

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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

**REPLY COMMENTS OF
THE SCHOOLS, HEALTH & LIBRARIES BROADBAND COALITION**

The Schools, Health & Libraries Broadband Coalition (SHLB)¹ submits these reply comments in response to the Commission’s Report and Order and Further Notice of Proposed Rulemaking regarding E-Rate support for remote learning through the Wi-Fi hotspot initiative.² SHLB has been an advocate for ensuring that students and library patrons do not fall behind in their educational endeavors because they lack adequate internet connectivity at home.³ While many schools and libraries resumed in-person instruction/services after the Covid-19 pandemic’s

¹ SHLB is a broad-based public interest coalition of more than 325 organizations that share the goal of promoting open, affordable, high-quality broadband for anchor institutions and their communities. SHLB members include schools, libraries, representatives of health care providers and telehealth networks, state broadband offices, private sector companies, state and national research and education networks, consulting firms and consumer organizations. For a current list of SHLB members, see <http://shlb.org/about/coalition-members>.

² *Addressing the Homework Gap Through the E-Rate Program*, WC Docket No. 21-31, Report and Order and Further Notice of Proposed Rulemaking, FCC 24-76 (rel. Jul. 29, 2024) (*Report and Order*) (*Further Notice*).

³ For example, SHLB, along with other public interest groups, asked the Commission to make E-Rate funding available to support the remote learning needs of students and library patrons during the COVID-19 pandemic. SHLB, et al., Petition for Expedited Declaratory Ruling and Waivers Allowing the Use of E-Rate Funds for Remote Learning During the COVID-19 Pandemic, *Modernizing the E-Rate Program for Schools and Libraries*, WC Docket No. 13-184 (Jan. 26, 2021) (*SHLB 2021 Petition*).

mandates were lifted, the mission to address the homework gap remains critical.⁴ Technology and the Internet have transformed the ways individuals complete schoolwork and engage in educational efforts. Gone are the days when students learned solely from physical textbooks and printed materials; many educational institutions now provide K-12 students with laptops or other electronic devices and expect them to go online to complete assignments, check grades, and consult with educators and school staff. The Internet has also broadened our approach to skill development, commerce, health and wellness, communication, and decision-making. Having access to broadband at home is thus essential for individuals to adapt to dynamic technological advancements and pursue diverse lifestyle and educational efforts.

SHLB filed comments earlier in this proceeding expressing support for the Commission’s hotspot initiative.⁵ We envision that this measure can help students, school staff, and library patrons lacking internet access at home to obtain the connectivity they need to participate in continuous learning outside of the physical confines of the school or library building. In addition to funding mobile hotspots, we also strongly recommended that E-Rate support functionally equivalent wireless devices and internet service, noting that signal strength provided by traditional mobile carriers might be nonexistent or unreliable in certain geographical areas or indoors.⁶ To ensure that the Commission could prudently extend E-Rate support in this manner,

⁴ In fact, we note that the homework gap existed before the start of the pandemic. It was the pandemic, however, that helped put into perspective just how many individuals lack broadband connectivity at home.

⁵ Comments of the Schools, Health & Libraries Broadband Coalition and Open Technology Institute at New America, *Addressing the Homework Gap Through the E-Rate Program*, WC Docket No. 21-31 (Jan. 17, 2024) (*SHLB and OTI Comments*).

⁶ Specifically, we asked that the Commission not limit E-Rate eligibility to Wi-Fi hotspots receiving mobile services but to also support any cost-effective wireless technology and service, which should include wireless networks set up by the E-Rate applicant itself or its partners, which we refer to as “anchor-enabled networks”. *SHLB and OTI Comments* at 6-23; *see also*

we offered various cost saving measures like limiting eligible anchor-enabled network funding to the cost of the most prevalent commercial hotspot approach⁷ or simply funding these alternative technologies within the predetermined budget mechanism the Commission established in the *Report and Order*.⁸ SHLB and other public interest groups subsequently filed a Petition for Reconsideration asking the Commission to modify its decision that limited E-Rate support only for traditional mobile hotspot devices and service.⁹

We now offer additional comments responding to inquiries presented in the *Further Notice*. Specifically, we suggest that:

