

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)

ORDER ON RECONSIDERATION

Adopted: November 5, 2021

Released: November 5, 2021

By the Chief, Wireline Competition Bureau:

1. In this Order on Reconsideration, the Wireline Competition Bureau (Bureau) sua sponte reconsiders one aspect of its decision to extend the waiver of section 54.503(d)(1) of the Commission’s rules until June 30, 2022, and to partially grant Comcast Corporation’s (Comcast) request for a waiver of this rule to expand its Lift Zone initiative at seven proposed library systems. Pursuant to section 1.113(a) of our rules, the Bureau may, on its own motion, reconsider any action made or taken within 30 days from the date of public notice of such action. In doing so, the Bureau may take any action it could take in acting on a petition for reconsideration, including reversing or modifying the original order. On our own motion, we clarify that Comcast may continue to provide broadband and other services to the seven library systems identified in its petition for the three-year term of its Lift Zone library pilot without running afoul of the E-Rate program gift rule.

2. In the Third Gift Rule Waiver Order, the Commission waived section 54.503(d)(1), also known as E-Rate program gift rule, until June 30, 2022 to “continue to ensure that schools and libraries can benefit from and solicit offers for improved broadband connections or equipment for remote learning during the COVID-19 pandemic without running afoul of Commission rules.” The Commission also partially granted Comcast’s petition for a waiver of section 54.503(d)(1) until June 30, 2022, instead of

1 Schools and Libraries Universal Service Support Mechanism, Petition for Waiver of Comcast Corporation for Lift Zone Initiative, Order, CC Docket No. 02-6, DA 21-1257 (WCB rel. Oct. 7, 2021) (Third Gift Rule Waiver Order).

2 47 C.F.R. § 1.113(a).

3 47 C.F.R. §§ 1.106(k)(1), 1.113(a).

4 Petition for Waiver of Comcast Corporation for Lift Zone Initiative, CC Docket No. 02-6, at 5 (filed May 12, 2021) (Petition for Waiver). Comcast identified the following library systems as its proposed Lift Zone library participants: 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). Comcast also explained broadband and other services would be provided for a three-year term to the Lift Zone participants. Id. at 6 and n.7.

5 Third Gift Rule Waiver Order, at para. 3.

the three-year term requested by Comcast for the seven library systems that were selected to participate in its proposed Lift Zone library pilot.⁶

3. Comcast sought clarification of the *Third Gift Rule Waiver Order*, explaining that, “in order to avoid disruption and dislocation to consumers benefitting from their access to such broadband services, which would disserve the public interest, Comcast therefore seeks clarification that the Lift Zone locations or other connected community centers that are established by June 30, 2022 may continue to receive complimentary services after that date.”⁷ Comcast further explained that a three-year waiver would give “all parties certainty that members of the public will be able to benefit from the Lift Zone location for a meaningful period of time,” and would provide “sufficient time for both the Lift Zone partners and Comcast to experiment with digital content and other enrichment opportunities to determine how the Lift Zone initiative can provide the greatest benefit.”⁸

4. We clarify that Comcast may provide broadband and other services to the seven library systems’ Lift Zone locations for the three-year term Comcast requested in its petition.⁹ As Comcast explained, a three-year waiver will provide certainty and predictability to entities participating in the Lift Zone pilot program, and better enable library patrons and members of the community to benefit from the Lift Zone initiative. We find that a three-year waiver for the seven library systems selected for its Lift Zone library pilot, with the safeguards Comcast has agreed to implement, is in the public interest.¹⁰ The Lift Zone locations within these seven library systems will help promote digital inclusion and literacy, and help close the Homework Gap, while also minimizing the impact on each entity’s participation in the E-Rate program and competitive bidding processes.¹¹ We further clarify that following the expiration of this limited three-year period, all E-Rate rules including the prohibitions on gifts, free services, and rebates shall apply.¹²

⁶ *Id.* at paras. 8, 10. *See also* Petition for Waiver at 5-6 (identifying the seven library systems and explaining that the broadband and other services would be provided for a three-year term to the elected Lift Zone locations).

⁷ Letter from Jordan B. Goldstein, Senior Vice President, Regulatory Affairs, Comcast Corporation, to Marlene Dortch, Secretary, Federal Communications Commission, CC Docket No. 02-6 (Oct. 26, 2021) (Comcast Clarification Letter).

⁸ Letter from Jordan B. Goldstein, Senior Vice President, Regulatory Affairs, Comcast Corporation, to Marlene Dortch, Secretary, Federal Communications Commission, CC Docket No. 02-6 (Oct. 29, 2021) (Comcast Ex Parte Letter).

⁹ Petition for Waiver at 5-6. To the extent that any of the library systems participating in the Lift Zone initiative are also E-Rate applicants, we remind them that they are required to pay the non-discounted share of the cost of E-Rate-funded equipment and services and clarify that for purposes of this period, free services and equipment are not considered to be rebates under section 54.523. We also remind these applicants of their obligation to comply with state and local procurement laws, and note that they are still subject to the program rules requiring a fair and open competitive bidding process for the duration of the waiver period.

¹⁰ *See id.* at 11-12. Comcast explains that it will implement the following actions to ensure that the library Lift Zone participants can continue to conduct fair and open competitive bidding processes for E-Rate equipment and services. First, Comcast will ensure that its E-Rate sales employees will have no involvement with the Lift Zone services and the Comcast point of contact for the Lift Zone initiative will be different from the point of contact for the E-Rate services. Second, Comcast will establish dedicated Lift Zone accounts and service agreements for the complimentary services regardless of whether the entity selects Comcast as its E-Rate service provider. Comcast will make a clear that an entity can be a Lift Zone participant even if it chooses another service provider for its E-Rate eligible services and equipment. Third, Comcast will not provide any Internet-connected devices, aside from the necessary Wi-Fi equipment, to ensure the Comcast-provided devices will not connect to and increase demand for the library’s E-Rate supported services.

¹¹ *See id.*

¹² *See* 47 CFR §§ 54.503(d) (E-Rate gift rule), 54.523 (free services/equipment and rebates).

5. ACCORDINGLY, IT IS ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 USC §§ 151-154 and 254, and sections 0.91, 0.291, 1.1, 1.3, and 1.113 of the Commission's rules, 47 CFR §§ 0.91, 0.291, 1.1, 1.3, and 1.113, that this Order on Reconsideration IS ADOPTED, and section 47 CFR 54.503(d)(1) of the Commission's rules IS WAIVED to the extent provided herein.

6. IT IS FURTHER ORDERED, that pursuant to section 1.102(b)(1) of the Commission's rules, 47 CFR § 1.1.02(b)(1), this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Chief
Wireline Competition Bureau