1776 K STREET NW
WASHINGTON, DC 20006
PHONE 202.719.7000
FAX 202.719.7049

7925 JONES BRANCH DRIVE
MCLEAN, VA 22102
PHONE 703.905.2800
FAX 703.905.2820

www.wileyrein.com

September 28, 2015

Edgar Class
(202) 719-7504
EClass@wileyrein.com

VIA ELECTRONIC FILING

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

Re: ***Ex Parte Notice, Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6***

Dear Ms. Dortch:

This letter notifies the Commission that on September 25, 2015, Ricardo Dreyfous, Ph.D., President of Nevesem, Inc., Henry M. Rivera and the undersigned of Wiley Rein LLP, met with Amy Bender, Legal Advisor to Commissioner Michael O'Rielly.

At the meeting, Nevesem discussed the attached presentation regarding Requests for Review filed by Consortium Escuelas Católicas, Consorcio Colegios Católicos Diócesis Fajardo y Humacao, Consortium Colegio Católico Notre Dame Secundario, and Robinson School ("Applicants"), all located in Puerto Rico. The Requests for Review challenge adverse decisions by the Universal Service Administrative Company in connection with Applicants' requests for E-rate funding for Funding Year 2014.

Please direct any questions regarding this filing to the undersigned.

Respectfully submitted,

/s/ Edgar Class

Edgar Class
Counsel for Nevesem, Inc.

cc: Amy Bender

E-Rate Issues - Private Schools in Puerto Rico

Meeting with Amy Bender, Legal Advisor, Commissioner O'Rielly

September 25, 2015

Washington, D.C.

Who we are

- Ricardo Dreyfous, Ph.D.
  - Founder and President of A New Vision in Educational Services and Materials, Inc. ("Nevesem").
- Nevesem develops and brings innovative educational and technological services and materials to students and educators.
- Has four patented educational products, which have been used successfully in Puerto Rico and other parts of the United States, South America, Europe and the Caribbean.
- Since 2001, Nevesem has been an E-Rate service provider to private schools and municipal libraries in Puerto Rico that participate in the E-Rate Program.

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Why we are here

- USAC incorrectly denied a large number of E-rate applications filed by Nevesem's clients for Funding Year 2014 because USAC believes the applicants' Forms 470 were "encyclopedic."
- Some of denials arise because of a language barrier that applicants from Puerto Rico face when participating in the E-Rate program, an issue that USAC is unwilling to address.
- Applicants have started to file Requests for Review with the Bureau and, if denied, they will likely seek review by the Commission.

Requests for Review before the Bureau

- There are four Requests for Review currently pending before the Bureau:
  - Consortium Escuelas Católicas ("Caguas Consortium") representing 13 private Catholic schools and one administrative center.
  - Consorcio Colegios Católicos Diócesis Fajardo y Humacao ("Fajardo Consortium") representing 5 private Catholic schools.
  - Consortium Colegio Católico Notre Dame Secundario ("Notre Dame Consortium") representing 5 private Catholic schools
  - Robinson School.
- There are other appeals filed by Nevesem's customers pending at USAC that likely to be denied.
  - Nevesem does not know if all these applicants will file Requests for Review with the FCC but believes many will likely do so.

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Language Barrier Problem

- USAC sent questions to members of the three consortia and to Robinson School asking them, among other things, to explain how the services on the Form 470 were determined:
  - Additionally, the service descriptions listed on your FCC Form 470 appear to be "generic" or "encyclopedic" that do not indicate the specific needs of the entity. These can also be perceived as a "Laundry list" of service and result in a denial of funding for violating the program's competitive bidding rules and regulations. The goal of the competitive bidding process is to have as many bidders as possible respond to an FCC Form 470, RFP, or other solicitation method so that the applicant can receive better service and lower prices. The competitive bidding process must be open and fair. Please explain how you determined the services to request on your FCC Form 470. Please provide any documentation to support your response.

