

**Before the  
Federal Communications Commission  
Washington, DC 20054**

**In the Matter of:**

<b>Schools and Libraries Universal Service Support Mechanism</b>	)	<b>CC Docket No. 02-6</b>
	)	
	)	
<b>Federal-State Joint Board on Universal Service</b>	)	<b>CC Docket No. 96-45</b>
	)	
	)	
<b>Changes to the Board of Directors of the National Exchange Carrier Association, Inc.</b>	)	<b>CC Docket No. 97-21</b>

**Report And Order And Further Notice Of Proposed Rulemaking**

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**Reply Comments of the American Library Association**

(Submitted October 23, 2023)

The American Library Association (ALA) represents the nation's 123,000 libraries of all types. As we stated in our initial comments filed on September 25, 2023, the ALA strongly supports the *Report and Order (Order)* on the E-rate eligibility of tribal libraries that the Federal Communications Commission (FCC or the Commission) adopted on July 20, 2023.<sup>1</sup>

In addition to briefly commenting in support of tribal library E-rate eligibility, our September comments<sup>2</sup> focused primarily on the questions and issues the Commission presented in its

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<sup>1</sup> In the Matter of *Schools and Libraries Universal Service Support Mechanism, Federal-State Joint Board on Universal Service; Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket Nos. 02-6, 96-45, 97-21, *Report and Order and Further Notice of Proposed Rulemaking* (Tribal E-Rate Order; FNPRM).

<sup>2</sup> Comments filed by the American Library Association (ALA). Sept. 25, 2023.

*Further Notice of Proposed Rulemaking (FNPRM)*. Besides ALA's comments, there were twelve other parties who filed initial comments. In reviewing these parties' comments, we are pleased to see there is considerable agreement on many issues. Below we provide Reply Comments on some of the initial comments filed. Our remarks also include comments filed by four parties in which we have some disagreements.

Before we comment on the FNPRM, we seek clarification on a section in the Order itself, namely regarding cost allocation rules and procedures. ALA welcomes the cost-allocation relief as a simplification measure that will benefit all applicants, however applicants will benefit from additional clarification and guidance. Specifically, is cost-allocation for eligible internet service delivered by an eligible entity off library or school property eligible for cost-allocation relief if it is 10% or less of the total service and therefore ancillary? During the pandemic, the Commission reaffirmed that libraries and schools were permitted to share their Wi-Fi with the community by broadcasting their signal onto library or school property<sup>3</sup>. In the spirit of connecting community at a time of great need, some libraries have extended their Wi-Fi a short distance beyond their property to connect students and community where no connectivity is available, for example onto neighboring community anchor institution property or adjacent city or county property. In other instances, the library does not own their parking lot or the sidewalk in front of the library. In these cases, cost allocation is currently required to remove the cost of the Wi-Fi signal broadcast off library property. Does the cost allocation relief extend to ancillary use of an eligible internet access service delivered off library or school property if it meets all the other criteria outlined in the Order and does not affect the library or school's decision-making process when determining the most cost-effective internet service?<sup>4</sup>

### **Comments in agreement with ALA's positions**

*License/Software Distinction*. In our September comments we agreed with the Commission's own proposal that there should be no need to amortize the costs of a contract for technical support over multiple years when the contract is fully paid in the first year. The Illinois Office of

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<sup>3</sup> *Schools and Libraries Universal Service Support Mechanism*, CC Docket Nos. 02-6, 13-184, *Wireline Competition Bureau Confirms That Community Use of E-Rate Supported Wi-Fi Is Permitted During School and Library Closures Due to Covid-19 Pandemic* (Public Notice released March 23, 2020).

<sup>4</sup> FNPRM, par., 25-26.

Broadband (“IOB”) agrees with this and further states that this change “Will alleviate financial burdens on schools and libraries when they must pay in full for such services in the first year of the contract, yet wait for reimbursement that is amortized for many years in the future.”<sup>5</sup> The Council of the Great City Schools (Council), highlights this same problem in stating that, “Under current rules, in circumstances where school districts prepay for multi-year software-based services, districts do not receive full reimbursement for these services until years later.”<sup>6</sup>

*Other Simplification Opportunities.* We are pleased that the Schools, Health & Libraries Broadband (SHLB) Coalition<sup>7</sup> supports the ALA position that there should be a rolling Category 2 (C2) application deadline. The coalition offers detailed comments, mostly in support of this proposal, and we ask the Commission to review its information carefully. We also acknowledge that the State E-rate Coordinators’ Alliance (SECA) opposes a rolling C2 deadline stating that, “This approach would complicate and not simplify the program, and be a source of confusion.”<sup>8</sup> We respectfully disagree. While we are certainly cautious about avoiding confusion in the program, we think having a flexible Category 2 deadline that better aligns with an applicant’s needs will be understood and welcome in the library and school communities.<sup>9</sup>

