No. 25-60535

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

CONSUMERS' RESEARCH; CAUSE BASED COMMERCE, INC.; EDWARD J. BLUM; KERSTEN CONWAY; SUZANNE BETTAC; ROBERT KULL; KWANG JA KIRBY; TOM KIRBY; JOSEPH BAYLY; JEREMY ROTH; DEANNA ROTH; LYNN GIBBS; PAUL GIBBS; RHONDA THOMAS; JAMES ROMEO; CODY CARNETT; PHILLIP ARONOFF; JACQUELINE KLEIN,

Plaintiffs-Appellants,

v.

FEDERAL COMMUNICATIONS COMMISSION; UNITED STATES OF AMERICA,

Defendants-Appellees.

Petition For Review of an Order of the Federal Communications Commission
Agency No. 96-45

BRIEF OF *AMICUS CURIAE* AMERICAN LIBRARY ASSOCIATION IN SUPPORT OF INTERVENOR SCHOOLS, HEALTH & LIBRARIES BROADBAND COALITION

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CERTIFICATE OF INTERESTED PARTY

The undersigned counsel of record certifies that the following listed persons are entities not otherwise listed in the party briefing as described in Local Rule 29.2 that have an interest in the outcome of this case. These representations are made such that the judges of this court may evaluate possible disqualification or recusal.

Person or Entity	Connection to Case
American Library Association (ALA)	*Amicus Curiae*
Catherine E. Ferri	Counsel to *amicus* ALA

Pursuant to Fed. R. App. P. 26.1(a), counsel for *amicus curiae* certifies that (1) *amicus* is a not-for-profit organization and does not have any parent corporations and (2) no publicly held companies hold 10% or more ownership interest in *amicus*.

Dated: March 20, 2026

/s/ Catherine E. Ferri
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INTEREST OF AMICUS CURIAE[1]

For 150 years, the American Library Association ("ALA") has been the trusted voice for academic, public, school, government, and special libraries, advocating for the profession and the library's role in advancing learning and ensuring access to information for all. Representing the nation's 125,000 libraries, including more than 17,000 public library locations, the ALA is the foremost national organization providing resources for library and information professionals. The ALA has advocated for the Universal Service Fund Schools and Libraries Program—commonly known as E-Rate—since its inception. The ALA has worked with the Federal Communications Commission ("FCC") over 25 years to improve the E-Rate program and to help libraries access affordable high-capacity broadband, boost library participation in the program, and streamline the application and review processes. As a result, libraries are now places to access the unlimited information

[1] *Amicus* confirms that no party or counsel for any party authored this brief in whole or in part, and that no person other than *amicus* or their counsel made any monetary contribution intended to fund the preparation or submission of this brief. Counsel for *amicus* has conferred with all parties and confirmed all parties consent to the filing of this brief.

resources available in the online world to expand educational and economic opportunity.

SUMMARY OF ARGUMENT

For thirty years, the Universal Service Fund ("USF") Schools and Libraries Program ("E-Rate") has provided annual discounts to public libraries to help them afford internet service.[2] E-Rate supports critical functions in nearly three quarters of the nation's public libraries. The program allows public libraries to reliably serve their communities by offering accessible internet and broadband-supported programs to their patrons, free of charge. *Amicus* respectfully requests that the Court preserve E-Rate in order to allow libraries to continue to fully serve their communities.

First, E-Rate is a well-executed program with significant federal oversight, established anti-fraud measures, and controlled spending. It has received continuous Congressional oversight since its inception, and the FCC regularly audits the program. E-Rate's significant anti-fraud measures make it a program with low fraud risk. E-Rate's discount

[2] This brief was substantially prepared with the assistance of Georgetown Communications & Technology Law Clinic student attorneys Leah DeFreitas, M. Hope Jones, and Jenny Xin Luan. Counsel thanks them for their significant efforts.

structure discourages excessive spending: it facilitates affordable internet by providing libraries with discounts based on strict eligibility requirements and then reimbursing providers for the difference.

Second, E-Rate makes it possible for libraries to function on several levels. It allows libraries to meet fundamental operational needs like information access, resource management, and building safety. E-Rate also supports libraries' necessary modernization efforts in a rapidly changing technological landscape. Because E-Rate makes internet affordable, libraries can in turn use greater portions of their limited budgets for adequate staffing and community programming. Without E-Rate, libraries would face an impossible choice between cutting critical functions and improvement measures or core staff and programs.

Third, E-Rate keeps library patrons connected in the digital age. E-Rate mitigates the digital divide by supporting reliable internet access in rural and low-income communities. E-Rate supports emergency services, education, and employment and entrepreneurship through libraries. By ensuring libraries have reliable internet in place, E-Rate also supports broader digital literacy and digital skills development efforts.

