

technological society, and they do constitute telecommunications services,¹⁸ either in whole or in part.

Under the Commission's current rules, many libraries benefit from the availability of the E-Rate discounts. Nevertheless, the current rules present several problems for libraries, and simply addressing whether the three services listed in the NPRM should be eligible for discounts - whether unconditionally, or subject to limitations -- would not only fail to solve those problems, but might exacerbate them. The Commission must consider the larger context, particularly how the E-Rate, in its present form, actually affects libraries. For example, the biggest single problem with the E-Rate is the dramatic difference between the amount of funding available and the demonstrated need for funding. Many of ALA's concerns could be addressed simply by removing or at least raising the \$2.25 billion cap, because this would relieve much of the internal tension and potential conflict between different components of the program. *See* 47

¹⁸ The NPRM notes that building and purchasing of WANs is not eligible for discounts, either as internal connections or as a telecommunications service, but that leasing WAN service is. NPRM at ¶¶ 16-18. In reality, we believe this is a very difficult distinction to sustain. WANs clearly transmit telecommunications and serve to expand the existing network, both in extent and capacity. The decision to limit discounts to leased WANs seems to have been motivated primarily by a desire to limit the potential drain on the universal service fund. While we understand and share that concern, as discussed elsewhere in the comments, we believe that it does not alter the basic nature of WANs.

Similarly, the NPRM notes that wireless services are eligible for discounts, provided that they are used strictly for "educational purposes." NPRM at ¶ 21. Whether a particular wireless service is a telecommunications service depends, of course, on the nature of the transmissions delivered over the service, but the FCC's rules do not preclude a library from obtaining discounts merely because a service was provided using wireless technology. In particular, however, it is our understanding that wireless services are often not funded, and many libraries have the impression that they are simply not eligible. The FCC and the SLD should do more to encourage the use of wireless applications, including ensuring that applicants for wireless services receive discounts to the full extent permitted by the Commission's rules.

Finally, the NPRM notes that voice mail is not an eligible service, primarily because it is an information service. NPRM at ¶ 22. To the extent that voice mail has a telecommunications component, and to the extent that analytically similar services such as bundled Internet access and e-mail are eligible, however, it seems to us that at least in principle voice mail is eligible.

C.F.R. § 54.507(a). We understand that this solution may not be practical – but we emphasize it because the failure to meet the true demand of the E-Rate makes it that much more important to address the other measures we discuss below.

Another important issue is the reliance on the school lunch program for determining a library's discount level. 47 C.F.R. § 54.505(b)(2). For reasons that we will discuss further below, the school lunch formula often does not accurately reflect the actual needs of individual libraries; some libraries do not receive as great a discount as the actual economic circumstances of the areas they serve would indicate. Consequently, an alternative formula or more equitable use of the school lunch that is better tailored to libraries themselves would greatly improve the effectiveness and value of the E-Rate for libraries. In addition, providing such an alternative is important simply as a matter of equity: schools have a choice of poverty measures under the current rules, 47 C.F.R. § 54.505(b)(1), and libraries should as well.

Without changes in one or both of those areas – the funding cap and the current use of the school lunch formula to determine library discounts – the changes contemplated by the NPRM regarding eligible services may actually harm many libraries. Changes that increase the types of services eligible for discounts may have the effect of reducing the amount of funding available for libraries, which most often qualify for moderate or low discounts due to the use of district averages. If all eligible entities can obtain discounts for voice mail and similar services, there will be less money overall available for more basic services that serve to increase connectivity to individual sites and the overall scope of the public telecommunications network. The need to prorate discounts will be reached more quickly and more libraries will not receive funding. These additional complications make it difficult for ALA to simply support what may be otherwise useful and reasonable changes in the Commission's rules governing eligible services.

A more comprehensive approach to the specific issues raised in the NPRM may resolve these conflicts, however. This approach should bear in mind that the E-Rate is intended to help schools *and libraries*. Libraries are not schools – they are organized and funded separately and differently, and they serve different populations. This is not to say that libraries object to how the E-Rate treats schools – only that libraries are equally important and should be treated equitably by the Commission’s rules.¹⁹

A related point is that changing the types of services eligible for funding might affect the amount of funding available for libraries because of the effects of the current rules for allocating funding at 47 C.F.R. § 54.5-7(g). Under the current priority system, requests for discounts for telecommunications services and Internet access receive first priority; requests for internal connections receive second priority, with the most disadvantaged schools and libraries receiving priority within the latter category. Therefore, if the construction of Wide Area Networks (as opposed to the current policy of allowing discounts for obtaining WANs as a service) were to become eligible for funding as a telecommunications service, it is possible that requests for such funds would be in the aggregate so large as to overwhelm all other types of requests.

On the other hand, as noted above, some libraries would benefit if the construction of WANs are eligible for discounts. And ALA believes that WANs, wireless services and voice mail, among others, are telecommunications services (or at least have telecommunications components) and should be eligible for discounts. ALA believes that while it may not be possible to fully resolve this dilemma, it may be possible to alleviate some of the problems posed for libraries by the current rules. This could be done, for example, by modifying the Commission’s current funding priority structure slightly, in combination with the Commission’s

¹⁹ See *Public Library Internet Services*, at 81-83.

proposal for adopting a list of eligible services. As further discussed below, ALA therefore recommends establishing three somewhat different categories for processing applications. Under this approach, Category 1 would consist of “Approved Transmission and Connectivity Services;” Category 2 would include “Innovative and Cost-Effective Services;” and Category 3 would include “Internal Connections.” These services would be funded in order of priority, beginning with Category 1 and ending with Category 3.

We will address the details of our proposal in subsequent sections of these comments, corresponding more precisely to the issues raised in the NPRM. In summary, however, ALA believes that the key issues raised by the NPRM, as well as ALA’s principal additional concerns, could be addressed by adopting the following changes to the Commission’s rules:

- Allowing libraries to establish their discount levels by referring to an alternative to the school lunch program mechanism. (See Part VI.B, below).
- Increasing the funding cap. (See Part III.H, below.)
- Revising the categories of eligible services in a way that establishes more efficient procedures for reviewing applications. (See Parts III.A and B below.)
- Revising the priority schedule for discount eligibility to correspond to the new categories. (See Part III.B below.)

This overall approach would streamline the application process, allow flexibility in the application and approval process for new services, and distribute funding to eligible entities on a more equitable basis.

