BROADBAND
LEGAL STRATEGIES

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August 26, 2016

REDACTED FOR PUBLIC INSPECTION

**SUBMITTED ELECTRONICALLY (REDACTED) VIA ECFS
AND ON PAPER PURSUANT TO 47 C.F.R. § 0.459**

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

Re: Request for Review or Waiver of a Decision of the Universal Service Administrator by Sweetwater City Schools et al., Docket No. 02-6

Dear Ms. Dortch:

This letter provides responses to questions posed by the Telecommunications Access Policy Division of the Wireline Competition Bureau (WCB) regarding the above-referenced E-rate appeal.

ENA is proud of the services it provides to schools. ENA's team works continuously to develop more and lower-cost high-bandwidth broadband options across the state while leaving no district or school behind. ENA has been uniquely successful in that mission, and part of that success comes from developing pricing methods that are flexible and based on individual school/school system needs.

The questions below seem to indicate that the Wireline Competition Bureau may be under the impression that the school districts in the Sweetwater Consortium are not aware of the pricing for the Internet access and WAN services they are purchasing or that the Consortium members have no other option but to purchase these services from ENA under the Sweetwater contract. Neither is true.

As explained further below, the school districts select the services they want to purchase each year and are fully informed as to the price of those services before they file their E-rate applications. Further, the member districts are not required to purchase any services from ENA under the contract and are free to purchase from the state's master contract with AT&T or to acquire services from any other provider if they decide to do so.

We have created a brief summary to highlight our responses to each question posed by the Bureau. That is followed by a more detailed narrative explanation.

Summary

1. How did ENA determine pricing for each member district? (See pages 3-5)

- **[REDACTED]**
- **[REDACTED]**
- **[REDACTED]**

1A. ENA's bid states that prices were "average pricing" and that [i]ndividual site prices may vary and certain services may not be available in all areas." How do ENA and individual districts agree to pricing? (See pages 3-6)

- After the Consortium contract was effectuated and each subsequent year thereafter, ENA provided each school district with a pricing worksheet containing specifics on the prices for the service levels that the district is considering.
- Once the school district selected its desired service levels, ENA provided a detailed quote for the services for the funding year.
- The district then decided whether it wanted to purchase those services.

1B. Is there a separate contract? (See pages 5-6)

- While a separate contract with each individual district is not required, ENA and districts typically execute a Letter of Intent, in which the district would indicate its intention to purchase services from ENA for the upcoming year.

1C. The majority of Internet access connections requested by Sweetwater districts in FY2015 were for bandwidth that was not listed on the 2013 Sweetwater RFP (1 Gbps, 500 Mbps, 150 Mbps, 100 Mbps). Were these bandwidths a part of any competitive bidding process? (See pages 7-10)

- Yes, the 2013 Sweetwater competitive bidding process contemplated bandwidths that were not specifically included on the RFP pricing matrix. Sweetwater's RFP stated that the current level of service for most of the schools in the Consortium for Internet Access was a fiber-based solution ranging from 10 Mbps to 1 Gbps bandwidth and explained vendors should allow for additional bandwidth.

1D. For FY2015 year prices for services (e.g., 1 Gbps WAN) vary by district. How does ENA determine pricing for each service level? (See pages 3-5, 7, 10)

- See Question 1 for explanation of variety among districts.
- For the services not on the pricing matrix, ENA develops pricing consistent with the bandwidth levels that are included in the RFP.

1E. What is the mechanism for informing the applicant? (See pages 5-6)

- See Response to Question 1A.

2. Did ENA's bid include all installation costs? The "Pricing Notes" on p. 116 of ENA's bid state that "Certain make ready costs such as conduit, electrical power,

ground and backer board may be required. ENA will work with customer to minimize these costs." (See pages 11)

- Yes, ENA's bid included all installation costs.
- Installation and make ready are two separate activities, and "installation" entails running the physical service to the school building, while "make ready" involves the work required inside the building (or to the building itself) to use the service. The customer is responsible to make the site ready to receive the services.

