particular, the E-Rate program provides funding for internal connections, which are primarily used for Wi-Fi, a technology that has enabled schools and libraries to transition from computer labs to one-to-one digital learning. Today, we make permanent the ''category two budget'' approach that the Commission adopted in 2014 to fund these internal connections. The category two budget approach consists of five-year budgets for schools and libraries that provide a set amount of funding to support internal connections. In adopting this approach, the Commission also established a five-year test period (from funding year 2015 to funding year 2019), to consider whether this approach would be effective in ensuring greater and more equitable access to E-Rate discounts.

2. The coronavirus (COVID–19) pandemic is a national health emergency with far reaching consequences for all segments of our society. Last spring, to reduce the transmission of coronavirus in their communities, most of our Nation's schools and libraries shut their doors and transitioned to virtual learning—and today many schools and libraries remain fully or partially closed. Students who lack home broadband access and were therefore caught in the ''Homework Gap'' before the pandemic now find themselves at risk of being unable to participate in any remote learning. At the same time, the closure of many libraries means that library patrons who were previously dependent on computer and internet access at their local libraries lost all broadband access.

3. To help schools and libraries provide devices and connectivity to students, school staff, and library patrons during the pandemic, Congress established a $7.171 billion Emergency Connectivity Fund (Fund) as part of the recently enacted American Rescue Plan Act of 2021 (the American Rescue Plan or Act). Congress directed the Federal Communications Commission (Commission)to promulgate rules providing for the distribution of funding from the Emergency Connectivity Fund to eligible schools and libraries for the purchase of eligible equipment and advanced telecommunications and information services for use by students, school staff, and library patrons at locations other than a school or library. By this document, the Wireline Competition Bureau (Bureau) seeks comment on the provision of support from the Emergency Connectivity Fund consistent with section 7402 of the American Rescue Plan.

4. *Emergency Connectivity Fund.* Pursuant to the law, the Commission is required to promulgate rules not later than 60 days after the date of enactment that provide for the provision, from amounts made available from the Emergency Connectivity Fund, of support under paragraphs (1)(B) and (2) of section 254(h) of the Communications Act of 1934, as amended (the Communications Act), to an eligible school or library, for the purchase during a COVID–19 emergency period of eligible equipment or advanced telecommunications and information services (or both), for use by: In the case of a school, students and staff of the school at locations that include locations other than the school; and in the case of a library, patrons of the library at locations that include locations other than the library.

5. The COVID–19 emergency period is defined in section 7402 of the American Rescue Plan as beginning on January 27,

2020, and ending on the June 30 that first occurs after the date that is one year after the Secretary of Health and Human Services determines that a public health emergency no longer exists. In providing support through the Emergency Connectivity Fund, the American Rescue Plan directs the Commission to reimburse 100% of the costs associated with the purchase of eligible equipment and/or advanced telecommunications and information services, ''except that any reimbursement of a school or library for the costs associated with any eligible equipment may not exceed an amount that the Commission determines, with respect to the request by the school or library, is reasonable.'' Section 7402 of the American Rescue Plan defines eligible equipment to mean Wi-Fi hotspots, modems, routers, devices that combine a modem and router, and connected devices. It also provides that the term ''advanced telecommunications and information services'' means advanced telecommunications and information services, as such term is used in section 254(h) of the Communications Act. Section 7402 of the American Rescue Plan further provides that the Commission and the Universal Service Administrative Company (USAC) are to administer the regulations adopted pursuant to the Act.

6. *Administration of the Emergency Connectivity Fund.* USAC is the administrator of the Commission's Universal Service support programs, including the E-Rate program (or more formally known as the schools and libraries universal service support mechanism). The Commission created the E-Rate program, pursuant to section 254(h) of the Communications Act to, among other things, enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for all public and nonprofit elementary and secondary schools and libraries. With limited exceptions, the E-Rate program currently provides support to eligible schools and libraries for broadband connectivity to and within schools and libraries. Based on its experience administering the E-Rate program, USAC is well positioned to administer the Emergency Connectivity Fund. Therefore, consistent with the American Rescue Plan's direction, the Commission will use USAC's services to administer the Emergency Connectivity Fund, as described in detail below. The Bureau seeks comment on what rules the Commission should adopt to most efficiently and effectively distribute funding, mindful of the Commission's obligation to protect against waste, fraud, and abuse in seeking to meet the connectivity needs of the nation's students, school staff, and library patrons.

7. Section 7402(c)(3) of the American Rescue Plan specifies that not more than two percent of the $7.171 billion made available for the provision of support to eligible schools and libraries may be used for the purposes of the Commission adopting, and USAC administering, the rules required by the Act. The Bureau seeks comment on ways to ensure that the Commission and USAC efficiently and effectively oversee and administer the Emergency Connectivity Fund.

8. The Bureau also seeks comment on how to best measure the Commission's and USAC's performance in efficiently and effectively administering this Fund. Should the Commission adopt specific broadband adoption goals for students, school staff, and library patrons? If so, what should those goals be? Should the Commission adopt specific goals for ensuring students, school staff, and library patrons have end user devices for connecting to the internet? If so, what should those goals be? What data is available that could help establish a baseline against which the Commission can measure the impact of the Emergency Connectivity Fund? Do schools and libraries conduct assessments of their students', school staffs', and library patrons' need for eligible equipment and services? If so, how have those assessments informed schools' and libraries' purchasing decisions during the pandemic? What information should the Commission direct USAC to collect to enable the Commission to evaluate progress towards meeting its goals? Should the Commission adopt specific performance goals and measures with respect to the administration of the Fund as it has done for the E-Rate program? If so, what should those performance goals be?

