

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

In the Matter of)	
)	
Universal Service Contribution Methodology)	WC Docket No. 06-122
)	
A National Broadband Plan For Our Future)	GN Docket No. 09-51

**COMMENTS OF
THE AMERICAN LIBRARY ASSOCIATION**

The American Library Association (ALA), the oldest and largest professional library association with approximately 60,000 members, is pleased to submit these comments on the Federal Communications Commission’s Further Notice of Proposed Rulemaking (FNPRM) on the reform of the Universal Service Fund (USF) contribution mechanism.

In brief, ALA recognizes that the USF serves several fundamentally important public functions in communities across the nation and supports the Commission’s efforts to modernize and ensure the long-term sustainability of the fund. The USF has been successful in bringing telephone services to the vast majority of the nation, and it remains in the public interest and sound public policy to maintain a stable USF as the country shifts toward a robust broadband infrastructure. The needs of the public are no less great in the current broadband-centric telecommunications and information landscape. The fund’s E-rate program, in particular, has proven instrumental in connecting public libraries and K-12 public and private schools so that the public has access to advanced telecommunications and information services through these institutions. It has enhanced the ability of these institutions to meet the needs of their communities for access to vital information, learning, health care and job-training resources.

Libraries (including school libraries as part of the K-12 campus) continue to increase their connectivity and improve their services through the E-rate program, though they are not yet able to meet community demand for connectivity and will continue to need E-rate discounts to add critical capacity. Community anchor institutions – like libraries – depend on the fund’s stability to ensure that robust Internet-enabled services are available in our communities nationwide.

In particular, ALA’s comments make the following points:

- I. To the extent that libraries are required to contribute to support the USF, libraries should continue to be treated as “end users” and not as “providers.”
- II. The Commission should consider reducing or eliminating the indirect contribution obligation of libraries because, just as with Lifeline consumers, libraries and schools are intended beneficiaries of the USF.
- III. Any changes to the contribution mechanism that will impact the E-rate application cycle should be implemented in a manner to minimize any confusion or disruption of the application process.

I. Libraries Should Continue to be Treated as End Users, not as Providers.

Under the statutory language, there are two separate categories of direct contributors into the USF. Telecommunications carriers are required to contribute directly to the USF (mandatory contributors). Second, any “provider of telecommunications” may be required to contribute by the Commission if it finds it in the public interest (permissive contributors).

Libraries are not telecommunications carriers and thus are not mandatory contributors. Some libraries, however, manage their own library networks, and some might consider that these libraries are “providers” of telecommunications, even though they are “providing” such telecommunications only to themselves. In the Fourth Reconsideration Order in December 1997, the Commission ruled that, even if libraries might qualify as “providers of telecommunications,”

libraries would not be required to contribute directly into the USF and would instead be considered “end users.” In particular, it found that

non-profit schools, colleges, universities, libraries, and health care providers should not be made subject to universal service contribution requirements. . . . Many of these entities will be eligible to receive [E-rate and Rural Health Care] support We conclude that it would be counter-productive to the goals of universal service to require non-common carrier program recipients of support to contribute to universal service support because such action effectively would reduce the amount of universal service support they receive. . . To maintain the sufficiency of the federal support mechanisms, we have determined to treat non-profit schools, colleges, universities, libraries, and health care providers as telecommunications end users for universal service contribution purposes.¹

ALA strongly supports this finding that libraries are end users. It is as relevant today as it was in 1997, and there is no reason for the Commission to alter it in this proceeding.

Furthermore, subjecting libraries and schools to “direct” contributions to the USF would undermine the purpose of the E-rate program. Libraries and schools continue to rely on the E-rate program for telecommunications, broadband capability, and Internet access. E-rate funding helps to address the fact that in the past year a majority of public libraries (56.7 percent) report flat or decreased budgets. Compounding budget issues, 41.4 percent of libraries report that their Internet connection speeds are insufficient to meet staff and patron needs.² Without E-rate funding, the percentage of libraries reporting insufficient Internet speeds would very likely be much higher. In addition as more libraries include programming that demands high-capacity broadband connections such as video conference services for the public; streaming video of book talks or story hours; and mobile computer labs reaching geographically isolated rural areas, their broadband needs will only increase. Going forward, ALA is concerned that the existing amount

¹Fourth Order on Reconsideration and Report and Order, 13 FCC Rcd 5318, 5476, para. 284 (1997) (*Universal Service Fourth Order on Reconsideration*). (Footnotes omitted).

