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## Funding Status

### *E-Rate for FY 2025*

Wave 3 of funding commitment decision letters for FY 2025 was released on Thursday, May 8<sup>th</sup>, for \$24.7 million, including \$634 thousand for seven for North Carolina applicants. Total funding is now \$1.01 billion, including \$25.6 million for North Carolina. Currently, USAC has funded 54.1% of submitted applications, representing 31.3% of the dollars requested.

As we noted in the article on the FCC’s streamlined decisions for April, in [last week’s newsletter](#), the FCC has already begun to issue waivers on FY 2025 applications that were filed after the March 26<sup>th</sup> deadline, but certified within the following two weeks (what we have taken to call the “grace period”). If only for curiosity’s sake, we thought it might be interesting to compare this year’s applications filed within the regular window with those filed in the “grace period.” We were also interested in those applications filed on the last day of the regular window compared to those that just missed and were filed the next day. Here are the application filing numbers:

Filed by March 26th ("In Window")	37,454
Filed <u>on</u> March 26th	4,833
Filed in last 15 minutes	55
Filed by April 9th ("Grace Period")	874
Filed <u>on</u> March 27th	104
Filed in first 15 minutes	14

Overall, FY 2025 E-Rate applicants did an excellent job of avoiding last-day and last-minute filings. Only 1.4% of the In-Window applications were filed on the last day, with only fifty-five applications filed within the last fifteen minutes. The 874 Out-of-Window applications, filed

within the 14-day “grace period,” represented 2.3% of the applications filed on time.<sup>1</sup> Although there can be legitimate procedural reasons for late-filed applications, we suspect that the reason for the difference between those applications filed in the last fifteen minutes of the deadline, and those missing the deadline by fifteen minutes, can only be attributed to differential typing skills.

#### *E-Rate for FY 2024:*

No new funding wave was issued last week for FY 2024. Total funding remains \$2.67 billion, including \$73.6 million for North Carolina. Currently, USAC has funded 98.4% of submitted applications, representing 93.0% of the dollars requested.

#### *Cybersecurity Pilot Program – Application Window:*

The Form 471 application window for the Cybersecurity Pilot Program opened on March 18<sup>th</sup> and will close on September 15<sup>th</sup>, 2025. Total pilot funding is capped at \$200 million for 707<sup>2</sup> applicants. Initial commitments include 10.1 million for seventeen North Carolina applicants.

### **Senate Votes to Overturn FCC Hotspot Order**

In two votes last week on [S.J. Res. 7](#) — a preliminary vote on Tuesday, March 6<sup>th</sup>, and a final vote on Thursday the 8<sup>th</sup> — the U.S. Senate voted to employ the Congressional Review Act (“CRA”) to overturn the FCC order, adopted last August, to make internet hotspots ineligible under E-Rate. The [final Senate vote](#) was 50-38 strictly along party lines. A similar measure ([H.J. Res. 33](#)) is pending in the House of Representatives that, if approved and signed by the President as expected this week, will effectively and permanently kill E-Rate eligibility of hotspots that had been scheduled to become effective for FY 2025 as of July 1<sup>st</sup>. An estimated \$27.5 million in hotspot applications, currently pending for FY 2025, would presumably then be canceled.

It should be noted that Congress’ CRA actions to overturn the FCC’s hotspot rules does not affect — as we have seen misreported — the eligibility of school bus Wi-Fi that was enacted earlier by the FCC and is, therefore, not subject to the current CRA action.

It is important to understand, however, regardless of the Congressional CRA action, the longer-term E-Rate eligibility of both hotspots and school bus Wi-Fi would be dependent on continued FCC support. Both of those programs were initiated under the Biden administration by a Democratic majority on the FCC Commission. The two Republican Commissioners, at the time, strongly dissented on both measures, arguing, as does the Republican Congress, that the underlying E-Rate legislation applies only to in-school services. The same two Republican Commissioners, Brendan Carr (now FCC Chairman) and Nathan Simington, are still on the FCC Commission, soon to be joined by Olivia Trusty, who is currently awaiting full Senate confirmation as the third

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<sup>1</sup> The FCC has already waived the application filing deadline for 492 of those 874 late-filed applications. An additional eighteen applications were filed during this two-week period but were considered “In-Window” because of deadline extensions given by the FCC to applicants affected by the California wildfires.