9. *Eligible Schools and Libraries.* Section 7402(d)(7) of the American Rescue Plan defines an ''eligible school or library'' as ''an elementary school, secondary school, or library (including a Tribal elementary school, Tribal secondary school, or Tribal library)'' eligible for support under paragraphs (1)(B) and (2) of section 254(h) of the Communications Act. Consistent with this definition, the Bureau first proposes that schools, libraries, and consortia of schools and libraries eligible for support under the E-Rate program be eligible to receive funding from the Emergency Connectivity Fund. The Bureau seeks comment on that proposal. The Bureau also seeks comment on whether there are other entities, not already eligible under the E-Rate program, that the Commission should make eligible for support through the Emergency Connectivity Fund.

10. The Bureau recognizes that section 7402(d)(7) of the American Rescue Plan specifies that Tribal schools and libraries are eligible for funding from the Emergency Connectivity Fund. Of course, elementary and secondary Tribal schools, including those operated by the Bureau of Indian Affairs and by Tribal governments, have traditionally received E-Rate support and, pursuant to the Bureau's proposed approach, would be eligible for support through the Emergency Connectivity Fund. The Bureau seeks comment on whether there are any changes the Commission should make to the definitions of elementary and secondary schools to ensure that all Tribal schools are eligible for funding. Some Tribal libraries have also received E-Rate support, but historically Tribal libraries have been underrepresented among E-Rate applicants. In order to be eligible for E-Rate funding under the Commission's existing rules, a library must be eligible for funding from a state library agency under the Library Services and Technology Act (LSTA), which was amended in 2018 to make clear that Tribal libraries are eligible for support from a state library agency under LSTA. The E-Rate rules have not yet been revised to reflect that change to the LSTA. Consistent with the 2018 revisions to LSTA, the Bureau seeks comment on whether the Commission should clarify that Tribal libraries are eligible for support under LSTA and are, therefore, eligible for funding from the Emergency Connectivity Fund. The Bureau also seeks comment on whether there are other measures the Commission can take to ensure Tribal schools and libraries have access to the Emergency Connectivity Fund.

11. *Eligible Equipment and Services.* The American Rescue Plan requires that support provided to eligible schools and libraries through the Emergency Connectivity Fund be used for the purchase during the COVID–19 emergency period of (i) eligible equipment and/or (ii) ''advanced telecommunications and information services'' as the term is used in section 254(h) of the Communications Act for use by students, school staff, and library patrons at locations that include locations other than schools or libraries. In defining the terms ''eligible equipment'' and ''advanced telecommunications and information services'' for purposes of the rules the Commission adopts to distribute

funding from the Emergency Connectivity Fund, the Bureau proposes that the Commission provide funding only for equipment and services that are needed to provide the connectivity required to enable and support remote learning for students, school staff, and library patrons. The Bureau seeks comment on that approach, as well as comment on the specific equipment and services commenters consider necessary to support and facilitate the connectivity required for remote learning during the defined emergency period. In this respect, the Bureau invites comment from educators, school and library technology professionals, network engineers, librarians, and parents about the specific equipment and services that are necessary to facilitate and support the connectivity required to meet students, school staff, and library patrons' remote learning needs.

12. Section 7402(d)(6) of the American Rescue Plan defines eligible equipment as Wi-Fi hotspots, modems, routers, devices that combine a modem and router, and connected devices. Wi-Fi hotspot is defined as ''a device that is capable of receiving advanced telecommunications and information services; and sharing such services with another connected device through the use of Wi-Fi.'' Connected devices are defined as laptop computers, tablet computers, or similar end-user devices that are capable of connecting to advanced telecommunications and information services. The Bureau proposes to use the same definitions for eligible equipment in the Commission's rules implementing section 7402 of the American Rescue Plan, and seeks comment on doing so. Is more specificity required? For example, should the Bureau clarify that modems include wireless modems, such as air cards? Should the Commission provide any further guidance regarding what sorts of connected devices are eligible for reimbursement through the Emergency Connectivity Fund? Is there a commonly understood definition of a tablet computer that the Bureau should use to ensure that the available funds are directed toward their intended purpose? Although not specifically identified, should desktop computers be eligible for funding as ''similar end-user devices'' that are capable of connecting to ''advanced telecommunications and information services''? The Bureau seeks comment on these questions and whether greater specificity or clarification is required with regard to eligible equipment.

13. Recognizing that participating in remote learning requires a device that can support an array of learning technologies, including video conferencing platforms, the Bureau proposes that a connected device supported through the Emergency Connectivity Fund be able to support video conferencing platforms and other software necessary to ensure full participation in remote learning activities. In this regard, the Bureau specifically proposes not to include mobile phones (*i.e.,* smartphones) as eligible connected devices because such devices do not sufficiently allow students, school staff, and library patrons to meaningfully participate in remote learning activities and thus do not qualify as ''similar'' devices under American Rescue Plan. The Bureau seeks comment on this proposal and its underlying reasoning. The Bureau also seeks comment on whether the Commission should impose minimum system requirements for connected devices supported by the Emergency Connectivity Fund and, if so, what those system requirements should be. In addition, as it did with respect to connected devices supported under the Emergency Broadband Benefit Program, should the Commission require that connected devices be Wi-Fi enabled and have video and camera functions to enable remote learning?

14. The Bureau recognizes that people with disabilities have faced additional challenges as a result of the pandemic-necessitated transition to remote learning. For that reason, in the *Emergency Broadband Benefit Program Order,* the Commission established an expectation that connected devices supported by the Emergency Broadband Benefit Program be ''accessible to and usable by people with disabilities.'' Are there rules that the Commission should adopt to ensure that ''connected devices'' eligible for support from the Emergency Connectivity Fund are accessible to and usable by people with different types of disabilities, including people who are deaf or hard of hearing; blind or with low vision; deaf and blind; and those with physical disabilities? What other issues should the Commission consider when adopting requirements for connected devices to ensure that all students, school staff, and library patrons will be able to fully engage in remote learning?