III. MAKING E-RATE DISCOUNTS MORE EQUITABLY ACCESSIBLE WILL ADVANCE ALL ASPECTS OF UNIVERSAL SERVICE, INCLUDING DEPLOYMENT OF BROADBAND SERVICES.

Because the E-Rate discounts have more than proven their value, they should be preserved and made more accessible to libraries. The NPRM offers the potential for a careful reassessment of the E-Rate as it currently exists, including modifications that will not only help meet the telecommunications-related needs of libraries, but also advance the Commission's broader goals. In particular, proper targeting of the discounts would encourage additional deployment of broadband facilities. As libraries continue to expand their use of advanced telecommunications, their capacity needs will increase. Over 36% of libraries now rely on T-1 connections, and the need for greater bandwidth is readily apparent. The Sailor Project's extension of Internet service to rural areas – including communities only a hundred miles from the nation's capital – and the Digital Canopy projects in Florida are prime examples.

A. ALA SUPPORTS THE USE OF AN APPROVED LIST OF SERVICES WITH RESPECT TO CERTAIN BASIC AND COMMONLY-USED SERVICES.

Section III.A.1, ¶¶ 13-14, of the NPRM suggests establishing an online database of pre-approved products and services in order to improve the operation of the eligibility determination process. Currently, the SLD posts on its website a generalized list of products and services, with their corresponding eligibility. This approach gives applicants some guidance regarding whether a requested service is eligible, but simply because an item appears on the list does not mean an application will be approved. This creates uncertainty for applicants, which in turn makes

planning and budgeting more difficult and applications less accurate.²⁰ In addition, while applicants are asked for a great deal of information, it appears that much of this information is not considered in the approval process, particularly for more routine or typical applicants. At the same time, it appears that the SLD generally does not consider much of the information submitted even in the case of applications for new or innovative services, which might require some additional investigation and review. The practice seems to be to merely deny applications if there is any uncertainty about their eligibility.

The current procedures, in other words, are unduly complex for dealing with routine requests for routine services, but also do not allow for flexibility and creativity. ALA supports simplifying the process in the first instance, while ensuring an element of flexibility. Therefore, ALA recommends the use of a list of eligible products and services, as suggested by the NPRM, provided that the list is prepared and used correctly, and provided further that the application process also allows for innovation and flexibility. If implemented incorrectly, relying on an eligible services list could stifle innovation.

We believe that the SLD has substantial experience at this point in determining what kinds of services are most commonly requested by applicants and most commonly approved for discounts. Accordingly, we believe it should be possible to establish a list of approved services, applications for which could be subject to minimal review by the SLD staff. These services should be those about whose eligibility there is no debate; we believe that all telecommunications services that involve the simple transmission of telecommunications and

²⁰ One of the chief drawbacks of the E-Rate is its lack of reliability from year to year. The E-Rate is enormously valuable because it helps defray a library's current operating costs – which is very rare for any outside funding source. But at the same time, uncertainty about the availability of that funding from one year to the next makes budget planning and efficient use of the funding very difficult. *Public Library Internet Service* at 56.

promote the extension of the network, as well as Internet access that is provided on an entirely unbundled basis, should qualify for discounts and should be approved using a streamlined application process. These services would comprise the Category 1, “Transmission and Connectivity Services” referred to above, and would receive first priority for discounts. Once a service has been placed on the list, there should be no doubt about its eligibility for discounts. In addition, there must also be mechanisms for expanding the list and for funding innovative applications.

We must emphasize two points regarding this new Category 1. First, the new category is fundamentally a procedural category, rather than a substantive category. That is to say, the defining feature of the category is that it contains and applies to services that have been deemed suitable for placement on an approved list that entitles applicants for those services to a streamlined application process. Second, the category does not alter the legal authority or rationale relied on by the Commission in deciding what services should be eligible, nor does it rely on any new analysis. Rather, the new category relies on the current rationale, but acknowledges that because the legality of the E-Rate has been challenged and upheld²¹ – and, in particular, discounts on Internet access are permitted under the statute – there is no reason that services whose eligibility for discounts may stem from different legal sources cannot be put in the service category and processed in the same fashion.

ALA has four specific recommendations for developing and managing the pre-approved list of Category 1 services, while also allowing for innovation and independent review. These recommendations are:

²¹ *Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393 (5th Cir. 1999).

- First, the SLD should review its past decisions to decide which services have been approved in the past that meet the basic test of providing basic transmission capability and expanding the public network by providing libraries and other eligible entities with improved connections to that network.
- Second, qualified FCC staff, such as the Office of Engineering and Technology, should periodically review the types of services available in the marketplace and update the basic service list accordingly.
- Third, there should be a simplified procedure for applicants reapplying for previously approved listed services. The importance of ease of application, especially for small entities, cannot be stressed enough.²²
- Fourth, there should also be a mechanism for adding new services to the pre-approved Category 1 list before applications are due. Such a mechanism would allow an applicant to nominate a service for eligibility prior to the application process. The SLD, with the help of the FCC technology staff, could determine if the service should be added to the list before an application is filed. In addition, if one applicant believes it would find a particular service useful, others presumably would as well.

²² Ideally, if an applicant is making a request for an approved transmission and connectivity service such as local telephone service, it should be provided a pared-down application form that will save both the applicant and the reviewer substantial resources. We recognize that preparation and approval of new forms can be a time-consuming process. Nevertheless, if the Commission's goal is to improve the efficiency of the program by, among other things, streamlining its procedures, NPRM at 3, it makes little sense to require applicants to submit large amounts of detailed information on forms that were designed for a different process. The Commission should bear in mind that the greatest criticism of the E-Rate program among participants is that the application process is extremely complicated and time-consuming. *Public Library Internet Services* at 81. When compared to two other important funding services, the federal government's Library Services and Technology Act program for grants to state library agencies and the private sector Bill and Melinda Gates Foundation U.S. Library Program, the E-Rate application process is much more cumbersome. *Id.* at 50-52.

Therefore, a pre-approval process for new services would benefit all the other entities who have been considering applying for a service by letting them know in advance that they could apply under Category 1.

These recommendations would lessen the burden of the appeals process for both the applicant and the SLD. Applicants would have more certainty and, in many cases, greater simplicity. Rather than risk being denied for an ineligible service after applying and committing precious resources towards its purchase, an applicant could make an informed decision about whether to pursue an application for a particular service.

