

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

In the Matter of)
)
Schools and Libraries Universal Service Support) CC Docket No. 02-6
Mechanism)
)
Petition for Waiver of Comcast Corporation for Lift)
Zone Initiative)
)
)
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PETITION FOR WAIVER OF COMCAST CORPORATION

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PETITION FOR WAIVER OF COMCAST CORPORATION

Comcast Corporation, on behalf of itself and its affiliates (“Comcast”), hereby requests a waiver of certain E-rate program rules so that it may conduct a pilot with libraries to expand its “Lift Zone” initiative, which provides broadband access to students in safe community center learning spaces. The Lift Zone initiative, like Comcast’s longstanding industry-leading Internet Essentials program, is an example of Comcast’s commitment to bridging the homework gap and the digital divide. Comcast believes that the waiver requested herein will support the Commission’s goals of fostering access to broadband and enhanced learning opportunities for low-income students.

I. INTRODUCTION AND SUMMARY

The COVID-19 pandemic has demonstrated the enormous benefits of broadband Internet access for students, teachers, and all Americans. Yet the digital divide and the homework gap prevent some Americans, many of whom are low-income, from fully realizing these benefits. Launched in late 2020, Comcast’s Lift Zone initiative is designed to address these issues by providing students with safe locations where they can get online, participate in distance learning, and do their homework. Through this program, Comcast partners with community centers across

the United States to establish locations where students are provided no-cost access to the Internet and other educational resources to help them fully participate in the digital world.¹ Comcast has now launched more than 600 Lift Zone locations, with a goal of 1,000 locations by the end of 2021.

The Lift Zone initiative is designed to complement Comcast's Internet Essentials program, which has helped connect more than 10 million Americans to the Internet at home since 2011 as part of the company's ongoing commitment to help close the homework gap and bridge the digital divide.

All Internet Essentials customers enjoy broadband Internet service directly to their homes, and Comcast upgraded at no cost the speed of that service to 50/5 Mbps effective March 1, 2021. It was the sixth time since the program's inception that speeds for these customers have increased while keeping the price of the program at \$9.95/month.² And through the "Internet

¹ See News Release, Comcast, *Comcast Announces Multiyear Effort to Roll Out 1,000+ WiFi-Connected 'Lift Zones' in Local Community Centers Nationwide* (Sept. 17, 2020), <https://corporate.comcast.com/press/releases/comcast-announces-1000--liftzones-in-community-centers-in-us-cities>. The Lift Zone initiative has received broad praise. See, e.g., Kim Lyons, *Comcast to provide Wi-Fi to low-income students through local community centers: its part of an effort to connect students who may not have internet access at home*, The Verge (Sept. 17, 2020), <https://www.theverge.com/2020/9/17/21441222/comcast-wifi-community-centers-low-income-students>; *Comcast Launching More Than 20 WiFi-Connected "Lift Zones" in Twin Cities*, businesswire (Nov. 16, 2020), <https://www.businesswire.com/news/home/20201116005352/en/Comcast-Launching-More-Than-20-WiFi-Connected-%E2%80%9CLift-Zones%E2%80%9D-in-Twin-Cities>; Elizabeth Hernandez, *Free Wi-Fi 'lift zones' coming to Colorado's Front Range to help low-income children with remote learning*, Denver Post, Dec. 15, 2020, <https://www.denverpost.com/2020/12/15/lift-zones-wifi-access-remote-learning-colorado-denver-aurora-comcast/>; Michelle Caffrey, *Comcast to roll out 'Lift Zones' across the U.S., including 26 in Philadelphia*, Philadelphia Business Journal, Sept. 17, 2020, <https://www.bizjournals.com/philadelphia/news/2020/09/17/comcast-wifi-students-access-lift-zones.html>.