15. The Bureau also seeks comment on how to define ''advanced telecommunications and information services'' for purposes of the Emergency Connectivity Fund. The E-Rate program provides support for what are called ''category one'' services (which provide connectivity *to* schools and libraries) and ''category two'' services (which provide connectivity *within* schools and libraries). Category one services generally include data transmission and internet access services, while category two services include internal connections (*e.g.,* Wi-Fi), managed internal broadband services (*e.g.,* managed Wi-Fi), and basic maintenance of internal connections. The Bureau proposes to treat a subset of the services currently available for category one E-Rate support as eligible ''advanced telecommunications and information services'' for purposes of the Emergency Connectivity Fund. In considering the specific category one services the Commission should make eligible for purposes of the Emergency Connectivity Fund, the Bureau proposes that such services be limited to those that can be supported by and delivered with eligible equipment as defined in the American Rescue Plan (*i.e.,* Wi-Fi hotspots, modems, routers, devices that combine a modem and router, and connected devices). As such, the Bureau seeks comment on excluding from funding dark fiber and the construction of new networks, including the construction of self-provisioned networks. The Bureau seeks comment on these proposals and the underlying assumption that the construction of new networks is not supported by the statutory text enumerating eligible equipment in section 7402 of the American Rescue Plan. Are there any other specific services currently eligible as category one services in the existing E-Rate program that the Commission should consider ineligible for the purposes of the Emergency Connectivity Fund?

16. Additionally, although section 7402 of the American Rescue Plan limits the specific equipment eligible for funding through the Emergency Connectivity Fund, should the Commission interpret ''advanced telecommunications and information services'' to include the equipment necessary to deliver these services to connected devices as eligible? Should installation costs, taxes, and fees be included as an allowable cost? In interpreting ''advanced telecommunications and information services'' eligible for support, are there equipment or services that would be particularly helpful to people with different types of disabilities?

17. The Bureau also seeks comment on whether the Commission should impose minimum service standards and data thresholds with respect to those services in order to consider them to be eligible advanced telecommunications and information services. If so, what should they be? In that regard, the

Bureau seeks comment on what standards are needed to enable and facilitate robust remote learning. In response to the *Remote Learning Public Notification,* 86 FR 9309, February 12, 2021, commenters disagreed about whether the Commission's current benchmark of 25 Mbps downstream and 3 Mbps upstream is sufficient to adequately support remote learning needs. The Bureau seeks comment on whether applying the Commission's current speed benchmark as a minimum standard here would be appropriate for these purposes. If that benchmark is not sufficient, what should the downstream and upstream targets be? Recognizing that some households have more than one student, school staff member, or library patron, and that video conferencing applications commonly used for remote learning place heavy demands on speed and use large amounts of data, what level of service and data thresholds are needed to accommodate multiple users? Additionally, the Bureau invites comment on what speeds are necessary for people with disabilities to use Telecommunications Relay Services and, in particular, Video Relay Services. The Bureau encourages commenters to provide alternative recommendations for minimum service levels. Given that many schools and libraries have already purchased advanced telecommunications and information services to meet the needs of their students, school staff, and library patrons, should the Commission impose minimum service standards on a going-forward basis only, if at all?

18. *Service Locations.* The Bureau expects that most students, school staff, and library patrons are engaged in remote learning from their homes during the pandemic and thus need connectivity at home. However, the Bureau recognizes that some students, school staff, and library patrons are unhoused or otherwise unable to engage in remote learning from home. The American Rescue Plan does not define the specific locations where students, school staff, and library patrons can use eligible equipment and services. Instead, it specifies that in the case of a school, eligible equipment and/or services must be used in ''locations that include locations other than the school'' and, in the case of a library, ''locations that include locations other than the library.'' Wi-Fi hotspots can be easily moved and used in different locations, but fixed broadband connections are delivered to a specific location. To ensure that the Commission maximizes the use of limited funds, should the Commission impose restrictions on what locations can receive wireline and fixed wireless services supported by this Fund for remote learning? Should the Commission limit one connection per location for fixed broadband services? Should the Commission impose any per-location limitation on Wi-Fi hotspots? What authority does the Commission have to impose such restrictions on locations and what should these restrictions be?

19. Recent studies suggest that between $6 to $12 billion in funding is needed to provide connectivity and connected devices to all students and teachers who currently lack sufficient broadband access and/or devices to fully engage in remote learning. To maximize available funds, the Bureau proposes that the Commission require that schools document the student(s) and staff member served at each supported location and prohibit schools from providing more than one supported connection and more than one connected device to each student or staff member. Likewise, the Bureau proposes that the Commission require libraries to document the patron or patrons served at each supported location and prohibit libraries from providing more than one supported connection and one connected device to any one patron at a given time. In proposing this approach to limit one device per student, school staff member, or library patron, the Bureau seeks to avoid unnecessarily providing funding for multiple connected devices to individual students, school staff, and library patrons. The Bureau recognizes that in some cases, schools or libraries may purchase Wi-Fi hotspots to provide cost-effective access to multiple students, school staff, or library patrons at the same time. For example, some schools have installed Wi-Fi hotspots on buses to provide broadband service to students and school staff located in the areas where the buses are deployed. The Bureau proposes that the Commission adopt rules to allow schools to use Wi-Fi hotspots on buses to provide broadband services to students and school staff who currently lack sufficient broadband access to fully engage in remote learning. The Bureau also proposes that the Commission adopt rules to allow libraries to use Wi-Fi hotspots in bookmobiles to serve library patrons who currently lack sufficient broadband access. Are there other places schools and libraries should be able to place Wi-Fi hotspots to provide broadband to students, school staff, and library patrons who currently lack broadband access? Are there other approaches to funding broadband access to multiple students that the Commission should incorporate into its rules implementing the Emergency Connectivity Fund? For example, some school districts have bulk purchase programs to provide free broadband service to students and their families. Would this proposed approach allow other school districts to establish similar programs?