In general, all the review processes for placing a service on the Category 1 list should apply four principles: transparency, consistency, flexibility, and generality. First, all eligibility decisions should be transparent, so that future applicants can learn from the experiences of others. Applicants should have access to the same eligibility criteria as the application reviewers have. Second, all decisions should be based on consistently and logically applied principles, so that applicants can understand and learn from the rationale supporting a decision to deny or extend discounts to a particular service. Third, decisions should not be narrowly tied to what has been approved in the past, but should be open to the eligibility of new services that otherwise meet the FCC's criteria for eligibility. This will allow new technologies and new services to be treated equitably. Finally, decisions must be justified on the basis of general characteristics, rather than simply stating that a specific service or item of equipment is eligible. Too often the current approach gives no guidance to future applicants who may be considering applying for discounts for a wide range of equipment and services. This is consistent with the one of the stated goals of universal service, namely, technological neutrality. See *First Order*, ¶ 49.

B. ADOPTING NEW CATEGORIES OF SERVICES WOULD PROMOTE GREATER EFFICIENCY IN ADMINISTERING THE DISCOUNTS.

As discussed earlier, ALA believes that providing categories for processing applications would greatly improve the efficiency and equity of the discount program. By establishing a streamlined process for reviewing applications for the most common services, referred to in the preceding section as Category 1, or approved transmission and connectivity services, the Commission would achieve the benefits of using a list: certainty and speed of processing. This approach, however, is not appropriate in all cases. For example, applications for internal connections require more careful review. While a list may be of some benefit in such cases, applications for internal connections involve greater variability than those for services alone, and therefore require more careful review. Similarly, the concept of a list makes no sense when dealing with applications for new or innovative services: the key in dealing with that type of application is flexibility, based on the use of reliable principles.

Therefore, ALA believes that applications should be separated into these categories based on their specific processing needs.²³ In addition, ALA believes that, when properly defined, the new categories of services will help address, comprehensively and coherently, how to deal with

²³ This is a critical point. As noted above, ALA does not propose any change in the legal rationale the Commission has relied on in establishing the current three types of services: telecommunications, Internet access, and internal connections. What we do propose is that the original distinctions – which were based on the distinct sources of the Commission’s legal authority for including each classification in the program – be retained to the extent necessary for legal reasons, but that the formal groupings be revised to allow for more efficient processing and overall simplicity. For example, as an alternative, the Commission could retain the current three groups, but if it is to place certain services on a pre-approved list and require individual review for others, it would essentially be creating a much more complex six-part structure: (1) listed telecommunications services; (2) unlisted telecommunications services; (3) listed Internet services; (4) unlisted Internet services; (5) listed internal connections; and (6) unlisted internal connections.

services that are not currently eligible for discounts. Accordingly, ALA urges the Commission to adopt the following three categories:

Category 1. *Approved Transmission and Connectivity Services*: As discussed earlier, these services presumably would include most, if not all, services currently eligible for discounts in the categories of telecommunications and Internet access. In essence, this category combines the current telecommunications services and Internet access classifications in the Commission's rules, except that new services that would otherwise come under those classifications would need to be added to the list or approved on a case-by-case basis under new Category 2 (discussed below). Wide Area Networks provided under leases or otherwise in the form of a third-party service that does not involve construction or installation of facilities to be owned by a school or library would also be included.²⁴ These services would be identified on a list published by the SLD and regularly updated, as discussed in the preceding section. In addition, we believe that some wireless services may be eligible for this listing in this category, depending on exactly what is being provided.

Category 2. *Innovative and Cost-Effective Services*: The FCC's rules and the SLD's procedures should reward innovative and cost-effective applications. Tying all eligibility to a list, as discussed earlier, will stifle innovation and punish libraries that try new approaches.

²⁴ In fact, we believe that the FCC's current restrictions on WAN's are too narrow in some respects. Not only should eligible entities be allowed to lease facilities, but they should be able to buy WAN service from other providers and in other forms under this category, so long as the library itself is not purchasing and installing transmission facilities – but there must be a clear service element to the WAN arrangement. Merely leasing facilities that would otherwise be purchased and integrated into existing networks controlled by an eligible entity should not be sufficient to qualify for discounts under this category. ALA does support the approach outlined in ¶ 19 of the NPRM, which would increase the three-year period of time over which WAN-related capital expenses are currently recovered. Such a solution will ensure that funding can be distributed to more participants.

Therefore, there should be a category for services that may be eligible, but that require fuller explanation than is allowed by the streamlined process envisioned for Category 1. Such services would include, among others, requests for Wide Area Networks that involve construction of facilities or installation of equipment as part of a network that is not owned by a third party service provider (as discussed in the NPRM at ¶¶ 16-20), and applications for innovative uses by consortia. We believe that many new wireless applications would be approved under this category, at least initially. Over time, services approved under this category might be added to the Category 1 list, under the proposed review process. In addition, there are certain services that do not directly necessarily advance the principal goals of the universal service regulations, as envisioned by Congress. We believe that extending the reach of the network and increasing transmission capacity available to schools and libraries are the most important goals of the E-Rate discounts. Consequently, services that do not directly advance those goals should be accorded different treatment. ALA believes that voice mail services would be a prime candidate for this category, for example. If an applicant could show that permitting discounts for such a service would promote the efficient use of scarce available funding, or offered the promise of advancing the growth of technology in important new ways, then such a service might be considered eligible for discounts.

Category 3. *Internal Connections*: This category would include internal connections as they are currently defined. Because of the individualized and local nature of these services, we believe that they should probably be processed and reviewed on a case-by-case basis, and that a pre-approved list may not be practical or advisable for internal connections.

These three categories comprise all of the types of services now eligible for discounts, in one fashion or another. The proposed definitions of the categories would allow the Commission

to establish separate but appropriate application procedures for the three categories, and consequently streamline the application process.

Adopting the three categories described above would not require changing the current priority mechanism: telecommunications and Internet access services would still be funded first, and internal connections afterwards. The only change would be that services on the approved Category 1 list would be funded before the individually reviewed applications for innovative uses. Under this order of priority, from Category 1 through Category 3, the SLD would still be able to ensure that the key goals of the universal service program are advanced: first, essential connectivity and transmission capability provided by third parties, including unbundled Internet access; second, innovative and cost-effective uses of services, as they become available; and third, service directly to classrooms and within libraries, as required by 47 U.S.C. § 254(h)(2). Nor would any change be required in the rules for distributing the final \$250 million remaining under the cap, set forth at 47 C.F.R. § 54.507(g)(2).

ALA also believes that these more refined definitions and priority rules would help address many of the concerns mentioned in the NPRM and discussed above related to the internal tension between funding current Priority 1 and Priority 2 services.