Questions Regarding ENA's Pricing and Ordering Process

WCB asked ENA to explain how it determines pricing for each member district.[1] Specifically, "ENA's bid states that prices were 'average pricing' and that '[i]ndividual site prices may vary and certain services may not be available in all areas.' How do ENA and individual districts agree to pricing? Is there a separate contract?" WCB also asked: "FY2015 prices for services (e.g., 1 Gbps WAN) vary by district. How does ENA determine pricing for each service level? What is the mechanism for informing the applicant?"

ENA's pricing methodology balances predictability and flexibility in order to provide service to school districts of all sizes at the best possible prices. We will first explain how ENA determines pricing for each Consortium member district and for the various service levels. We will then explain how that information is communicated to each of the member of the Consortium and the documentation that is used by the parties. ENA's responses below are based on the request for discussion of funding year 2015 data pricing.

1. ENA's Pricing Methodology

[REDACTED] As noted by WCB, ENA indicated in its RFP response that its prices offered were "average pricing" and that "individual site prices may vary," depending upon cost factors, such as geographic location and underlying cost of service.[2] ENA has established a "rack rate" for the different levels of service. For example, the rack rate for 1 Gbps of WAN services for the Consortium's districts with the fewest locations was $2,500 per month. **[REDACTED]** ENA's bid promises that the average price for the districts with the fewest sites would be $2,500 per month. The rack rate for the medium-sized and larger districts is $2,030 per month, as specified in the ENA's bid response.[3]

[1] ENA notes that some of the questions posed do not appear to directly pertain to the alleged violations on appeal before the Bureau. As such, ENA requests the opportunity to address any concerns that WCB may have after reviewing the information provided.

[2] ENA Bid Response at p. 116.

[3] *Id.* at pp. 112-113.

[REDACTED

] As you may recall, ENA obtains the best combination of facilities to provide service throughout the state of Tennessee. This includes facilities from a number of transport providers that do not sell telecommunications and Internet access to end users, such as local utilities and third-party fiber providers. Because ENA is not bound to use any one provider's network, ENA can compare and contrast the facilities offered by the local cable operator against those offered by the incumbent local exchange carrier or against that offered by the local electric company.[4]

[REDACTED

] Many districts served by ENA have a mix of traditional carrier/cable company lit fiber and ***** [REDACTED**

]

[REDACTED

]

[REDACTED

] ***if a district is located in a hard-to-serve geographic area.*** On the other hand, there is a small subset of carrier territories and sites in Tennessee that are known high-cost areas due to extremely rural locations or lower levels of bandwidth penetration. An example of this is the Cannon County school district. Cannon County's schools are served exclusively by a NECA-tariffed cooperative, Dekalb Telephone Company, that has extremely high underlying telecom costs. **[REDACTED**

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ENA's pricing methodology allows ENA to price services more fairly and to serve more school districts than a "postalized" pricing schedule would. ENA's practice of quoting average rack rates in its bid, and then **[REDACTED**

[4] R. Miller Aff. ¶ 6.

REDACTED

] If that were the case, ENA could not afford to serve such rural, high-cost locations and would likely cease to offer them service, as ENA believes other carriers have done.[5] ENA's current pricing methodology has successfully served all types of districts and generates ongoing cost savings over time for all members thanks to Consortia buying power. Most importantly, this methodology has resulted in establishing high-speed broadband connections at every school facility requesting such service by ENA in Tennessee. ENA has delivered the goal of high broadband service to all of Tennessee's schools and is actively working to meet ongoing increases in demand.

The result is that the overall cost to the E-rate program is reduced while more rural schools are provided higher-bandwidth services at reasonable cost. Because ENA provides service to every member of the consortium regardless of how rural the school might be, the average cost to the schools of the consortium is less than the aggregate costs of each school independently contracting for service. Perhaps more importantly, rural schools, those least likely to have access to an existing carrier and least able to afford the cost of a connection, have service.