- The Commission should not set overly burdensome administrative requirements or punitive solutions that diminish a school or library’s flexibility to structure its lending practices depending on the community’s unique needs or discourage participation in the program. Additional “one-size-fits-all” mandates risk being unresponsive to community needs and detract from the overarching goal of the hotspot initiative.
- The Commission should not mandate defined hotspot lending periods. Schools and libraries should be able to style their lending practices to better meet users’ educational endeavors.
- The Commission should not impose a data use threshold higher than zero to consider a line “used.” Any such threshold introduces assumptions about acceptable and unacceptable broadband use that ignore variables in connectivity needs.
- The Commission should not reduce future access to hotspots and service or prohibit a school or library from reducing their funding commitments to restore undisbursed funding for a future year’s budget due to service terminated for non-usage. Such prohibitions unfairly penalize schools and libraries for a variable (non-usage) that is difficult to discern.

Letter to Marlene H. Dortch, FCC, from Kristen Corra, SHLB Coalition, WC Docket No. 21-31 (May 16, 2024) (*SHLB Financial Safeguards Letter*).

⁷ *SHLB Financial Safeguards Letter* at 7-8.

⁸ Letter to Marlene H. Dortch, FCC, from Kristen Corra, SHLB Coalition, WC Docket No. 21-31, 4 (July 11, 2024).

⁹ SHLB, et al., Petition for Reconsideration, *Addressing the Homework Gap Through the E-Rate Program*, WC Docket No. 21-31, (Sep. 19, 2024).

- The Commission should not reduce the 90-day termination period for non-usage to 30 days. This brief 30-day period does not allow adequate time for applicants and service providers to review and cure the underlying cause of the issue, detracting from the program's mission to aid in addressing remote-learning connectivity needs.
- The Commission, program participants, and other stakeholders will be better equipped to address many of the questions presented in the *Further Notice* after the program is underway and program participants have real world experience navigating hotspot lending practices. The Commission should survey the program (after the first year) to determine ways that it could be improved.
- The Commission maintains sufficient legal authority to extend E-Rate support for off-premises use of hotspots and wireless internet services.

TABLE OF CONTENTS

I. THE COMMISSION SHOULD NOT ADOPT ADDITIONAL REQUIREMENTS THAT REDUCE APPLICANT FLEXIBILITY TO SET INDIVIDUAL HOTSPOT LENDING PRACTICES..... 6

A. The Commission Should Not Mandate Defined Hotspot Lending Periods and Instead Continue to Offer Schools and Libraries Flexibility to Stylize Their Lending Practices.....7

B. The Commission Should Not Impose a Data Use Threshold Higher Than Zero to Consider a Line “Used.”.....9

C. The Commission Should Not Reduce Access to Hotspots and Service or Prohibit a School or Library from Reducing Current Funding Commitments Due to Service Terminated for Non-Usage.....10

D. The Commission Should Not Reduce the Current 90-Day Termination Period to 30 Days.....12

II. THE COMMISSION SHOULD SURVEY THE IMPLEMENTATION OF THE HOTSPOT PROGRAM SO THAT STAKEHOLDERS CAN MORE COMPLETELY COMMENT ON ADDITIONAL PROPOSALS SUGGESTED IN THE FURTHER NOTICE..... 14

III. THE COMMISSION MAINTAINS SUFFICIENT LEGAL AUTHORITY TO EXTEND E-RATE SUPPORT FOR OFF-PREMISES USE OF HOTSPOTS AND WIRELESS INTERNET SERVICES..... 16

IV. CONCLUSION 18

I. THE COMMISSION SHOULD NOT ADOPT ADDITIONAL REQUIREMENTS THAT REDUCE APPLICANT FLEXIBILITY TO SET INDIVIDUAL HOTSPOT LENDING PRACTICES.

Throughout this proceeding, the Commission expressed significant concern about hotspot usage – and more specifically about how to prevent *non*-usage of these devices.¹⁰ When it adopted the *Report and Order*, it mandated various measures aimed at addressing this issue, like preventing applicants and service providers from allowing service lines to remain unused for longer than 90 days¹¹ and preventing schools and libraries from purchasing extra hotspot devices to store for future use should one be stolen, broken, or unreturned by the user.¹² Applicants are also incentivized against purchasing more hotspots than are needed (risking some to go unused) as they are required to pay their non-discounted share of funded devices and service.¹³

In the *Further Notice*, the Commission continues to look at this issue, inquiring about what *additional* steps schools, libraries, and service providers can take to ensure that hotspots are actively being used.¹⁴ At the outset, while we understand the Commission’s legitimate concerns, we caution it against setting overly burdensome administrative requirements or punitive solutions that strip away the flexibility to structure individual lending practices for the needs of a particular community¹⁵ or that discourage participation in the program. We also agree with commenters that requiring additional “one-size-fits-all” mandates over how schools and libraries

¹⁰ See, e.g., *Addressing the Homework Gap Through the E-Rate Program*, WC Docket No. 21-31, Notice of Proposed Rulemaking, FCC 23-91, ¶¶ 39-41 (rel. Nov. 8, 2024).