C. THE COMMISSION SHOULD RECOGNIZE THE BENEFITS OF AGGREGATING DEMAND BY ELIMINATING DISINCENTIVES FOR CONSORTIA.

Section III.A.5, ¶¶ 30-32, of the NPRM requests comments on the FCC's rules governing consortia. This section also includes a proposed modification to the consortia rule, § 54.501(d)(1), to provide that only ineligible private sector members seeking services as part of a consortium are prohibited from obtaining below-tariffed rates. ALA believes strongly that the Commission should encourage the formation of consortia and the purchase of eligible services by consortia, because the aggregation of demand created by a consortium allows for the purchase

of service at lower rates and increases the overall efficiency and effectiveness of the discount provision. ALA therefore applauds the NPRM's recognition of the importance of consortia. Unfortunately, the proposed change does little to benefit or encourage consortia. The proposed modification is not objectionable, although we believe that the concept addressed by the change is already clear, and the change is not needed.

In addition, ALA has comments regarding other aspects of the treatment of consortia. Many of ALA's members belong to consortia. The Administrator's current definition and treatment of consortia, however, makes it difficult to determine how many libraries benefit from the program through their participation in consortia. The current mechanism counts all consortium members together and does not distinguish library consortia from school consortia, or library members from other members, despite the fact that library consortia are independently identified as eligible entities. 47 C.F.R. § 54.500(d). For research and tracking purposes, it would be helpful if this mechanism were changed to count all library consortia separately from all school consortia, or at least to identify consortium members that are libraries.

ALA also would like to suggest implementing a bonus discount to members of consortia. By submitting a single consortium application instead of multiple individual applications, consortia have the potential to make the application review process much more efficient, and consequently reduce the SLD's administrative costs. ALA believes that by adding a five or ten percent bonus to the amount of a consortium's discount rate, the development of consortia and their participation in the E-Rate can be encouraged, bringing further efficiencies to the program.

Finally, ALA would also like to bring to the Commission's attention a serious problem regarding how discounts for consortia are actually calculated. The discount for libraries already entails averaging the discount applicable to local schools; that is, libraries are required to rely on

the average discount rate for their local school districts, regardless of where they are actually located within the district. In addition to that, library consortia must then base their discount level on the average for the members of the consortium. This “averaging averages” does not accurately reflect the need of a particular area and results in much lower discount amounts for library consortia. ALA proposes changes that would help address this problem - specifically, the discount mechanism for libraries - later in these comments. See Section V.B, *infra*. If that proposal is rejected, however, the practice of averaging averages should be ended.

D. DISCOUNTS FOR INTERNET ACCESS BUNDLED WITH CONTENT SHOULD BE DISCOURAGED, EXCEPT FOR THOSE APPLICANTS WHO HAVE NO OTHER OPTION.

In section III.A.2, ¶¶ 23-25, of the NPRM, the Commission asks whether an applicant should receive discounts on the entire price of an Internet access service that includes a bundled content component, if that service is the most cost-effective service package available.

ALA believes that while this proposal appears sound because it promotes efficiency, such behavior should not be encouraged. ALA conditionally supports providing full discounts for unbundled services, but only when the applicant can demonstrate that the only way it could receive any Internet access service at all is by means of the bundled service. Under our overall proposal, unbundled Internet access would fall within Category 1, but requests for Internet access bundled with content would fall within Category 2; if an applicant were to request a bundled Internet service, it would be eligible, if the applicant could show that bundled service was the only option.

If the Commission were to allow full support for bundled services, the limited funds available for discounts would be stretched even thinner. This reasoning was sound when

adopted in the *First Order*, and it is even more sound today, when the demand for discounts on all kinds of services has increased significantly.²⁵

In addition, ALA is concerned about the potentially harmful effects of bundling on free speech. Allowing discounts on bundled service may encourage providers to insist on bundling service and refusing to provide unbundled service. Libraries should not be forced to display advertising or be limited as to what content they offer the public. Anything less compromises the integrity and educational nature of the provision of such services by libraries to their patrons.

E. BECAUSE OF THE SUCCESS OF THE E-RATE DISCOUNTS, AVAILABLE FUNDING SHOULD BE INCREASED.

Many of the proposals in the NPRM raise the possibility of expanding the eligibility for discounts. ALA strongly believes that the E-Rate should be available to as many communities as possible. Unfortunately, as with many other initiatives, current funding levels limit this laudable goal. The more communities that receive discounts, the less money is available for discounts in each community. Conversely, the more one community benefits from discounts, the less funding is available for thousands of other communities across the nation. At current funding levels, despite the enormous benefits to date, the E-Rate is in danger of becoming irrelevant to libraries in many communities.

The E-Rate has proven so successful that the SLD is unable to fund all requests. This year's demand estimate of \$5.736 billion is proof of the E-Rate's success, but under the current cap of \$2.25 billion, less than half of the overall need will be met.²⁶ Furthermore, based on

²⁵ See *First Order*, ¶¶ 444 – 447.

²⁶ See FY5 Demand Estimate Letter to FCC from SLD, dated Feb. 28, 2002, available at <http://www.sl.universalservice.org/>.

historical growth trends, it appears that the need for the benefits of the E-Rate is likely to continue to grow, as shown in the following table:

<u>Funding Year</u>	<u>Total Demand Estimate</u>	<u>Number of Requests</u>
1	\$ 2.05 billion	30,000
2	\$ 2.435 billion	32,000
3	\$ 4.72 billion	36,000
4	\$ 5.787 billion	37,188
5	\$ 5.736 billion	36,043

The number of requests and the amount requested increased over the first four years that the E-Rate was available. It essentially held steady in Year 5 for unknown reasons, but there is any reason to believe that demand will continue to grow. The most likely reason for applications to level off or decline is simply that potential applicants may be dissuaded by the knowledge that funding is limited: at some point the odds of success or the amount of any potential annual discount no longer justify the effort of completing an application.²⁷

Consequently, ALA urges the FCC to re-examine the funding cap and consider a substantial increase in available funding.