² Internet Essentials also includes a Wi-Fi enabled modem at no additional charge; the option to purchase a low-cost computer; access to digital skills training; access to Comcast's more than 19 million Xfinity WiFi hotspots; and xFi service, which enables parents to control and manage

Essentials Partnership Program,” Comcast is partnering with cities, school districts, and community-based organizations to fund and rapidly connect large numbers of low-income students and families to Internet Essentials. And now, students who lack or are unable to safely use their home Internet connections can visit their local Lift Zone for remote schooling, homework, and other online training. Comcast’s Lift Zone partners include:

- Chicago’s BUILD, one of the city’s leading gang intervention, violence prevention, and youth development organizations, serving nearly 3,000 young people each year;
- Philadelphia’s Olney Recreation Center, which serves approximately 1,650 neighborhood children each year;
- The Center for Latino Progress, which advances the socio-economic conditions in Hartford, CT, with an emphasis on Hispanics, through education, training, supportive services, leadership development, and advocacy;
- Little Lights Urban Ministries in Washington, D.C., which empowers 130 students and families daily with access to computers and educational resources, job training, racial reconciliation, and ministry;
- Three Boys & Girls Clubs of Southeastern Michigan that serve 7,000 children, as well as Detroit Rescue Mission Ministries’ shelters where school-age children have access to socially distanced educational technology;
- Trenton’s Catholic Youth Organization of Mercer County, which provides childcare and youth programs to approximately 1,200 children during the academic year;
- The Twin Cities’ Sanneh Foundation Distanced Learning Hub, which hosts 140 students per day while their parents and guardians are at work, offering safe, socially distanced access to educational technology and tutoring support; and
- The Boys & Girls Clubs of Metro Baltimore, which serve more than 650 young people with virtual and in-person learning support, food delivery, and child care for essential personnel.

their children’s Wi-Fi connected devices. During the COVID-19 pandemic, Comcast has offered 60 days of free service to any new Internet Essentials customer who signs up before June 30, 2021.

As explained below, however, two E-rate program rules create challenges for fully realizing the benefit of this initiative by arguably preventing Comcast from establishing Lift Zone locations in libraries that participate in the E-rate program. Partnering with certain libraries to open Lift Zone locations could be viewed as violating the rules prohibiting service provider gifts and requiring applicants to pay the non-discounted share of the cost of their services.³ For the avoidance of any doubt in this important area, Comcast therefore requests that the Commission waive these rules, subject to specific safeguards to protect the fair and open competitive bidding processes for E-rate services that the rules at issue are meant to ensure. We seek this waiver with respect to a pilot project that would allow Comcast to work with a discrete number of libraries, which would allow the Commission to review the impact of such a waiver before considering whether to grant broader relief. Grant of this waiver request would serve the public interest by helping to close the homework gap and bridge the digital divide without undermining E-rate competitive bidding.

II. DISCUSSION

A. *PARTNERING WITH LIBRARIES WOULD GREATLY ENHANCE COMCAST'S LIFT ZONE INITIATIVE AND AFFORD MORE STUDENTS WITH EXPEDITED ACCESS TO BROADBAND.*

Comcast casts a broad net to identify effective Lift Zone partners and locations, but many community centers do not have the staffing, space, or skillset to support a Lift Zone. Libraries, by contrast, appear to be ideal for this purpose, as they already serve as community educational hubs and are well-designed for online educational activity, with desks, quiet spaces to work, and trained staff. According to the American Library Association, nearly 90% of libraries offer

³ 47 C.F.R. §§ 54.503(d)(1) & 54.523.

digital literacy training, and a significant majority support training related to using new technology devices (62%), safe online practices (57%), and social media use (56%).⁴

In order to take advantage of this natural fit, Comcast would like to partner with selected libraries to establish Lift Zone locations. In order to test and prove this concept, Comcast proposes initially to implement Lift Zone locations with various libraries on a pilot basis. Comcast proposes initially to focus on libraries within seven library systems.⁵ After gaining experience with these pilots, Comcast may return to the Commission with a request for an expanded waiver to allow for more library and school Lift Zone locations across the country.