¹¹ *Report and Order* ¶¶ 57, 61.

¹² *Id.* ¶ 58.

¹³ *Id.* ¶ 54.

¹⁴ *Further Notice* ¶¶ 104-108.

¹⁵ For example, the needs of an urban community may be very different from the needs of a very rural or Tribal community. The rural or Tribal community may need more time due to the distance or remoteness of the household to the library.

should style their lending practices is problematic. Focusing only on narrow solutions to curb an anticipated problem (like non-usage) risks being unresponsive to the needs of the various students, school staff, and library patrons nationwide that stand to benefit from the program. It also risks detracting from the overarching goal of the hotspot initiative, which is aimed at addressing the negative educational consequences that exist because of the homework gap.

A. The Commission Should Not Mandate Defined Hotspot Lending Periods and Instead Continue to Offer Schools and Libraries Flexibility to Stylize Their Lending Practices.

The Commission asks whether it should require schools and libraries to limit hotspot lending periods and, by way of example, suggests that schools and libraries could implement a lending period of 21 days or less.¹⁶ SHLB agrees with multiple commenters that the Commission should not impose specific lending period limitations, which is beyond its expertise. Instead, the *Report and Order* correctly allows flexibility for schools and libraries to set their own lending practices, including the length of time a user may check out a hotspot.¹⁷

A “one-size-fits-all” approach to hotspot lending practices introduces assumptions about connectivity that might not always or accurately satisfy the needs of the students, school staff, and library patrons who use the devices.¹⁸ The circumstances surrounding potential user populations create varying and unpredictable connectivity needs. Users may require a more temporary solution (e.g. a user may need to submit a job application, conduct research, or attend

¹⁶ *Further Notice* ¶ 104.

¹⁷ *Report and Order* ¶ 31 (“[T]he details of such a hotspot lending program—such as length of lending periods and how to target the appropriate students and library patrons—will be left to the applicant to determine and tailor the hotspot lending program to their local needs.”).

¹⁸ See e.g. Comments of North American Catholic Educational Programming Foundation, Inc. and Mobile Beacon, *Addressing the Homework Gap through the E-Rate Program*, WC Docket No. 21-31, 5-7 (Oct. 4, 2024) (detailing various approaches to school and library loan periods based on community needs) (*NACEPF and Mobile Beacon Comments*).

virtual meetings and appearances with their healthcare provider, attorney, or other professional) while others have longer connectivity demands (e.g. a user may be participating in summer school classes or require supplemental at-home educational instruction during the regular school year). Further, different communities may have very different needs. The idea of prematurely removing hotspot service from a user only to accommodate a blanket deadline, regardless of that user's needs or *active use* of that device, ignores these variations and could have detrimental effects to that user's specific educational endeavors. Such a mandate unintentionally compromises the broader goal of the program by losing sight of ways to keep users out of the homework gap.¹⁹

We thus agree that schools and libraries stand in the best position to define the limitations and parameters of their lending practices, given that they maintain (and will continue to gather through this program) first-hand knowledge of their users' broadband needs.²⁰ Such flexibility will ensure that schools and libraries can still further the underlying mission to address unique remote learning demands while remaining vigilant to comply with other program requirements that address concerns like non-usage.

¹⁹ See *NACEPF and Mobile Beacon Comments* at 9 (suggesting that adopting certain measures, including this one, “would undermine the core objective of this initiative: ‘to ensure the [E-Rate P]rogram is equipped to support the ongoing remote learning needs of today’s students, school staff, and library patrons’ and ‘to ensure the millions who have benefitted from ECF program support do not fall back onto the wrong side of the digital divide once the program ends.’”)

