THIS LETTER IS AN APPEAL

Youth Empowerment Services

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Letter of Appeal
Schools and Libraries Division
Box 125 – Correspondence Unit
80 South Jefferson Road
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RE: Appeal of Funding Commitment Decision (Project Rebuild Community High School – Canton OH, BEN 16028781,471 application: 522892, FRN: 1439441, FY 2006)

Dear Sir or Madam:

On behalf of the captioned entity, we would respectfully appeal the SLD decision not to fund the captioned funding application.

It is our understanding that the captioned funding request was not funded because the application was not deemed to be cost-effective. In response to this decision and the reason given, we respectfully submit nine grounds for appeal that we hope will help to overturn this decision. We would request each of these grounds be individually and wholly evaluated.

Ground 1: USAC has obtained policy clarification between the time of the funding commitment and the appeal decision

In its August 15th, 2006 order, in the matter of Academia Discipulos de Cristo Bayamon, Puerto Rico, *et al.* (DA **06-1642)** the FCC stated: "The Commission's rules, however, do not expressly establish a bright line test for what is a 'cost effective service.' Although the Commission has requested comment on whether it would be beneficial to develop such a test, it has not, to date, enunciated bright line standards for determining when a particular service is priced so high as to be considered excessive or not cost-effective."

SLD's continued assertion that the funding request is not justified, per FCC cost-effectiveness rules, is not supported by the FCC's own guidance or actions.

Ground 2: USAC has obtained policy clarification between the time of the funding commitment and the appeal decision

Based on information that was posted on the e-rate central website, we would submit the FCC is reluctant to endorse SLD's contention that a

service must be cost-effective in of itself. Specifically, the information we cite states: "In the recently released Eligible Services List ("ESL") for FY 2007, the FCC eliminated the proposed "cost-effective" adjective that the SLD had proposed to describe certain eligible services such as e-mail and Web hosting. This appears to be a clear indication that the FCC is not prepared to support cost effectiveness requirements without the formal development of such standards."[1]

[1] http://www.e-ratecentral.com/archive/News/News2006/weekly_news_2006_1106.asp

Again, SLD's continued assertion that the funding request is not justified, per FCC cost-effectiveness rules, is not supported by the FCC's own guidance or actions.

Ground 3: SLD erred in its initial review

The cost-effectiveness review incorrectly drew a correlation between the number of students to be served and the dollar amount of the funding request. Regardless of the size of a school, there are core and essential technology services that all students should have access to. By making a correlation between the number of students and funding request dollar amounts, as opposed to, the number of students, their fundamental technology needs, and the requested equipment and services, SLD is creating a technology reimbursement amount per student, instead of providing the services that students are entitled to, as the program intends.

Ground 4: SLD erred in its initial review

The cost-effectiveness review incorrectly drew a correlation between the number of students to be served and the dollar amount of the funding request. "Although the number of students in a school may bear some relationship to the amount of equipment to be maintained, there is no direct link between maintenance expense and the number of students supported."[2]

[2] http://www.e-ratecentral.com/archive/News/News2006/weekly_news_2006_0313.asp

Ground 5: SLD erred in its initial review

It is our contention that, based on publicly available data, there is no policy or guidance given by the FCC that specifically supports the guidelines used in PIA's cost effectiveness review. Furthermore, we contend that the funding request denial, based on this review, appears to be "highly subjective and selective."[3] Therefore, we contend that SLD has erred by subjecting the funding request to the cost effectiveness review guidelines.

[3] http://www.e-ratecentral.com/archive/News/News2006/weekly_news_2006_0313.asp

Ground 6: SLD erred in its initial review

The cost-effectiveness review incorrectly drew a correlation between the number of students to be served and the dollar amount of the funding request. The cost-effectiveness review did not include eligible non-student users (i.e. teachers, administrators, et al) in its statistics.

Ground 7: SLD erred in its initial review

The cost-effectiveness review showed statistics for use based on the current number of students in the school. By doing this, we contend that SLD erred, as it did not take into account the life expectancy of the equipment and the number of future students who would utilize this equipment. The school's enrollment plans are included in the attached document that was originally provided to the PIA reviewer.

Ground 8: SLD erred in its initial review

SLD erred by going against the public interest in this matter.

By drawing a correlation between the funding request and the number of students, SLD has penalized smaller schools, which is against public interest. Since it is important that students at any school have access to similar core technology resources, and since the overhead for this technology is similar for both small and large schools and school districts, SLD has, in essence, imposed greater restrictions on charter and other small schools, even though research has shown that smaller schools are more effective for certain student populations (such as the population served by Project Rebuild Community High School.)

Ground 9: USAC has obtained policy clarification between the time of the funding commitment and the appeal decision

In its February 28th, 2006 order, in the matter of the Wyoming Department of Education (DA-06-485A1), the FCC stated: "Although the Commission has concluded that price should be the primary factor in selecting a bid, applicants are given maximum flexibility to take service quality into account and may choose the offering that meets their needs most effectively and efficiently."

Based on the quality of service it desired and the number of proposals it received, the school did choose the most cost-effective and efficient option available to it.

* * *

Thank you for your thoughtful review of our appeal; we hope that we provided sufficient grounds for our appeal to be granted. Should you require additional information or should have any questions, please feel free to contact Chris A. Quintanilla of Youth Empowerment Services, the school's e-rate project manager and attorney-in-fact in this matter, at 215/694-3955 or chrisqu@yesphilly.org.

Sincerely,

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