As with other Lift Zone locations, Comcast would provide these locations with complimentary Business Internet, WiFi Pro, and SecurityEdge services. At each of these locations, Comcast would install a new, separate Business Internet connection dedicated solely for use in the Lift Zone that would not be used for other purposes within the library.⁶

The E-rate rules discussed below, however, limit Comcast's ability to provide free services to libraries that participate in the E-rate program. Comcast therefore asks that the Commission waive those rules to permit these partnerships. Comcast also proposes certain safeguards to further ensure that locating a Lift Zone in a library will not influence that library's ability to conduct a fair and open E-rate procurement process.

⁴ Am. Library Ass'n, *Digital Empowerment and America's Libraries*, at 2 (Jan. 2017).

⁵ The proposed library systems are Aurora Public Library (CO), Calvert Library (MD), select areas of Cook County (IL), Free Library of Philadelphia (PA), Jacksonville Public Library (FL), Pikes Peak Library District (CO), and Salt Lake County Library (UT).

⁶ As discussed in more detail below, the installation of a separate Internet connection and Wi-Fi network for the Lift Zone location is part of Comcast's plan to ensure that this proposal will not affect participating libraries' E-rate services, if any. This separation is also beneficial for libraries that already have Internet access (whether E-rate-supported or not), because they may not have adequate connectivity to support usage in the Lift Zone space. *See infra* Section III.C.2.

B. CERTAIN E-RATE RULES PRESENT AN OBSTACLE TO PARTNERING WITH LIBRARIES TO ESTABLISH LIFT ZONE LOCATIONS.

As part of establishing Lift Zone locations with any partner, Comcast donates goods and services to enable connectivity and assist with digital literacy training. In particular, Comcast provides the majority of Lift Zone locations with three free services: (1) a Business Internet connection, so students in the Lift Zone can get online; (2) business-grade, high-capacity WiFi Pro service, which simplifies the process for setting up and managing a WiFi network for Lift Zone users, and (3) SecurityEdge service, which protects Lift Zone users from cyberthreats and inappropriate content.⁷ Comcast also provides hundreds of hours of educational and digital skills content to help families, students, and site coordinators navigate online learning.

As a result of these donations at Lift Zone locations, two of the Commission's E-rate rules appear to be at issue when establishing Lift Zone locations in libraries that participate in the E-rate program. First, the E-rate gift rule in section 54.503(d) generally prohibits libraries from accepting, and E-rate participating service providers from offering, "any gift, gratuity, favor, entertainment, loan, or any other thing of value."⁸ Although charitable donations are permitted in some circumstances, they may not be "given by service providers to circumvent competitive bidding and other E-rate program rules" including those requiring "libraries to pay their own non-discount share for the services they are purchasing."⁹ And under section 54.523, which requires libraries to pay the non-discount portion of services they receive through the E-rate program, "the provision, by the provider of a supported service, of free services or products unrelated to the supported service or product constitutes a rebate of the non-discount portion of

⁷ These services are provided for a three-year term.

⁸ 47 C.F.R. § 54.503(d)(1).

⁹ *See id.* § 54.503(d)(4).

the supported services.”¹⁰ Although Comcast would not otherwise pay the non-discount share of any entity’s E-rate-funded services or equipment, it is possible that the value of the free Lift Zone services could be viewed as a rebate of the non-discount portion of E-rate-supported services, in violation of section 54.523.

Thus, even if Lift Zone services are viewed as legitimate charitable contributions—as Comcast believes they should be—the rule requiring libraries to pay the non-discount portion of the cost for E-rate services still apply.¹¹ To the extent that these or any other rules pose an obstacle to fully achieving the potential benefits of the Lift Zone initiative, Comcast asks that the Commission waive these rules, as discussed below, to permit a limited pilot of the initiative in a few libraries.¹²

¹⁰ *Id.* § 54.523.

