

**Before the
Federal Communications Commission
Washington DC 20554**

In the Matter of)	
)	
Modernizing the E-rate Program for Schools and Libraries)	WC Docket No. 13-184
)	
the Connect American Fund)	WC Docket No. 10-90
)	

**American Library Association (ALA) Opposition to the Petition for Reconsideration Filed
by Cox Communications, Inc., in the above Referenced Proceedings**

The American Library Association (ALA) is the world’s oldest and largest library association—representing over 55,000 members. For the reasons articulated below, we oppose the Petition for Reconsideration filed by Cox Communications, Inc.

In general, Cox Communications, Inc., requests that “additional safeguards” be placed on applicants who file E-rate applications seeking support for dark fiber or applicant-owned fiber. ALA opposes any new “safeguards.” We do not think they are needed and will only add unnecessary roadblocks in the way of our libraries and schools attaining the affordable broadband connectivity they need. Furthermore, we very much believe that the safeguards clearly articulated in the Commission’s *Second E-rate Modernization Order (December Order)*¹ are more than sufficient to ensure that our libraries and schools will make the correct decisions on any E-rate requests to support their broadband services.

More specifically, ALA makes the following observations in relation to several statements made by Cox Communications, Inc., in its petition.²

- The petitioner only wants E-rate funds for dark fiber or applicant-provisioned fiber to be used when the library or school lacks high-speed broadband. This proposed requirement ignores the fact that some applicants have high-speed broadband available to them but they cannot afford the ongoing, high costs charged by their current provider. Expanding eligibility in this

¹ *Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, Second Report and Order and Order on Reconsideration (*December Order*). For example, on dark fiber see paragraph 39: “[W]e adopt measures to ensure that applicants fairly compare dark fiber with other options.” And on applicant provisioned fiber, see paragraph 47: “[W]e adopt safeguards ensuring that applicants seek E-rate support for self-construction only when it is the most cost effective option.”

² Petition for Reconsideration of Cox Communications, Inc. Available at <http://apps.fcc.gov/ecfs/document/view?id=60001039471>.

area will also make it more likely to increase the options applicants have. In addition, the Commission already addressed this same issue in paragraph 53 in its *December Order*. “We also decline to adopt USTelecom’s suggestion that, if we make a self-construction option available, we target it to schools and libraries that do not have broadband and are located in rural areas.”

- The petitioner states that falling broadband prices will make dark fiber or applicant provisioned fiber a bad investment and thus not a good use of E-rate funds. As everyone familiar with the E-rate program knows, bids for broadband services are publically available via the E-rate application process. Thus if Cox, Inc., is confident that broadband costs will fall, it should submit a response to a library or school’s Form 471 E-rate request that reflects this decline. The petitioner’s concern in this area has already been addressed in the *December Order* where the Commission acknowledged that in most situations commercial broadband providers should be able to offer the most competitive pricing to libraries and schools.³ And the cost of any E-rate eligible service has to be the most important factor when selecting any service provider.
- The petitioner states that E-rate funds for dark fiber or applicant-provisioned fiber should be capped at \$200 million per year to make certain there is sufficient funding for other E-rate eligible services, including Wi-Fi. With the Commission’s *December* action to increase the E-rate fund by \$1.5 billion annually and its previous identification of another \$1 billion to be spent in 2015 and another \$1 billion in 2016, ALA believes there will be adequate funding for all requests.⁴ In addition, the Commission placed safeguards on the fund in the *December Order* (paragraphs 17-21) by suspending its amortization rule for four years, rather than eliminating it entirely. Thus, we see no need to set any maximum figure for dark fiber or applicant-provisioned fiber.
- The petitioner requests that the Commission reconsider its decision in the *December Order* to allow a State matching fund incentive of 10 percent.⁵ It is concerned that if applicants do not have any of their own funds committed they will make “less efficient decisions because they lack any financial stake in the decision.”⁶ This ignores the fact that E-rate rules are still in place that require applicants to make price the most important component when selecting any given product or service. Another benefit of state involvement is that states have the technical expertise and other skills, like negotiating contracts, which many small, rural libraries may lack. This can result in better connectivity and better use of the fund than if the library applied on its own. Moreover, at a time when our libraries (and schools) continue to confront severe budget pressures, we think any assistance from states to help address library and school broadband issues should be encouraged.

³ See paragraph 53 in the *December Order*, “We also expect that providers that already provide fiber-based services to a school or library should almost always be able to offer the most competitive pricing to that school or library.”

⁴ While the dark fiber and fiber ownership rules do not take effect until 2016, preliminary demand for 2015 indicates there will be a likely surplus of at least \$300 million and this does not include the additional \$1 billion that the FCC has publically stated will be available for 2016.

⁵ See paragraphs 55 – 59 in the *December Order*.

⁶ Petition for Reconsideration of Cox Communications, Inc., p. 8. Available at <http://apps.fcc.gov/ecfs/document/view?id=60001039471>.

- The petitioner does raise an important issue when it requests that applicants make “apples-to-apples” comparisons when evaluating responses to a dark fiber or applicant-owned fiber request versus a response from a commercial provider. This issue is addressed in paragraph 48 of the *December Order* which states:

Applicants interested in pursuing self-construction must solicit bids for both service and construction in the same FCC Form 470 and must provide sufficient detail so that cost-effectiveness can be evaluated based on the *total cost of ownership over the useful life of the facility* for applicants who pursue the self-construction option. [Emphasis added]

This issue raises the following question: How are applicants to make an “apples-to-apples” comparison when fiber often has a useful life of twenty years or longer?⁷ Are applicants to request that any response to their Form 470 offered by a more traditional broadband provider quote costs for a period of at least twenty years? We agree with the petitioner that further guidance from the FCC will be useful in this particular area. Ideally, this guidance will be issued soon because applicants are already looking at what options they have in this area for the 2016 application cycle.

In summary, we believe the issues stated by Cox Communications, Inc., have already been thoroughly addressed by the Commission in its *December Order* or are issues that can be easily addressed with some further guidance from the Commission. Therefore, we see no need for the Commission to review its decisions made in the *December Order*, and we respectfully ask the Commission to dismiss the petition from Cox Communications, Inc.

Respectfully submitted by,



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⁷ In paragraph 59, of the *December Order* that discusses the 10% State match program the Commission references a special construction timeframe of 15 years. Thus the Commission may want to consider the “*useful life of the facility*” to be 15 years.