2. Ordering Process and Documentation

WCB asked how ENA and individual school districts agreed to pricing, and whether there was a separate contract with each individual district. The typical process was as follows. First, ENA proposed service levels and pricing to members of the Sweetwater Consortium. To that end, for the 2015 E-rate funding year, ENA contacted school districts receiving service under the consortium contract beginning in December prior to the E-rate filing deadline for the upcoming funding year. ENA provided each school district with a pricing worksheet, a tool that helps the district decide what service levels to purchase.[6] The worksheet contained information on the current connection as well as the connection the district was considering for each location for the upcoming funding year. The worksheet provided the district with the total monthly and annual costs, the estimated amount that is eligible for E-rate, and the district's estimated share of the cost based on latest known discount rate information.[7] Districts could then compare pricing available from other providers including pricing under the NetTN contract, if they so desired. Each district could then decide whether to take service from ENA.

Under E-rate rules, a separate contract with the district is not required.[8] However, ENA and districts typically execute a Letter of Intent (LOI), in which the district would indicate its

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[5] M. Miller Aff. ¶ 13(e) (AT&T would not provide requested bandwidth to Sweetwater school district).

[6] *See* Sample Pricing Schedule at Exhibit 1, West Carroll SSD 471 Pricing Schedule.

[7] *Id.*

[8] *See* http://www.usac.org/sl/applicants/step02/state-master-contracts.aspx ("No separate bidding documents or contracts are required by the applicant citing the state's FCC Form 470, other than what is required by the state master contract and state and local procurement laws. The signed state master contract between the state and the service provider meets the FCC signed contract requirement."). USAC titles this page "state master contracts," but the Commission's rule defines such "master contracts" more broadly as any "contract negotiated with a service

intention to purchase services from ENA for the upcoming year.[9] The LOI is a contract between ENA and individual school districts, stating that the district plans to purchase services under the terms of the Sweetwater Consortium contract.[10] The LOI was a supplement to the Consortium contract, and while not required, it was a preferred method of documenting participation in the Sweetwater Consortium each E-rate year The LOIs were signed and dated by both parties.[11]

ENA also provided the districts with a quote for the services for the funding year.[12] Once the school district selected a service level, it was free to file the Form 471, and ENA was available to assist the applicant with any questions they may have had about the services.[13] The LOIs and associated quotes were completed before the applicant filed its FCC Form 471.

It is important to note that the school districts in the Sweetwater Consortium were not "locked" into the contract with ENA. ENA's contract with the Consortium was an "opt-in" contract – that is, the contract required ENA to provide service to each member of the Consortium that decided to take service from ENA, but the contract did not require Consortium members to take service from ENA each year, or at all. If they chose to, the districts could have made other arrangements to purchase services. For example, they could have conducted their own procurements, or they could have taken service from AT&T under AT&T's master contract with the state of Tennessee, the NetTN contract.[14]

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provider by a third party, the terms and conditions of which are then made available to an eligible school, library, rural health care provider, or consortium that purchases directly from the service provider." 47 C.F.R. §54.500. *See also Request for Review of a Decision of the Universal Service Administrative Company, Schools and Libraries Universal Service Support Mechanism*, CC Docket No, 02-6, Order, DA 11-1369 (WCB 2011).

[9] *See* Sample LOI at Exhibit 2, Intent to Purchase Internet Access Services between West Carroll Special School District and ENA, dated Feb. 11, 2015.

[10] *Id.*

[11] *Id.*

[12] This documentation is often requested by the Program Integrity Assurance (PIA) reviewers to support the requested funding.

[13] http://www.usac.org/sl/service-providers/step03/default.aspx ("[Service providers] can offer to assist applicants with filling out the "Funding Requests" section of the FCC Form 471.").

[14] That assumes, of course, that AT&T would provide service to the school district. Just a few months ago, AT&T refused to provide a bid when requested to provide a proposed rate to the Cannon County school district. Such actions by AT&T call into question its assertion that it would have lowered its statewide prices had it won the Sweetwater bid. *See* Letter from Terri L. Hoskins, Executive Director–Senior Legal Counsel, AT&T Services, Inc., to Marlene H. Dortch, Secretary, FCC, CC Docket No. 02-6, at 2 (filed June 23, 2016). AT&T did not serve the areas in which most of the Sweetwater schools were located, and, to our knowledge, AT&T has never adjusted pricing in its NetTN contract to reflect the rates it claims it bid for Sweetwater even though its bid is "based on" the NetTN contract.