²⁰ See Comments of the American Library Association, *Addressing the Homework Gap through the E-Rate Program*, WC Docket No. 21-31, 2 (Oct. 4, 2024) (*ALA Comments*) (“Libraries and schools are in the best position to determine loan periods based on local considerations and needs”); Comments of Kajeet, *Addressing the Homework Gap through the E-Rate Program*, WC Docket No. 21-31, 2 (Oct. 4, 2024) (*Kajeet Comments*) (“Applicant capability to most cost-effectively meet their needs is best met with additional flexibility”); *NACEPF and Mobile Beacon Comments* at 5 (“That direct experience demonstrates that schools and libraries already take varied approaches to loan periods based on the needs of their communities and why the Commission was right to conclude they are best suited to do so.”)

B. The Commission Should Not Impose a Data Use Threshold Higher Than Zero to Consider a Line “Used.”

The Commission asks whether there should be a mandated data use threshold higher than zero to consider a line used.²¹ SHLB believes that setting a data use threshold for determining hotspot use is challenging and problematic, given the dynamic reach of the hotspot lending program across learners.²² For example, users that require service to stream videos or collaborate online (e.g. via video/audio conferencing platforms) typically use more bandwidth than those that primarily browse text-based websites. Such varying use cases are especially inherent across learners of different age groups, whereby certain users might not require access (or as much consistent access) to data-intensive applications as compared to other groups. Use patterns may also vary based on time of year, such as during seasonal changes (e.g. back to school) or special events (e.g. final exam or testing periods).

Such a mandate thus overlooks the nuances of varying data consumption by individual users and instead gives the Commission carte blanche authority to determine which educational-related activities are appropriate/inappropriate simply based on the amount of bandwidth that one uses. Accordingly, we recommend that the Commission not impose a data use threshold higher than zero to determine hotspot usage.

²¹ *Further Notice* ¶ 106.

²² *See NACEPF and Mobile Beacon Comments* at 20 (“The Commission would not have knowledge of the educational purposes for which an end user is using a funded device, and such an approach could risk penalizing students for low-bandwidth activities which may be entirely appropriate for that age-group or the educational services that individual is receiving.”)

C. The Commission Should Not Reduce Access to Hotspots and Service or Prohibit a School or Library from Reducing Current Funding Commitments Due to Service Terminated for Non-Usage.

In the *Further Notice*, the Commission asks whether it should set certain prohibitions on future E-Rate expenditures for a school or library if it had service terminated due to non-usage. Specifically, it asks whether (in such a case) it should limit the number of service lines or hotspots that an applicant can request in future funding years²³ and whether it should prohibit an applicant from reducing a current funding commitment as a way to restore undisbursed funds back to its overall hotspot budget.²⁴ These prohibitions ultimately overlook evolving and shifting community connectivity needs, penalize schools and libraries based on an isolated situation (non-usage) that is difficult to decipher and is outside of their control, and risk undermining the program’s goal to help users in need to have access to remote learning. We thus do not recommend that the Commission limit either the quantity of hotspot devices/service an applicant may request or the amount of funding made available in an applicant’s future budget based on data related to prior years of hotspot non-usage.

Educational environments and broadband needs evolve and fluctuate over time. Internet service via hotspots that was underused in a given E-Rate funding year may thus become essential in a future year due to shifting circumstances.²⁵ The hotspot initiative aspires to equip schools and libraries with the tools they need to respond to these changes, but they can only do

²³ *Further Notice* ¶ 107.

²⁴ *Id.* ¶ 105.

²⁵ For example, a school may incorporate new technologies and online learning platforms into its curriculum, thus prompting more students to require adequate broadband connectivity at home to complete assignments. Broadband access in general can also fluctuate due to changes in the marketplace or other factors. *See Kajeet Comments* at 5 (“[R]ecent changes to the Affordable Connectivity Program illustrate how community needs can shift unpredictably.”)

so if they have predictability in their budgets and access to a sufficient amount of devices they can loan out.

Further, while schools and libraries must be diligent to determine those with the most need for hotspots in their own localities within the Commission’s established budgeted approach,²⁶ anticipating the actual *use* of that device and service is highly unpredictable and difficult to discern.²⁷ This is especially true for schools or libraries that have yet to engage in hotspot lending practices and is especially true in the first year of this particular hotspot lending program, whereby all participants will be subject to specifically tailored rules for the first time. Other factors, such as a user’s range of technical expertise and lack of technical support also contribute to this uncertainty. Reducing an applicant’s budget or limiting the amount of devices/service an applicant may purchase in future funding years based solely on data regarding past usage unfairly penalizes the institution for circumstances that are most likely outside of its control.