*Competitive Bidding Exemptions.* ALA supports the Commission’s decision in the *Order* to exempt tribal and other libraries from the need to bid on C2 purchases less than \$3,600, pre-discount. But we think such an exemption will be much more beneficial if it is increased to \$10,000 and applies to all E-rate eligible services purchased by libraries and schools. We are pleased to see that several parties, including the SHLB coalition<sup>10</sup> and SECA,<sup>11</sup> support this increase. NCTA – The Internet & Television Association (NCTA) supports the \$10,000 exemption but says it “Should apply on a per-customer basis, not a per-location basis.”<sup>12</sup> We

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<sup>5</sup> Comments filed by the Illinois Office of Broadband (IOB), pp. 3-4. Sept. 25, 2023.

<sup>6</sup> Comments filed by the Council of the Great City Schools (Council), p. 2. Sept. 25, 2023.

<sup>7</sup> Comments filed by the Schools, Health & Libraries Broadband (SHLB) Coalition, pp. 14-17. Sept. 25, 2023.

<sup>8</sup> Comments filed by the State E-rate Coordinators’ Alliance (SECA), p. 32. Sept 25, 2023.

<sup>9</sup> Even with a rolling C2 application deadline, nothing precludes applicants from still filing their C2 E-rate forms in the same time frame as the C1 deadline. This is a very workable solution for applicants who are habitually date deprived and thus have difficulty remembering two different deadlines.

<sup>10</sup> SHLB, p. 10.

<sup>11</sup> SECA, pp. 30-31.

<sup>12</sup> Comments filed by the NCTA – The Internet & Television Association (NCTA), p.4. Sept. 25, 2025.

assume by “a per-customer basis” NCTA means at the school district or library system level. The current \$3,600 exemption applies to each location, that is, at the individual school or library branch location. ALA’s proposed \$10,000 exemption should be applied at the location level.

GCI Communication Corp. (“GCI”) raises an interesting issue related to both the current \$3,600 exemption and the proposed \$10,000 exemption. That is, how do providers adhere to the Lowest Corresponding Price (LCP) rule when there is no Form 470 filed?<sup>13</sup> We propose one of two solutions to this issue: (1) The Commission’s rules exempt the need to comply with the LCP when purchasing E-rate eligible services less than \$10,000; or (2) the rules state that when an applicant uses local procurement processes, they clearly state in their service request that providers’ responses must offer prices that comply with the LCP.

*Spam Bids and Bids Received After 28 Day Waiting Period.* We want to reiterate the position in our initial comments that there be no E-rate requirement that applicants must review any bids received after 28 days. SECA’s comments are the same as ours. And furthermore, SECA provides draft regulatory language to address this issue.<sup>14</sup> We also are pleased to see that SECA, like ALA, does not think the Commission’s proposed bidding portal is a solution to the spam bids.

*Modifying or Eliminating FCC Form 486.* Many of the initial comments filed support the elimination of Form 486. Citing just two examples will suffice to illustrate such support. The Illinois Office of Broadband states, “The administrative burden of filing this form, and the compliance risk of missing the deadline, far outweigh any utility of the information it contains.”<sup>15</sup> And Uniti Fiber also supports the FCC’s proposal to eliminate the Form 486 and it notes that any required information can be collected on other E-rate forms.<sup>16</sup>

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<sup>13</sup> Section VI, A, 3 in the July 0214 *Modernization Order* established the \$3,600 exemption. While paragraph 202 refers to the \$3,600 as being “a cost-effective service offering” it does not specifically address how this exemption relates to the LCP requirement.

<sup>14</sup> SECA, p. 39.

<sup>15</sup> IOB, p. 6.

<sup>16</sup> Comments filed by Uniti Fiber, p. 5. Sept. 25, 2023.

*Validating Discount Rates.* In our comments we supported the need for schools to validate their E-rate discount only once every five years, rather than the current annual validation. Doing this will ease the burden on libraries and schools. And state E-rate coordinators will also benefit from this change because—as SECA notes—they often “spend countless hours (often weeks) compiling the enrollment and NSLP data for each school...”<sup>17</sup>

*Modifying the Invoice Filing Deadline Rule.* As noted in our initial comments, ALA supports allowing applicants more flexibility on invoicing deadlines and many commenters agreed with this. For example, the Council of the Great City Schools succinctly summarizes this issue when it states, “Many applicants have requested waivers after the deadline and have been rejected because their circumstance does not meet the Commission’s much stricter standard for granting waivers after the invoicing deadline.”<sup>18</sup> The E-Rate Management Professionals Association expresses another common problem when it states, “Since invoice reviews are completed via email, many applicants miss the opportunity to respond because the email is caught in their spam folder.”<sup>19</sup> In our review of the twelve comments filed, we saw none that opposed this change to the invoicing deadline.