Questions Regarding Services Bid

1. Competitive Bidding of Eligible Services

WCB asked: "[T]he majority of Internet access connections requested by Sweetwater districts in FY2015 were for bandwidth that was not listed on the 2013 Sweetwater RFP (1 Gbps, 500 Mbps, 150 Mbps, 100 Mbps).[15] Were these bandwidths part of any competitive bidding process?"

Yes; the 2013 Sweetwater competitive bidding process contemplated bandwidths that were not specifically included on the RFP pricing matrix. Sweetwater stated in its RFP that the current level of service for most of the schools in the Consortium for Internet Access is a fiber-based solution ranging from 10 Mbps to 1 Gbps bandwidth, but explained that the solution that vendors proposed should allow for additional bandwidth.[16] ENA's bid stated that "additional managed Internet access service levels are available to allow scalability up to 10 Gbps and beyond. Maximum pricing for those service levels will be derived based on the price points and service levels listed above [in the Attachment A pricing matrix of the RFP.]"[17]

The RFP noted that the pricing table was intended to show the vendor's "estimated annual price."[18] The purpose of that pricing table was not to list each circuit for each school, but was to provide a basis upon which to compare competing vendors' pricing for RFP purposes.

For Internet access, the highest bandwidth level included in the pricing matrix was 350 Mbps. ENA's bid was $8,000 per month. As promised by ENA's Bid Response, ENA has developed a price for 1 Gbps services as requested by schools and consistent with the Consortium RFP's range of requested bandwidths. The price for 1 Gbps Internet access service for Sweetwater schools was a flat $12,000, as ENA's rates dropped per megabit as the capacity increased. By

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[15] Internet access is listed as "aggregated egress" for each category of pricing requested. The original question included 5 Gbps, but, upon further review, WCB agreed that no applicant had purchased Internet access at that level. Also, by our count, 20 of 39 school districts that purchased Internet access service in FY 2015 were at the levels listed in the RFP.

[16] Sweetwater RFP at p. 5.

[17] ENA Bid Response at p. 116. As the service provider, ENA does not have any input as to the levels of services that are requested by schools and libraries. ENA, as all service providers do, instead responds to the RFP by providing the information sought. However, as it is ENA's experience that E-rate applicants sometimes do not know what their broadband capacity needs may be in the future, especially over the life of a multi-year contract, **[REDACTED]** ENA asserts that this method helps to provide lower service pricing for applicants.

[18] Sweetwater RFP at p. 16.

way of comparison, AT&T's price for 1 Gbps service was $15,500 in its statewide NetTN contract.[19] Furthermore, some of the categories of service **[REDACTED**

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The RFP fully complied with Commission precedent; the Commission has never required, or even suggested that every possible bandwidth to be specified on the RFP. WCB's question about bandwidths not specified in the Sweetwater RFP suggests that WCB may believe each bandwidth level of Internet access must be bid as part of the Form 470 or RFP. However, the current FCC Form 470 allows applicants to enter desired bandwidths as a range.[20] That is consistent with the Commission's rules, which merely require applicants to "seek competitive bids . . . for all services eligible for support under [the rules]."[21] Specifically, the Commission's rules state that the FCC Form 470 and any request for proposal issued by the applicant should include "a list of specified services for which the [applicant] anticipates that they are likely to seek discounts."[22]

Further, before a range of capacity was required on the FCC Form 470, the Commission found that FCC Form 470s that did not list <u>any</u> speed for broadband Internet access or WAN services or listed only a minimum bandwidth were nonetheless sufficient in listing the types of "specified" services to solicit bids.[23] Rather than focusing on levels of available speeds, the Commission's orders have interpreted this rule to mean that each <u>type</u> of technology eligible for E-rate funding must be requested.[24] As such, to our knowledge, the Commission has found

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[19] *See* https://nettn.net/docs/default-source/default-document-library/nettn-amend-10_signed.pdf?sfvrsn=0 (Amendment 10, Attachment B, End Site WAN Circuit with Internet Access for K-12 schools, Metro Ethernet 1 Gbps, pp. 6-7).

[20] http://www.usac.org/_res/documents/sl/pdf/e-rate-productivity-center/Filing-FCC-Form-470.pdf at p. 10.