Fourth, no program can adequately substitute for E-Rate. E-Rate forms the foundation of the nation's library internet infrastructure and enables federal, state, and local programs to build upon existing library internet connectivity and extend libraries' digital services. No other federal, state, or local program matches E-Rate's national scale, funding consistency, or dedication to library connectivity. Nor can any private market solution replace E-Rate without creating a substantial gap in library connectivity. E-Rate is the linchpin federal program keeping libraries online.

Eliminating E-Rate would cause irreparable and unnecessary harm for public libraries and their patrons. *Amicus* respectfully requests that the Court deny Petitioners' request to vacate the Fourth Quarter 2025 contribution factor to preserve critical internet connectivity in public libraries.

ARGUMENT

Public libraries, as longstanding conduits for information access, have evolved to meet the demands of online information sharing. One of those demands is internet access. The Universal Service Fund ("USF") Schools and Libraries Program ("E-Rate") is guided by policy from the FCC to support network access for libraries and schools. 47 U.S.C. § 254(d). E-Rate provides annual discounts to help eligible libraries afford internet access and telecommunications services. *See* 47 C.F.R. §§ 54.505, 54.514 (2024). E-Rate supports critical functions in roughly seventy-three percent of American public libraries. Amelia Byrne & Megan Janicki, *30 Years of E-Rate*, Am. Libs. Mag. (Feb. 6, 2026), https://americanlibrariesmagazine.org/2026/02/06/30-years-of-e-rate/.

Preserving E-Rate allows public libraries to continue to reliably serve their communities. E-Rate is a well-executed program with significant federal oversight, low fraud risk, and limited waste. It supports libraries' critical daily operation needs and important modernization efforts. E-Rate also supports important education, emergency, employment and entrepreneurship, and digital literacy programs through reliable broadband support. There is no adequate

alternative available for E-Rate at the federal, state and local, or private level. Eliminating E-Rate would create irreparable and unnecessary harm for libraries and their patrons.

I. E-Rate is a program with significant federal oversight, low fraud risk, and controlled spending.

E-Rate is a program with extensive federal oversight, established fraud prevention measures, and a structure that avoids unnecessary or wasteful spending. E-Rate's support for libraries has been financially efficient and responsive to modern technological developments. *See* 47 U.S.C. § 254; *see also* John C. Bertot et al., *The 1997 National Survey of U.S. Public Libraries and the Internet: Final Report* 16 (1997), https://files.eric.ed.gov/fulltext/ED422908.pdf.

Congress has exercised continuous oversight of the E-Rate program for thirty years. *See*, *e.g.*, Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, § 60104(c)(1)–(3), 135 Stat. 429, 1206 (2021) (creating statutory reporting requirements and periodic mandatory assessments of program efficiency); American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, § 6001(k)(2)(C), 123 Stat. 115, 516 (2009) (requiring FCC report on required contributors and permissible beneficiaries of USF). The FCC also conducts regular audits of E-Rate spending and

maintains persistent program oversight. *See, e.g.*, 47 C.F.R. § 54.719 (2024) (explaining that any party aggrieved by an action taken by the Universal Service Administrative Company ("USAC") may seek FCC review).

Because it is a program with heavy oversight, E-Rate has low fraud risk. In a 2025 Government Accountability Office ("GAO") analysis of five federal programs, E-Rate was the only one to receive a perfect fraud prevention score. *See Improper Payments and Fraud Risk Management: Selected Federal Programs Demonstrate Opportunities to Strengthen Fraud Prevention Practices*, U.S. Gov't Accountability Off. (2025), https://files.gao.gov/reports/GAO-26-107444/index.html. E-Rate was alone in having documented procedures for all nine GAO categories of fraud prevention, including regular audits, review of potential risks, and anti-fraud staff. *Id.*

E-Rate's anti-fraud efforts produce measurable success. In Fiscal Year 2024, the program's improper payment error was only 1.27%. Mark Stephens, Managing Dir., FCC, *Inspector General's Top Management and Performance Challenges for FY 2025 for the Federal Communications Commission* at 1 (Oct. 29, 2024), https://www.fcc.gov/sites/default/

files/fy25_fcc_tmpc_mngt-response_10292024.pdf [hereinafter *Inspector Gen.'s Top Mgmt. & Performance Challenges*]; *see also Modernizing the E-Rate Program for Schools and Libraries*, DA 24-1142, at 100 (Wireline Competition Bureau, Fed. Commc'ns Comm'n Nov. 13, 2024), https://docs.fcc.gov/public/attachments/DA-24-1142A1.pdf. This is below the statutorily defined improper payment threshold of 1.5%, meaning E-Rate is not susceptible to significant improper payment risks. *Inspector Gen.'s Top Mgmt. & Performance Challenges* at 1.