IV. THE FCC SHOULD SUPPORT THE ROLL OVER OF UNUSED FUNDS.

A. NO CHANGE IS NEEDED BECAUSE CURRENT RULES PROVIDE THAT UNUSED FUNDS ARE TO BE ROLLED OVER INTO THE NEXT FUNDING YEAR.

Section III.E.3, ¶¶ 69-70, of the NPRM seeks comment on how unused funds should be treated. The current rule states that “all funding authority” that is not used in one year shall be

²⁷ See *id.*; FY4 Demand Estimate Letter to FCC from SLD, dated Feb. 28, 2001, available at <http://www51.universalservice.org>; “4.72 Billion Requested for E-Rate in Year Three,” dated Feb. 3, 2000, available at <http://www.51.universalservice.org/whatsnew/022000.asp>.

carried over to the next. 47 C.F.R. § 54.501(a). The NPRM notes, however, that the rule is silent about treatment of unused funds. The NPRM suggests modifying this rule to either: (1) require that unused funds be credited back to contributors through reductions in the contribution factor; or (2) require the distribution of unused funds in subsequent years, in excess of the annual cap.

ALA strongly believes that unused funds should be rolled over to the next funding year and be distributed to applicants as a supplement to that year's annual cap. ALA supports Commissioner Copps's statement that there is no ambiguity regarding this issue, and that the rules clearly indicate that such treatment is permissible. Despite any perceived ambiguity in the rule, this has always been ALA's understanding of the rule. In fact, the reference to "funding authority" was clearly understood at the time to refer to the actual funds; the section is meaningless otherwise. A plain reading of the regulation supports Commissioner Copps's statement.

In addition, prior proceedings support the concept of rolling over funds. When the Commission adopted the Joint Board's recommendation that funding be capped at \$2.25 billion dollars per year, the Commission also decided that if not all the funds were needed in the first year, unused funds could be rolled into the next funding year: "We also adopt the Joint Board's determination that, if the annual cap is not reached due to limited demand from eligible schools and libraries, the unspent funds will be available to support discounts for schools and libraries in subsequent years."²⁸ No discussion of section 54.507 in the Commission's proceedings support the interpretation and distinctions that it presents in this NPRM. Nowhere is there a distinction made between funds and funding authority, or the disparate treatment of committed and

²⁸ *First Order* at ¶ 529.

uncommitted funds, and there is no reason for the Commission to read that distinction into this or any other proceeding.

B. THERE WILL ALWAYS BE MANY REASONS THAT ELIGIBLE ENTITIES MAY NOT EXPEND FUNDS THAT HAVE BEEN COMMITTED TO THEM, SIMPLY BECAUSE OF THE TIME LAG BETWEEN THE PREPARATION OF APPLICATIONS AND THE AVAILABILITY OF THE FUNDING.

Section III.E.2, ¶¶ 67-68, of the NPRM points out that each year, a portion of the program funding is not used. While all funds are committed, the documentation is not always received in order to disburse all these funds to the successful applicants. In the first year, 82% of funds were disbursed, while in the second year this dropped to 71%. The NPRM seeks comment on program changes that can increase the percentage of committed funds being disbursed, and also seeks to develop a list of the reasons why applicants do not seek to receive all of their committed funding.

ALA believes that any funds that are not used in one year should be rolled over and used in the next year in lieu of crediting these funds back to contributors. This is the easiest and most equitable way of ensuring that funds are used to provide services. Clearly, the demand for these funds exists. If anything, the Commission should consider raising the cap due to increased demands on the program.

In any event, unused funds by no means reflect a decrease in need. Due to the lengthy application process, it is inevitable that not all committed funds will be disbursed. Many things can happen between the time of application and the time of disbursement. For instance, charges for services can decrease, or providers can go bankrupt. In addition, projected budgets might be cut, or proposed spending or construction based on bond referendums may not pass. One of ALA's members, who had filed an incomplete application and a second complete one, once received approval for funding on both applications. The library did not enter into duplicate

agreements, and so received only half the funding allocated to it by the SLD – the result, however, was that certain funds were not used.

It is unlikely that the reasons that cause funds to go unused will disappear. As such, the program should accept that these variables exist, and ensure that funds are rolled over and used to help as many schools and libraries as possible. The SLD has recently recognized that a certain proportion of committed funds will not be spent each year, and has attempted to address the issue by over-committing funds to reduce the amount of unused funds. This is one way of dealing with the issue, and combined with rolling over unused funds, it should solve the problem.

C. THE CONCERNS REGARDING THE FUNDING OF SUCCESSFUL APPEALS COULD BE ADDRESSED BY APPLYING ROLLED-OVER FUNDS TO SUCH APPEALS.

Section III.C.2, ¶¶ 53-57, of the NPRM discussing the funding of successful appeals, relates to the proposal to roll over unused funds. Currently, the Administrator sets aside funding to be available for any successful appeals. There are concerns that this leads to unequal treatment of applicants because if funding needed to support successful appeals exceeds the amount set aside for that purpose, it becomes necessary to prorate the available funds among the successful appellants. In that case, otherwise similar applicants, distinguished only by whether they were funded initially or funded only after an appeal, may receive different discounts. The NPRM seeks comment on whether appeals should be funded to the same extent as initial funding, and what should happen if the annual funding is depleted.

ALA believes that fair and equitable treatment is essential, and the appropriate mechanism to ensure equity is indeed related to the roll-over of unused funds. ALA believes that rolled over funds could be used to supplement amounts set aside by the Commission to fund successful appeals, in large part eliminating this problem.

V. ALA STRONGLY SUPPORTS MEASURES DESIGNED TO STREAMLINE AND IMPROVE THE EFFICIENCY OF THE PROGRAM.

Streamlining the application process and the operations of the SLD generally is necessary to ensure that more school and libraries are able to secure the services they need. Many of our proposals – particularly those in Part III, above – are intended to streamline the application process. In addition, ALA supports certain other efficiency measures.

A. CHANGING THE BASIS FOR CALCULATING THE AMOUNT OF LIBRARY DISCOUNTS WOULD IMPROVE THE EFFECTIVENESS OF DISCOUNTS FOR LIBRARIES.

The NPRM does not ask for comment on this issue, but ALA feels that it is necessary to bring to the Commission’s attention. In practice, the school lunch program calculation method does not accurately reflect the poverty levels of the areas served by individual libraries. By requiring libraries to use a school district average, for example, it has become mathematically impossible for many libraries to receive internal connection discounts. This represents an unfair and inequitable system, where libraries are at profound mathematical disadvantage.

Furthermore, schools have a choice of methods for determining their poverty levels, while libraries are forced to rely on a method that often bears no relation to the populations they serve. ALA urges the Commission to recognize that the school lunch program, particularly as currently applied to libraries, does not reflect the constituencies served by libraries and should not be the sole method for determining a library’s discount level. To assist in this analysis, ALA has commissioned a White Paper addressing the issues raised by the current methodology, *The Vital Role of Public Libraries in America and Subsequent Need for a Unique Methodology for Determining E-Rate Discounts for Public Libraries: a White Paper*, by Dr. Christine M. Koontz, Dean J. Jue and Stephen K. Hodge, which is attached as Exhibit D.