[21] 47 C.F.R. § 54.503(b).

[22] 47 C.F.R. § 54.503(c)(1)(i).

[23] *See Request for Waiver and Review of the Decision of the Universal Service Administrator by the Northeast Arizona Technological Institute of Vocational Education, Schools and Libraries Universal Service Support Mechanism*, Docket No. 02-6, Order, DA 12-334 (WCB 2012) ("[D]espite NATIVE's failure to correctly indicate on its FCC Form 470 that it had issued an RFP, the FCC Form 470 contained enough detail for service providers to identify the desired services and to formulate bids" where NATIVE listed no bandwidth for WAN and Broadband Internet Access, 6 Mbps for Internet access); *see also Request for Waiver and Review of the Decision of the Universal Service Administrator by Canon City School District, Schools and Libraries Universal Service Support Mechanism*, Docket No. 02-6, Order, DA 12-189, at n. 1 (WCB 2012) ("For Woodward Independent School District 1, we also grant its appeal because we find that the applicant sufficiently listed the services it sought on its FCC Form 470 [where Woodward listed 100 Mbps and up as its requested bandwidth.]").

[24] *See Request for Review of the Decision of the Universal Service Administrator by Ysleta Independent School District, El Paso, Texas, et al., Federal-State Joint Board on Universal Service*, Docket No. 96-45, Order, FCC 03-313, 18 FCC Rcd 26047, ¶ 28 (2003) (*Ysleta*) ("An applicant's FCC Form 470 must be based upon its carefully thought-out technology plan and must detail specific services sought in a manner that would allow bidders to understand the specific *technologies* that the applicant is seeking." (emphasis added)). Note also that in *Ysleta*, the Commission found that school district did not actually bid for any E-rate eligible services at all and did not receive bids for any eligible services. *Id.* at ¶ 24. That is in direct contrast to the Sweetwater bid, where the vendors

violations of its rules only when applicants have omitted an entire service type from their requests.[25]

Here, the Sweetwater Consortium sought bids for the types of E-rate eligible services it wanted to purchase – managed Internet access and managed VoIP, among others.[26] The Consortium noted in the RFP that most of the schools in the Consortium currently had a fiber-based solution ranging from 10 Mbps to 1 Gbps and told potential vendors that the solution proposed "should allow for additional bandwidth to this range."[27] Therefore, even before a range of bandwidth was required on the FCC Form 470, the Sweetwater Consortium had included such information on its RFP for potential vendors.

In addition, the bandwidth levels that Sweetwater specified were appropriate at the time of the RFP. It appears that Sweetwater used typical capacity levels for WAN and Internet access for each type of school district that were common at the time of the bid to compare the pricing of each vendor responding to the RFP.[28] That seems to be a reasonable way to develop an RFP and request bids, especially given that no one could predict what levels of services would be required in the future.[29] In contrast, WCB is referencing bandwidths that were purchased in funding year 2015 – at the end of the contract – instead of reviewing common purchases in 2012, when the RFP was developed (it was issued January 29, 2013).

As the Bureau noted, the Sweetwater Consortium sought bids for 50 Mbps, 200 Mbps and 350 Mbps.[30] In 2012-2013 funding year, when the RFP was written and issued, only six districts were purchasing any Internet access circuits with speeds above 100 Mbps, and two of those were the Consortium's largest districts (Shelby County and Sumner County). Most of the circuits were between 20 Mbps and 70 Mbps. The schools' need for Internet access services has expanded significantly since 2012, and the bandwidth they have purchased has similarly increased. For WAN services, Sweetwater sought bids for service levels ranging from T-1 to

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provided four pages' worth of prices for E-rate eligible Internet access, WAN and telecom services. *See, e.g.*, ENA Bid Response at pp. 112-115.

[25] *See Ysleta* at ¶ 28; *see also Requests for Review and/or Waiver of Decisions of the Universal Service Administrator by Albuquerque School District, Schools and Libraries Universal Service Support Mechanism*, Docket No. 02-6, Order, DA 11-672, ¶ 4 (WCB 2011) (denying appeals where the applicants "filed an FCC Form 470 without including the *type* of service the applicant requested" (emphasis added)); *Petition for Reconsideration by Chicago Public Schools, Schools and Libraries Universal Service Support Mechanism*, Docket No. 02-6, Order on Reconsideration, DA 14-1084, ¶ 6 ("Because CPS's FCC Form 470 did not indicate that CPS sought bids on internal connections services and CPS later requested E-rate funding for these services, CPS also violated section 54.503(b).").