E-Rate discourages excessive spending because its discount requires libraries' financial participation. E-Rate is a matching program. *See* 47 C.F.R. § 54.505(f) (2024). USF funds are capped, and USAC distributes discounts based on the available funds. *See* 47 C.F.R. §§ 54.505, 54.514 (2024); *see also The Universal Service Fund and the E-Rate Program*, Congress.Gov (2021), https://www.congress.gov/crs-product/R46780. Libraries may receive discounts for broadband at rates ranging from twenty percent to ninety percent depending on poverty level, budgetary needs, and rural status, but eligibility requirements are strict, especially for the larger discounts. 47 C.F.R. §§ 54.505, 54.514 (2024). Regardless of discount rate, libraries receiving E-Rate funds still

pay a portion of the service cost. *Id.* This means that libraries receive a discount for internet service, not that internet service is free. *Id.* E-Rate facilitates affordable broadband, not free broadband.

II. E-Rate supports libraries' critical functions.

Without E-Rate, libraries cannot function at several levels. E-Rate allows libraries to meet fundamental operational needs. E-Rate also facilitates libraries' necessary modernization efforts in a rapidly changing technological landscape. Finally, E-Rate frees up scarce budgetary resources for libraries to meet other demands.

A. E-Rate supports libraries' basic operational needs.

E-Rate allows libraries to meet fundamental obligations and needs. It enables libraries and their patrons to connect to electronic articles, books, and reading materials. It also supports libraries' resource management functions and physical facilities.

E-Rate allows libraries to meet a fundamental obligation: information access. The purpose of libraries is to provide local communities with access to educational and informational resources. *See Bd. of Educ., Island Trees Union Free Sch. Dist. No. 26 v. Pico*, 457 U.S. 853, 868 (1982) (explaining that a library is "a place dedicated to . . . knowledge."); *see also United States v. Am. Libr. Ass'n., Inc.,* 539 U.S.

194, 211 (2003). E-Rate-supported broadband access enables libraries to connect patrons to "a vast amount of valuable information." *Am. Libr. Ass'n., Inc.*, 539 U.S. at 200. Most library patrons use library broadband to retrieve digital articles and books, access subscription databases, search for items in the library catalog, place holds, or request items through interlibrary loans. *See Opportunity for All: How the American Public Benefits from Internet Access at U.S. Libraries,* Inst. Museum & Libr. Servs., 28–29 (2010), https://www.imls.gov/sites/default/files/publications/documents/opportunityforall_0.pdf. E-Rate-supported broadband also enables librarians to receive and respond to informational inquiries from patrons. Without E-Rate, libraries cannot achieve their basic purpose. *See id.* at 29.

E-Rate also facilitates libraries' resource management functions. As of 2026, most libraries use a digital management system to track materials, which requires internet access. *Library Privacy Guidelines for Library Management Systems*, Am. Libr. Ass'n. (Apr. 2022), https://www.ala.org/advocacy/privacy/guidelines/library-management-systems. Internet allows libraries to communicate across the region to facilitate the rapid fulfillment of requests for traditional print books and

other materials while ensuring optimal accountability. *Id.* Libraries store library card owners' information on networked devices. *Id.* Internet access is also essential for interlibrary loan systems, which cannot function without networked inventories and records, and allow cardholders to access libraries across the country. *Id.* Internet access is integral to libraries' resource management role.

Finally, E-Rate funding makes it possible for library buildings to function safely and effectively. Modern buildings use network connectivity to safely secure doors, manage the internal climate and monitor spaces. *See* P. Lavanya, *Security Systems in Libraries: An Overview*, 7 Int'l J. Libr. & Info. Stud. 226, 226–28 (2017), https://www.ijlis.org/articles/security-systems-in-libraries-an-overview.pdf. Access control measures like key card access, which increase the protection libraries can offer both patrons and collections, require a persistent internet connection. *Id.* Affordable internet is vital to physical library security and operations.

B. E-Rate supports libraries' modernization efforts.

As libraries modernize to keep pace with advancing technology, E-Rate supports these efforts in two ways. First, E-Rate allows libraries to

"keep pace with modern life" by modernizing (at minimum) "any telecommunications service that is subscribed to by a substantial majority of residential customers" like broadband internet. S. Conf. Rep. No. 104–230 at 128. E-Rate funds "essential, widely used, and affordable services, for the benefit of [its] designated recipients." *FCC v. Consumers' Rsch.*, 606 U.S. 656, 687–89 (2025). E-Rate allows libraries to modernize digital infrastructure where it would otherwise be unaffordable.

