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**OCT 23 2001**

**FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY**

October 23, 2001

DAVID A. O'CONNOR  
202-828-1889

Internet Address:  
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VIA HAND DELIVERY

Magalie Roman Salas, Esq.  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Room TW-B204  
Washington, DC 20554

Re: Chawanakee Joint Elementary School District  
*Supplement to Request for Review*  
CC Docket Nos. 96-45, 97-21  
Billed Entity No. 144045  
Form 471 Application No. 229391

Dear Ms. Salas:

Transmitted herewith, on behalf of Chawanakee Joint Elementary School District ("Chawanakee"), are an original and four (4) copies of its Supplement to Request for Review of the decision of the Schools and Libraries Division ("SLD") Administrator in the above-captioned proceeding. For the reasons set forth in the Request for Review and in the enclosed Supplement, Chawanakee requests that the Commission direct SLD to accept Chawanakee's application as having been filed during the SLD's January 2001 filing window.

An extra copy of this filing is enclosed. Please date-stamp the extra copy and return it to the courier for return to me.

Magalie Roman Salas, Esq.

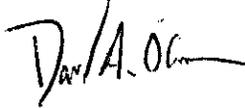
October 23, 2001

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Should you have any questions concerning this matter, please contact the undersigned.

Respectfully submitted,

HOLLAND & KNIGHT LLP

A handwritten signature in black ink, appearing to read "D.A. O'Connor". The signature is written in a cursive style with a horizontal line at the end.

David A. O'Connor  
Counsel for Chawanakee Joint Elementary  
School District

Enclosure

cc: Universal Service Administrative Company  
Schools and Libraries Division  
Box 125 – Correspondence Unit  
80 South Jefferson Road  
Whippany, NJ 07981

WAS1 #1024716 v1

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
Request for Review by	)	
	)	
Chawanakee Joint Elementary	)	
School District	)	File No. SLD-_____
	)	
of Decision of Universal Service	)	
Administrator	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
	)	
Changes to the Board of Directors	)	CC Docket No. 97-21
of the National Exchange Carriers	)	
Association, Inc.	)	

To: Accounting Policy Division, Common Carrier Bureau

Re: Chawanakee Joint Elementary School District, Billed Entity Number 144045  
Form 471 Application Number 229391, Funding Year 4, 7/1/2001- 6/30/2002.

**SUPPLEMENT TO REQUEST FOR REVIEW**

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District

October 23, 2001

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Exhibit 1: Chawanakee Letter of Appeal to SLD Dated July 26, 2001

## SUMMARY

Chawanakee Joint Elementary School District ("Chawanakee") is providing the Commission with supplemental information to its Request for Review filed on September 6, 2001. Supplements to Requests for Review have been accepted by the Commission in the past.

In the Supplement, Chawanakee provides additional arguments that the Schools and Libraries Division ("SLD") wrongfully determined that Chawanakee's application was not filed during the Year Four filing window. Specifically, Chawanakee argues that, pursuant to the E-Sign Act, the date on which Chawanakee submitted its electronic application and signature is controlling as to the date of submission of its Form 471 application. In addition, the SLD's duplicative original signature requirement conflicts with the Commission's statement to the Office of Management and Budget that there would be no duplication of information on FCC Form 471. The SLD's policies with respect to original signatures should not be more onerous than the agency by whom it was established.

Chawanakee also argues that it has satisfied the statutory requirement for submitting a *bona fide* request for E-rate funding, and that its application should be accepted as having been filed during the filing window. The SLD's arbitrary policy of refusing to accept *bona fide* applications based on the date of the postmark of the application should not be allowed to thwart congressional intent.

Finally, in the alternative to the arguments set forth in the Request for Review and this Supplement, Chawanakee requests a waiver of the Year Four filing window for the reasons set forth in Section IV of the Supplement.

