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Funding Status

E-Rate for FY 2025 – Application Window:

Application Window: The Form 471 application window for FY 2025 will open midday on Wednesday, January 15th, and close on Wednesday, March 26, 2025, at 11:59 p.m. EDT. The administrative window, giving applicants an opportunity to update their EPC entity profiles, will close on Thursday, January 9th.

For additional guidance, see USAC's [E-Rate Special Edition News Brief dated December 30th](#).

E-Rate for FY 2024:

Wave 37 for FY 2024 was released on Thursday, January 2nd, for \$16.6 million, none for North Carolina. Total funding is now \$2.52 billion including \$73.6 million for North Carolina. Currently, USAC has funded 97.5% of the originally submitted applications, representing 86.0% of the dollars requested.

2024 Review – 2025 Preview

As we begin the New Year, it is worthwhile to look back on the past year and to plan for the new one. Here is our annual E-Rate review of 2024 and a preview of 2025.

Key Milestones in 2024:

January	The outlook for 2024 as the year began was mixed. On the plus side, 2024 was the first year for which school bus Wi-Fi was E-Rate eligible and the FCC had
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already solicited comments on making hotspots eligible as well. Additionally, after many years of rejecting the eligibility of cybersecurity equipment and services, the FCC had recently announced a small, three-year, \$200 million Cybersecurity Pilot Program. It was also the first year that CEP participation would be governed by the lower 25% ISP threshold. On the flip side, COVID-related funding was running out for ECF and ACP, two important programs providing at-home internet services for students, library patrons, and low-income households.

The FY 2024 Form 471 application window opened on January 17th.

February With the reply comment deadline on hotspots having closed at the end of January, and the reply comment period for the Cybersecurity Pilot closing at the end of February, the future of both programs now rested solely with the FCC.

March Two service providers, long awaiting USAC decisions on pending applications — conditions we often refer to as “black holes” — filed a joint petition with D.C Circuit Court of Appeals seeking a “writ of mandamus” to force the FCC to issue decisions on these applications (see our [newsletter of March 18th](#)). The Court denied the petition based on representations by USAC that decisions were imminent. Appeals of some of those decisions are now pending.

The FY 2024 Form 471 application window closed on March 27th.

April Highlighting a private action by Maureen and Matthew Molak, filed in the 5th Circuit Court of Appeals in late 2023, Sen. Ted Cruz (R-TX) and seven colleagues filed a supporting Amici Curiae brief seeking review of the FCC’s action to make school bus Wi-Fi eligible for E-Rate support (see our [newsletter of April 15th](#)). The Molaks subsequently expanded their complaint to include hotspots. Court actions are currently stayed pending FCC petitions for reconsideration and possible Supreme Court actions on the constitutionality of the Universal Service Fund (see below).

The first wave of E-Rate funding commitments for FY 2024 was released on April 27th.

May The FCC announced that it would officially end the Affordable Connectivity Program (ACP) on June 1st due to a lack of additional Congressional funding.

In streamlined decisions for April and May, and consistent with past precedent, the FCC approved waivers for over 700 late-filed Form 471 applications filed within two weeks of the close of the FY 2024 application window.

June The FCC approved the \$200 million, three-year Cybersecurity Pilot Program (see our [newsletters of June 10th](#) and [June 17th](#)).

July In a contentious 3:2 vote along party lines, the FCC approved a Report and Order making the loan of hotspots and related wireless internet services for at-home usage by students and library patrons eligible for E-Rate support as of FY 2025 (see our [newsletter of July 22nd](#)).