¹¹ Just as Lift Zone services should be viewed as permissible charitable contributions under the E-rate gift rules, absent section 54.523, free Lift Zone services should also be viewed as permissible charitable contributions under section 54.1704(a)(4) of the rules for the Emergency Connectivity Fund (“ECF”) program. Lift Zone services given to a library would not be “directly or indirectly related to [ECF] procurement activities or decisions.” Rather, these charitable contributions would be driven by Comcast’s pre-existing Lift Zone initiative, empowering Comcast’s community partners, libraries or not, to provide students with safe locations where they can access the Internet, participate in distance learning, and do their homework. In addition, a library’s Lift Zone services would have no practical or contractual relationship with any off-campus services a library might seek under the ECF program, nor would they undermine other rules for the ECF program.

¹² Comcast recognizes that the Commission has temporarily waived the E-rate gift rules until June 30, 2021, finding “that the extensive disruption to . . . libraries throughout the country and the heightened need for . . . remote learning caused by COVID-19 continue to present compelling and unique circumstances that merit further extension of the . . . E-Rate program gift rule waivers” *Rural Health Care Universal Service Support Mechanism*, Order, 35 FCC Rcd 14544, 14546 ¶ 7 (WCB 2020) (“*Support Mechanism Order*”). The unique circumstances caused by COVID-19 magnify the public interest benefits that Lift Zones will provide to students doing remote schoolwork during the pandemic. But the effects of the pandemic are expected to linger even after schools re-open, and students will continue to need a safe and connected space to do their schoolwork, which they may not have at home. Accordingly, the Lift Zone initiative will continue beyond the temporary pandemic emergency, and it remains necessary to request the waivers discussed herein.

C. *THERE IS GOOD CAUSE TO WAIVE SECTIONS 54.503(D)(1) AND 54.523 TO ALLOW LIFT ZONE LOCATIONS IN LIBRARIES THAT PARTICIPATE IN THE E-RATE PROGRAM.*

The Commission may waive its rules “if good cause therefor is shown.”¹³ The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest, and may take into account considerations of hardship, equity, or more effective implementation of overall policy.¹⁴ This standard is readily met here. Application of the two identified E-rate rules stand as an obstacle to expanding the Lift Zone program in communities of need and, with the safeguards described below, the rules can be waived without risk to their underlying purpose of ensuring that E-rate-supported services are acquired through a rigorous competitive bidding process. Moreover, Comcast’s proposal to implement Lift Zone locations with libraries initially on a pilot basis in a discrete number of locations will allow Comcast and the Commission to assess whether the initiative should be extended more broadly.

¹³ 47 C.F.R. § 1.3. The Wireline Competition Bureau has delegated authority to “[a]ct on requests for interpretation or waiver of rules,” 47 C.F.R. § 0.91(b), and has used this authority to waive E-rate rules on numerous occasions. *See, e.g., Rural Health Care Universal Service Support Mechanism*, Order, 35 FCC Rcd 2741 (WCB 2020) (“*Rural Health Care Order*”); *Comcast Cable Communications, LLC*, Memorandum Opinion and Order, 25 FCC Rcd 7213 (MB 2010); *Support Mechanism Order*, 35 FCC Rcd 14544; *Requests for Review and Waiver of Decisions of the Universal Service Administrator by All Hallows Institute School*, Order, 35 FCC Rcd 12738 (WCB TAPD 2020); *Request for Waiver by Tennessee E-rate Consortium*, Order, 34 FCC Rcd 6464 (WCB 2019). Moreover, the Commission has expressly reaffirmed its “delegation of authority to the Bureau to issue orders interpreting our E-rate rules and otherwise provide clarification and guidance in the case of any ambiguity that may arise as necessary to ensure that support for services provided to schools and libraries operate to further the goals we have adopted for the E-rate program.” *Modernizing the E-rate Program for Schools and Libraries*, Second Report and Order and Order on Reconsideration, 29 FCC Rcd 15538, 15544 ¶ 13 (2014). The Bureau thus has the authority to act on this Petition.