20. While seeking to ensure that schools and libraries do not seek funding for more equipment and services than they need, the Bureau also recognizes that connected devices and other eligible equipment can break. The Bureau therefore seeks comment on what, if any, allowances or controls may be necessary to allow schools and libraries to remediate such issues and how the Commission can prevent warehousing of unnecessary equipment and connected devices?

21. *Eligible Uses.* The Bureau seeks comment on whether the Commission should require that equipment and services purchased with funding from the Emergency Connectivity Fund be primarily for educational purposes. Although the text of the American Rescue Plan is silent on permitted uses of eligible equipment and services, section 7402 of the Act is entitled ''Funding for E-Rate Support for Emergency *Educational* Connections and Devices.'' It also provides that the Commission should promulgate rules for the provision of funding from the Emergency Connectivity Fund consistent with sections 254(h)(1)(B) and (2) of the Communications Act. Section 254(h)(1)(B) of the Communications Act requires telecommunications carriers to provide services to schools and libraries for ''educational purposes.'' Consistent with this section of the Communications Act, the Commission requires schools and libraries participating in the E-Rate program to use E-Rate supported services ''primarily for educational purposes'' and has established a presumption that activities that occur on a school campus or in a library building serve an educational purpose, and therefore, are eligible for E-Rate funding. Specifically, in the case of schools, the Commission has defined ''educational purposes'' as ''activities that are integral, immediate, and proximate to the education of students.'' In the case of libraries, it has defined ''educational purposes'' as activities that are ''integral, immediate, and proximate to the provision of library services to library patrons.''

22. If the Commission adopts this approach, what guidance should the

Commission provide schools and libraries about how eligible equipment and services can be used? What safeguards should the Commission impose to ensure that schools and libraries are reimbursed only for the purchase of equipment and services used primarily for educational purposes? Should, for example, schools and libraries be required to restrict access to eligible equipment and services to those students, school staff, and patrons with appropriate credentials? Would such an approach allow support for bulk programs that serve a large number of students and their families?

23. *Reasonable Support Amount.* Section 7402(b) of the American Rescue Plan specifies that in providing support under the regulations it adopts, the Commission shall reimburse 100% of the costs associated with eligible equipment and services, ''except that any reimbursement of a school or library for the costs associated with any eligible equipment may not exceed an amount that the Commission determines, with respect to the request by the school or library for reimbursement, is reasonable.'' Section 254(h)(2)(A) of the Communications Act requires the Commission provide access to advanced telecommunications and information services to the ''extent technically feasible and economically reasonable.''

24. As an initial matter, the Bureau seeks comment on whether the Commission should reimburse for purchases of eligible equipment and services made by eligible schools and libraries since January 27, 2020. Do commenters interpret the American Rescue Plan as requiring the Commission to do so, subject to the Commission's authority to determine reasonable costs for eligible equipment and services? If the Commission has the authority to set a different date, what date should it choose and why?

25. The E-Rate specific competitive bidding rules are a crucial driver of cost-effective purchasing and protecting limited E-Rate funds from waste, fraud, and abuse. However, the Bureau recognizes that many schools and libraries have already entered into contracts to purchase eligible equipment and services to meet the remote learning needs of their students, school staff, and patrons. The Bureau therefore proposes to allow eligible schools and libraries to seek reimbursement for the cost of eligible equipment and services purchased without having conducted a Commission-mandated competitive bidding process for purposes of the Emergency Connectivity Fund. Instead, the Bureau proposes that the Commission require schools and libraries seeking funding from the Emergency Connectivity Fund to certify that they have complied with all applicable state, Tribal, or local procurement requirements with respect to the contracts they used to purchase eligible equipment and services. Can the Commission reasonably assume that schools and libraries that complied with applicable state, local and Tribal procurement requirements purchased eligible equipment and services at reasonable prices? The Bureau recognizes that there are some eligible schools and libraries, those that are operated by non-profit entities, that do not have state, Tribal, or local procurement requirements. The Bureau seeks comment on how to ensure that the costs of their purchases are reasonable.

26. The Bureau also seeks comment on whether the Commission should adopt a streamlined competitive bidding process to be used by eligible schools and libraries that have not yet purchased or entered into contracts to purchase eligible equipment and/or services. In adopting such a process, should the Commission reduce to 14 days the time that an applicant must wait to enter into a contract with a service provider after posting a request for bids? Are there other ways the Commission could streamline the competitive bidding process? For example, should the Commission adopt the modified competitive bidding rules adopted in the *2017 Hurricanes Order*? Are there other exemptions the Commission should consider for the competitive bidding requirements? For example, are there state master contracts that schools and libraries should be allowed to use for purchases that are reimbursed through the Emergency Connectivity Fund without having to conduct a competitive bidding process? The Bureau seeks comment on these issues and request examples of such contracts be provided.

27. In deciding what amount is reasonable to reimburse applicants for previous purchases or pay for new purchases, the Bureau also seeks comment on whether the Commission should establish a range of costs that are reasonable for each category of equipment and service eligible for funding through the Emergency Connectivity Fund (*i.e.,* Wi-Fi hotspots; modems; routers; devices that combine a modem and router; connected devices; and advanced telecommunications and information services). How should the Commission determine the reasonableness of the costs associated with each category of eligible equipment and service? Should the Commission rely on costs for eligible equipment and services identified in response to this Public Notice, the *Remote Learning Public Notification,* or used in the Emergency Broadband Benefit Program and/or the existing E-Rate program to determine what is reasonable?

