PEDRO R. PIERLUISI
PUERTO RICO

WASHINGTON OFFICE:
2410 RAYBURN HOUSE OFFICE BUILDING
(202) 225-2615 FAX: (202) 225-2154

SAN JUAN OFFICE:
157 AVENIDA DE LA CONSTITUCIÓN
ANTIGUO EDIFICIO DE MEDICINA TROPICAL
ALA DE ENFERMERÍA 2DO PISO
SAN JUAN, PUERTO RICO 00901
(787) 723-6333 FAX: (787) 729-7738

88

COMMITTEES:
JUDICIARY
NATURAL RESOURCES

Congress of the United States
House of Representatives
Washington, DC 20515–5400

February 8, 2016

The Honorable Tom Wheeler, Chairman
The Honorable Mignon Clyburn, Commissioner
The Honorable Jessica Rosenworcel, Commissioner
The Honorable Ajit Pai, Commissioner
The Honorable Michael O'Rielly, Commissioner
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Dear Mr. Chairman and Commissioners:

I've been made aware of a series of troubling decisions by the Universal Service Administrative Company ("USAC") regarding applications for E-Rate funds for Funding Year 2014 filed by numerous private schools in Puerto Rico for providing essential internet access services which are being retroactively denied to more than 60 schools on the island. I understand that USAC may be releasing additional decisions of this nature and I'm deeply concerned about the impact that this issue is having on the educational resources available to students in Puerto Rico. I ask that you take prompt action to ensure that USAC re-assesses its decisions so that the approximately 40,000 children impacted by the rescissions in Puerto Rico are not unfairly disadvantaged by these federal actions.

During the Fall of 2014 USAC sent questions to many private schools in Puerto Rico asking, among other things, to explain how these schools determined which E-Rate services to include in their application forms (the FCC Form 470).[1] Unfortunately, despite the fact that it was abundantly clear from the responses that the applicants did not understand what USAC was asking or were unable to articulate an adequate response in English due to a language barrier, USAC did nothing to attempt to clarify the content of the answers that were provided. Then in May 2015 USAC began issuing decisions that retroactively rescinded funding commitments for multiple institutions and said it would seek recovery of all the funds that had been already disbursed, amounting to $2.5 million. Subsequently, most if not all schools filed appeals with USAC, which we understand were summarily denied without a discussion on the issues raised in the appeals. In September 2015, the schools filed Requests for Review with the Commission.[2]

---

1 The specific schools affected by USAC's decisions are identified in the Appendix.

2 *See* Requests for Review of Decisions of the Universal Service Administrator by Consortium Escuelas Católicas, CC Docket No. 02-6 (filed September 14, 2015); Requests for Review of Decisions of the Universal Service Administrator by Consorcio Colegios Católicos Diócesis Fajardo y Humacao, CC Docket No. 02-6 (filed September 15, 2015); Requests for Review of Decisions of the Universal Service Administrator by Consortium Colegio Católico Notre Dame Secundario, CC Docket No. 02-6 (filed September 14, 2015); Requests for Review of Decisions of the Universal Service Administrator by Robinson School, CC Docket No. 02-6 (filed September 18, 2015).

PRINTED ON RECYCLED PAPER

I cannot offer an opinion on the merits of the appeals. However, I feel compelled to call your attention to the fact that these schools and the thousands of students they serve in Puerto Rico have been severely disadvantaged in this information gathering process by USAC because their primary language is Spanish and, as a consequence, many of the schools' representatives formulated responses in English that were inadequate. There is clearly a language barrier that is at the root of this issue and in order to prevent an unfair discrimination against my constituents on the basis of their primary language the Commission needs to work with USAC and the stakeholders to help find a solution.

The goal of the E-Rate program is to ensure that all schools, libraries – and most importantly, students – have access to the tools they need to compete and succeed in the digital age. If USAC was truly seeking the truth about the applications in question its personnel should have followed up with the schools to clarify the responses. USAC's failure to do so means that, unless USAC's decisions are set aside by the Commission, some of the poorest children in the United States will continue to be bypassed by 21st Century educational opportunities. As of 2010, 56.3 percent of children aged 0 to 17 in Puerto Rico lived below the poverty line.[3] These are the very students the E-Rate program was designed to reach and if the Commission does not redress this problem the E-Rate program will be failing in its mission when it comes to Puerto Rico. I am not asking for "special treatment." I am asking that you provide schools in Puerto Rico a *fair and equal opportunity* vis-à-vis schools on the mainland to participate in the E-Rate program regardless of their primary language.

