



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

March 2, 2007

Edgar Class
202.719.7504
eclass@wileyrein.com

Via Electronic Comment Filing System

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

Re: Ex Parte Notice

Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking in WC Docket No. 05-195, CC Docket No. 96-45, CC Docket No. 02-6, WC Docket No. 02-60, WC Docket No. 03-109 and CC Docket No. 97-21

Dear Ms. Dortch:

On March 1, 2007, Ricardo Dreyfous of Nevesem, Inc., Gilberto L. Pérez of the Consortium of Catholic Schools of Puerto Rico, and Henry M. Rivera and Edgar Class of Wiley Rein LLP met with Barry Ohlson, Senior Legal Advisor to Commissioner Jonathan S. Adelstein. At this meeting, we discussed various recommendations to improve the E-rate program in response to the Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking in the above-captioned proceedings. The specific matters discussed are described in the attached presentation.

Pursuant to section 1.1206(b) of the Commission's rules, a copy of this letter is being filed via ECFS with your office. Should you have any questions, please contact the undersigned.

Respectfully submitted,

/s/ Edgar Class
Edgar Class

Counsel to Nevesem, Inc.

Attachment

cc: Barry Ohlson

NEVESEM, INC.

E-rate and Puerto Rico

Presentation to Barry Ohlson
Office of Commissioner Adelstein

Ricardo Dreyfous, Ph.D.
Gilberto L. Pérez

March 1, 2007
Washington, D.C.



Who we are

- Ricardo Dreyfous
 - President of Nevesem, a service provider in Puerto Rico
- Gilberto L. Pérez
 - Associate Superintendent of the Caguas Diocese Schools
 - Director of the Consortium of Catholic Schools
 - Appearing on behalf of Catholic Schools from San Juan and independent schools from the Island



NEVESEM, INC.

Why we are here

- To offer comments on the Commission's NPRM in WC Docket No. 05-195



NEVESEM, INC.

Nevesem

- Nevesem is a Puerto Rico-based company that specializes in educational and technological services and materials
- Nevesem is also an Internet Service Provider to private and parochial schools in Puerto Rico, which benefit from E-rate funding
- Its president and founder, Dr. Dreyfous, owns and has established 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



NEVESEM, INC.

Consortium of Catholic Schools

- Non-profit organization created to assist Catholic schools in the Caguas, Arecibo and Mayagüez Dioceses participate in the E-rate program
- Composed of 34 catholic schools with a combined enrollment of approximately 17,000 K-12 students

Other schools

- Consortium of Catholic Schools of San Juan
 - Non-profit organization created to assist Catholic schools in San Juan participate in the E-rate program
 - Composed of 54 Catholic schools with a combined enrollment of approximately 36,000 K-12 students
- Consortium of Dominican Schools
 - Composed of 7 schools with a combined enrollment of approximately 5,000 K-12 students
- Independent private schools
 - 12 schools with a combined enrollment of approximately 10,000 K-12 Students

Success of the E-rate program in Puerto Rico

- Prior to the E-rate program, few schools had Internet access
- Today, approximately 90 schools representing over 54,000 students are connected to the Internet and, therefore, these schools are closer to meeting the goals in their technology plans
- Internet access is helping schools meet the requirements of the No Child Left Behind Act by ensuring that all students have access to instructional resources and supporting individualized instruction
 - Teachers have been able to tailor instruction to the needs of individual students, including those with learning disabilities
 - Some schools have implemented “live” distance-learning programs with universities in the continental United States
- None of this would have been possible without E-rate funds

Challenges in Puerto Rico

- In 2003, the FCC and USAC mistakenly treated the private schools as public schools managed by the Puerto Rico Department of Education (PRDOE)
 - Therefore, when USAC stopped E-rate funding of PRDOE schools (upon discovery of various irregularities), private school funding was also stopped
 - SLD routinely denied private school applications on the basis that they were not certified by PRDOE

Challenges in Puerto Rico (cont'd)

- Lack of PIA reviewers fluent in Spanish led to miscommunication and erroneous denials
- SLD provided little or no explanation for its denials, making it difficult for the schools to prepare appeals
- Schools were consistently selected for “selective review” and were subject to repetitive requests for information during the PIA process
- Significant delays in issuing FCDLs
- Significant delays in the processing of appeals by the SLD

The program has improved

- The confusion between the public and private schools appears to have subsided
- Less repetitive and redundant requests for information and documentation during PIA
- Less “selective review” inquiries
- Review and processing of applications have improved
- Less denials of funding applications
- SLD processes appeals in a shorter period of time
- Some of this improvement is due to the schools becoming more knowledgeable in E-rate procedures

The program has improved (cont'd)

- The Wireline Bureau has granted two important appeals
 - On August 15, 2006, the Bureau granted an appeal finding that private schools in Puerto Rico did not violate the competitive bidding rules (DA 06-1642)
 - But note that USAC has approved only one Form 486 despite the fact the Bureau ordered USAC to process all applications by November 15, 2006
 - On September 21, 2006, the Bureau granted another appeal finding that private schools in Puerto Rico provided USAC with sufficient information to qualify for the requested discount rate (DA 06-1907)
- These decisions are significant because the appeals affect both Puerto Rico private schools as well as schools in the continental United States