28. For example, in response to the *Remote Learning Public Notification,* commenters reported purchasing hotspots for as low as $0 (with a one-year commitment) to up to $144.99 per device, plus an additional $10.00 to $40.00 per month for service. With regards to connected devices, the price of Chromebooks reportedly ranged from $160.00 to $650.00 per device. And in the Emergency Broadband Benefit Program, an eligible household may receive a single reimbursement of up to $100 for a connected device, if the charge to the eligible household for that device is more than $10 but less than $50. Should the Commission consider any of these price ranges or other cost ranges when determining what is reasonable for Wi-Fi hotspots and/or connected devices supported by the Emergency Connectivity Fund? Similarly, in response to the *Remote Learning Public Notification,* commenters provided examples of the monthly rates associated with students' home internet access that ranged from $9.95 to $50.00 per month. And in the Emergency Broadband Benefit Program, eligible households may receive a monthly discount on the rate for an internet service offering and associated equipment, of up to $50.00 per month, and on Tribal lands, of up to $75.00 per month. Should the Commission consider any of these rates or caps when determining what is reasonable for monthly broadband services to the home? The Bureau seeks comment on the reasonableness of these costs and invite commenters to provide specific costs associated with each of these categories of eligible equipment and services.

29. Alternatively, should the amount the Commission considers reasonable for each category of eligible equipment and service vary depending on location (*i.e.,* whether the student, school staff member, or library patron is in an urban or rural area)? Rather than a range of reasonable costs, should the Commission adopt maximum amounts it deems is reasonable to reimburse for each type of eligible equipment and service, and if so, what should those maximum prices be? For eligible equipment, such as laptops and tablets, should the maximum price be higher for equipment provided to students, school staff, and library patrons with

disabilities? For advanced telecommunications and information services, should the maximum cost be higher for rural areas or on Tribal lands?

30. The Bureau further seeks comment on whether the Commission should establish one or more funding caps and, if so, what such caps should be? For example, should there be a funding cap on any type of eligible equipment or service? If the Commission were to establish any funding cap, the Bureau seeks comment on whether and how a cap could assist the Commission in targeting the Emergency Connectivity Fund support to those students, school staff, and library patrons that are most in need and how to determine which students, school staff, and library patrons have the greatest need.

31. The E-Rate program provides greater discounts to schools and libraries that serve lower-income and rural populations. Should the Commission consider accounting for other factors such as poverty, rurality, and/or broadband availability in the Emergency Connectivity Fund? Recognizing the trust relationship between Tribal governments and the federal government, should the Commission allocate a portion of the Emergency Connectivity Fund for Tribal schools and libraries to ensure Tribal students, school staff and library patrons benefit from the Emergency Connectivity Fund? If so, what portion of the fund should the Commission set aside for Tribal schools and libraries?

32. *Application Process.* The Bureau proposes that the Commission direct USAC to open a 30-day Emergency Connectivity Fund filing window to allow eligible schools and libraries to apply for funding for eligible equipment and services purchases made or to be made between January 27, 2020 and June 30, 2021, which is the period between the start of the COVID–19 emergency period and the end of E-Rate funding year 2021. Each E-Rate funding year runs from July 1st of one year through June 30th of the following year.

33. The current E-Rate application filing window for funding year 2021 closes March 25, 2021, so opening an Emergency Connectivity Fund filing window after that date will not interfere with the regular E-Rate application filing window. The Bureau seeks comment on this proposal. Is 30 days an appropriate filing window length? Although the Bureau expects demand will be high for the first funding window, if demand does not exceed available funds for the first application period, the Bureau also proposes that the Commission direct USAC to open a filing window for the Emergency Connectivity Fund in the second quarter of every year (*i.e.,* between April and June) for each of the following funding years, until the funds are exhausted or the emergency period ends, whichever is earlier. The Bureau seeks comment on this proposal. Should the Bureau require applicants to conduct an assessment of their need for eligible equipment and services and to align the funding requests that they file during the second and subsequent filing windows with their needs assessments? Should future filing windows be limited to prospective funding requests? The Bureau also seeks comment on whether more than one filing window(s) a year should be open during the emergency period.

34. With respect to the applications themselves, the Bureau proposes and seeks comment on leveraging the current E-Rate forms to apply for support from the Emergency Connectivity Fund. The Bureau believes that modifying the current forms, with which applicants are already familiar, will provide the simplest process for applying for and receiving funding through the Emergency Connectivity Fund. Do commenters agree or have any concerns about this approach? In addition, the Bureau seeks comment on what other aspects of the application process the Commission should borrow from the existing E-Rate program (*e.g.,* FCC Form 471, certifications, Program Integrity Assurance review, E-Rate Productivity Center). The Bureau also seeks comment on what other E-Rate program rules and requirements are necessary and should be adopted for the Emergency Connectivity Fund.

35. *Prioritization of Funding.* The Bureau proposes that the Commission adopt rules applying the discount methodology used in the existing E-Rate program to prioritize funding requests, in the event that demand exceeds available funding. Under this approach, once an application filing window closes, USAC will calculate whether demand exceeds the available funds. If demand exceeds available funds at the close of an application filing window, USAC would issue funding decision letters starting with the schools and libraries eligible for the highest discount percentage established under the Commission's E-Rate program rules and stop issuing decision letters when sufficient funds are no longer available to meet the demand at a particular discount level. The Bureau seeks comment on whether this is the best approach for prioritizing funding requests, as well as whether the Commission should consider any alternative methods for prioritizing such requests to help ensure that limited funds are fairly and efficiently distributed to eligible schools and libraries.