Second, E-Rate supports important digital privacy and security efforts that protect patrons and foster trust in libraries. For public libraries, patron privacy is paramount.[3] Patrons trust libraries to keep personal information private, which allows libraries to develop close relationships with the communities they serve. *See Privacy Guidelines for Public Access Computers in Libraries*, Am. Libr. Ass'n, https://www.ala.org/advocacy/privacy/guidelines/public-access-computer (Apr. 2022). Network security protects patron information from unauthorized disclosure. *Id.* Modern technology better protects libraries

[3] Indeed, protecting patron privacy in public libraries is so important that most states have created statutory protections for patron information. Texas, Mississippi, and Louisiana are also among the majority of states that have patron privacy laws codified in their state codes. *See* Tex. Gov't Code Ann. § 552.124 (2011); *see also* Miss. Code Ann. § 39-3-365 (2024); *see also* R.S. 44:13(A) (2025) (Louisiana).

from malware and other third-party interference. *Id.; see The Consequences of Non-Compliance: Cybersecurity Risks and Penalties,* Tripwire, https://www.tripwire.com/state-of-security/consequences-non-compliance-cybersecurity-risks-and-penalties (Sept. 19, 2023) (explaining that entities like libraries operating on outdated infrastructure may have lower or outdated security protections, making them vulnerable to breach). Libraries must modernize to keep their patrons safe and preserve the library-patron relationship.

C. E-Rate reduces strain on limited library budgets.

E-Rate discounts make funds available in libraries' limited budgets to spend on critical functions. Despite an increased demand for library internet access in the digital age, libraries have not seen corresponding budget increases. *See Today's Public Libraries Are Thriving Technology Hubs That Millions Rely on for First or Only Choice for Internet Access*, Bill & Melinda Gates Found., (Sept. 11, 2006), https://www.gatesfoundation.org/ideas/media-center/press-releases/2006/09/todays-public-libraries-are-thriving-technology-hubs-that-millions-rely-on-for-first-or-only-choice-for-internet-access. Because E-

Rate makes internet affordable, libraries can use greater portions of their limited budgets for adequate staffing and community programming.

Without E-Rate, libraries would face an impossible choice between cutting critical functions or core staff and programs. In the absence of E-Rate support, libraries that prioritize the functions and modernization efforts discussed above would be forced to cut staff, programs, or internet access to compensate. S. Conf. Rep. No. 104-230 at 128. In the alternative, libraries may choose to cut modernization efforts to retain staff, instead choosing to operate on unsafe, outdated digital infrastructure. *See What's Up, What's Down: Budgets and Funding 2025*, Libr. J., https://www.libraryjournal.com/story/whats-up-whats-down-budgets-and-funding-2025 (Mar. 3, 2025) (noting that libraries "equate spending on staff, materials, and technology" when facing budget cuts). Library budgets cannot support libraries' present or future goals and obligations absent E-Rate assistance.

III. E-Rate supports patrons' access to the digital world, particularly in rural and low-income communities.

E-Rate also supports library patrons' access to the digital world. Because of E-Rate, libraries can afford to offer free internet access to their patrons and keep library computers connected to the internet. *See*

Public Library Internet Connectivity Survey 2020, Libr. J. 40 (2020), https://s3.amazonaws.com/ImageCloud/Research/Public-Library-Internet-Connectivity-Survey-Report-v3-CH.pdf. [hereinafter *"Public Library Internet Connectivity Survey"*]. The additional discretionary funding libraries have because of E-Rate discounts also makes it possible for libraries to loan patrons internet-enabled laptops and personal Wi-Fi hotspots. *Id.*

E-Rate is therefore vital in keeping patrons online in the digital age. E-Rate mitigates the digital divide by supporting reliable internet access in rural and low-income communities. E-Rate supports emergency services, education, and employment and entrepreneurship through libraries. By ensuring libraries have reliable internet in place, E-Rate also supports broader digital literacy and digital skills development efforts. Absent E-Rate, patrons would suffer irreparable harm, particularly in rural and low-income areas.

A. E-Rate bridges the digital divide by providing reliable broadband access to rural and low-income communities.

E-Rate mitigates the "digital divide"— the gap between those who have reliable, affordable access to high-speed internet and the necessary

devices and skills to use it, and those who do not. *See* Nat'l Digit. Inclusion All., *NDIA Definitions*, https://www.digitalinclusion.org/definitions/ (last visited Mar. 9, 2026). For more than fifteen million American households without home internet, libraries are one of the only bridges across the digital divide. *American Community Survey, Types of Computers and Internet Subscriptions*, U.S. Census Bureau, Table S2801 (2024), https://data.census.gov/table/ACSST5Y2024.S2801.

Absent E-Rate, libraries in rural and low-income communities would be the most likely to cut internet-related programs and services, causing particular harm to patrons in those areas. Internet service in rural and low-income areas often is more expensive because of limited infrastructure and funding. *See* John Horrigan, *Broadband Availability Gap*, FCC (Omnibus Broadband Initiative Working Paper No. 1, 2010) at 59, https://transition.fcc.gov/national-broadband-plan/broadband-availability-gap-paper.pdf. Without discounts, libraries in low-income and rural areas cannot afford the high rates providers must charge. Because the patrons in these areas similarly often cannot afford to pay the elevated service rates, communities without E-Rate support in their libraries cannot bridge the digital divide.