²Libraries Connect Communities: Public Library Funding & Technology Access Study 2011-2012, Executive Summary, p.9 (available at http://www.ala.org/research/plftas/2011_2012.)

of E-rate funding is insufficient to meet the needs of libraries and schools.³ This funding year (2012) marks the first that applicant demand for priority one services alone (\$2.44 billion) exceeds the entire E-rate fund for 2012, which the Wireline Competition Bureau set at \$2.38 billion. The shortage of E-rate funding means libraries (and schools) must make difficult choices to continue providing many of the Internet-based services now critical to their patrons. Requiring libraries and schools to make direct USF contributions in addition to the shortage of E-rate funding would make such choices even more difficult.

Of course, almost all libraries and schools contribute to the USF *indirectly* by paying the “pass-through” charge assessed by their telecommunications services provider. Like most businesses and residential customers, the USF fee readily appears on the bill the library receives from its provider. Even when the bill goes directly to the library’s parent body (e.g., a municipality), that body often requires the library to pay its share of the municipality’s telecommunications bill, including the USF fee.

II. The Commission Should Consider Reducing or Eliminating the Indirect USF Contribution Requirements for the Most Disadvantaged Libraries (and Schools), under the Same Rationale Used to Exempt Lifeline Customers.

The Commission proposes to exempt Lifeline (low-income) consumers from making *indirect* USF contributions under the rationale that Lifeline consumers are the intended beneficiaries of the USF support program. In particular, the Commission proposes that eligible telecommunications carriers (ETCs) “*shall not recover federal universal service contribution costs from Lifeline services to Lifeline subscribers.*”⁴ The Commission proposes to exempt

³ ALA acknowledges that addressing the chronic underfunding of the E-rate program is not germane to this Notice, but the Association strongly encourages the Commission to consider increasing E-rate funding soon as part of the E-rate docket (02-6).

⁴ *In the Matter of Universal Service Contribution Methodology, A National Broadband Plan For Our Future*, Further Notice of Proposed Rulemaking, paragraph 404.

Lifeline consumers from the USF charges regardless of which contribution methodology is adopted – revenues, connections, or numbers. The Commission reasons that subjecting Lifeline consumers to USF fees as end users would effectively reduce the amount of the Lifeline support; eliminating USF contributions from Lifeline consumers could further broadband adoption.

ALA respectfully suggests that the same rationale also be applied to libraries and schools that benefit from the E-rate program, particularly those libraries and schools serving our most high-poverty communities. Requiring E-rate-participating libraries to pay USF end user fees reduces their ability to meet the goals of universal service. Furthermore, reducing or eliminating indirect USF fees for libraries (thereby reducing their expenses) would make it easier for them to enhance their broadband and other telecommunications services. ALA would be pleased to work with the Commission to design a program to reduce or eliminate USF fees for the most disadvantaged libraries in a way that would not damage the sustainability of whatever USF collection mechanism is chosen in this proceeding.

III. To Avoid any Disruption to the E-rate Program, the Commission Should Implement Changes to the Contribution Mechanism in Conjunction with the E-rate Calendar Year.

ALA has a long history of advocating for stability and predictability within the E-rate program, and we know these two issues are also of concern to the Commission. Furthermore, ALA supports the Commission’s long-term efforts at reforming the USF so that it can keep pace with the advancements in telecommunications since passage of the 1996 Act. The complexity of today’s telecommunication’s ecosystem requires regular review of the USF programs. ALA, however, cautions the Commission that reforms to modernize the fund can be particularly disruptive to individual programs within the USF if the implementation of such reforms is not carefully timed. In the case of the E-rate program, ALA reiterates points made in our comments

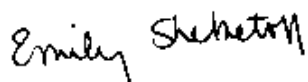
filed in July 2010.⁵ We remind the Commission that the process of applying for funding does not begin with the window opening which typically takes place in early November. Often, a 12-18 month lead time is required prior to actually filing a funding request.

To avoid unnecessary confusion among E-rate applicants and potential disruption to the application process that results in a drop-off of successful applications, ALA urges the Commission to implement any changes to the contribution mechanism in conjunction with the E-rate calendar year.

IV. CONCLUSION

ALA commends the Commission for its efforts to improve and sustain the vital Universal Service Fund through its investigation of contribution methodology options. We ask that the Commission retain the existing policy that treats libraries as “end users,” consider exempting disadvantaged libraries from making “indirect” USF contributions (similar to the proposal to exempt Lifeline subscribers), and that it ensure that any changes in the contribution mechanism will not have a negative impact on the E-rate application cycle.

Respectfully submitted by,



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⁵ ALA comments in CC Docket No. 02-6 and GN Docket No. 09-51 submitted July 9, 2010. Available <http://apps.fcc.gov/ecfs/document/view?id=7020521192>.