36. For example, recognizing that the proposed prioritization scheme based on the existing discount methodology may not adequately address the needs of all students, school staff, and library patrons, particularly for those students enrolled in schools that qualify for a lower discount but still lack a broadband connection or connected device at home, should the Commission instead prioritize funding requests to target the needs of those students, school staff, and library patrons without adequate broadband access at home and/or that lack a connected device? If so, how would eligible schools and libraries identify this population in advance of a filing window? Should the Commission prioritize funding for future purchases rather than reimbursements for already purchased equipment and services, and would doing so target funds to those students, school staff, and library patrons who remain unconnected? Miami-Dade County Public Schools suggests retroactive reimbursement for device purchases but only prospective funding for services. Would doing so target funds to unconnected students? Would it unreasonably penalize schools and libraries that have allocated limited resources to getting students, school staff, and library patrons broadband services? Should the Commission require eligible schools and libraries to certify that they will make best efforts to prioritize these students, school staff, and library patrons? Or, should the Commission establish formal rules requiring a written policy or plan for distribution? In the event of a certification, rules, or other reporting requirements, are audits the best manner to ensure compliance with this prioritization? Alternatively, should the Commission prioritize funding requests for prior purchases over requests submitted for new purchases?

37. *Reimbursement Process.* The Bureau also seeks comment on the reimbursement process and on how the Commission can structure the process to provide funds to schools and libraries as quickly as possible to assist with the challenges presented by the pandemic. The Bureau seeks to reduce the burdens on applicants during this challenging time, while also ensuring that funds are used for eligible equipment and services and primarily for an educational purpose, and otherwise minimize the risk of waste, fraud, and abuse. The Bureau proposes requiring applicants

(rather than service providers) to submit invoices detailing the items purchased to receive reimbursement. The Bureau seeks comment on this proposal. What documentation should be included with the reimbursement request? Is having schools and libraries submit invoices and documentation an effective safeguard against the misuse of funds given that reimbursement is for 100% of the costs? Or, in the alternative, could a streamlined invoicing form or other invoice mechanism simplify review and be an effective safeguard against waste, fraud, and abuse of the Emergency Connectivity Fund? In order to ensure efficient administration of the Emergency Connectivity Fund and allow the Commission to de-obligate committed funds for use by other schools and libraries, the Bureau also proposes establishing a short window for schools and libraries to file invoices and reimbursement requests. What would be the shortest possible invoice filing deadline period that would not impose undue burden on applicants? What other aspects of the invoicing and reimbursement process should the Commission use from the existing E-Rate program (*e.g.,* FCC Form 472, certifications, etc.) for the Emergency Connectivity Fund? The Bureau seeks comment on these issues and on any other issues related to reimbursement for eligible equipment and services purchased through the Emergency Connectivity Fund.

38. *Treatment of Eligible Equipment during and after the COVID–19 Emergency Period.* The Bureau seeks comment on the treatment of equipment purchased through the Emergency Connectivity Fund during and after the COVID–19 emergency period. Should, for example, schools and libraries be permitted to use eligible equipment for any purpose that the school or library considers appropriate after the emergency period? Or, should the use of eligible equipment after the emergency period continue to be restricted to primarily educational purposes as defined by the Commission? Similarly, should the Commission prohibit the sale, resale, or transfer of the purchased equipment for anything of value consistent with the current E-Rate program rules during and after the emergency period? Or, recognizing the relatively short lifespan of most computers and communications equipment, should schools and libraries have flexibility about how to dispose of equipment after the emergency period? Are there any other restrictions the Commission should impose on the use of eligible equipment both during and after the emergency period ends?

39. *The Children's Internet Protection Act (CIPA).* The Bureau seeks comment regarding the applicability of CIPA to the devices and services funded through the Emergency Connectivity Fund. CIPA prohibits schools and libraries participating in the E-Rate program from receiving E-Rate funding under section 254(h)(1)(b) for internet access services, or internal connections, unless they comply with, and certify their compliance with, specific internet safety requirements, including the operation of a technology protection measure. Schools, but not libraries, must also provide education about appropriate online behavior, including warnings against cyberbullying. Section 254 of the Communications Act specifies that CIPA applies to schools and libraries ''having computers with internet access,'' and also requires each such school or library to certify that it is enforcing a policy of internet safety that includes the operation of a technology protection measure ''with respect to any of its computers with internet access.'' The Bureau seeks comment on whether the CIPA requirements extend to all school or library devices supported by funding through the Emergency Connectivity Fund that are used off-campus and outside the traditional E-Rate-supported networks. If so, the Bureau also seeks comment on whether the Commission should modify any of the existing CIPA-related rules or procedures to cover this situation. For example, should a CIPA certification be included on the application for funding, rather than on a separate form? Should a CIPA certification made in the traditional E-Rate program suffice for compliance to receive support from the Emergency Connectivity Fund?

40. *Other Federal and State Funding for Remote Learning.* To avoid duplicate funding and to stretch the limited Emergency Connectivity Fund, the Bureau proposes limiting reimbursements out of the Emergency Connectivity Fund to those made for eligible equipment and services for which schools and libraries have not received funding through other Federal programs (*i.e.,* Emergency Broadband Benefit Program, the CARES Act, or other provisions of the American Rescue Plan); state programs specifically targeted at providing funding for eligible equipment and services; other external sources of funding; or gifts. The Bureau further proposes that schools and libraries must certify that they have not received and will not seek funding for the funded equipment and/or services from other federal or targeted state programs when seeking funding or reimbursement through the Emergency Connectivity Fund. The Bureau seeks comment on this proposal and whether there should be additional safeguards to prevent duplicate funding for the same equipment and services across the federal universal service programs and other federal or targeted state funding programs, as well as avoiding reimbursement for items that were provided as a gift.