First and foremost, libraries are not schools and do not serve the same populations as schools. As the White Paper points out, there are at least three key differences between schools and public libraries in how they serve individuals in poverty. These differences are:

1. Facilities to support basic schooling are legally mandated by all levels of governments for school age children, while public library facilities are not legally mandated, and serve all ages.
2. Individual schools serve students from a legally-defined service area (often county-wide districts), whereas individual library outlets typically serve users from undefined areas surrounding the outlet.
3. School-age individuals in poverty are required by law to attend schools, and adults in poverty may choose or not choose to access public library services.

White Paper at 7.

Because of these differences, there are at least two scenarios in which requiring a library to rely on school lunch data is simply inappropriate and inequitable: the case of a library outlet in a school district with low poverty levels among school-age children but with high numbers of the adults living at or close to the poverty line; and the case of a library outlet that is located in a middle-class school district, but is actually serving adults living in poverty.

In addition, many applicants have had great difficulties in even obtaining funding data needed under the current system, because it often is not publicly available. They do not have access to the figures because they are not schools, or in many cases, affiliated with the schools that have the necessary data. In addition, because the program is self-certifying, the SLD will not tell libraries what their applicable discounts are, even though the SLD may have the information as a result of other applications it has received. As such, libraries are at the mercy of

a number they do not know, and have difficulty verifying and documenting. The problem is compounded for consortia and large library systems which need to obtain school lunch program data for sometimes dozens of school districts. Contrary to the findings supporting this decision in the *First Order* at ¶ 512, it is not true that “this method does not impose an unnecessary administrative burden on libraries.”

In short, the current mechanism does not accurately reflect the needs of libraries. Libraries should be able to receive funding based on a mechanism that is verifiable, implementable, and most accurately represents their service areas. The White Paper proposes an alternative approach for calculating discounts for public libraries based on 2000 Census data; this approach would not replace the use of school lunch data, but would offer a library an alternative to be used when school lunch data was unavailable or simply inappropriate. Under this method, a library would examine Census data to identify the actual poverty levels in its service area. The proposed approach is described in more detail in the White Paper, but in essence the use of modern software – including Geographic Information Systems, a digital base map of library outlets and a comparable base map of schools – combined with the latest U.S. census figures, which are also available in digital format, allows a library to determine the average poverty rate in its vicinity. That rate can then be converted to a discount rate, using a simple table, much like the current system. We urge the Commission to examine this approach carefully, as it is much more accurate than the current method.

The White Paper also suggests a simpler approach that, while not as comprehensive and accurate as using Census data, would still would bring about a much fairer system. These options include:

1. Using the same discount rate as the school that is closest to the library outlet;

2. Using the average discount of the elementary and secondary school that are closest to the library outlet; or
3. Using the poverty rate found within its entire legal service area.

ALA proposes allowing a local library the option of choosing among these mechanisms and the school lunch program, for those cases where the library has ready access to the school lunch data. Currently, schools have an alternative discount calculation method; it is only fair that libraries should also have such an alternative. The universal service fund serves more than schools, and the discount method should reflect this fact.

B. ALA SUPPORTS RULES THAT STREAMLINE THE APPEALS PROCEDURE.

Section III.C.1, ¶¶ 48-52, of the NPRM addresses the current appeals procedure. 47 C.F.R. § 54.702(a) requires that an appeal of a decision by the SLD be received at the Commission within 30 days of the decision. Because of recent disruptions in mail service, that period has been extended to 60 days.²⁹ As noted in the NPRM, approximately 22% of all appeals are dismissed for being late-filed. The NPRM seeks comment on extending the 30-day limit, and tying the due date to the date an appeal is post-marked rather than mailed.

ALA strongly believes that a longer time is needed for appeal. We recommend making the temporary 60-day time-frame a permanent change. Due to the myriad of staffing situations in the nation's schools and libraries, it is unreasonable to expect these entities to receive a decision, review the decision, mount an argument against denial, obtain the necessary documentation for an appeal, draft an appeal, and get it to the Commission within 30 days. As the statistics clearly show, 30 days is not sufficient.

²⁹ See *Implementation of Interim Filing Procedures for Filings of Requests for Review, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order (2001).

In addition, ALA supports a rule that ties the due date to the post-marked date. While this departs from general Commission practice, it is consistent with other aspects of the SLD's practices. Further, it is more equitable to isolated communities that may need to build in extra mail time, or use much-needed funds to pay for an express shipping service that guarantees delivery.

It would also be helpful if applications that are denied are sent not only to the applicant, but also to the applicable state coordinator. As discussed below at V.D, many appellants consult with E-Rate assistance offices established by the States. State coordinators have proved very helpful in the appeals process, and giving them notice of appeals may help resolve the untimely appeal problem, and improve the arguments on appeal.

C. ALA SUPPORTS APPLICANT CHOICE REGARDING PAYMENT METHODS.

In section III.B.1, ¶¶ 33-34, the NPRM discusses whether service providers should be required to give applicants a choice regarding payment methods. Existing practice provides for two payment methods: Either the applicant pays the provider the full cost, and receives reimbursement for discounted services from the service provider after it has received reimbursement from the Administrator through the BEAR plan, or the applicant pays only the non-discounted portion, and the provider seeks reimbursement for the discounted portion. Some providers, however, have insisted on receiving full payment from the eligible entity as a condition of providing service. The rules do not specify that service providers cannot insist on one form of payment over another.

ALA supports applicant choice in payment methods. Libraries are governmental entities, and generally must conform to very specific budgetary and funding processes. The preferred payment method may depend on the specific funding and budget practices in a locality. It would

be helpful if the rules accounted for such differences, and gave libraries the option to choose a payment method that best fit local practices. Accordingly, we support the proposal to prevent service providers from attempting to impose a payment method on an applicant.

D. ALA URGES THE FCC TO RECOGNIZE THE CONTRIBUTIONS TO EFFICIENCY MADE BY STATE E-RATE COORDINATORS.

ALA has another suggestion to make the E-Rate more efficient. State and regional coordinators are instrumental in the E-Rate system and their efforts reduce the cost of program administration. Yet, these coordinators are not officially recognized by the FCC or the Administrator. ALA believes that allocating expenditures of program funds to assist the state coordinators in various ways could further reduce administrative costs. By acknowledging and formalizing the relationship between coordinators, the SLD, and applicants, the program will more fairly represent the value added by the various participants.