¹⁴ *See, e.g., Rural Health Care Order*, 35 FCC Rcd at 2744 ¶ 7 (citing *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990)).

1. ENABLING COMCAST TO ESTABLISH LIFT ZONE LOCATIONS WITH E-RATE-PARTICIPATING LIBRARIES ON A PILOT BASIS WILL SERVE THE PUBLIC INTEREST.

Granting this waiver request would open an important new opportunity to help bridge the digital divide and close the “homework gap.” Then-Commissioner Rosenworcel aptly described the need for solutions to the homework gap in Congressional testimony last year:

We need to make it a priority to fix this Homework Gap and connect every student so they can have a fair shot at continuing their education.... According to new data as many as 16.9 million children fall into the Homework Gap. They are in every state in the nation and the Homework Gap is especially prevalent when it comes to students of color and students in rural areas. . . . Across the country kids are sitting outside of school buildings, libraries, fast food restaurants, anywhere they can get online just to go to class. Others are navigating remote learning using mobile devices and services with data caps. It’s not right.¹⁵

Just a few months ago, the agency opened a new docket to solicit comment on addressing the homework gap through the E-rate program.¹⁶

Enabling Comcast to establish Lift Zone locations with a small number of libraries as a pilot would be one important step to help close the homework gap and promote the public interest. Although Comcast began the Lift Zone initiative by partnering with other types of community centers, libraries can more readily accommodate children and other community members in settings that are conducive to studying and working, as compared with, for instance, community centers that may be focused on athletics or other activities. Students and families are also already accustomed to visiting these facilities for educational needs.

¹⁵ Statement of Jessica Rosenworcel, Commissioner, FCC, Before the Subcommittee on Communications & Technology, Committee on Energy and Commerce, United States House of Representatives, at 2 (Sept. 17, 2020), <https://docs.fcc.gov/public/attachments/DOC-366984A1.pdf>.

¹⁶ See *Wireline Competition Bureau Seeks Comment on Petitions for Emergency Relief to Allow the User of E-Rate Funds to Support Remote Learning During the COVID-19 Pandemic*, Public Notice, 36 FCC Rcd 1304 (WCB 2021).

In addition, establishing Lift Zone locations in libraries would enhance the ability of these educational institutions to serve their communities. Although the Commission currently allows libraries to make E-rate-funded broadband connectivity available for community use, Comcast's provision of a separate broadband connection and powerful Wi-Fi network in the Lift Zone location will ensure strong connectivity and that Lift Zone usage does not create or exacerbate capacity constraints on the library's existing broadband connection.

Finally, the Commission previously has taken steps to permit charitable donations or other philanthropic activities under the E-rate rules, a goal that would be served by granting this Petition.¹⁷ For example, the rules expressly allow service providers to make charitable donations so long as they "are not directly or indirectly related to E-rate procurement activities or decisions and are not given by service providers to circumvent competitive bidding and other E-rate program rules."¹⁸ Here, Comcast has no purpose or intent to circumvent E-rate program rules, and the safeguards described below would prevent any such circumvention. Far from being an attempt to thwart the E-rate rules, Comcast's Lift Zone initiative was created as a broad charitable undertaking unrelated to the E-rate program, a fact demonstrated by the more than 600 Lift Zone locations that have already been launched in locations *other than* libraries. Expanding the initiative to launch Lift Zone locations in partnership with libraries will enhance its effectiveness and accelerate the benefits for many more underserved students, but this program exists entirely apart from E-rate considerations. The Lift Zone initiative is thus comparable to the types of corporate giving activity that the Commission has acknowledged do not violate the

¹⁷ *Schools and Libraries Universal Service Support Mechanism*, Sixth Report and Order, 25 FCC Rcd 18762, 18802 ¶ 90 (2010) ("*Schools and Libraries Sixth Report and Order*").