41. The Bureau recognize that some state entities apply for E-Rate program funding as a consortium on behalf of the eligible schools and libraries located within the state. The Bureau seeks comment on whether these applicants should be allowed to seek reimbursement for eligible equipment and services through the Emergency Connectivity Fund when state funding was used to purchase equipment and services necessary for the state's students to engage in remote learning during the emergency period. Would the Commission maximize the Emergency Connectivity Fund by prohibiting reimbursement for eligible equipment and services that were purchased with state funding? Would the Commission harm these applicants by prohibiting reimbursement of eligible equipment and services when state funding was used? The Bureau seeks comment on these issues and other ways to prevent duplicative funding between the Emergency Connectivity Fund and other funding programs.

42. *Other Protections Against Waste, Fraud, and Abuse.* The Bureau is committed to ensuring the integrity and fiscal responsibility of the Emergency Connectivity Fund and protecting the funds against waste, fraud, and abuse. To help the Commission protect the Emergency Connectivity Fund from potential waste, fraud, and abuse, and consistent with current E-Rate program rules, the Bureau proposes that the Commission require Emergency Connectivity Fund participants to retain records related to their participation in the Fund sufficient to demonstrate their compliance with the rules adopted by the Commission for at least 10 years from the last date of service or delivery of equipment. The Bureau also proposes that the Commission require participants to present that information upon request to the Commission and its delegates, including USAC, and to the staff of the Commission's Office of Inspector General. The Bureau seeks comment on these proposals.

43. As part of the documentation related to their compliance with the rules adopted by the Commission, the Bureau proposes that Emergency

Connectivity Fund participants be required to maintain an asset inventory of devices purchased with these funds and record at a minimum: Device type (*i.e.,* laptop, tablet, mobile hotspot, modem gateway/router); device make/model and equipment serial number; the individual to whom the device was provided; and the dates the device was provided to and returned by the individual. Similarly, the Bureau proposes requiring Emergency Connectivity Fund participants to maintain a record of the services purchased with these funds, recording at a minimum: Type of service provided (*i.e.,* DSL, cable, fiber, fixed wireless, satellite, mobile wireless); broadband plan details, including: Upload and download speeds and the monthly data cap; and the individual(s) to whom the service was provided. For fixed broadband service, the Bureau also proposes to require applicants to maintain a record of the service address for the broadband service and the actual installation date of service. The Bureau seeks comment on these proposals.

44. Given the limited financial support that is available through the Emergency Connectivity Fund, the Bureau believes that if students, school staff, and library patrons are not using the funded services, the Fund should not be paying for these services. To protect the Emergency Connectivity Fund from waste, fraud, and abuse, the Bureau seeks comment on requiring service providers providing monthly services reimbursed through this Fund to report and validate usage of the supported services provided after adoption of new rules. In the event there is non-usage during a service month, the Bureau seeks comment on requiring the service provider to notify the school or library regarding the non-usage and to remove the cost for any non-used service from the invoice provided to the school or library. In the Emergency Broadband Benefit Program, service providers are required to certify that every subscriber claimed has used their supported service, as defined by § 54.407(c)(2) of the Commission's rules, at least once during the service month being claimed to be able to claim that subscriber for reimbursement in that month. What are the costs and benefits of such an approach? The Bureau seeks comment on whether existing contracts negotiated to purchase eligible equipment and services include provisions on non-usage and if not, what are the implications for addressing and preventing non-usage on a going-forward basis? The Bureau further seeks comment on other ways to ensure devices and services supported through the Emergency Connectivity Fund are being used and to limit any non-usage of these services and devices.

45. To ensure the integrity of whatever procurement process requirements the Commission decides to adopt for purposes of the Emergency Connectivity Fund, the Bureau seeks comment on whether the Commission should apply the gift rule applicable to the E-Rate program, or some version of the rule, here. The E-Rate program's gift rule prohibits E-Rate applicants from soliciting or accepting any gift or other thing of value from a service provider participating in or seeking to participate in the program, and similarly, prohibits service providers from offering or providing any gift or other thing of value to those personnel of eligible entities. In response to the pandemic, and in light of the urgent and increased need for connectivity and connected devices, in March 2020 (85 FR 59196, Sept. 21, 2020), the Bureau temporarily waived this rule, and subsequently extended the waiver, to help schools and libraries work with service providers as they transitioned to remote learning. The Bureau seeks comment on whether it would be appropriate for the Commission to adopt the same or similar restrictions on gifts for purposes of the Emergency Connectivity Fund. If the Commission adopts gift restrictions for the Emergency Connectivity Fund, should it do so on a going-forward basis only, recognizing that many schools and libraries may have taken advantage of free or discounted connections and devices offered by service providers when they made their purchases? The Bureau also seeks comment on whether gift restrictions should not be adopted for the Emergency Connectivity Fund because of the ongoing COVID–19 pandemic.

46. The Bureau further proposes that Emergency Connectivity Fund participants be subject to compliance audits to ensure compliance with the rules and requirements for the Emergency Connectivity Fund and must provide documentation related to their participation in the Emergency Connectivity Fund in connection with any such audit. The Bureau proposes that the Commission authorize USAC to conduct audits and establish procedures to verify support amounts provided through the Emergency Connectivity Fund. The Bureau seeks comment on this proposal.