The digital divide is particularly prevalent within the Fifth Circuit. Rural communities compose a significant portion of the Fifth Circuit. Twenty-nine percent of Louisiana's population, or 1.3 million people, live in rural areas. *Rural Population in Louisiana*, Am.'s Health Rankings, https://www.americashealthrankings.org/explore/measures/pct_rural_b/LA (last visited Mar. 9, 2026). In Mississippi, the number is even higher: roughly fifty-four percent of the population, or 1.6 million people, live in rural areas. *Rural Population in Mississippi*, Am.'s Health Rankings, https://www.americashealthrankings.org/explore/measures/pct_rural_b/MS. Though Texas is comparatively more urban and suburban, there are 5 million Texas residents living in rural areas. *2025 Texas of Today*, The Univ. of Tex. Health Sci. Ctr. at Hous., (Dec. 8, 2025), https://ww2.uth.edu/dA/43e4bd6b86/2025%20Texas%20of%20Today%2012.10.25.pdf. In places like the Texas border or the Mississippi River Delta, E-Rate supports almost all library network funding. *See Public Library Internet Connectivity Survey 2020* at 40. Absent E-Rate support, high percentages of Fifth Circuit communities would lose their only form of internet access. E-Rate keeps the Fifth Circuit's rural and low-income communities connected.

B. E-Rate supports emergency communications, education, and employment and entrepreneurship through libraries.

Though E-Rate is particularly important for rural and low-income patrons, all library patrons benefit from library internet access and the many services it makes possible. E-Rate allows libraries to respond to emergencies. It expands education opportunities for both children and adults. It supports jobseekers and entrepreneurs. And it supports digital literacy efforts.

1. E-Rate allows libraries to respond to emergencies.

E-Rate allows libraries to respond to emergencies in two ways. First, it enables libraries to offer patrons reliable connectivity during disasters and public emergencies. *See* Marijke Visser, *The E-Rate Program and Its Role in Public Library Broadband Access* (2019), https://escholarship.org/uc/item/0bv114zh ("Libraries have a critical service role in disaster response."). Outages from natural disasters or severe weather make it difficult to connect to emergency services, relief programs, and loved ones. *See id.* Libraries can offer a place for patrons to access temporary internet connection during such outages, making it possible to connect with emergency services.

In addition, by supporting libraries' internet connections and buildout of networked services, E-Rate enables libraries to serve their communities as critical hubs for support during emergencies. For example, during a recent ice storm that left much of the community without electricity or water in Yalobusha County, Mississippi, the Oakland Public Library served as a centralized community hub. *See Yalobusha County Declares Local Emergency as Winter Storm Approaches*, Yalobusha Cnty. News (Jan. 22, 2026), https://www.yalnews.com/2026/01/22/yalobusha-county-declares-local-emergency-as-winter-storm-approaches/. Because the library was one of the public sites that remained operational, it was able to assist patrons in accessing online government services, disaster aid, and other state and federal resources. *See id.* Eliminating E-Rate would limit libraries' ability to respond to emergencies within their communities, leaving patrons stranded.

2. E-Rate expands education opportunities for children and adults.

E-Rate funding allows libraries to be dependable broadband access points for students year-round. Students require internet access to complete coursework, engage in project-based learning, and access

supplemental learning materials. *See generally Universal Connectivity Imperative: Sustaining Progress to Close the Digital Access Divide in K–12 Education*, State Educ. Tech. Dirs. Ass'n (SETDA) (Jan. 2025), https://www.setda.org/wp-content/uploads/2025/01/SETDA_UCI-Report-2025_Official.pdf. Those without reliable home broadband rely on libraries' internet access, digital resources, networked catalogs, and physical spaces. *See* Lisa M. Frehill et al., *Data File Documentation: Public Needs for Library and Museum Services: 2013* at 2 (Inst. Museum & Libr. Servs. Aug. 2018), https://www.imls.gov/sites/default/files/pnlms_data_file_documentation.pdf [hereinafter *Data File Documentation*]. Indeed, many libraries experience sustained increases in broadband usage during school breaks, testing periods, and summer months, when students cannot rely on school internet as a consistent access point. *See Public Library Internet Connectivity Survey 2020* at 40.