The SLD has done no direct outreach to applicants since Year 2. Instead, it relies on state coordinators to work directly with applicants. Thus, state coordinators are key players in helping the FCC realize its goal “to ensure that the program funds are utilized in an efficient, effective, and fair manner, while preventing waste, fraud, and abuse.” State coordinators plan, coordinate, and finance workshops to help applicants understand the complex rules and application process. They maintain Websites and listservs and provide day-to-day guidance on a myriad of ongoing issues. In addition, coordinators read and approve technology plans, serve as program arbiters between applicants and SLD’s program review staff, and coordinate the collection of lunch discount data. Coordinators consult with applicants on whether a denial of service is worthy of appeal. The staff of the Wisconsin Department of Public Instruction estimates that their department spends \$90,000 annually on E-Rate related services to schools and libraries in

Wisconsin. We know of no other federal program that relies so heavily on state education and library agencies but allocates no funding to support that work.

ALA is not suggesting that funds be disbursed to the States to pay salaries or expenses associated with the routine activities of the state coordinators. We merely recommend that the SLD assist the coordinators by making funding available for travel to training seminars held by the SLD, by helping to defray the costs of conducting similar sessions sponsored by the States, and similar support activities. This kind of support would make the coordinators more knowledgeable and productive, and in turn would help ensure that applicants are more informed, and therefore less likely to submit incomplete or incorrect funding requests.³⁰

E. OUTMODED RULES SHOULD BE ELIMINATED.

Section V, ¶ 81, of the NPRM seeks comment on any administrative or procedural rules or policies that are outmoded or no longer in the public interest. ALA is not currently aware of any outmoded rules, other than those that would be affected by the proposals made in these comments, but there may well be others. In general, we support making the E-Rate more equitable and accessible for libraries; any rules that do not accomplish that goal are in our view outmoded.

VI. ALA STRONGLY SUPPORTS ACCOUNTABILITY BY LIBRARIES AND OTHER ENTITIES INVOLVED IN THE E-RATE PROGRAM.

A. FAIRLY CONDUCTED AND PROPERLY FUNDED INDEPENDENT AUDITS WOULD ENHANCE ACCOUNTABILITY, BUT AN AUDIT REQUIREMENT SHOULD TAKE INTO ACCOUNT ESTABLISHED AUDIT REQUIREMENTS.

Section III.D.1, ¶¶ 58-59, of the NPRM seeks comment on whether the Administrator should be authorized to require independent audits of recipients and service providers, if the

³⁰ *Public Library Internet Services*, at 55-56.

Administrator has reason to suspect that serious problems exist. The Commission contemplates that audits would be conducted at the expense of the audited entities. ALA strongly supports reasonable accountability measures, but requiring audited entities – particularly those found innocent of any error or wrongdoing – to pay for audits is entirely unreasonable.

Under § 54.705(a)(1) of the Commission's rules, the SLD already has the authority to audit the beneficiaries of this program. We see no need for additional authority to be granted. Furthermore, we do not believe such audits are necessary or appropriate, because libraries are already audited as a matter of course. As government entities, libraries must account for the source and distribution of all funds they receive on at least an annual basis. Accordingly, should the Commission decide to implement this proposal, any audit scheme should take into account a community's existing audit mechanism. Any audit requirements must be very clear about what documents need to be retained by applicants. In addition, audits should be conducted only in the most serious of circumstances, and the Commission should establish what these circumstances would be.

ALA cannot support the proposed funding mechanism under any circumstances, especially since there is no evidence of any significant problem regarding how libraries use universal service funding. After all, applications are received and approved by the SLD, and funds are not spent directly by the libraries – all the library receives is a discounted rate on services. Consequently, there is little opportunity for abuse of the program. In addition, an audit funding requirement would deter libraries from applying for discounts, particularly the smaller and poorer libraries who most need the discounts. Instead of receiving much needed discounts, an inexperienced or inexpert applicant could end up paying for an audit more than it received in discounts. This kind of chilling would seriously harm the program and goes entirely against the

goals of Section 254(h). A much fairer and more reasonable option would be to pay for audits out of the universal service fund.

B. ALA SUPPORTS THE EQUIPMENT TRANSFERABILITY RESTRICTIONS.

Section III.B.2, ¶¶ 37-40, of the NPRM points out a potential loophole in the eligibility rules. While discounted services cannot be sold, resold, or transferred, there is nothing to stop an eligible entity from transferring equipment purchased with the benefit of E-Rate discounts between locations within a district, and requesting the same services and equipment in the next year.

In principle, ALA is sympathetic to this concern, as such a practice might constitute an evasion of the FCC's rules, and would certainly reduce the amount of funding available for other eligible entities. Although it is not clear that this practice is actually a problem, because there is no data available to establish the frequency of such activity, ALA does support closing such loopholes. Given the rate of technical obsolescence, a two- or three-year moratorium on transferring equipment would seem sufficient to curb this problem. Yet, any such change should provide flexibility for those entities that participate in a consortium and are not trying to take advantage of the loophole.

Another way to prevent this practice would be to bar funded applicants from applying for the same equipment for the same location two years in a row. Such a mechanism could take a form related to the proposed changes in funding priority for internal connections in last year's FNPRM, CC Docket No. 96-45, 16 FCC Rcd. 9880, released April 30, 2001. The FNPRM suggested giving priority to requests for internal connection funding made by applicants that did not receive funding commitments for the previous year. While that suggestion was not adopted

due to concerns regarding revising the rules of priority in the middle of a funding year,³¹ the suggestion has merit in this proceeding. Here, the Commission's concerns can be met by mandating that if an applicant received Priority 2 funding in the previous year, that applicant would be ineligible to apply for Priority 2 funding in the next year. Such a rule would have to provide for exceptions, such as destruction by fire, flood, or similar catastrophe, or because of a malfunction of the equipment itself that requires replacement.