47. The Bureau seeks comment on what other compliance mechanisms and safeguards should be implemented to protect the Emergency Connectivity Fund from waste, fraud, and abuse and to ensure the funds are being used to provide eligible equipment and advanced telecommunications services and information services necessary for students, school staff, and library patrons to fully engage in remote learning. In addition, other than the certifications for which the Bureau already seeks comment, should the Commission require Emergency Connectivity Fund participants (*i.e.,* schools, libraries and service providers) to certify to any other specific rules or requirements? Are there any other rules or requirements the Commission should consider adopting for the Emergency Connectivity Fund?

48. *Enforcement.* The Bureau seeks comment on the ability of the Commission to impose administrative forfeitures and other penalties on program participants found to be in violation of the program rules and requirements. The Bureau proposes to use the Commission's existing, statutorily permitted enforcement powers to, for example, initiate investigations and impose administrative forfeitures. The Bureau also proposes to withhold program funds from participants found to be in violation of the Emergency Connectivity Fund program rules. The Bureau seeks comment on these proposals. Should the Bureau also withhold program funding from participants found to be in violation of other Commission rules, particularly those Commission rules pertaining to the Commission's universal service fund programs? The Bureau also proposes to apply the Commission's existing suspension and debarment rules to program participants and seeks comment on this proposal.

49. *Costs and Benefits.* The Bureau seeks comment on the costs and benefits of the approaches the Bureau has proposed for oversight and administration of the Emergency Connectivity Fund. The Bureau also encourages commenters to explain the costs and benefits of any recommendations they make in the record of this proceeding. In both cases, the Bureau recognizes the American Rescue Plan requires the Commission to take a range of actions, and thus a conventional cost benefit analysis, which would seek to determine whether the costs of the required actions exceed their benefits, is not directly called for. Instead, as laid out in Office of Management and Budget (OMB) guidelines, the Bureau proposes to determine whether the Commission's proposed actions are the most cost-effective means to implement this legislation, recognizing that these actions are designed to mitigate a crisis

and that the effectiveness of the Commission's actions in mitigating that crisis is likely to be sharply reduced by delay. The Bureau seeks comment on this proposal.

Procedural Matters

50. *Paperwork Reduction Act Analysis.* This document contains proposed new or modified information collection requirements. As part of the Commission's continuing effort to reduce paperwork burdens, the Commission invites the general public and OMB to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

51. *Ex Parte Rules.* Proceedings in this Notice shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule § 1.1206(b). In proceedings governed by rule § 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in these proceedings should familiarize themselves with the Commission's *ex parte* rules.

List of Subjects in 47 CFR Part 54

Communications common carriers, Internet, Libraries, Reporting and recordkeeping requirements, Schools, Telecommunications.

Federal Communications Commission.

Cheryl Callahan,

Assistant Chief, Telecommunications Access Policy Division Wireline Competition Bureau.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 21–60; RM–11884; DA 21–203; FR ID 17521]

Television Broadcasting Services Superior and York, Nebraska

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has before it a petition for rulemaking filed by Gray Television Licensee, LLC (Gray or Licensee), the licensee of television station KSNB–TV, channel 4, Superior, Nebraska, requesting an amendment of the DTV Table of Allotments to delete VHF channel 4 at Superior, Nebraska and allot it to York, Nebraska, and substitute UHF channel 24 at York for channel 4.

DATES: Comments must be filed on or before April 21, 2021 and reply comments on or before May 6, 2021.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 45 L Street NE, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for petitioner as follows: Joan Stewart, Esq., Wiley Rein LLP, 1776 K Street NW, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Joyce Bernstein, Media Bureau, at (202) 418–1647 or *Joyce.Bernstein@fcc.gov.*

SUPPLEMENTARY INFORMATION: According to Gray, problems with the reception of low-band digital channels are well known, and many viewers who receive a predicted principal community signal from KSNB–TV on channel 4 are unable to receive a reliable over-the-air signal, particularly when using indoor antennas. Gray also applied to co-locate KSNB–TV with commonly-owned KOLN, Lincoln, Nebraska, a move of approximately 23.5 kilometers, and a change in community from Superior to York is necessary for KSNB–TV to make that move because it cannot put the required principal community signal over Superior from a channel 24 facility on the KOLN tower.

Gray asserts that York qualifies as a community for allotment purposes, has no local television allotment, and is the largest community in York County. Petitioner further asserts that while Superior will lose its only local television allotment, York is more deserving of an allotment, given its size and community and economic attributes. Thus, Gray seeks a waiver of the Commission policy that the removal of a community's first local service is presumptively inconsistent with the public interest except in the rare instance where removal might serve the public interest. Gray further requests a waiver of § 1.420(i) of the rules which provides that the Commission may modify a station's community of license without affording competing expressions of interest, where the modified facility is mutually exclusive; the channel 24 proposal at York is not mutually exclusive with KSNB–TV's current licensed operation on channel 4 at Superior.

The *NPRM* proposes to grant both requested waivers and seeks comment on those proposals. York is a larger community than Superior and allowing KSNB–TV to colocate with KOLN on channel 24 will result in important public benefits. In addition, the *NPRM* proposes to grant a waiver of § 1.420 of the rules; Gray has demonstrated that multiple channels are potentially available for future allotment in and around Superior, so that future applicants will not be deprived of the opportunity to apply for a station in the area if Gray's proposal is not opened for competing expressions of interest.

This is a synopsis of the Commission's *Notice of Proposed Rulemaking,* MB Docket No. 21–69; RM–11884; DA 21–203, adopted February 22, 2021, and released February 22, 2021. The full text of this document is available for download at *https://www.fcc.gov/edocs.* To request materials in accessible formats (braille, large print, computer diskettes, or audio recordings), please send an email to *FCC504@fcc.gov* or call the Consumer & Government Affairs Bureau at (202)