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

In the Matter of	)	
Request for Review by	)	
	)	
Chawanakee Joint Elementary	)	
School District	)	File No. SLD-_____
	)	
of Decision of Universal Service	)	
Administrator	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
	)	
Changes to the Board of Directors	)	CC Docket No. 97-21
of the National Exchange Carriers	)	
Association, Inc.	)	

To: Accounting Policy Division, Common Carrier Bureau

Re: Chawanakee Joint Elementary School District, Billed Entity Number 144045  
Form 471 Application Number 229391, Funding Year 4, 7/1/2001- 6/30/2002

**Supplement to Request for Review**

Chawanakee Joint Elementary School District ("Chawanakee"), by its attorneys, hereby submits this Supplement to its Request for Review filed on September 6, 2001 with respect to its FCC Form 471 Application Number 229391. This Supplement expands upon Chawanakee's arguments in support of its contention that the Schools and Libraries Division ("SLD") erred in denying Chawanakee's Year Four funding request, and, in the alternative, requests a waiver of the Year Four funding denial for the reasons set forth below.

The submission of supplemental information in a Request for Review proceeding is permitted. Supplemental information has been permitted, for example, in *Request for Review by Naperville Community Unit School District 203*,

*Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, Order, File No. SLD-203343, CC Dockets No. 96-45 and 97-21, FCC 01-73 (rel. Feb. 27, 2001) ("*Naperville*"). In light of the precedent of *Naperville*, and the D.C. Circuit's directive to the Commission to accord equal treatment to similarly situated parties, *see, e.g., Melody Music Inc. v. FCC*, 345 F.2d 730 (D.C. Cir. 1965), Chawanakee requests that the Commission consider the additional arguments set forth in this Supplement.

**I. Pursuant to the E-Sign Act, the Date on Which the Paper Signature Was Mailed To SLD Is Not Relevant to Determining if Form 471 Was Received During the Filing Window.**

Chawanakee electronically filed its FCC Form 471 on January 17, 2001. For reasons more fully discussed in Section IV of this Supplement, Chawanakee did not mail the original signature page or Item 21 supplemental attachments to SLD until January 19, 2001, one day after the filing window closed.

The SLD improperly determined that Chawanakee failed to file FCC Form 471 within the filing window. Chawanakee's electronically signed Form 471 was received by the SLD well within the filing window. Pursuant to the Electronic Signatures in Global and National Commerce Act ("E-Sign Act"), the date that the electronically signed application was received is controlling as the date of submission of the application.

The E-Sign Act went into effect on October 1, 2000.<sup>1</sup> The SLD's Form 471 for Year 4 is dated October 2000 and therefore is subject to the E-Sign Act.

The E-Sign Act states, in pertinent part:

## Section 101. General Rule of Validity.

(a) IN GENERAL. - Notwithstanding any statute, regulation, or other rule of law . . . with respect to any transaction in or affecting interstate or foreign commerce –

(1) a signature, contract, or other record relating to such transaction may not be denied legal effect, validity, or enforceability solely because it is in electronic form; and

(2) a contract relating to such transaction may not be denied legal effect, validity, or enforceability solely because an electronic signature or electronic record was used in its formation.

~~The term “transaction” is defined as “an action or set of actions relating to the~~  
conduct of business, consumer, or commercial affairs between two or more persons . . .”<sup>2</sup> The term “person” includes a government agency such as the FCC,<sup>3</sup> meaning that a set of actions relating to the business and commercial affairs between an FCC applicant and the Commission constitutes a “transaction” under the statute, provided that the set of actions affects interstate commerce. Owing to the numerous service providers and schools involved in the E-rate program, Chawanakee submits that the set of actions contemplated by the FCC Form 471 application process “affects” interstate commerce for purposes of the statute. Accordingly, pursuant to the E-Sign Act, FCC E-rate applications may be filed electronically in lieu of being filed in paper form, and electronic signatures

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<sup>1</sup> S. 761, 106<sup>th</sup> Cong., 2d Sess., § 107(a).

<sup>2</sup> *Id.* § 106(13).

contained in such applications cannot be denied legal effect simply because they were not filed in paper format.

In this instance, SLD specifically requested applicants to complete the "Certification and Signature" block as part of the electronic Form 471 application. Mr. Treber, Chawanakee's representative, did so and filed the electronic application during the filing window. Because Chawanakee's electronic Form 471 contained the legally binding electronic signature of Chawanakee's representative, Mr. Treber, Chawanakee submits that SLD was prohibited under the E-Sign Act from requiring Chawanakee to subsequently submit a signature page in paper form. Accordingly, Chawanakee cannot be punished for failure to comply with an impermissible SLD rule. The Commission should therefore direct SLD to deem Chawanakee's application as having been timely received during the filing window.<sup>4</sup>

In addition, Section 104(c) of the E-Sign Act prohibits state and federal agencies from imposing or reimposing "any requirement that a record be in a tangible printed or paper form." The only exception to this rule is if there is a

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<sup>3</sup> *Id.* § 106(8).