### **Comments in opposition to ALA’s positions**

As we reference above, among the twelve comments filed initially, there is considerable agreement on many of the issues the Commission addresses in the *FNPRM*. But considerable agreement does not mean unanimous agreement. In this context, we want to highlight four positions taken by four different commenters that ALA believes will not be beneficial to libraries and schools and will introduce needless complexity.

1) *AT&T’s comments on Service Provider Invoicing (SPI).* As the *FNPRM* states, some service providers require applicants to pay the full cost of the E-rate services upfront when the applicant has selected the SPI billing process. And it further states that doing this “Is contrary to the clear

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<sup>17</sup> SECA, p. 10.

<sup>18</sup> Council, p. 3.

<sup>19</sup> Comments filed by the E-Rate Management Professionals Association, Inc. (E-MPA), p. 7. Sept. 25, 2023.

intent of allowing SPI billing and our rules.”<sup>20</sup> AT&T readily admits that it bills libraries and schools for the price of *all services* because its billing systems cannot differentiate between E-rate discounted and non-discounted services.<sup>21</sup> The E-rate program has existed for more than a quarter century and we think this is more than enough time for AT&T to upgrade its billing systems to comply with the SPI process. To address this issue, the Commission asks if it should clarify its rules and make it clear “That applicants who select the SPI invoicing method must only pay their service provider for the non-discounted share of the costs of the eligible equipment and services....”<sup>22</sup> ALA’s response is: Yes, the Commission should definitely do this and undertake efforts to enforce this ruling, too. Finally, we note in AT&T’s comments that it says if the Commission clarifies its SPI rules AT&T “Will be forced to reconsider how, when, and to what extent it participates in the program.”<sup>23</sup> In the Order the Commission will ultimately release, we ask that it remind AT&T that, per Commission regulations, it is required to participate in the E-rate program.

2) *GCI’s comments on requiring a bid evaluation deadline.* GCI requests that the Commission “Establish deadlines for applicants to evaluate providers’ bids.”<sup>24</sup> We strongly oppose this request. Setting such a deadline is way too intrusive into a local library or school’s bid evaluation processes. Furthermore, it would add another layer of complexity to the program. There are simply too many local variables to establish a single, nationwide bid evaluation deadline.

3) *E-Rate Provider Services comments requesting a 42-day application window.* E-rate Provider Services wants applicants to use a 42-day window for procurements. Under this plan, all Q&As and any site walkthroughs would be completed within 10 days of filing the Form 470. Then all Q&A answers would be provided within four days of the ten-day question compiling period.<sup>25</sup> (The 28-day bid period would then start after this 14-day process.) Similar to the above

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<sup>20</sup> *FNPRM*, par., 75.

<sup>21</sup> Comments filed by AT&T Services, Inc. (AT&T), p. 6. Sept. 25, 2023. Somewhat incongruously, AT&T also states (p. 6) that its “Billing systems and SPI processes were built at considerable expense to accommodate E-Rate requirements.” But obviously its billing systems do not accommodate *all* E-rate requirements.

<sup>22</sup> *Id.*, par. 75.

<sup>23</sup> AT&T, p.6.

<sup>24</sup> GCI, p. 7.

<sup>25</sup> Comments filed by E-Rate Provider Services, p. 3. Sept. 25, 2023.

GCI bid evaluation deadline, we find this proposal way too intrusive and arbitrary and thus request that the Commission not adopt it.

4) *USTelecom's comments on the time frame to accept bids.* In ALA's comments, we suggested that "There should be no requirement to review any bids received after 28 days, unless the applicant says it will."<sup>26</sup> An applicant's silence on this issue is not an affirmation that the bid remains open after 28 days. However, USTelecom prefers that a bid remain open for responses when an applicant has no closure date on its Form 470.<sup>27</sup> As we stated in our comments, "A better way to address this is to have a statement on Form 470 that there is no requirement for applicants to review any bids received after 28 days, and include such language in the E-rate regulations too."<sup>28</sup> (See also our related comments on "*Spam Bids...*" above.)

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In conclusion, the American Library Association appreciates the opportunity to submit these Reply Comments to the Commission's *Further Notice of Proposed Rulemaking*. ALA looks forward to the resulting *Order* and hopes that the changes made to the E-rate program will result in further program simplification to the benefit of our libraries, schools, and service providers.

Respectfully submitted,

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<sup>26</sup> ALA, p.7.

<sup>27</sup> Comments filed by USTelecom, p. 3. Sept. 25, 2023.

<sup>28</sup> ALA, p.7.