How to improve the program

- In the NPRM in WC Docket No. 05-195, the FCC is considering amending its rules so that funds are distributed directly to schools and libraries according to their size (§ 33)
- The FCC should reject this proposal because:
 - It could conceivably exclude Catholic and other private and parochial schools from the program
 - Tying funds to the school size could result in small, rural schools in Puerto Rico being denied the funds they need simply because they have fewer students

How to improve the program (cont'd)

- The NPRM asks whether the FCC should create new deadlines for USAC action in various phases of the E-rate process (§ 29). The FCC should establish deadlines with respect to:
 - Funding commitment decision letters (FCDLs)
 - USAC should be required to issue all FCDLs at least 30 days prior to the start of the funding year in order for applicants to obtain discounted invoices from service providers in July
 - When funding commitment is made after the funding year begins, the applicant may not be able to pay 100% of the amount shown on the invoice during the months that the FCDL is delayed
 - The service provider may “roll the dice” and bet the applicant will eventually be funded, but this practice is undesirable, risky and puts an undue burden on the service provider to finance the schools’ operations

How to improve the program (cont'd)

- Appeals
 - The delays that applicants experience in having appeals decided by the SLD and the FCC affects the effectiveness of the program
 - Some of the private schools have appeals from FY 2003 still pending
- Approval of Form 486
 - Previously, Form 486 would be approved within 3 to 4 weeks; now it is not uncommon for schools to wait over 2 months before the 486's are approved
 - Without SLD “acknowledgment” of the Form 486, the service provider is unable to get paid
 - There are approximately one-hundred Form 486's for FY 2003 to 2006 that have not been approved by the SLD

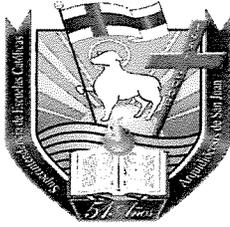
How to improve the program (cont'd)

- The NPRM asks whether the FCC should impose an annual independent audit requirement to further safeguard the program against potential waste, fraud and abuse (§ 71)
- The FCC should impose an audit requirement
 - However, such requirement should apply only to schools that receive a large amount of support from the program (*i.e.*, \$3 million or more in discounts in any funding year)
 - For many small schools in Puerto Rico, the cost of such audits may very well exceed the total discounts received by them, which would be an inefficient use of USF monies
 - Should the FCC decide to impose an audit requirement without regard to the amount of support received by the schools, the cost of the audits should be borne by the USF itself

How to improve the program (cont'd)

- Discount percentages
 - SLD often lowers the discount percentages without explanation, forcing the applicant to go through a lengthy appeal process

C.C.C.A.S.J.



*Consorcio Colegios Católicos
Arquidiócesis de San Juan*

Edificio 2021 Carr. 177 Guaynabo, Puerto Rico 00969-5140
Teléfono (787) 731-6100 Fax (787) 731-0000

February 26, 2007

Mr. Mel Blackwell
Vice President
Schools and Libraries Division

Dear Mr. Blackwell,

The Consorcio de Escuelas Católicas, Arquidiócesis de San Juan de Puerto Rico, is a non-profit organization established in 1998 for the purpose of helping its member schools take maximum advantage of the E-rate program for the benefit of their students. It represents, guide and helps its 54 member schools through the process required to solicit E-rate funds and to design their school Technology Plan.

I write to you because I thought you might be interested in some of the accomplishments our members have been able to achieve as a result of the E-rate program. For example, E-rate funds have enabled our members to obtain: the infrastructure necessary to receive high speed Internet access; internal connections; distance learning capabilities; e-mail facilities; student databases; and administrative and accounting systems. In addition, all our member schools have a library with a computer that has Internet access and a computer lab also with Internet access. Some of our members are also participants in the electronic library and educational database access projects.

Some of our members are participating in distance learning programs to help students who can't attend school in the usual way. Others have computers in the classrooms to make their classes dynamic, attractive, interactive and accessible for all students

including those with learning disabilities. One of our members has even initiated a video conference project with connectivity between schools.

Our member's technology development would not have been possible without the E-rate program. In addition, without the program, our members would not find easy to comply with the No Child Left Behind Act nor could they keep our children interested in school and learning which helps minimize the number of drop-outs.

In sum, the E-rate program has been essential to our members' ability to bring the benefits of technology to enhance the learning process for the children of Puerto Rico who attend our members' schools.

Respectfully,

A handwritten signature in black ink, appearing to read 'Maritza Rosario', with a large, stylized flourish at the end.

Maritza Rosario

Consortium Director

Consortio de Colegios Católicos, Arquidiócesis de San Juan

E-mail: mrosario@escuelascaticas-sj.org