<sup>4</sup> This case should be distinguished from previous Commission decisions that were decided prior to the enactment of the E-Sign Act. See, e.g., *Federal-State Joint Board on Universal Service; Changes to the Board of Directors of the National Exchange Carrier Association, Inc. and the Application of Bruggemeyer Memorial Library*, DA 99-1529, CC Docket Nos. 96-45 and 97-21, Order, 14 FCC Rcd 13,170 (Com. Car. Bur. 1999). In that case, the Commission denied a request for review by an applicant who filed its Form 471 electronically and faxed the signature page to the SLD but did not submit the original signature page to the SLD until after the filing window closed. Chawanakee submits that the E-Sign Act invalidates the rationale underpinning the *Bruggemeyer* decision. Similarly, the Commission's decision in *Winchendon School* can be distinguished from the present case because the *Winchendon* application was submitted for Funding Year 3. The application filing window for Funding Year 3 and the relevant FCC forms in use at that time predated the E-Sign Act. See *In re Request for Waiver by The Winchendon School, Winchendon, MA, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-192816, DA 01-2033, Order (Com. Car. Bur. rel. Aug. 28, 2001).

“compelling government interest relating to law enforcement or national security” and imposing a paper requirement is essential to attaining that interest.<sup>5</sup>

In this situation there is no such compelling government interest relating to law enforcement. First, SLD is not a law enforcement agency and lacks law enforcement powers. Second, and more importantly, the prevention of fraud is not a sufficient justification for requiring original signature pages, because such a justification would undermine the very purpose of the E-Sign Act. The Act is designed to legitimize electronic signatures; if Congress intended the prevention of fraud to be a compelling interest justifying an original signature page, Congress would not have enacted the law in the first place.

Finally, the Commission has recognized that the E-Sign Act supersedes its rules. Pursuant to former Section 64.1160(b) of the FCC's rules, 47 C.F.R. § 64.1160(b), the FCC required long distance carriers to obtain the written signature of new customers. In September 2000, in reaction to the E-Sign Act, the FCC began permitting electronic signatures without the need for the submission of original signatures.<sup>6</sup> As an agent of the FCC, SLD should not maintain stricter standards than the FCC itself.

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<sup>5</sup> E-Sign Act, § 104(b)(3)(B).

<sup>6</sup> See 47 C.F.R. § 64.1120(c)(1); see also *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers*, CC Docket No. 94-129, FCC 00-255 (rel. Aug. 15, 2000) (Letters of Agency may be submitted electronically, without any written original signature requirement). In the decision, the FCC specifically cites as authority the E-Sign Act.

## II. Nothing of Value Is Gained by the Duplicative Original Signature Page Requirement.

As a separate matter, Chawanakee submits that the SLD's paper signature submission requirement serves no useful purpose and should not be required.<sup>7</sup> By inserting a representative name and submitting the Form 471 application electronically, the signatory for Chawanakee completed the "Certification and Signature" portion of the form. The signatory thus certified that the information contained in the application was accurate, and indeed the school was thus bound by that certification in the same way as a paper signature binds the school. Therefore, nothing is gained by a redundant requirement that applicants print out and submit a paper signature to the SLD.

Furthermore, the paper signature requirement runs counter to the representations made to the Office of Management and Budget ("OMB") in the Commission's application seeking approval of FCC Form 471. In its application to OMB, the Commission stated that "[t]here will be no duplication of information."<sup>8</sup> Clearly, a requirement that applicants filing electronically must submit a paper copy of their electronic signature is a duplication of information, particularly when no such burden is placed on applicants filing via mail.

Importantly, the FCC's own rules and procedures do not require the submission of a paper signature page in addition to the certifications made in electronic filings. Indeed, out of *all* of the available electronic applications that can

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<sup>7</sup> Indeed, the SLD itself seems to have recognized this fact. SLD recently announced that Year 5 applications could be submitted entirely in electronic form. See <http://www.eschoolnews.com/news/showStory.cfm?ArticleID=3029>. This is an administratively appropriate decision and will no doubt expedite the application review process.

be submitted to the FCC, *not one form* requires the applicant to follow up with a signed original. The SLD should not have a more onerous standard than the agency by whom it was established.