- August August 29th was technically the invoice deadline for Window 3 ECF equipment and services. Exceptions to the deadline were confusing as the result of a \$1.768 billion recission of ECF funds imposed by Congress (see [USAC's ECF Newsletter of August 2024](#)).
- September The application window for selection into the Cybersecurity Pilot Program opened September 17th and closed November 1st. As of the end of 2024, the FCC had not announced the winning applicants for full Pilot participation.
- October Following a pattern set following Hurricane Katrina in 2005, the FCC released two orders providing E-Rate relief for applicants affected by hurricanes Helene and Milton.
- Responding to applicant concerns regarding the complexity of the many recordkeeping and usage requirements in its hotspot rules, the FCC released a special hotspot Small Entity Compliance Guide ([DA 24-1083](#)).
- Resolving a grammatical controversy brewing since the Program's inception in 1998, the FCC advised USAC to always refer to "E-Rate" in print with a capital "E" and a capital "R."
- The FCC released the [FY 2025 Eligible Services List](#) ("ESL") with only minor changes other than the inclusion of hotspots as eligible services. Again, the FCC rejected comments calling for the eligibility of cybersecurity equipment and services for all applicants.
- The FCC [announced](#) the creation of the Tribal Library E-Rate Advocacy Program ("T-LEAP") to provide one-on-one E-Rate assistance to Tribal libraries.
- November The U.S. Supreme Court heard oral arguments in a case involving Todd Heath's False Claims Act suit against Wisconsin Bell over alleged Lowest Corresponding Price ("LCP") E-Rate Violations. The key question at issue was whether E-Rate, or any portion thereof, involved "federal funds." We expect this case to be narrowly decided later in 2025 (see our [newsletter of November 11th](#).)
- The Supreme Court also agreed to review a decision by the 5th Circuit Court of Appeals, conflicting with previous decisions of 6th and 11th Courts of Appeals, as to the constitutionality of the Universal Service Fund ("USF"), the basic funding mechanism for E-Rate. Possible outcomes in this case are discussed in the Anticipated Developments in 2025 section below.
- December Highlighting the point that something must be done to reform the USF funding mechanism, the FCC's calculations of the required contribution factors ended the year with two successively higher factors closing a 36.3% for the first quarter of 2025 (see our [Newsletter of December 16th](#)).
- The FCC [appointed](#) eight members to new or extended terms on the USAC Board of Directors. Of most interest to the E-Rate community, this extended the term of Julie Tritt Schell, the State E-Rate Coordinator in Pennsylvania, by one

year to December 31, 2025, and appointed David Schuler, Executive Director of AASA, the School Superintendents Association, to a new three-year term expiring December 31, 2027.

Additional details on 2024 developments can be found in our [E-Rate Weekly News Archive](#). For a broader review of FCC developments over the year, see the [2024 in Review](#) by outgoing FCC Chairwoman Jessica Rosenworcel.

Anticipated Developments in 2025:

2025 will be an interesting year — PERIOD! Let us count the ways.

FCC Developments:

First, and foremost, the change in the Administration, with the election of President Donald Trump, means a change in control at the FCC. For the next two and a half weeks, the FCC remains under the control of the three Democratic — versus two Republican — Commissioners. Then:

- The current Democratic Chairwoman Jessica Rosenworcel resigns.
- The current Republican Commissioner, Brandon Carr, who was already nominated by President-elect Trump, becomes Chairman.
- The Commission is temporarily stalemated on controversial issues with two Republican and two Democratic Commissioners.
- Once a fifth — in this case Republican — Commissioner is nominated and confirmed, controversial Commission votes are expected to reflect the Republican agenda. When this will happen depends upon Administration priorities. It may not be immediate but, when it does, the impact on E-Rate is likely to be:
 - A reexamination of the eligibility of hotspots and school bus Wi-Fi, decisions that the two existing Republican Commissioners strongly opposed.
 - A possible reassessment of the Cybersecurity Pilot Program that the Republican Commissioners originally approved of in concept but voted against in its final form.

It may not be likely, but it is certainly conceivable, that hotspot eligibility could be withdrawn prior to July 1, 2025. Applicants applying for hotspots (or bus Wi-Fi) services for FY 2025 should make sure that related contracts are made contingent on E-Rate eligibility.

Unlike some of the uncertainties surrounding the Department of Education (“DOE”) and the Institute of Museum and Library Services (“IMLS”), possible targets of Elon Musk’s Department of Government Efficiency (“DOGE”), the FCC itself appears to be relatively insulated with Brendan Carr as Chairman. We note that Commissioner Carr was:

- First nominated to FCC by President Trump during his first term in office and has now been selected by President-elect Trump as the next FCC Chairman.
- The author of the FCC section ([Chapter 28](#)) of Project 2025, a Republican-oriented blueprint for Federal government reform.

Assuming the FCC remains fully operational, albeit with a Republican bend, two decisions we expect over the next few months are:

- The selection of finalists for the Cybersecurity Pilot Program along with a preliminary schedule for the cyber-Form 470 and cyber-Form 471 windows.
- Revised Category Two numbers for the next five-year budget cycle. If the FCC follows its historic precedent of increasing budgets by inflation, we expect Cat. 2 budget factors to increase by 20% or more, perhaps to \$200-\$205 per student for schools and \$5.40-\$5.50 per square foot for libraries.