These benefits are particularly important for students in rural communities. Students in rural communities often must travel significant distances to schools. *See* Laura Jimenez & Raegan Miller, *Preparing Rural Students for College and Beyond by Improving Access to Coursework*, Ctr. for Am. Progress (Oct. 3, 2017), https://

www.americanprogress.org/article/preparing-rural-students-for-college-and-beyond-by-improving-access-to-coursework/. These students often have limited access to information from colleges, curriculum options, school counseling, and internet access. *See Bridging the Education Gap for Rural Students*, Coll. Bd., https://allaccess.collegeboard.org/bridging-education-gap-rural-students (last visited Mar. 15, 2026). For rural communities like Comanche, Texas, library internet access supports students' online homeschool assignments, local mothers studying for college classes, and college students taking exams. *See Homeschooling and Educational Resources,* Comanche Pub. Libr., https://www.comanchepubliclibrary.org/children/parent-corner.html (last visited Mar. 18, 2026) (highlighting homeschool support Comanche Public Library offers community members at all educational levels).

Absent E-Rate, the students who rely on libraries for a high-speed broadband connection would suffer. E-Rate allows libraries to provide the broadband connection that keeps rural or low-income students on pace with their classmates. Without access to high quality broadband, students fall behind because they cannot complete their homework without an internet connection. *See Libraries Are Filling the Homework*

Gap as Students Head Back to School, BroadbandUSA, Nat'l Telecomm. & Info. Admin., https://broadbandusa.ntia.doc.gov/news/latest-news/libraries-are-filling-homework-gap-students-head-back-school (last visited Mar. 15, 2026). Students without reliable broadband are less likely to graduate from high school. *Consequences of the Digital Divide in Education*, Institute of Electrical and Electronics Engineers (IEEE) Communications Society (Jan. 30, 2023), https://ctu.ieee.org/blog/2023/01/30/consequences-of-the-digital-divide-in-education/. They tend to receive lower grades and standardized test scores. Kevin Taglang, *Lack of Broadband Leaves Students Behind*, Benton Inst. for Broadband & Soc'y (Mar. 6, 2020), https://www.benton.org/blog/lack-broadband-leaves-students-behind. They are less likely to attend college or university. *Id.* Forcing libraries to reduce or eliminate broadband access by reducing or eliminating E-Rate funding leaves students behind.

3. E-Rate supports jobseekers and entrepreneurs.

E-Rate-enabled library internet access supports patrons in their professional lives as well. It is critical for patrons seeking jobs. It also supports entrepreneurs developing their businesses.

Internet access is critical for seeking employment and professional development. However, not everyone can afford a home internet connection, and those who cannot often rely on libraries instead. *See Data File Documentation* at 2; *see also Public Library Internet Connectivity Survey 2020* at 40. E-Rate enables libraries to provide space, resources, programs, and broadband connectivity to support aspiring members of the workforce. *See* 47 C.F.R. §§ 54.502, 54.505 (2024). Nearly seventy-eight percent of libraries offer career services and at least twenty-four percent have workforce development programs. *PLA Releases First Public Library Services for Strong Communities Report*, Pub. Libr. Ass'n (June 22, 2023), https://www.ala.org/news/press-releases/2023/06/pla-releases-first-public-library-services-strong-communities-report.

Jobseekers use library computers and internet to create resumes and submit job applications. *See Library Career Navigators: Connecting Job Seekers to Resources and Career Pathways*, Pub. Libr. Ass'n, 1 (2023), https://www.ala.org/sites/default/files/pla/content/initiatives/workforce/Library_career_navigators_2023.pdf. Jobseekers can even attend virtual interviews—particularly important where jobs may be many miles away. *See id.* at 1. Those who successfully obtain employment can rely on

library devices and broadband for telework. *See id*. The internet is vital to all stages of the employment process. It is because of E-Rate that libraries have the connectivity capability to support their patrons as they obtain gainful employment and earn a livelihood.

E-Rate similarly supports patrons with business development through broadband-enabled tools. For example, in 2026, East Baton Rouge Parish Library supported more than 2,000 entrepreneurs in their professional development. *Building Baton Rouge Businesses: The Library's Role in Local Growth*, Bus. Rep. (Jan. 12, 2026), https://www.businessreport.com/sponsored/building-baton-rouge-businesses-the-librarys-role-in-local-growth. The library offered free, customized training modules that guide them through lessons on software tools, cybersecurity, artificial intelligence and other essential workplace skills. *Id.* E-Rate provides small businesses with the skills necessary to keep pace with rapidly developing technology.