### III. Congressional Intent Should Not Be Thwarted by the SLD's Arbitrary Policies.

#### A. *Congress Intended that Bona Fide Requests of All Eligible Schools for Telecommunications Services Should Be Granted.*

One of the fundamental goals of the universal service provisions of the Telecommunications Act of 1996 was to ensure the ability of K-12 schools and libraries to obtain access to advanced telecommunications services. *See Federal-State Joint Board on Universal Service; Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket Nos. 96-45 and 97-21, Fifth Order on Reconsideration, 13 FCC Rcd 14,915, 14,919 (1998) (citing Joint Explanatory Statement of the Committee of Conference). Section 254(b)(6) of the Communications Act of 1934, as amended, requires the Commission to "base policies for the preservation and advancement of universal service on the following principles: . . . Elementary and secondary schools and classrooms . . . should have access to advanced telecommunications services as described in subsection (h) [of this section]." 47 U.S.C.A. § 254(b)(6). Subsection (h)(1)(B) provides that

[a]ll telecommunications carriers serving a geographic area *shall, upon a bona fide request* for any of its services that are within the definition of universal service . . . provide such services to elementary schools, secondary schools, and libraries *for educational purposes* at rates less than the amounts charged for similar services to other parties.

*Id.* § 254(h)(1)(B) (emphasis added).

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<sup>8</sup> See Exhibit 4 attached hereto, Supporting Statement, Item A4.

The foregoing makes it clear, and the Commission has recognized, that Congress intended that all eligible schools receive communications service discounts. Indeed, the statute imposes only two requirements on a school desiring discounts. First, the requested services must be for educational purposes. Second, the school must submit a "*bona fide* request." And the statute commands that when a carrier receives such a request, it "shall" provide service at a discount.

In this case, Chawanakee made a good faith request for telecommunications services to be used for educational purposes. The school's application is a perfectly good application in all respects. The only reason that SLD denied the application appears to be that, for reasons beyond Chawanakee's control, the supporting documents to the online application were mailed one day late. However, Chawanakee made a good faith effort to expedite the SLD's receipt of the supporting materials by sending the materials via an overnight carrier.

The overall purpose of the legislation requires SLD and the Commission to overlook minor procedural errors in this instance, in favor of carrying out the Congressional purpose that these telecommunications services be made available to schools and libraries making *bona fide* requests for such services. Because Chawanakee made a *bona fide* request for telecommunications services, its request should be granted.

*B. The SLD's Policy of Determining the Acceptability of Applications Based on the Applications' Postmarked Date is Arbitrary and Capricious.*

A reviewing court is required to hold unlawful any agency action determined to be arbitrary or capricious. 5 U.S.C. § 706(2)(A). The SLD has established a cut-off date for accepting mailed applications, based on the postmarked date of the application. Thus, for example, School A could send its application via regular mail on Thursday, January 18 and the application could be received by SLD on Tuesday, January 23. School B's application could be sent via overnight delivery on Friday, January 19 and be received by SLD on Monday, January 22. In this scenario, SLD would accept School A's application and reject School B's application, even though School B's application was received one day earlier than School A's application. The apparent justification for this SLD policy is that it is administratively appropriate to establish a cut-off date in order to expedite the application review process.

The SLD's policy does nothing to forward the purpose of expediting the application review process. Rather, the policy amounts to an arbitrary determination of which applications are acceptable for filing. It is capricious and arbitrary to hold that Chawanakee's application must be denied for having delayed the administrative process when the SLD would accept and process applications that were received after Chawanakee's application was received. Indeed, it is extremely likely that the SLD received Chawanakee's supporting materials well before the SLD received the supporting materials

of schools that chose to send their supporting materials via regular mail on January 18, 2001.