[26] *See* Sweetwater RFP at p. 4.

[27] *See id.* at p. 5.

[28] *See id.* at Attachment A.

[29] The bottom line is that neither vendor was prejudiced as the pricing for the services actually listed on the RFP were compared to determine the winner of the competitive bidding process.

[30] *See* RFP at Attachment A.

2 Gbps. In 2012, by far the majority of schools were taking the 100 Mbps level of service, which was specifically included on the RFP.[31]

As a policy matter, the Commission should carefully consider the consequences of adopting a requirement that applicants include such a detailed level of specificity for bandwidth.[32] If such a rule existed, it may be difficult for applicants to predict exactly what bandwidth levels they might need in the future, which in turn could discourage applicants from seeking bids for multi-year contracts, could discourage participation in consortia, and could have the effect of requiring an applicant to continue using a lower-bandwidth speed when it needed additional bandwidth, simply because it did not anticipate its every future need in a rapidly changing technological environment. The Commission should seek comment before adopting such a rule to properly analyze its possible effects on schools and libraries as they conduct their competitive bidding processes.

For bandwidth levels not specifically referenced in the RFP, ENA develops pricing consistent with the bandwidth levels that are included in the RFP.[33] Some school districts are not sure exactly what bandwidths they will need in the future, especially for Internet access and WAN services, which can have customization and configurations tailored to an individual district's needs.[34] Therefore, as the schools' needs adjust, **[REDACTED]**

For those bandwidth levels that are not specifically included in the RFP, each level included by district in their FCC Form 471 filings and actual purchases is **[REDACTED]** ENA also indicates that further discounts for volume (site locations) may be available, depending upon specific configurations.[35] **[REDACTED]**

For example, on its Sweetwater RFP bid response, ENA's WAN pricing for larger schools (more than 150 sites) for 100 Mbps is $1,005 and its pricing for 1 Gbps is $2,035.[36] ***** [REDACTED]** the WAN rate listed on the RFP for smaller schools (10 sites) for 100 Mbps is $1,505/month.[37] **[REDACTED]**

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[31] *Id.*

[32] As noted above, the Commission has not previously required this level of specificity.

[33] *See* ENA Bid Response at p. 116.

[34] *Id.*

[35] *Id.*

[36] *Id.* at p. 113.

[37] *Id.* at p. 112.

Further, as noted above, **[REDACTED**

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2. Installation Charges

WCB asked if ENA's bid included all installation costs, referencing page 116 of ENA's bid that indicated the customer may need to pay for "make ready" costs, which compares two very different undertakings. Installation is not the same as "make ready." ENA's bid included all installation costs.[38] "Installation" refers to the extension of facilities to the location (here, the school building) by the service provider from its nearest point of presence. "Make ready" refers to actions the customer may need to take to ensure that its physical location (building) is ready to receive service. As ENA's bid response indicates, the customer would need to ensure that electrical power and ground and backer boards be in place and available to receive the services.[39] Make ready costs are the responsibility of the customer rather than the service provider.

Even though AT&T did not include installation charges in its bid – as evidenced by the fact that it stated it had not even designed or engineered the necessary facilities – AT&T received the full amount of points possible for pricing in the bidding process. No points were deducted by the evaluators because AT&T did not include installation charges.[40] This point was made by Sweetwater in the appeal to show that ENA's pricing was not above market rates, but AT&T's omission of installation charges in its bid ultimately had no effect on the evaluation of the bids in the competitive bidding process.[41]

In conclusion, ENA shares the Commission's goals for the E-rate program. Congress intended schools and libraries to have access to advanced telecommunications and Internet access. The Commission set targets for bandwidth so that all students and teachers could have the benefit of the tool of technology to help the nation meet its educational goals. As described above, ENA's services and pricing methodologies are helping the schools in Tennessee to do just that. Students now have access to the bandwidth they need to research, to receive extra tutoring, to meet virtually with experts – in short, to learn, explore and engage with the larger world. There is simply no reason for the Commission to withhold E-rate funds to these Tennessee schools when they have complied with the letter and the spirit of every known program requirement.