Finally, the goal of the hotspot initiative strives to keep users out of the homework gap by creating a more equitable playing field for those lacking broadband access at home to keep up with the educational pursuits of their counterparts. These prohibitions risk undermining this goal, however, as some schools or libraries may be hesitant to invest in hotspot technologies or services if they fear future penalties for underutilization.²⁸ Any lack of participation in the program could thus contribute to digital inequities as users in need would continue to go without.

²⁶ *Report and Order* ¶ 31.

²⁷ We note that there can be certain predictable cases of non-use, such as when students are on winter or summer break.

²⁸ See *Kajeet Comments* at 5 (suggesting that reducing and limiting the number of service lines or the quantity of hotspot devices that can be requested in future funding years “could discourage

As such, we do not recommend that the Commission prohibit a school or library from reducing a current funding commitment to restore undisbursed funds back into its overall budget or that the Commission limit the number of service lines or hotspots that an applicant can request in future funding years based on service that was terminated due to non-usage. We agree that applicants will learn how to “right-size” and maximize their lending practices without the need for prohibitions that are punitive and unresponsive to fluctuating community demands.²⁹

D. The Commission Should Not Reduce the Current 90-Day Termination Period to 30 Days.

The Commission seeks further comment about whether it should revise the current period of non-usage allowed for a hotspot line of service adopted under the *Report and Order*. Specifically, it asks whether it should shorten the allowable period of non-usage from 90 days to 30 days.³⁰ This change would not only introduce difficult administrative challenges for schools, libraries, and service providers, but it also disregards reasonable circumstances that lead to temporary inactive use. We thus agree with multiple commenters that the Commission should not require service providers to terminate service after only 30 days of unused service.³¹

In the *Report and Order*, the Commission mandated that service providers must terminate service for individual hotspot lines remaining unused for three consecutive months.³² However, it also enumerated various steps that service providers must take before they can terminate a

applicants from accurately reporting their needs due to fear of repercussions or penalize those who have adapted based on experience.”)

²⁹ *See id.* (suggesting that “at the program's start, applicants will learn to optimize their efforts and reduce costs in line with program goals.”)

³⁰ *Further Notice* ¶ 105.

³¹ *See e.g. ALA Comments* at 2; *see also NACEPF and Mobile Beacon Comments* at 10-12.

³² *Report and Order* ¶ 61.

hotspot line for non-usage that meets this threshold. Specifically, they must provide data usage reports to applicants so that schools and libraries can identify hotspots with periods of non-usage.³³ Additionally, service providers must notify applicants on a monthly basis about hotspot service that has gone unused for 60 consecutive days and provide them with 30 days to review and cure the issue before terminating service.³⁴

By setting these requirements, the Commission found it important not to simply cut off service before allowing applicants and service providers the opportunity to identify and cure the underlying issues contributing to non-usage.³⁵ Shortening the allowable non-usage threshold from 90 days to 30 days, however, misaligns with the Commission’s efforts here, as the order of these administrative steps would now fall outside of the total 30-day allowable threshold (thus rendering those steps moot).³⁶ Should the Commission also significantly shorten the timelines associated with any administrative steps to review and cure instances of non-usage, it would seem unworkable for service providers and applicants to comply with them. Service providers would have to pull data usage reports, determine which lines were unused, and provide notice all before the end of the 30-day period – if it wants to provide the applicant with any time at all to try to resolve the issue with the user.

Further, a 30-day threshold for allowable non-usage disregards reasonable (and often predictable) circumstances that lead to temporary inactive use, such as technical issues with the

³³ *Id.* ¶ 57.

³⁴ *Id.*

³⁵ The Commission also recognized that there would be reasonable periods of non-usage that don’t necessarily mean a hotspot was being warehoused. *See id.* ¶ 53 (stating that the Commission “recognize[s] that there are numerous reasons for non-usage and that applicants and service providers are often unable to monitor or mitigate all instances of non-usage.”)

³⁶ *See NACEPF and Mobile Beacon Comments* at 11 (“A 30-day non-usage period also fails to align with the cadence of the *Report and Order*’s usage report requirements.”)

device or service.³⁷ This is also especially inherent for student users that may not need to actively use their devices during winter or summer breaks.