It is important to distinguish the SLD's "postmarked" policy from the Commission's own policy concerning the filing of appeals in E-rate funding decisions. The Commission requires that E-rate appeals be *filed* within 30 days of a decision by the SLD. This is a clear, consistent policy, because no matter the type of mailing delivery used, the appeal must be *received* by the Commission on a date certain. In contrast, the SLD's arbitrary policy of basing application acceptability on the postmarked date does not withstand scrutiny under Section 706 of the Administrative Procedure Act, because applications received earlier in time are rejected while those received later in time are accepted. To comport with the requirements of Section 706, SLD must revise its policy to establish a *filing date* deadline that does not discriminate on the basis of postal delivery methods employed by applicants. Until the policy is revised, Chawanakee cannot be penalized for having failed to comply with an arbitrary procedure.

#### **IV. A Waiver of the Year 4 Filing Window Is Warranted and Would Serve the Public Interest.**

In its Request for Review, Chawanakee argued that the SLD erred in denying the school's funding request because the Commission derogated from the OMB's specific "Terms of Clearance" instructions set forth in the OMB's approval of FCC Form 471 pursuant to the Paperwork Reduction Act. Because of this derogation, Chawanakee argued that the school could not be penalized for failure to comply with the requirements of FCC Form 471.

Even if the Commission determines that neither the E-Sign Act nor the Commission's derogation from the OMB's Terms of Clearance warrant a grant of Chawanakee's Request for Review, the Commission should nonetheless grant a waiver of the filing window deadline<sup>9</sup> because the delay in submitting the paper signature and supporting materials to SLD was caused by massive, unforeseeable power blackouts in the school's district during the filing window.

The Commission may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest. *Federal-State Joint Board on Universal Service, Universal Service Support for Eligible Schools and Libraries, Year 3 Filing Window*, CC Docket No. 96-45, FCC 00-204, Order, 15 FCC Rcd 13,932, 13,934, para. 6 (2000); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

Chawanakee submits that such a situation is presented here. As set forth in Chawanakee's Letter of Appeal to the SLD, a copy of which is attached hereto as Exhibit 1, Chawanakee timely filed its FCC Form 471 application online on the evening of January 17, 2001, and arranged for a pickup by Federal Express of the paper signature and Item 21 supporting materials for the next day. Throughout the day on January 18, 2001, massive and unforeseeable blackouts affected the entire California Central Valley, including Fresno, where the central Federal Express office is located. As a direct result of the blackouts, Federal Express did not make its scheduled pickup of Chawanakee's package. By the time that Chawanakee was

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<sup>9</sup> See 47 C.F.R. § 54.507(c).

informed that Federal Express was unable to make the scheduled pickup, it was too late to arrange for an alternate mail carrier. Accordingly, Chawanakee's package was unable to be sent to the SLD until one day later, January 19, 2001. In any event, as noted above, it is extremely likely that SLD received Chawanakee's package well before SLD received other schools' packages that were sent by regular mail.

Although the Commission has previously held that weather-related delays are not a sufficient justification for a waiver,<sup>10</sup> Chawanakee submits that the facts in this case are distinguishable because the delays at issue here were due to unforeseeable events. The Fresno area was subject to rolling electricity blackouts during the critical final day of the Year 4 filing window. These blackouts caused severe mail disruptions throughout the day on January 18, 2001 and could not have been anticipated by Chawanakee.

Because the delays associated with the blackouts were unforeseeable and beyond the control of Chawanakee, Chawanakee submits that strict application of the filing window deadline would be unwarranted. The public interest would be served by accepting Chawanakee's application as having been timely filed, so that the students of Chawanakee can benefit from the funds that Congress intended should be available to their school.

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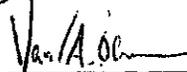
<sup>10</sup> See *In re Request for Waiver by Stephen/Argyle Central School District, Stephen, MN, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange* (continued...)

V. Conclusion.

For the reasons set forth in Chawanakee's Request for Review and in this Supplement, the Commission should direct the SLD to accept Chawanakee's FCC Form 471 application as having been timely filed during the SLD's filing window for Year 4.

Respectfully submitted,

Chawanakee Joint Elementary School District



Mark J. Palchick

Alan Y. Naftalin

David A. O'Connor

HOLLAND & KNIGHT LLP

2099 Pennsylvania Ave., N.W., Suite 100

Washington, DC 20006

(202) 955-3000

Its Attorneys

Dated: October 23, 2001

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*Carrier Association, Inc.*, File No. SLD-228975, DA 01-2020, Order (Com. Car. Bur. rel. Aug. 28, 2001) (Federal Express pickup delays due to blizzard conditions foreseeable).