4. E-Rate broadly supports digital literacy efforts.

Finally, E-Rate supports digital literacy efforts. Ninety-two percent of U.S. jobs require digital skills, but roughly one third of American workers are not digitally literate. *New Report: 92% of Jobs Require*

Digital Skills, One-Third of Workers Have Low or No Digital Skills Due to Historical Underinvestment, Structural Inequities, Nat'l Skills Coal., (Feb. 6, 2023), https://nationalskillscoalition.org/news/press-releases/new-report-92-of-jobs-require-digital-skills-one-third-of-workers-have-low-or-no-digital-skills-due-to-historic-underinvestment-structural-inequities. To remedy this, ninety-five percent of libraries provide some form of digital literacy training to close the skills gap. *See id*; *see also* Brief for the American Library Association as Amicus Curiae in Support of Petitioners at 11, *Fed. Commc'ns Comm'n v. Consumers' Rsch.*, 606 U.S. 656 (2025). For example, libraries like Ouachita Public Library in Monroe, Louisiana, offer classes to help patrons learn to use a cell phone, computer, and email. *See Computer Classes*, Ouachita Par. Pub. Libr., https://www.oplib.org/computer-classes (last visited Mar. 9, 2026).

However, building digital skills would be difficult without reliable internet supported by E-Rate. Librarians can support patrons' digital literacy efforts by assisting in hosting training sessions and facilitating research. *See New Report: 92% of Jobs Require Digital Skills, One-Third of Workers Have Low or No Digital Skills Due to Historical*

Underinvestment, Structural Inequities, Nat'l Skills Coal., (Feb. 6, 2023), https://nationalskillscoalition.org/news/press-releases/new-report-92-of-jobs-require-digital-skills-one-third-of-workers-have-low-or-no-digital-skills-due-to-historic-underinvestment-structural-inequities. Without internet, patrons cannot access educational platforms, and librarians cannot effectively guide or troubleshoot the digital tools. Digital literacy training depends on consistent, real-time access to online tools, platforms, and services.

IV. No available alternatives can adequately substitute for E-Rate.

E-Rate is the linchpin federal program for keeping libraries online. E-Rate forms the foundation of the nation's library internet infrastructure and enables federal, state, and local programs to build upon existing library internet connectivity and extend libraries' digital services. No other federal, state, or local program matches E-Rate's national scale, consistency in funding, or dedication to library connectivity. Nor can any private market solution replace E-Rate without creating a substantial gap in library internet access. Without E-Rate, library connectivity would collapse.

A. E-Rate is the only federal program sponsoring internet connectivity in public libraries at scale.

E-Rate occupies a significant role in the federal support system for libraries by directly supporting the installation and ongoing cost of internet access. *See* 47 U.S.C. § 254(h)(1)(B). It is the only federal program that directly offsets recurring broadband expenses, including monthly service charges and bandwidth capacity necessary for modern library operations. *See id. see also* 47 C.F.R. §§ 54.502, 54.505 (2024).

E-Rate creates the foundation for complementary institutional support for internet-related infrastructure and services in libraries. For example, the Library Services and Technology Act (LSTA) supports the development of digital services, technology-enabled programming, workforce training, and institutional capacity in libraries.[4] *See* 20 U.S.C. §§ 9121–9176. However, the LSTA builds upon the fact that E-Rate first ensures libraries have a high-quality broadband connection. The LSTA cannot operate without E-Rate infrastructure because the educational, workforce, and community services funded by the LSTA build upon

[4] The LSTA serves a complementary role to E-Rate. E-Rate supports library connectivity, while the LSTA supports library digital content and services. *Memorandum of Understanding Between the Federal Communications Commission and the Institute of Museum and Library Services*, FCC & Inst. Museum & Libr. Servs. (2022), https://docs.fcc.gov/public/attachments/DOC-384619A1.pdf.

existing internet access and are often delivered primarily through digital platforms that require reliable broadband. Only E-Rate provides the necessary mechanism to cover ongoing the broadband subscriptions, bandwidth upgrades, or other recurring internet service expenses within public libraries.

Even if redirected toward broadband connectivity, other federal funding schemes would be insufficient in scale and distribution to replace the broadband support E-Rate provides. For E-Rate, library connectivity is the sole priority. Funding is limited to two categories: Category One, which includes broadband service costs, and Category Two, which funds internal network equipment and upgrades required to deliver internet access. *See* 47 C.F.R. § 54.500 (2024). In contrast, other federal funding schemes like the LSTA have a wide range of priorities including literacy initiatives, workforce development, preservation, disaster response, and professional training. *See* 20 U.S.C. §§ 9121–9176.

E-Rate alone provides connectivity-specific and predictable support for ongoing broad expenses at a national scale. E-Rate creates the necessary scaffolding for other federal programs to offer downstream programs utilizing the connectivity to enable libraries to improve digital

literacy, strengthen workforce training, and function as community hubs. No program alone could support library connectivity without E-Rate laying the foundation.

B. State and local programs supplement E-Rate, and cannot support internet connectivity independently.

State and local programs cannot replace the broadband support E-Rate provides. Within the Fifth Circuit, funding mechanisms for libraries are limited, inconsistent, or entirely absent when it comes to sustaining recurring internet service costs for libraries.