Therefore, I urge the Commission to take the steps necessary to modify USAC's procedures to ensure that the children of Puerto Rico have a fair and equal opportunity to participate in the E-Rate program. The Commission can take a step in this direction by requiring USAC to:

1. Provide the E-Rate application forms and the instructions to those forms in Spanish;
2. Have customer support (telephone and email) available in Spanish;
3. Assign application reviewers who are fluent in Spanish to Puerto Rico applicants;
4. Offer in-person training in Puerto Rico in Spanish (which has never been scheduled to occur in Puerto Rico in the history of the E-Rate program);
5. Have training materials on its website in Spanish; and
6. Reach out to applicants in Puerto Rico to ensure they are aware of these resources as they become available.

Thank you for your attention to this important issue. I am confident that, working together, we can ensure that Puerto Rico's children continue to be able to access the critical educational resources that the E-Rate program offers.

Sincerely,

Pedro R. Pierluisi
Member of Congress

---

[3] *See* American Community Survey Briefs, Child Poverty in the United States 2009 and 2010: Selected Race Groups and Hispanic Origin, Table 1, page 9.

APPENDIX

Puerto Rico private schools who had their Funding Year 2014 E-rate commitments rescinded by USAC:

School	Billed Entity Number
Colegio Nuestra Señora del Rosario	198187
Colegio San José Elemental	199864
Consortium Escuelas Católicas	231955
Colegio San Rafael	158943
Colegio San Juan Bosco	159199
Colegio Nuestra Señora del Carmen	158961
Academia Santa Teresita	200008
Colegio Sagrada Familia	198178
Colegio Católico La Merced	200051
Academia Cristo de Los Milagros	157732
Academia San Alfonso	199998
Colegio San Jose Superior	216679
Colegio San Juan Bautista	159097
Colegio San Felipe	159193
Colegio Nuestra Señora del Pilar	199874
Colegio San Benito	159938
Colegio Nuestra Señora del Perpetuo Socorro	200273
Colegio Nuestra Señora del Carmen	159108
Colegio Santiago Apóstol	200062
Colegio Católico Notre Dame Secundario	201210
Colegio Católico Notre Dame Elemental	199857
Colegio San Carlos Borromeo	219595
Academia Inmaculada Concepción Superior	159940
Academia Inmaculada Concepción Elemental	219946
Robinson School	200286

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

March 15, 2016

The Honorable Pedro R. Pierluisi
U.S. House of Representatives
1213 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Pierluisi:

Thank you for your letter regarding applications for E-rate funds filed by private schools in Puerto Rico, and your concern that language barriers may have affected the schools' ability to effectively respond to inquiries from the Universal Service Administrative Company (USAC), the administrator of the program, about the schools' compliance with E-rate rules.

I share your desire to ensure that all schools and libraries have an equal opportunity to participate in the E-rate program. After hearing from multiple schools in Puerto Rico last year about language challenges they experienced while attempting to participate in the E-rate program, Commission staff asked USAC to identify ways to more effectively reach out to schools where Spanish is the first language of administrators and staff. Since then, USAC has taken multiple steps to improve outreach to schools in Puerto Rico, and Spanish-speaking applicants generally. These steps track many of your recommendations to ensure that Puerto Rico applicants have an equal opportunity to participate in the E-rate program.

First, last month, USAC conducted its first-ever Spanish-language Puerto Rico training sessions in San Juan. Over 100 private schools and public libraries attended. The training was provided in both English and Spanish. Second, these events coincided with the unveiling of a new "USAC en Español" section of USAC's website, which can be found at usac.org/about/espanol/. USAC en Español provides Spanish-speaking applicants with Spanish-language outreach materials and contact information for Spanish-speaking USAC representatives. Third, while Spanish-language customer support has been available for several years, we are working with USAC to ensure that it continues to advance its dedicated Spanish-language outreach through additional Puerto Rico outreach events, further translation of program materials, translated news updates, and enhanced Spanish-language customer support. We welcome feedback from your office and from your constituents.

In your letter, you also express concerns regarding specific funding denial letters issued by USAC to several private schools in Puerto Rico. As you have explained, you believe that applicants did not understand USAC's requests for information or were unable to articulate an adequate response due to a language barrier.

Commission staff is working with USAC to identify denials where miscommunications due to language barriers may have caused USAC to conclude that there was a violation of the

rules. Where that appears to be the case, USAC will reach out with a translator to get additional information. Moreover, the Commission's rules provide that any person aggrieved by an action taken by USAC, after first seeking review at USAC, may seek review from the Commission. The Commission reviews all appeals of USAC actions, including any appeal of these funding denial letters, *de novo*, meaning that USAC's decisions do not have a direct bearing on the Commission's review. In all events, USAC will provide any applicant or service provider that asks for Spanish-English translation with such assistance and has committed to be more proactive in offering such services when there appears to be a language barrier.

I appreciate your concern for ensuring fair and equal opportunities for all E-rate applicants and am dedicated to advancing that interest. Please let me know if I can be of further assistance.

Sincerely,

Tom Wheeler