Accordingly, we do not recommend that the Commission reduce the non-usage threshold for termination from 90 days to 30 days.

II. THE COMMISSION SHOULD SURVEY THE IMPLEMENTATION OF THE HOTSPOT PROGRAM SO THAT STAKEHOLDERS CAN MORE COMPLETELY COMMENT ON ADDITIONAL PROPOSALS SUGGESTED IN THE FURTHER NOTICE.

In addition to the proposals discussed above, the Commission seeks further comment about various other requirements it could implement as a way to guard against the non-usage of hotspot devices and services. For example, the Commission asks whether schools and libraries should be required to have technical support to help troubleshoot technical issues for users with hotspot devices.³⁸ While technical support may assist in curbing hotspot non-usage, we agree that there are many variables the Commission must consider prior to mandating such a requirement.³⁹ Specifically, the Commission should carefully consider who it is that should be required to give such support. Schools and libraries might not have the capacity (e.g. budget or personnel) to provide training or troubleshoot all issues, and it is unclear as to whether the Commission would dedicate additional funding to cover such additional capacity. Additionally, service providers may or may not have direct lines of communication with each user, so it could be infeasible for them to adhere to certain technical support requirements. The Commission also

³⁷ See *ALA Comments* at 2 (“We think a 30-day period of non-use is simply too short because there may be extenuating circumstances, like needing to replace a defective battery, that require a hotspot to remain unused for an extend period of time.”)

³⁸ *Further Notice* ¶ 104.

³⁹ See *NACEPF and Mobile Beacon Comments* at 18 (“Such granular requirements raise a host of other questions that the Commission is ill suited to answer.”).

asks whether alternative billing methods or other paradigms can address non-usage.⁴⁰ Allowing more flexibility for alternative solutions outside of strictly terminating unused hotspot lines of service, such as alternative billing or allowing lines to be suspended, could better serve applicants, service providers, and the communities they serve.⁴¹ For example, when a line is terminated, the line and the end-user's account associated with that line are typically de-provisioned (i.e. the network will no longer recognize the device and the IP address will be released to be used elsewhere). Some service providers might also charge termination or reactivation fees. When a line is *suspended*, however, this typically means that the network will not allow traffic to pass, but the provisioning and subscriber account remains intact so the line can be unsuspended at any time. As such, allowing line suspension could still address the Commission's concerns with non-usage, but such a solution can make it (much) easier for an applicant and service provider to restart service once the non-usage issue is remedied.

These (and other) questions presented in the *Further Notice* are important and worth exploring, especially if they lead to solutions that improve program administration and safeguard E-Rate spending. While we offer certain feedback herein, we agree that it is likely premature for the Commission to analyze all of the proposals it has teed-up in order to make decisions at this time.⁴² Applicants and service providers have yet to participate in the program, so they (and

⁴⁰ *Further Notice* ¶ 105.

⁴¹ See e.g. Comments of Dallas Independent School District, *Addressing the Homework Gap Through the E-Rate Program*, WC Docket No. 21-31, 5 (Oct. 1, 2024) (“The Commission should allow and support alternative billing methods but should not require any one method over another. By allowing applicants and service providers greater flexibility in exploring new and innovative billing models, the Commission will facilitate market-driven solutions to cost effectiveness and efficiency.”).

⁴² See *ALA Comments* at 2-3 (“[W]e question whether releasing the *Further Notice* at the same time as the hotspot *Order* is premature. . . . The program has not yet lent any hotspots and thus there is no evidence that a non-usage problem exists.”).

other stakeholders) are unable to *completely* assess what might be needed to improve it. We thus suggest that the Commission continue to survey and monitor the outcomes of the program (after the first year) to determine what processes need improvement going forward. This would allow stakeholders – especially those that have participated in the program – to more completely reflect and comment on the Commission’s proposals. This would also allow time for participants to evaluate the feasibility of the parameters already set in the *Report and Order* aimed at addressing user need, hotspot usage/non-usage, and warehousing concerns.

III. THE COMMISSION MAINTAINS SUFFICIENT LEGAL AUTHORITY TO EXTEND E-RATE SUPPORT FOR OFF-PREMISES USE OF HOTSPOTS AND WIRELESS INTERNET SERVICES.

