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WASHINGTON, DC 20006

December 7, 2017

SUBMITTED ELECTRONICALLY VIA ECFS

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

Re: **MEETING SUMMARY PER SECTION 1.1208 OF THE FCC'S RULES**
Schools and Libraries Universal Service Support Mechanism,
Docket No. 02-6

Dear Ms. Dortch:

On behalf of the San Diego (Texas) Independent School District (San Diego ISD), this *ex parte* memorializes meetings between representatives of San Diego ISD and Commission staff. On December 5, 2017, Dr. Samuel Bueno, superintendent of San Diego ISD; Ginnie Harwood, director of E-rate Consulting, Education Service Center Region 12; and Gina Spade and Carol Simpson, Broadband Legal Strategies, met with Jay Schwarz, wireline sdvisor to Chairman Pai, and separately with D'wana Terry, Ryan Palmer, Elizabeth Drogula, James Bachtell, and Kate Dumouchel of the Wireline Competition Bureau (WCB) regarding an Application for Review and Request for Waiver filed by San Diego ISD.¹

In the meetings, San Diego explained that despite the procedural complexity of its appeal, at the end of the day San Diego's request is simple: a waiver of the Commission's rules in order to prevent a deeply impoverished school district that acted in good faith at all times from losing \$200,000 in E-rate funding over what amounts to a paperwork error. During the meeting, the Bureau asked several questions about the issues, which will be answered in a separate filing in the docket.

During the meeting with Dr. Schwarz, San Diego ISD provided the attached summary of its arguments.

¹ Application for Review and Request for Waiver, *In the Matter of Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, San Diego (TX) Independent School District FCC Form 471 Application Number 815356 (filed March 28, 2017).

Pursuant to Section 1.1206(b)(2) of the Commission's rules, an electronic copy of this letter is being filed for inclusion in the above-referenced docket and courtesy copies are being sent to the attendees. Please direct any questions regarding this filing to the undersigned.

Respectfully submitted,

/s/ Gina Spade

Gina Spade
Counsel for Education Service Center Region 12

cc: Jay Schwarz (via email)
D'wana Terry (via email)
Ryan Palmer (via email)
Elizabeth Drogula (via email)
Kate Dumouchel, (via email)
James Bachtell (via email)
Dr. Samuel Bueno (via email)
Ginnie Harwood (via email)

San Diego (Texas) ISD Application for Review

December 5, 2017

Issue: San Diego ISD sought a waiver of the Commission's E-rate invoicing and service implementation deadline rules. The Bureau denied the invoicing waiver request, citing to the post-FY 2015 standard in the *First Modernization Order*. San Diego ISD seeks reversal of the Bureau's decision as San Diego's request for an extension met the FCC's "good faith" standard for pre-FY 2015 requests.

Background

- There were unavoidable delays in building the junior high school.
 - Bond was issued in 2010. Funding requested in FY 2011. FCDL was issued December 2012. Construction of the junior high school was delayed. In addition, the contractor for the junior high school declared bankruptcy, further delaying the construction.
 - The school district requested a service implementation extension in 2013. This request was a few weeks late.
 - Its service provider changed its billing practices without alerting San Diego ISD. The District had requested the SPI process, but in the middle of the request, the service provider switched to the BEAR process, without the District's permission. The service provider did not request an invoicing extension as it billed the District for the entire cost of the services.

Service Implementation Extension

- The District met the substantive criteria for the service implementation extension request. The delays in the project were outside of the control of the service provider. At most, the District was a few weeks late with its service implementation request, and the Commission should grant a waiver of this deadline.
- To the District, it appeared as if USAC had granted the extension requests, according to USAC's Data Retrieval Tool.
- The District moved forward with the installation because it thought extensions had been granted by USAC on appeal.

Invoicing Extension Request

- The service provider should have filed the invoice extension requests as it was responsible for billing. Instead, it started charging the District the full price, in violation of the E-rate rules. WCB May waiver order (Jefferson Madison Regional Library).
- As soon as the District realized what had happened, it filed an invoicing extension request. At the time, waivers were routinely granted.
- The Bureau's waiver denial, which only addressed invoicing, appears to have relied on a more stringent standard than the Commission articulated in the Modernization Orders.
- A waiver is consistent with the Commission's policies to allow applicants to correct their procedural mistakes. Here, the services were delivered, installed and are currently in use. No waste, fraud and abuse.