

August 7, 2019

Ms. Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

**Re: In the Matter of Schools and Libraries Universal Service Support
Mechanism, CC Docket No. 02-6; Petition for Waiver, Moore Public Schools,
E-rate FY2012 and 2013 – Entity Changes**

Dear Ms. Dortch:

On October 17, 2014, Moore Public Schools (Moore)¹ filed a petition for waiver of the Commission's rules for its E-rate applications for Funding Years 2012 and 2013.² Moore submits this written *ex parte* to supplement the record for the petition in the above-captioned docket.

As explained in the petition, a waiver of the rules was necessary for continued access to E-rate supported services in the aftermath of the EF5 tornado that struck Moore on May 20, 2013. In addition to the destruction of two elementary schools,³ the tornado demolished the district's Administration Building as well as the Center for Technology Building which housed all the servers that managed the wide area network for the district and stored all data for the district.

¹ Billed Entity Number 139842.

² FY 2012 FCC Form 471 Application No. 829059 and FY 2013 FCC Form 471 Application No. 894589. *See also In the Matter of Schools and Libraries Universal Service Support Mechanism; Petition for Waiver, Moore Public Schools, E-rate FY2012 and 2013 – Entity Changes*, CC Docket No. 02-6 (filed Oct. 17, 2014) (Petition).

³ During reconstruction, the district used temporary swing sites for the two elementary schools, Plaza Towers Elementary and Briarwood Elementary. The elementary schools returned to their rebuilt school buildings for the 2014-2015 school year in August 2014. Petition at 3-5, 10, 13-14. The tornado also damaged the district's Administrative Services Center. Moore used a non-instructional facility (NIF) to house the district's administrative and technology staff at Greentree Plaza in Moore, Okla., from June 2013 to September 2014. On April 21, 2014, the technology personnel moved back to the rebuilt technology center building and on September 25, 2014, the district's administrative personnel moved back to the rebuilt Administrative Services Center located at the original site in Moore, Okla. Petition at 7-8, 12, 16.

Specifically, Moore’s petition requested a waiver of the Commission’s eligible entity rules⁴ to allow the school district to move to temporary facilities while the District rebuilt. Two of the temporary facilities did not meet the definition of a school or a non-instructional facility (NIF) as show on Table 1.

Table 1:			
Site Name	Temporary location	Moved in Date	Moved out date
Administration (BEN 16038506)	North Moore Plaza / Greentree Plaza, 1901 N. Moore, Moore, OK 73160	June 2013	September 2014
Technology (BEN 16069503)	Dell Computer, 3500 SW 15 th Street, Oklahoma City, OK 73108	May 2013	Personnel and servers moved April 2014; Connectivity support through December 2014

Additionally the District requested a waiver to house its servers and the head-end of its network at Dell Computer offices in Oklahoma City.⁵ Although the Dell facility did not meet the definition of a school or a non-instructional facility (NIF), this facility was identified as the best location to house Moore’s servers during the rebuilding process.⁶ Moore continued to use Dell’s facilities for a little over a year, until the school district’s technology equipment could be moved into the new technology building in June 2014.⁷ Moore continued to work with Dell on connectivity issues until as late as December 2014.

The Commission has found good cause to waive the E-rate program rules in several cases in which an emergency or natural disaster caused “extensive damage and disruption” in the affected areas.⁸ For example, most recently in January 2019, the Wireline Competition Bureau granted

⁴ 47 C.F.R. § 54.501 (providing eligible recipients for universal service support).

⁵ See Petition at 15, 17. Moore’s petition also requested Commission approval of 1.) the use of E-rate funding for Priority One services at all of the sites in the district, including temporary swing sites and temporary non-instructional facilities, and 2.) the use of Moore High School classrooms by FEMA and the American Red Cross while providing disaster relief assistance. *Id.* at 17. The Commission precedent applies to the temporary swing sites and Greentree Plaza as well, to the extent any of them were not eligible as NIFs.

⁶ *Id.* at 15, 17.

⁷ District servers were moved into the Dell facility on May 22, 2013. District staff initially managed the servers remotely from the temporary location at Greentree Plaza. On April 21, 2014, the technology personnel moved back to the rebuilt technology center building in Moore, Okla. Petition at 12.

⁸ See, e.g., *In the Matter of Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, DA 19-15, para. 5 (WCB rel. Jan. 3, 2019) (*California Wildfire Order*) (finding “the extensive damage and disruption in service caused by the October 2017 California wildfires present

waivers of certain E-rate program rules for applicants affected by the October 2017 California wildfires.⁹ The Bureau recognized that the waivers granted may not represent the “entirety of relief that may be available to E-rate program participants in the affected areas” and stated that entities that experienced “similarly catastrophic damage” may request “similar, narrowly-tailored relief from E-rate program requirements.”¹⁰ In addition, the Commission cited favorably of emergency personnel use of E-rate program supported facilities in times of natural or other disasters when adopting the Community Use rule in 2010.¹¹

Moore’s situation is similar to these other cases in which the Commission waived various E-rate program rules for applicants affected by emergencies and natural disasters. Moore suffered “extensive damage and disruption”—several of the school district’s buildings were heavily damaged or destroyed by the EF5 tornado. Here, good cause exists to waive the eligible entity rules¹² to allow the school district to receive funding even though it had to house its servers and the headend of its network at Dell’s facility. As more fully outlined in the petition, Dell’s facility provided the best location to store Moore’s network equipment until the school district could build a new technology building.¹³ FEMA and American Red Cross facility use of the schools in Moore to conduct rescue and recovery operations is likewise consistent with Commission rules and precedent. Accordingly, the Commission should grant Moore’s petition.

Moore respectfully submits this written *ex parte* into the record of Moore’s petition for a waiver of the Commission’s rules in the above-captioned docket.

compelling and unique circumstances that merit a waiver of certain rules); *In the Matter Request for Waiver of Section 54.514 of the Commission’s Rules by Florida Department of Management Services, Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, DA 18-1101, para. 5 (WCB rel. Oct. 26, 2018) (*WCB Hurricane Michael Order*) (granting a waiver of E-rate program invoicing rules for schools and libraries affected by Hurricane Michael); *Schools and Libraries Universal Service Support Mechanism*, CC Docket Nos. 02-6 *et al.*, Order, 32 FCC Rcd 7456, paras 2-6 (WCB 2017) (*WCB Hurricane Relief Order*) (finding good cause to waive certain deadlines for schools and libraries affected by Hurricanes Harvey, Irma and Maria); *Federal-State Joint Board on Universal Service; Schools and Libraries Universal Service Support Mechanism; Rural Health Care Support Mechanism; Lifeline and Link-Up*, CC Docket Nos. 96-45 and 02-6, WC Docket Nos. 02-60 and 03-109, Order, 20 FCC Rcd 16883, paras. 37-53 (2005) (*Hurricane Katrina Order*) (providing temporary modifications to the E-rate program for participants in areas devastated by Hurricane Katrina).

⁹ See *WCB California Wildfire Order*.

¹⁰ *Id.* at para. 10.

¹¹ *Schools and Libraries Universal Service Support Mechanism, A National Broadband Plan for Our Future*, CC Docket No. 02-6, GN Docket No. 09-51, Sixth Report and Order, 25 FCC Rcd 18762, 18774-75, ¶ 23 (2010) (*Sixth Report and Order*).

¹² 47 C.F.R. § 54.501 (providing eligible recipients for universal service support).

¹³ Petition at 15.

Respectfully submitted,

/s/ Deborah Sovereign

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