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[38] "For E-rate eligible services, no additional lifecycle costs are expected." ENA Bid Response at p. 117. Note also that almost every Consortium school district was already served by ENA so installation had already occurred. ENA Bid Response at p. 118.

[39] ENA Bid Response at p. 116.

[40] Sweetwater Appeal at pp. 23, 25.

[41] *Id.*

If you have any additional questions, please do not hesitate to contact me.

Respectfully submitted,

/s/ Gina Spade

Gina Spade
Counsel for ENA

cc: Aaron Garza, Bryan Boyle, Chas Eberle, Kate Dumouchel, TAPD/WCB (via email)
Chuck Cagle, attorney for Sweetwater Consortium (via email)

Affidavit of Rex Miller

I, Rex Miller, swear:

1. That I am senior vice president and chief financial officer of Education Networks of America (ENA). I have been with ENA since 1998 and am responsible for overseeing the company's financial management, including the company's participation in the E-rate program.
2. That I have read the foregoing letter and avow the information stated therein is true and correct to the best of my knowledge and belief.

Rex Miller
618 Grassmere Park Drive
Suite 12
Nashville, TN 37211

Subscribed and sworn to before me this 26th day of August, 2016.

[Seal]

Notary Public

VICKIE L. NOLTKAMPER
STATE OF TENNESSEE NOTARY PUBLIC
DAVIDSON COUNTY
My Commission Expires MAY 6, 2019

EXHIBIT 1

West Carroll SSD

Estimated E-Rate Discount ---------> **90%**

471 Pricing Schedule - 2015-2016

Site Name	Site ID	Standard Filtering	Current Connect	Requested Connect	Monthly Cost w/o E-Rate	E-Rateable	Monthly Cost w/ E-Rate
West Carroll Elementary		Yes	100 MB	1 GB	2,505	2,500	255
West Carroll Jr/Sr High School		Yes	61 MB	200 MB Burstable to 500MB	9,005	9,000	905
West Carroll Jr/Sr High School			10 MB	10 MB	-	-	-
West Carroll Primary School		Yes	100 MB	1 GB	2,505	2,500	255
West Carroll School District Building		Yes	100 MB	1 GB	2,505	2,500	255

3-1GB
1-200MB

Monthly Subtotal	16,520	16,500	1,670
Gaggle->	-	-	-
Gaggle/Google/MS Integration->	-	-	-
E-Mail Pro->	-	-	-
Monthly Total	16,520	16,500	1,670
Annual Total	198,240	198,000	20,040

EXHIBIT 2

Intent to Purchase Internet Access Services

This agreement of Intent ("Agreement") is initiated on (insert date) 2-11-2015

between West Carroll Special School District (name of school system), hereinafter referred to as "Tennessee School System" and ENA Services, LLC, Nashville, Tennessee, hereinafter referred to as "ENA."

Tennessee School System agrees to obtain certain Internet Access, Telecommunication Services and/or Voice Services from ENA, based on the Metropolitan Nashville Public Schools (MNPS) contract (Form 470 # 283390001111946 issued by Sweetwater City School District).

Tennessee School system agrees to request budget in 2015-2016 for the requested services. However, this agreement of Intent may be null and void if funds for these services are not appropriated in the budget approved for the Tennessee School System for the 2015-2016 fiscal year.

In the event that the Tennessee School System's Universal Service E-Rate discount is not approved due to inaccurate certifications of the Tennessee School System to the FCC or SLD, ENA may recover 100% of the cost of delivered services from the Tennessee School System.

AGREED TO:

Tennessee School System: West Carroll Special School District

Signature of Authorized Person Eric D. Williams

Printed name and Title of Authorized Person Eric D. Williams, Superintendent

Date Signed 2-11-2015

For **ENA**:

Signature of Authorized Person Rex Miller

Printed Name and Title of Authorized Person: Rex Miller Sr. V.P.

Date Signed 2-11-15