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of	)	
Request for Review by	)	
	)	
Chawanakee Joint Elementary	)	
School District	)	File No. SLD-_____
	)	
of Decision of Universal Service	)	
Administrator	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
	)	
Changes to the Board of Directors	)	CC Docket No. 97-21
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Association, Inc.	)	

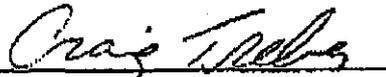
To: Accounting Policy Division, Common Carrier Bureau

Re: Chawanakee Joint Elementary School District, Billed Entity Number 144045  
Form 471 Application Number 229391, Funding Year 4, 7/1/2001- 6/30/2002

Supporting Declaration

I, Craig Treber, hereby swear under penalty of perjury of the laws of the United States that I have reviewed the foregoing Supplement to Request for Review ("Supplement"), and that all statements of fact contained within the Supplement, except those for which official notice may be taken, are true and correct to the best of my personal knowledge.

Executed this 19 day of October, 2001.

  
 Craig Treber  
 Technology Director  
 Chawanakee Joint Elementary School District

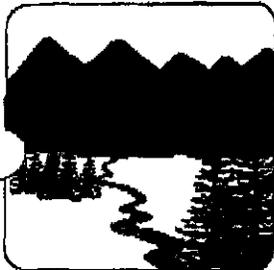
## CERTIFICATE OF SERVICE

I, Laura Ledet, an employee of Holland & Knight LLP, hereby certify that on October 23, 2001, I caused a copy of the foregoing Supplement to Request for Review to be delivered via first-class mail, postage prepaid to the following:

Universal Service Administrative Company  
Schools and Libraries Division  
Box 125 – Correspondence Unit  
80 South Jefferson Road  
Whippany, NJ 07981

  
Laura Ledet

# EXHIBIT 1



# Chawanakee Joint School District

Philip O. Pendley, Ed. D., Superintendent • [ppendley@chawanakee.k12.ca.us](mailto:ppendley@chawanakee.k12.ca.us)  
P.O. Box 400 • 33173 Road 222 #4, #10 • North Fork, California 93643 • (559) 877-6209 Fax (559) 877-4802

Members of the Board of Trustees:  
Barbara Bigelow • Claudia Box • Larry Myers • Dale Overbay • Roy Robins • Jeff Ramsey • Chuck Thrapp

July 26, 2001

**Letter of Appeal**  
Schools and Libraries Division  
Box 125, Correspondence Unit  
80 South Jefferson Rd.  
Whippany, NJ 07981

**RE: Applicant Name: Chawanakee Joint Elementary School District**  
**Form 471: Application Number 229391**  
**Billed Entity Number: 144045**

To Whom It May Concern:

This letter is to appeal the SLD decision for Funding Year 4 not to allow the application listed above to be considered inside the application window. The stated reason for the denial was:

*"...your application was received by the Schools and Libraries Division/USAC after the 2001-2001 filing window closed at 11:59 p.m. ET on January 18, 2001."*

The district's application was submitted on-line to the SLD/USAC web site on January 17, 2001. (See attached verification.) On January 18<sup>th</sup> arrangements were made with Federal Express for a regular pick up of the signature page and attachments. During this day (January 18<sup>th</sup>), rolling blackouts struck the Central Valley including Fresno, where the central Federal Express office is located. (<http://www.fresnobee.com/localnews/story/0,1724,231320,00.html>)

Because of the problems caused by this blackout, Federal Express was not able to make the pick up as scheduled. Unfortunately, the district did not find out that this pick up would not happen in time to arrange for an alternative pick up of the package or in time to take it to the post office for a January 18<sup>th</sup> postmark.

We feel that the massive power outages in California that caused this problem should be considered as an act of God that was outside the power of the district to control. Forces beyond our control caused us to miss the deadline for sending the attachments. We know that Madera Unified School District and Caruthers Unified School District, both served by the Fresno office of Federal Express, suffered this same fate.

As Chawanakee Joint Elementary School District did meet the deadline for the submission of the application on-line, as shown on the web site, we ask that the SLD reverse its decision and allow this application to be accepted.

Contact Information:

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Sincerely,

Craig Treber  
Technology Director

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