C. GREATER ACCESS TO INFORMATION ABOUT WHO RECEIVES FUNDING FOR WHAT SERVICES WOULD ALSO IMPROVE ACCOUNTABILITY.

Preventing waste, fraud and abuse is one of the stated goals of the NPRM. ALA believes that one way to ensure this goal is by making program data more readily available to the public. Currently, it can be difficult to acquire such data in a digestible and comparative format. The SLD staff has made efforts to make sure information more readily available, and ALA greatly appreciates those efforts. Nevertheless, we urge the SLD to try and find ways to improve access to information. For example, summary data regarding the numbers and types of entities that have applied for the program, and for what services, is not readily available. Such information would be of great use to applicants and the research community at large, and would help to increase the integrity and accountability of the system. Some researchers have obtained access to very important and useful information with the help of SLD staff.³² We hope that in the future the Commission will make it possible for the SLD to collect and release data more routinely, so that such extraordinary and time-consuming efforts by the staff in response to special requests are not necessary.

³¹ *In re Federal-State Joint Bd. On Universal Service*, CC Docket No. 96-45, 16 FCC Rcd. 13510, ¶¶ 20-22 (2001).

³² *Public Library Internet Services*, at 23.

D. SUBJECT TO REASONABLE SAFEGUARDS, THE PROPOSED BAR FOR WILLFUL OR REPEATED NONCOMPLIANCE WOULD INCREASE ACCOUNTABILITY.

As noted in Section III.D.2, ¶¶ 60-62 of the NPRM, the Commission can bring forfeiture proceedings against entities who willfully or knowingly fail to comply with a material provision of the FCC's rules.³³ The rules, however, do not permit the Commission to suspend or entirely bar entities from participating in the program.

ALA would support a temporary bar or suspension in such cases, provided that the standard is not so strict as to punish inadvertent or harmless errors. In addition, any such temporary bar or suspension should apply equally to providers and applicants. ALA does not believe that there is any evidence justifying the imposition of permanent bars, at least not at this time. Further, ALA believes that any bar or suspension should be limited to cases of material noncompliance, and any such rule must include a right of appeal to the Commission.

E. ALA SEEKS FURTHER INFORMATION REGARDING REVIEW OF REQUESTS CONTAINING INELIGIBLE SERVICES.

Section III.A.3, ¶¶ 26-27, of the NPRM discusses the review process for requests containing ineligible services. Currently, the Administrator only reviews funding requests where 70% or more of the services requested are considered eligible services. If 30% or more of the services are ineligible, the funding request is denied in its entirety. The NPRM seeks comment on the benefits and burdens of this procedure.

As the NPRM does not contain any data concerning how many applications are denied based on this ratio, it is difficult to comment on this issue. While efficiencies should be encouraged, it is unclear to what extent this is an issue for applicants and the program as a whole.

³³ 47 U.S.C. § 503(b)(1)(B).

Accordingly, we recommend no action unless the Commission obtains and makes public more specific data that demonstrates that this is a significant issue.

F. ALA SUPPORTS THE PROPOSED ENFORCEMENT MEASURES FOR REMITTAL OF PAYMENTS.

Section III.B.1, ¶¶ 35-36, of the NPRM seeks comment on the necessity of enforcement measures for the remittal of Billed Entity Applicant Reimbursement (“BEAR”) payments. The current rule requires the service provider to remit payment to the applicant within 10 days. A proposed change would give the service provider 20 days, after which the provider would be subject to fines and forfeitures.

ALA supports enforcement measures for the remittal of BEAR payments. We also support extending the deadline to 20 days. This is only fair, since libraries risk losing discounts if they do not meet applicable deadlines and follow the rules and procedures established by the FCC and the SLD. Services provider should face the same consequences if they do not comply with FCC and SLD rules and procedures.

In addition, ALA believes that all collected fines and forfeitures should be contributed to the Universal Service Fund. Such fees should be included as a supplement, not an offset, to future funds. At the very least such funds could be used to offset the costs of audits and other enforcement measures.

G. FURTHER CLARIFICATION IS NEEDED REGARDING COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT.

Section III.A.4, ¶¶ 28-29, of the NPRM requests comment regarding whether applicants should be required to certify that eligible services will be used in compliance with the Americans with Disabilities Act (“ADA”) and related statutes.

ALA fully supports compliance with the ADA. Indeed, libraries have undertaken many initiatives over the years to provide access to the disabled community – and were doing so before the ADA was enacted. The ADA provides equal access to many Americans, and its goals to “assure equality of opportunity, full participation, independent living, and economic self-sufficiency” for individuals with disabilities are highly laudable.³⁴

The ADA, however, is a comprehensive legislative enactment, complete with enforcement provisions. *See, e.g.*, 42 U.S.C. § 12117, 12188. For example the statute directs the Equal Employment Opportunity to adopt enforcement rules. 42 U.S.C. § 12116. ALA believes that those provisions provide the proper enforcement mechanism for any violations. The SLD has no expertise in such matters and is not equipped to determine whether particular libraries or other entities are in compliance with the ADA.

Furthermore, the Commission previously rejected the argument that Section 254 requires any FCC action remedying disability discrimination. In the *First Order*, the Commission found that concerns regarding access by the disabled were covered by another section of the Act. “We agree with the Joint Board’s conclusion that Congress specifically addressed issues relating to individuals with disabilities in section 255 and, therefore, do not establish, at this time, additional principles related to individuals with disabilities for purposes of section 254.”³⁵ ALA believes that no change is warranted at this time.

CONCLUSION

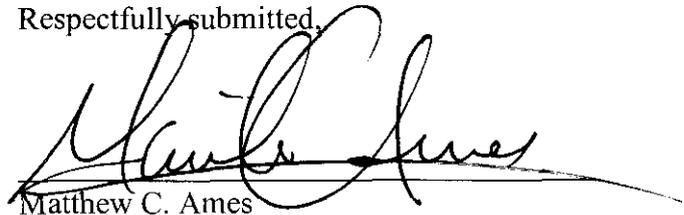
The E-Rate discounts have undeniably provided much-needed assistance to libraries around the country. ALA applauds the Commission for its dedication to the careful

³⁴ 42 U.S.C. § 12101(a)(8).

³⁵ *First Order* at ¶ 53.

implementation of Section 224(h) and its willingness to make further improvements. ALA supports the Commission's efforts to ensure that the program is made more accessible, accountable, and efficient, so long as the focus of the Commission's rules remains on helping libraries rather than subjecting them to unnecessary, ineffective, or duplicative regulation. Finally, ALA respectfully requests that the Commission consider additional changes needed to ensure the equitable and efficient allocation of funds.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Matthew C. Ames", written over a horizontal line.

Matthew C. Ames
Holly L. Saurer
Miller & Van Eaton, P.L.L.C.
Suite 1000
1155 Connecticut Avenue, N.W.
Washington, D.C. 20036-4306
202-785-0600

Attorneys for the American Library Association

April 5, 2002