Libraries within the Fifth Circuit rely on E-Rate to cover a significant amount of recurring internet service fees. Neither Louisiana nor Mississippi has any state-level programs to pay for library broadband connectivity. *See Library Development*, State Libr. La., https://www.state.lib.la.us/library-development (last visited Mar. 4, 2026); *see also Grants*, Miss. Libr. Comm'n, https://mlc.lib.ms.us/grants/ (last visited Mar. 4, 2026). Although Texas maintains a state-administered library support program, it does not provide an independent alternative to E-Rate. *See Library Infrastructure and Facility Improvement (LIFI) Grant Program*, Tex. State Libr. & Archives Comm'n, https://www.tsl.texas.gov/ldn/lifi (last visited Mar. 4, 2026).

Where state programs are absent or deficient, E-Rate is the sole funding mechanism for internet connectivity.

Reducing E-Rate would place heavy burdens on state and local budgets. Libraries' reliance on E-Rate reflects the absence of any realistic state or local alternatives capable of sustaining recurring broadband and internet service costs at scale. *See Universal Service Monitoring Report*, FCC (2023), https://www.fcc.gov/general/universal-service-monitoring-reports (reporting large annual E-Rate disbursements to states to support school and library connectivity). Fifth Circuit states lean heavily on E-Rate, suggesting they lack the state or local budgets to support library connectivity. *See id.* (showing millions of dollars in E-Rate funding allocations to states including Texas, Louisiana, and Mississippi). Other funding streams prioritize a wide range of competing library needs, diverting funding away from connectivity. *See Grants to States Program Overview*, Inst. Museum & Libr. Servs., https://www.imls.gov/grants/grants-state (last visited Mar. 9, 2026) (explaining that LSTA funds support literacy, workforce development, preservation, and other library services rather than dedicated broadband connectivity).

C. The private market cannot independently sustain library connectivity absent E-Rate's foundation.

The private broadband market does not independently ensure affordable connectivity for public libraries. Without E-Rate, internet service providers would have no incentive to offer libraries discounted service, making broadband financially untenable, particularly in rural or low-income communities.

The E-Rate program reduces libraries' broadband costs by requiring private internet providers to offer libraries discounted service and then reimbursing the providers from the USF. *See* 47 C.F.R. §§ 54.505, 54.514 (2024). E-Rate's competitive bidding requirements promote transparency and accountability by subjecting pricing and service offerings to open market competition. *See id.* Because libraries must publicly solicit service requests and evaluate competing bids by cost effectiveness, providers compete in an open process that discourages inflated pricing and misuse of support funds. *See* 47 C.F.R. § 54.511(a) (2024).

However, absent E-Rate, providers have no reason to offer discounted pricing or bidding structures tailored to libraries. Libraries would therefore face higher recurring costs, making any high-capacity

service economically difficult to sustain. *See Public Library Internet Connectivity Survey 2020* at 9 (Highlighting that libraries that applied for E-Rate estimate that more than half of their broadband spending was paid for with E-Rate funding, meaning that libraries would see their internet costs double absent E-Rate). Because library services are free to the public, there is no way to offset this cost by a broad customer base. *See Data File Documentation* at 2. This in turn would force libraries to reduce bandwidth, delay upgrades, or lose of reliable high-speed service essential for emergency, education, telehealth, digital literacy, and professional development. *See Public Library Technology Survey*, Pub. Libr. Ass'n 17 (2024), https://www.ala.org/sites/default/files/2024-07/PLA_Tech_Survey_Report_2024.pdf (noting that several public librarians struggled to balance core services with new needs for digital equity and access "while not always having the necessary budgets or resources (including funding and staffing) to meet these range of needs.").

Without E-Rate, the private market alone would not sustain library connectivity or the programs that connectivity supports. E-Rate is the only program that makes nationwide high speed, reliable, and affordable

library internet connectivity possible. For many communities, its loss would mean libraries would suffer costs too high to sustain reliable access to the digital world.

CONCLUSION

For these reasons, *amicus* respectfully requests that the Court deny Petitioners' request to vacate the Fourth Quarter 2025 contribution factor to preserve critical internet connectivity in the public libraries of Louisiana, Mississippi, and Texas.

Dated: March 20, 2026

Respectfully Submitted,

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CERTIFICATE OF COMPLIANCE

I certify that this brief complies with the requirements of Federal Rule of Appellate Procedure 29(a)(5) because it contains 5,349 words, not including the items excluded by Federal Rule of Appellate Procedure 32(f), according to the count of Microsoft Word. I further certify that this brief complies with the typeface and style requirements of Federal Rules of Appellate Procedure 32(a)(5) and 32(a)(6) because it has been prepared in Microsoft Word using 14-point Century Schoolbook font.

Dated: March 20, 2026

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CERTIFICATE OF SERVICE

I certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Fifth Circuit by using the appellate CM/ECF system. I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Dated: March 20, 2026

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