Importantly, what we'd also like to see from the FCC are a number of the E-Rate program simplifications proposed in its Further Notice of Proposed Rulemaking ("FNPRM") ([FCC 23-56](#)) for which it received reply comments back in October of 2023. As discussed in our [Newsletter of October 30, 2023](#), these simplifications could include:

- Eliminating the Form 486 and including CIPA compliance certifications on the Form 471.
- Allowing mid-year bandwidth increases.
- Permitting the purchase of internet from two different vendors that will be used during the funding year.
- Clarifying the definition of cardinal changes to bidding documents.
- Establishing procedures for the delayed transition of services within the funding year.
- Making all multi-year licenses, including technical support and software updates, fully eligible for funding in the year of purchase.

Supreme Court Cases:

The second agent for E-Rate changes in 2025 may be the U.S. Supreme Court. There are two pending cases expected to be resolved by the Court this year.

- **United States ex rel. Heath v. Wisconsin Bell.** As discussed in our [Newsletter of November 11th](#), the issue in this case is whether E-Rate involves "federal funds" and, if so, whether violations of E-Rate rules by program participants are subject to the federal False Claims Act, including the resulting triple damages. This case was heard early last November; a decision is expected early this summer. We expect the Court will find that at least a small portion of E-Rate funds are "federal" and that the False Claims Act does apply to E-Rate violations. The latter finding may encourage independent claims of E-Rate fraud.
- **Consumer's Research, et al. v. FCC et al.** This case deals broadly with the constitutionality of the Universal Service Fund ("USF"), the underlying funding source for E-Rate and three other USF programs. More specifically, the legal question is whether or not USF funding violates the nondelegation doctrine by imposing no limit on the FCC's power to raise revenue for the Universal Service Fund; and whether the FCC violated the private nondelegation doctrine by transferring its revenue-raising power to a private company (i.e., USAC) run by industry interest groups. The Court is expected to hear this case in March and rule later this year (or next). We do not expect the Court to rule that USF as a whole is unconstitutional, but it could dictate changes in the Fund's administration.

One case that the Supreme Court will not be hearing this year, but which may be important to schools and libraries seeking at-home internet services for low-income families, is a challenge that the Court declined to review last month dealing with a New York State program requiring the State's internet providers to offer basic internet service plans to such families. National trade associations had challenged the NYS program fearing that it would encourage other states to offer ACP-like services, a prospect that may now occur (see our [Newsletter of December 23rd](#)).

Updates and Reminders

Upcoming Dates:

January 9	Close of the EPC administrative window.						
January 10	FY 2024 Form 486 deadline for Wave 21. The Form 486 deadline is 120 days after the FCDL date, or the service start date (typically July 1 st), whichever is later. The next Form 486 deadlines for FY 2024 are: <table><tr><td>Wave 22</td><td>01/17/2025</td></tr><tr><td>Wave 23</td><td>01/24/2025</td></tr><tr><td>Wave 24</td><td>01/31/2025</td></tr></table>	Wave 22	01/17/2025	Wave 23	01/24/2025	Wave 24	01/31/2025
Wave 22	01/17/2025						
Wave 23	01/24/2025						
Wave 24	01/31/2025						
January 15	Opening of the Form 471 application window for FY 2025 (noon EST).						
January 20	President Trump's inauguration will mark a change in control of the Federal Communication Commission ("FCC"). The current Chairwoman, Jessica Rosenworcel, has announced plans to step down that day. President-elect Trump has already announced that current Commissioner Brendan Carr will become the new FCC Chairman (see our newsletter of November 11).						
January 28	Normal invoice deadline for FY 2023 non-recurring services.						
February 25	Extended invoice deadline for FY 2023 recurring services for deadlines extended beyond the original October 28, 2024, deadline.						
March 26	Close of the Form 471 application window for FY 2025 (11:59 p.m. EDT).						

FCC Streamlined Decisions:

The FCC issued another set of "streamlined," precedent-based appeals and waivers last week. As with past streamlined decisions, applicants facing similar problems to those addressed in these decisions may garner useful information by carefully reading the additional FCC explanations found in the footnotes. The original appeal and/or waiver requests can be found online in the FCC's [Search for Filings](#) under Docket 02-6 (E-Rate) or Docket 21-93 (ECF).

