

COUDERT BROTHERS

ATTORNEYS AT LAW

1627 I STREET, N.W.
WASHINGTON, D.C. 20006
TEL: 202 775-5100 FAX: 202 775-1168

ORIGINAL

RECEIVED

AUG 16 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

August 16, 1999

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W. TW-A325
Washington, D.C. 20554

Re: Ex Parte Submission, CC Dockets No. 96-45 and 97-21;
USAC Application No. 18132

Dear Ms. Roman Salas:

This letter is to advise you that on August 12, 1999, the undersigned, along with Ms. Jacqueline Shrago, Director of Internet Services for the Department of Education for the State of Tennessee, met with Irene Flannery, Chief of the Accounting Policy Division of the Common Carrier Bureau ("Bureau"), and Ellen Wolfhegen, General Counsel of the Schools and Libraries Division ("SLD") of the Federal Communications Commission ("Commission"), to discuss the above-referenced dockets.

Pursuant to Section 1.1206 of Commission's Rules, an original and a copy of this letter, along with copies of three (3) documents presented to, and discussed with, the staff of the Bureau and the SLD, have been submitted for inclusion in the public record.

Should you have any questions concerning this letter, please contact the undersigned at (202) 736-1811.

Sincerely,

William K. Coulter
Counsel to the Department of
Education for the State of Tennessee

cc: Irene Flannery
Ellen Wolfhegen

No. of Copies rec'd 043
List ABCDE

EX PARTE OR LATE FILED

NEW YORK	JAKARTA
PARIS	HO CHI MINH CITY
WASHINGTON	HANOI
LONDON	BERLIN
BRUSSELS	DENVER
HONG KONG	ST. PETERSBURG
SINGAPORE	MONTREAL
SAN FRANCISCO	ALMATY
BEIJING	PALO ALTO
SYDNEY	MEXICO CITY
LOS ANGELES	ASSOCIATED OFFICE
SAN JOSE	RIOS FERRER Y
TOKYO	GUILLÉN-LLARENA, S.C.
MOSCOW	BUDAPEST
BANGKOK	ASSOCIATED OFFICE
	NAGY ÉS TRÓCSÁNYI
	ÜGYVÉDI IRODA

ATTACHMENT A

The question has been raised as to the manner that the ConneCTen transaction is reflected in the State's Application. The following is a brief explanation for the purposes of setting this matter in context. This explanation is submitted for review by, and discussion with, the Administrator.

1. ENA paid \$7.500 Million to the State of Tennessee for ConneCTen (software). Under the terms of the contract, this amount was paid by ENA to the State within 3 months of execution of the ENA/State Internet Contract.
2. Since Tennessee State Procurement Law requires that "Services cannot be invoiced or paid-for until those Services are received", ENA did not (and could not) invoice the State to recover the cost for this asset in Funding Year 1, except as used in connection with its Service for FY 1. Thus, ENA invoiced the State for \$1.747 Million as a "one-time" charge for the "initiation of its Services." This is reflected in Line 1 of the State's Application for Year 1 funding. As noted above, by State Procurement Law, this was the amount that the State could pay because it was equal to or less than that charged by other Internet Service Providers for the initiation of identical services. This charge can be considered as directly connected to the use of ConneCTen software and to the ConneCTen transaction.
3. Since Tennessee State Procurement Law again requires that "Services can not be invoiced and paid-for until received", the remaining costs connected to the use of this asset will be invoiced to and paid for by the State over its depreciated "life" time (i.e., ENA has depreciated this asset over a standard 5 year depreciation period.). This depreciation is included as a component of the "recurring" service in the amount of \$95,833 per month. The charge is reflected in Line 2 of the State's Application (i.e., \$7.500M minus \$1.747M equals \$5.753M remaining divided by 60 months equals \$95,833 per month.). Line 2 sets forth a charge of \$329,000; \$95,833 of this Line amounts to a service charge that can be connected to the use of the ConneCTen asset.
4. Thus, Line 1 (\$1.747M) plus a minority percentage of Line 2 (\$95,833 mo. or, alternately \$1,150,596 yr. in Funding Year 1) would allow for the exclusion of ConneCTen charges in the State's Application for USF Funding Year 1.
5. Due to Schools and Libraries Division requested changes in the State's Application for USF Funding Year 2 Funding, the recurring \$95,833 monthly charge would be in Line 10.

The State's Application is for Internet Services, rather than equipment, and no distinct Line Item in its Application can be considered equipment specific.