<sup>2</sup> To date, one Cybersecurity Pilot participant has withdrawn from the Program.

Republican Commissioner. At that point, the future eligibility of both hotspots and school bus Wi-Fi becomes questionable.

Our own views are as follows:

1. Most likely, Congress will use the CRA process to prevent hotspot eligibility from proceeding. The only role for USAC and the FCC in this proceeding will be to issue implementing instructions and formally delete the existing hotspot regulations. It should be noted that, once killed by CRA action, hotspots cannot be reinitiated by the FCC under a future administration without an authorizing act of Congress.
2. If a Republican majority on the FCC decides to reconsider the eligibility of school bus Wi-Fi, it would presumably do that by initiating a Notice of Public Rulemaking (“NPRM”) subject to public comment. At worst, this might not affect school bus Wi-Fi until FY 2026. Most optimistically, the FCC may conclude that school buses are an extension of schools — think mobile study halls — not unlike bookmobiles are extensions of public libraries.

## Updates and Reminders

### *Upcoming Dates:*

May 15	USAC’s Beginning E-Rate Services Webinar ( <a href="#">Register</a> ).				
May 16	FY 2024 Form 486 deadline for Wave 39. The Form 486 deadline is 120 days after the FCDL date, or the service start date (typically July 1 <sup>st</sup> ), whichever is later. The next Form 486 deadlines for FY 2024 are: <table><tr><td>Wave 40</td><td>05/23/2025</td></tr><tr><td>Wave 41</td><td>05/30/2025</td></tr></table>	Wave 40	05/23/2025	Wave 41	05/30/2025
Wave 40	05/23/2025				
Wave 41	05/30/2025				
May 28	Extended invoice deadline for FY 2023 non-recurring service FRNs with approved extensions beyond the original January 28, 2025, deadline.				
June 30	Last day to light fiber (or request a service delivery deadline extension) for FY 2024 special construction projects.				
June 30	Last day to receive (or file service substitutions for) FY 2024 recurring services.				
July 1	Withdrawal deadline for Cybersecurity Pilot participants opting not to continue in the Program.				
August 18	Last day to certify a CBR Form 470 in order to meet the minimum 28-day posting period before filing the CBR Form 471.				
September 15	Close of the Cybersecurity Pilot Form 471 application window and deadline for filing the Form 484 Part 2.				

### *FCC Resolves Appeals re. Unfiled SPACs:*

The FCC issued an Order ([DA-394](#)) last week addressing appeals for funding years 2015-2023 in which the associated service providers had not filed their required Service Provider Annual

Certifications (Form 473s or “SPACs”). Since FY 2014, FCC E-Rate rules have stated that BEAR reimbursement invoices cannot be processed unless the service providers involved have filed SPACs for that funding year. Last week’s Order addressed nineteen appeals by applicants whose reimbursement requests had been held up as a result of non-filed or untimely-filed SPACs by their service providers.

The FCC also clarified the process going forward stating that, “[a]kin to the former “Good Samaritan” process, this invoicing process will be available only in instances where the service provider is defunct or otherwise incapable of filing the FCC Form 473, which is a prerequisite for a request for reimbursement to be accepted by USAC. However, this process may not be used when the service provider is operational but refuses to certify the annual FCC Form 473 as required by E-Rate program rules.”

The FCC’s Order included decisions in three categories, two granting relief and one denying relief. Specifically:

1. The FCC granted seven appeals in circumstances in which the service providers had gone out of business or were no longer operational. This group also included an eighth instance in which the service provider refused to certify its SPAC “because they were upset that they didn’t win the contract” for the following year. In these cases, the FCC waived the requirement that the FCC 473s be on file before BEARs can be processed and also waived the associated invoice deadlines.

Importantly, the FCC indicated that future applicants, finding themselves in an analogous situation and seeking to use “[t]his new process must comply with the invoice filing deadline.”

2. An additional four appeals were granted in situations in which untimely SPACs had not been filed due to “technical issues or severe weather.” In these situations, the FCC granted the service provider 120 days to file a later-Form 473 and waived the associated invoice deadline.
3. The final seven appeals were denied in instances that the FCC found that it was “unclear whether the service provider did not certify the FCC Form 473 because it was unable to make the required attestations in good faith because it had failed to comply with our rules or for some other reason.”

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*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.*

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