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Language Barrier Problem (cont'd)

Caguas Consortium and Fajardo Consortium

- The Caguas Consortium and the Fajardo Consortium have the same contact person and responded in Spanish and then translated their responses as follows:
  - The services listed in the 470 form are obtained and verified from the "list of elegible [sic] services" that SLD offers in the following address [hyperlink]. Because of [sic], it is necessary to complete a list with the eligible services due to [sic] the 470 form is completed for a Consortium where various institutions participate and the services and necessities are different and individual in each school. This is done with the objective at the moment to complete 471 and 472 forms [sic] the schools may be able to select without limits its services.
- The point the consortia attempted to convey in their responses to USAC is that because they represent multiple applicants – each of which has different technology needs – the consortia had to include services in the Form 470 that would meet the needs of all members.

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Language Barrier Problem (cont'd)

Caguas Consortium and Fajardo Consortium

- Despite the fact that there is something obviously wrong with the English version of the response, USAC did **nothing** to attempt to clarify the response.
- The COMADs, subsequent appeals and, indeed, this visit could have been avoided if USAC had simply sought to clarify the responses through a Spanish-speaking USAC reviewer.

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USAC's question is subject to multiple interpretations

- USAC's request for an explanation of how the services on the Form 470 were determined could be interpreted in different ways:
  - How did you determine that the services in your Form 470 are eligible services?
  - How did you determine the service descriptions in your Form 470?
  - How did you determine that the services in your Form 470 are linked to your technology needs?
- Compounding the issue of multiple interpretations is the fact that the questions were provided in English, but applicant personnel who prepared the responses are native Spanish speakers.
- Evidence that applicants had difficulty understanding the question due to a language problem is evident from the fact that the Notre Dame Consortium and Robinson School responded differently to the same question.

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USAC's question is subject to multiple interpretations - Notre Dame Consortium

- The Notre Dame Consortium understood that USAC was asking how it determined that the requested services were eligible for E-rate funding, not how the Consortium determined what services to request in the Form 470. Therefore, they responded:
  - Related to the service descriptions listed on the Form 470 … the information provided, I took it from your Schools and Libraries Universal Service / Support Mechanism / Eligible Services List, that resume [sic] listed the requested services.

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USAC's question is subject to multiple interpretations – Robinson School

- Robinson School believed that USAC was telling it that applicants are required to use service descriptions that are more specific than those used in the Eligible Services List, rather than inquiring about Robinson's Form 470 possibly being encyclopedic. Therefore, Robinson School responded:
  - The service descriptions listed in the form looks generic for various reasons. Those services are needed in every school so we start with those basic things meanwhile we organize ourselves and prioritize our more specific needs in our technology plans and assessments. We used the terms as listed based on the language and terminology we found in the services you covered. But based on your inquiry, we understand that we should and will be more specific from now on.

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USAC's decisions must be overturned

- USAC and the FCC should be ***helping*** applicants from Puerto Rico file successful applications so that all students in Puerto Rico can have access to Internet service at school and learn the skills they need in an increasingly digital world.
- The denials are inconsistent with the Commission's values and desires as evidenced in its policy of helping applicants succeed with the E-rate Program.
- The decisions must also be reversed because USAC completely ignored arguments on that appeal that:
  - The Forms 470 could not have been generic because they did not include all services on the Eligible Services List.
  - Applicants had technology plans and the services in the Forms 470 were consistent with the those plans.

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USAC's decisions must be overturned (cont'd)

- With respect to the Caguas Consortium, only 2 of the 14 members received questions from USAC and only those two were permitted to respond, nevertheless, **all** Consortium members' funding requests were denied.

- Allowing USAC not to address arguments on appeal renders the Commission's appeal rights pointless.

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What we want

- We want the Commissioner to take an interest in this matter and encourage the Bureau not to permit USAC's decisions to stand.
- Prospectively – to minimize problems like this in the future – the FCC and USAC should take steps to ensure that E-rate application forms, instructions, reference materials, and USAC training sessions are available in Spanish.
  - This is necessary because many of the poorest students in the United States live in Puerto Rico, and many of them attend private schools. As of 2010, 56.3 percent of children aged 0 to 17 in Puerto Rico lived below the poverty line.[1] These are the very students the E-rate Program was designed to reach.

[1] See American Community Survey Briefs, Child Poverty in the United States 2009 and 2010: Selected Race Groups and Hispanic Origin, Table 1.

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