¹⁸ 47 C.F.R. § 54.503(d)(4).

gift rules.¹⁹ As a result, to the extent that a waiver is necessary, the Commission should find that grant of the waiver would serve the public interest goals underlying the charitable giving exception.

2. COMCAST WILL TAKE SPECIFIC STEPS TO HELP ENSURE THAT LIBRARIES WITH LIFT ZONE LOCATIONS CAN CONTINUE TO CONDUCT FAIR AND OPEN E-RATE COMPETITIVE BIDDING PROCESSES.

The rules for which Comcast is requesting a waiver are intended to create a fair and open bidding process that ensures that limited E-rate funds are used efficiently.²⁰ Waiving those rules for the limited purpose of allowing a Lift Zone would not impede these underlying goals. To provide additional comfort that the E-rate competitive bidding process would be protected, however, Comcast proposes to implement a number of safeguards to fully separate its Lift Zone initiative from the company's or participating libraries' E-rate-supported services, if any.

Specifically, Comcast would put in place the following protections:

- To prevent Comcast from learning information about a library's connectivity needs that could influence Comcast's E-rate bids, Comcast's E-rate sales employees would have no involvement with the Lift Zone services, and the Comcast point of contact for the Lift Zone services would be different than the point of contact for E-rate services.
- To make clear that a library can become and remain a Lift Zone partner even if it chooses another E-rate service provider, Comcast would establish dedicated Lift Zone accounts and service agreements for the complimentary Lift Zone services, regardless of whether the entity subscribes to Comcast's E-rate services, and will clearly specify that there is no connection, condition, or penalty between the Lift Zone services and any E-rate services. With such a complete separation of the E-rate and Lift Zone services, the Lift Zone partnership would create no reason for

¹⁹ See *Schools and Libraries Sixth Report and Order*, 25 FCC Rcd at 18802 ¶ 90 (“The rule we articulate today does not discourage companies from making charitable donations to E-rate eligible entities in the support of schools -- including, for example, literacy programs, scholarships, and capital improvements -- as long as such contributions are not directly or indirectly related to E-rate procurement activities or decisions.”).

²⁰ See, e.g., 47 C.F.R. § 54.503(a) & note.

the library to favor Comcast's E-rate services if another provider were to bid a superior or more cost-effective product.

- Comcast would not provide library-based Lift Zone locations with any Internet-connected devices aside from necessary WiFi equipment. This safeguard would avoid the possibility that any Comcast-provided devices might inadvertently connect to and increase demand for the library's E-rate-supported services, thereby affecting the library's E-rate purchasing patterns.²¹

These safeguards would minimize the impact that the operation of a Lift Zone with a given library would have on that entity's participation in the E-rate program or associated competitive bidding processes.

III. CONCLUSION

The Lift Zone initiative is bringing critical broadband services directly into communities around the country. Waiver of the rules identified in this Petition will accelerate and multiply the benefits of the program by allowing it to expand on a pilot basis into libraries, which are well-positioned to serve students who need a safe place for distance learning and homework. With the safeguards described above, these benefits can be achieved without negatively impacting the E-rate program in any way. Under these particular facts, waiver of sections 54.503(d)(1) and 54.523 would serve the public interest and help the Commission further its key goals of reducing the homework gap and the digital divide. Comcast therefore respectfully requests that the Commission waive these rules to the extent necessary, subject to the safeguards described above, in order to permit Comcast's proposed limited pilot of Lift Zone partnerships with libraries.

²¹ This safeguard would address the Wireline Competition Bureau's concerns about gifts of equipment that would increase demand for the donor's services. *Schools & Libraries Universal Service Support Mechanism*, Order, 25 FCC Rcd 17324, 17328 ¶ 11 (WCB 2010).

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