ATTACHMENT B

State of Tennessee:	Application Number 00018132					
Service Provider:	Education Networks of America	SPIN: 143008159				
Funding Notification vs. Form 471, filed April, 1998						
January 1, 1998 - June 30, 1999						
						SLD Funding Notification
Funding Notification	Form 471 Item 15 Column Number					Synopsis
	Column (7)	Column (8)	Column (9)	Column (10)	Column (10 extended)	
Funding Request #	Service Start Date	Estimated One Time Prediscout Cost	Estimated Monthly Prediscout Cost	Estimated Total Annual Prediscout Cost	Estimated Total Annual Prediscout Cost (18 mnths)	Estimated Total Annual Prediscout Cost
00030708	7/1/98	1,747,000	-	1,747,000	1,747,000	1,747,000
00030710	7/1/98	-	329,276	1,975,656	3,951,312	3,951,312
00030713	7/1/98	-	275,770	1,654,620	3,309,240	3,309,240
00030714	7/1/98	1,845,546	189,552	2,982,858	4,120,170	2,982,858
00030716	7/15/98	1,790,552	146,302	2,595,213	3,473,024	2,595,213
00031803	8/1/98	1,691,151	173,742	2,559,863	3,602,315	2,559,861
00030717	9/1/98	1,207,140	172,675	1,897,839	2,933,889	1,897,839
00030720	10/1/98	1,207,140	241,752	1,932,396	3,382,908	1,932,396
00030721	11/1/98	1,134,489	363,953	1,862,395	4,046,113	1,862,395
00030722	12/1/98	858,234	633,433	1,491,667	5,292,265	1,491,667
Totals		11,481,252	2,526,455	20,699,507	35,858,236	24,329,781

ATTACHMENT C

COUDERT BROTHERS

ATTORNEYS AT LAW

1627 I STREET, N.W.
WASHINGTON, D.C. 20006
TEL: 202 775-5100 FAX: 202 775-1168

NEW YORK	JAKARTA
PARIS	HO CHI MINH CITY
WASHINGTON	HANOI
LONDON	BERLIN
BRUSSELS	DENVER
HONG KONG	ST. PETERSBURG
SINGAPORE	MONTREAL
SAN FRANCISCO	ALMATY
BEIJING	PALO ALTO
SYDNEY	MEXICO CITY
LOS ANGELES	ASSOCIATED OFFICE RIOS FERRER Y GUILLÉN-LLARENA. S.C
SAN JOSE	
TOKYO	BUDAPEST
MOSCOW	ASSOCIATED OFFICE NAGY ÉS TRÓCSÁNYI ÜGYVÉDI IRODA
BANGKOK	

August 6, 1999

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W. TW-A325
Washington, D.C. 20554

Re: Ex Parte Submission, CC Dockets No. 96-45 and 97-21;
USAC Application No. 18132

Dear Ms. Roman Salas:

This letter is to advise you that on August 5-6, 1999, the undersigned, along with Ms. Jacqueline Shrago, Department of Education for the State of Tennessee, spoke with Sonja Rifken of the Common Carrier Bureau ("Bureau") of the Federal Communications Commission ("Commission") in a telephone conversation regarding the following matters:

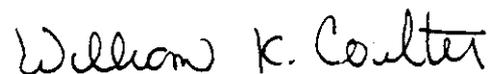
1. Waiver Request: the State of Tennessee requested that the Commission, in any forthcoming decision on the above-referenced matter, include a recognition that delays in approving Universal Service Funds ("USF") for the State of Tennessee will result in a collateral need for the Commission to extend the time for the use of those funds for non-recurring services from September 30, 1999 until 90 days after the funds are made available as a result of the Commission's *Tenth Order on Reconsideration* in this proceeding, FCC 96-45 (rel. April 2, 1999).
2. ConneCTen Cost Assignments: the State of Tennessee noted that any segregation of USF funding for services associated with ConneCTen must recognize that, as a result of State Procurement Law in Tennessee, costs and payments associated with ConneCTen have been allocated over a period of five (5) years; therefore, only a limited portion is set forth in the State's current Application for USF Funding Year 1. The remainder of

these costs, as they may be included for "matching" USF funding purposes, is to be included in later-year USF Applications.

Pursuant to Section 1.1206 of Commission's Rules, an original and a copy of this letter have been submitted to your office for inclusion in the public record.

Should you have any questions concerning this letter, please contact the undersigned at (202) 736-1811.

Sincerely,



William K. Coulter
Counsel to the Department of
Education for the State of Tennessee

cc: Sonja Rifken