In the *Report and Order*, the Commission found that it maintains sufficient statutory authority under section 254 of the Communications Act to extend E-Rate support for off-premises use of hotspots and associated wireless internet services.⁴³ SHLB previously addressed this issue when it asked the Commission to extend E-Rate support for off-premises educational use in response to school and library closures caused by the COVID-19 pandemic.⁴⁴ In that petition, we likewise agreed that the Commission has statutory authority under section 254 to extend E-Rate support off-premises, adopting many of the same arguments that the Commission highlights in the *Report and Order*.

Section 254(h)(1)(B) provides for universal service support for services “to elementary schools, secondary schools, and libraries for educational purposes.”⁴⁵ When the Commission interpreted the meaning of “educational purposes,” it did so broadly. Specifically, it is defined as

⁴³ *Report and Order* ¶¶ 88-96.

⁴⁴ See generally *SHLB 2021 Petition*.

⁴⁵ 47 U.S.C. § 254(h)(1)(B).

“activities that are integral, immediate, and proximate to the education of students, or in the case of libraries, integral, immediate, and proximate to the provision of library services.”⁴⁶ At the time of our petition, we argued that technologies schools and libraries are willing to deploy to provide broadband for remote learning during the pandemic would be unquestionably used for educational purposes.⁴⁷ That analysis remains true for the initiative the Commission adopted in the *Report and Order* whereby off-premises hotspots and wireless internet services are needed to deliver connectivity to students and library patrons for remote learning when they lack broadband access at home. The homework gap was an issue before the pandemic and remains an unfortunate reality for many households today. Given how technology has transformed nearly every aspect of our lives, we agree that efforts to provide off-premises online connectivity helps keep many students and patrons at risk of falling behind in their educational endeavors and meets the intended purpose of section 254.⁴⁸

Additionally, we agree that Congress did not explicitly limit E-Rate support to the physical classroom, nor did it specifically define “classroom.” As stated previously, section 251(h)(1)(B) refers only to “elementary schools, secondary schools, and libraries,” and makes no specific mention to a “classroom.” Likewise, when Congress defined “universal service”, it did

⁴⁶ 47 C.F.R. § 54.500 (definition of “educational purposes”).

⁴⁷ *SHLB 2021 Petition* at 8-9.

⁴⁸ *Report and Order* ¶ 90 (“Given 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 ACP), and the increasing need for connectivity in today’s technology-based educational environment that extends learning beyond a school or library building (e.g., for virtual classes, electronic research projects, homework assignments, virtual library resources, research, etc.), we find that the off-premises use of such wireless Internet services and the Wi-Fi hotspots needed to deliver such connectivity to students, school staff, or library patrons is ‘integral, immediate, and proximate to the education of students or the provision of library services to library patrons’ and, therefore, serves an educational purpose.”).

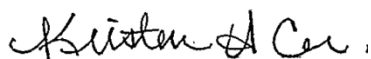
not reference the “classroom” but instead used the terms “education” (section 254(c)(1)(A)) and “schools” (section 254(c)(3)).⁴⁹ As such, we believe that Congress gave no indication that it intended to apply such a limitation to the Commission’s authority. To claim that it did now would also run contrary to Commission precedent where it recognized off-premises use of E-Rate supported services.⁵⁰

Contrary to the positions of commenters in this proceeding, we believe that the Commission’s analysis explained in the *Report and Order* is a more accurate and better reading of the statute. We thus continue to support the conclusion that the Commission maintains sufficient statutory authority to extend E-Rate support in the manner at issue herein.

IV. CONCLUSION

SHLB appreciates this opportunity to submit reply comments in this proceeding. We commend the Commission for its efforts to equip our nation’s schools and libraries with resources that respond to evolving broadband needs in order to make positive changes in their communities.

Respectfully submitted,



Kristen Corra
Policy Counsel
Schools, Health & Libraries Broadband Coalition
1250 Connecticut Avenue NW, Suite 700
Washington, DC 20036

November 4, 2024

⁴⁹ See *SHLB 2021 Petition* at 21. We also noted that where section 254 does use the term “classroom,” it is not always used exclusively and restrictively. For example, compare the language of section 254(b)(6) to section 254(h)(2)(A). *Id.* fn. 67.

⁵⁰ See e.g. *Report and Order* ¶ 91, (describing allowable off-premises use for school bus drivers delivering children to and from school.)