In December's streamlined decisions ([DA 25-2](#)), the FCC:

1. E-Rate Dismissed:
 - a. One Request for Review deemed moot.
2. E-Rate Granted:

- a. Two Requests for Waiver of the appeal filing deadline that had been missed “only a few days late or within a reasonable period of time after receiving actual notice of USAC’s adverse decision.”
- b. One Request for Waiver allowing the late submission of discount rate data.
- c. One Request for Waiver and Petition for Reconsideration granted on the FCC’s own reconsideration involving ministerial and/or clerical errors.
- d. One Petition for Reconsideration involving an untimely filed appeal, remanded to USAC for review.
- e. One Request for Review and/or Waiver in a case involving the recovery of funds being sought from the wrong party.

Note: This is an unusual case tracing back to FY 2000 in which USAC was seeking the recovery of funds from an applicant who had been misled by fraudulent and criminal actions of an internet services provider and a consultant (see [2024 Request for Review](#)).

- f. One Request for Review and/or Waiver finding that an invoice had been timely-filed, apparently despite a late filed Form 473 by the applicant’s service provider.
- g. One Request for Waiver for a late-filed Form 471 due to circumstances beyond the applicant’s control.
- h. One Request for Review for a late-filed Form 486.
- i. One Request for Waiver for a permissible implementation delay.
- j. One Request for Review and/or Waiver, remanded to USAC, to permit the consideration of bank statements to establish proof of payment of invoices.
- k. One Request for Review, remanded to USAC, to reconsider all information submitted.
- l. One Request for Waiver to allow a service provider to update its Form 498 trade name used on an invoice.
- m. Three Requests for Waiver for late-filed service substitutions.

3. E-Rate Denied:

- a. One Request for Waiver disallowing a correction for the cost of equipment that had already been funded. The FCC noted that increasing the bid amount after the award of a contract “would compromise the competitive bidding process because vendors could propose lower costs and then change the amount after the award of the contract.”
- b. Two Requests for Waiver for which no Form 470 had been filed.
- c. Four Requests for Waiver for late-filed invoices or invoice deadline extension requests where the applicants failed to demonstrate extraordinary circumstances.
- d. One Request for Waiver for an untimely filed appeal or waiver.

4. ECF Dismissed:

- a. Five Requests for Waiver dismissed as moot for applicants already fully compensated.
- b. Two Requests for Waiver dismissed as moot for applicants subsequently withdrawing applicable funding requests.
- c. One Petition for Reconsideration untimely filed.

5. ECF Granted:

- a. One Request for Review remanded to USAC to recalculate the proper recovery amount.
 - b. Four Requests for Waiver for the early delivery of equipment.
 - c. One Request for Review where USAC had incorrectly determined that the funding requests were for ineligible services.
 - d. Four Requests for Waiver or Review granting additional time to respond to USAC for invoicing information.
 - e. One Request for Waiver remanding an appeal that had been timely-filed.
 - f. Six Requests for Waiver of the ECF invoice filing deadline.
 - g. Two Requests for Waiver of the service delivery date due to circumstances beyond the service providers' control.
6. ECF Denied:
- a. Nine Requests for Waiver for the extension of service delivery dates beyond the COVID-19 emergency period expiration (June 30, 2024).
 - b. One Request for Waiver for an untimely filed appeal or waiver.

Newsletter information and disclaimer: This newsletter may contain unofficial information on prospective E-Rate developments and/or may reflect E-Rate Central's own interpretations of E-Rate practices and regulations. Such information is provided for planning and guidance purposes only. It is not meant, in any way, to supplant official announcements and instructions provided by USAC, the FCC, or NCDPI.

Additional North Carolina specific E-Rate information is available through our Web site — <http://www.E-Ratecentral.com/us/stateInformation.asp?state=NC>. Note that this site provides easy access to formatted North Carolina applicant E-Rate histories via the Billed Entity Number ("BEN") search mechanism in the upper left-hand corner. Detailed information can be obtained by "drilling down" using the links for specific funding years and individual FRNs.

If you have received this newsletter from a colleague and you would like to receive your own copy of the North Carolina E-Rate Forum, send an email to join-ncerate@lists.dpi.state.nc.us. Please include your name, organization, telephone, and e-mail address.

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