

**5.2 Brockton Monthly Telecommunications Service Charges**

Units	Service	Price	Extended Price	E-Rate Eligibility	Amount Eligible for E-rate Reimbursement
1	AchieveXpress with Satellite Network	\$3,750.00	\$3,750.00	100%	\$3,750.00
29	AchieveXpress without Satellite Network	\$3,000.00	\$87,000.00	100%	\$87,000.00
<b>Totals</b>			<b>\$90,750.00</b>		<b>\$90,750.00</b>

Total Cost of Telecommunications Digital Transmission Service for 30 sites in Brockton Public Schools \$1,000,000.00.

Achieve Telecom Network of MA, LLC.  
3 Centennial Drive  
Peabody, MA 01960

M.D.T.E. Tariff No. 1  
1<sup>st</sup> Revised Page 1



TARIFF MADE AND FILED BY

Achieve Telecom Network of MA, LLC.

SHOWING THE REGULATIONS AND SCHEDULES OF CHARGES APPLICABLE TO  
INTRASTATE INTEREXCHANGE ACCESS TELECOMMUNICATIONS SERVICE  
WITHIN THE COMMONWEALTH OF MASSACHUSETTS

Issued: September 22, 2003

Effective: October 22, 2003

3. The Customer shall remit payment of all charges to any agency authorized by the Company to receive such payment
4. Payment term is net 30 days, or as mutually agreed in writing between the Customer and the Company. If the bill is not paid within the agreed payment term following the mailing of the bill, the account will be considered delinquent.
5. A delinquent account may subject the Customer's service to temporary disconnection.
6. Failure to receive a bill will not exempt a Customer from prompt payment of any sum or sums due the Company.
7. In the event the Customer is over-billed, an adjustment will be made to the Customer's account and the Customer will be deemed to not owe the over-billed amount. If the Customer is under-billed, the Customer shall pay in lump sum the under-billed amount.

***2.2.B.5 Special Provisions for Schools and Libraries***

The Schools and Libraries Discount Program permits eligible schools (public and private, grades Kindergarten through 12) and libraries to purchase the Company services offered in this Tariff at a discounted rate, in accordance with the Rules adopted by the FCC in its Universal Service Order 97-157, issued May 8, 1997. As indicated in the Rules, the discounts will be between 20 and 90 percent of the pre-discount price, which is the price of services to schools and libraries prior to application of a discount. The level of discount will be based on an eligible school's or library's level of economic disadvantage and by its location in either an urban or rural area. A school's level of economic disadvantage will be determined by the percentage of its students eligible for participation in the National School Lunch Program, and a library's level will be calculated on the basis of school lunch eligibility in the public school district in which the library is located. A non-public school may use either eligibility for the national school lunch program or other federally approved alternative measures to determine its level of economic disadvantage. To be eligible for discount, schools and libraries will be required to comply with the terms and conditions set forth in the Rules. Discounts are available only to the extent that they are funded by the federal Universal Service fund. Schools and libraries may aggregate demand with other eligible entities to create a consortium.

***2.2.B.5.(a) Schools and Libraries Regulations***

***2.2.B.5.(a)I Obligations of eligible schools and libraries***

Schools and libraries and consortia shall participate in a competitive bidding process for all services eligible for discounts, in accordance with any state and local procurement rules and in accordance with both FCC and USAC Rules.

Schools and libraries and consortia shall submit requests for services to the Schools and Libraries Division, as designated by the FCC, and follow established procedures.

Services requested will be used for educational purposes. Services will not be sold, resold, or transferred in consideration for money or any other thing of value. Qualifying schools and libraries that have both applied for and received approval for discounts under the FCC's Universal Service Administrative Company (USAC) E-Rate program for this service must file a USAC Form 486 designating the Company as the supplier of this service, prior to initiating service. The discounts supplied by the USAC program shall be credited to the Customer's account and the Customer shall only be invoiced for the non-discounted portion of the service.

**2.2.B.5.(a)II *Obligations of the Company***

The Company will offer discounts to eligible schools and libraries on commercially available telecommunications services contained in this Tariff. All services contained in this Tariff are eligible for discount and fully comply with the Rules.

The Company will offer services to eligible schools, libraries, and consortia at prices no higher than the lowest price it charges to similarly situated non-residential customers for similar services (lowest corresponding price).

In competitive bidding situations, the Company may offer flexible pricing or rates other than in this Tariff, where specific flexible pricing arrangements are allowed, subject to Massachusetts Department of Telecommunications and Energy approval.

**2.2.B.5.(a)III *Discounted Rates for Schools and Libraries***

Discounts for eligible schools and libraries and consortia shall be set as a percentage from the pre-discount price, which is the price of services to schools and libraries prior to application of a discount.

The discount rate will be applied to eligible intrastate services purchased by eligible schools, libraries or consortia.

The discount rate is based on each school's or library's level of economic disadvantage as determined in accordance with the FCC Order or other federally approved alternative measures, as permitted by the Rules, and by its location in either an urban or rural area.

The Schools and Libraries discount matrix for eligible schools, libraries and consortia is included below for reference:

INCOME Measured by % of students eligible for the National School Lunch Program	URBAN LOCATION E-Rate Discount	RURAL LOCATION E-Rate Discount
If the percentage of students in the school qualifying for the National School Lunch Program is...	...and the school is in an URBAN area, the E-rate discount will be...	...and the school is in a RURAL area, the E-rate discount will be...
Less than 1%	20%	25%
1% to 19%	40%	50%
20% to 34%	50%	60%
35% to 49%	60%	70%
50% to 74%	80%	80%
75% to 100%	90%	90%

**2.2.B.6 Deposits**

The Company reserves the right to examine the credit record of the Customer. If the Customer's financial condition is unknown or unacceptable to the Company, the Customer may be required to provide the Company with a security deposit of up to two months service charges that the Company may apply against overdue charges. The Company credits interest on deposits annually, or upon termination of the service, or upon return of the deposit. The receipt of a deposit does not relieve the Customer for their responsibility to pay bills promptly. Interest on any deposits shall be calculated in conformance with 220 CMR 26.09.

**2.2.B.7 Advance Payments**

For Business Customers for whom the Company determines an advance payment is necessary, the Company reserves the right to collect an amount not to exceed two (2) months estimated charges as an advance payment for this service. This will be applied against the next month's charges and a new advance payment may be collected for the next month, if necessary.

**2.2.B.8 Taxes**

All federal excise taxes, and state and local sales, use, and similar taxes, are billed as separate line items and are not included in the quoted rates, unless otherwise provided in this tariff.



**AFFIDAVIT**

1. My name is Anne Thompson.
2. Presently, I am employed by Trinity Catholic Academy Brockton in the position of Technology Consultant.
3. From January of 1997 through January of 2007, I held the position of Technology Coordinator/director for the Brockton Public School District.
4. My responsibilities as Tech Director included the oversight of the process for preparing, submitting and processing applications for financial support from the Schools and Libraries Support Mechanism ("E-Rate Program") administered by the Universal Service Administrative Company ("USAC"). In doing so I worked with an E-Rate Program consultant engaged by the District to help ensure that the District was in compliance with the rules and regulations that govern the E-Rate Program.
5. Consistent with my responsibilities, I participated in the District's application process for E-Rate Program support for Funding Year 2007-2008 relating to FCC Form 470 Application No.560310000617305 for certain eligible telecommunications services ("Application"). Part of that participation included meeting, after the required posting of the Application with USAC, with representatives of Achieve Telecom Network of Massachusetts, LLC ("Achieve") to receive a presentation about Achieve's digital transmission services. I also reviewed a written proposal submitted by Achieve in response to the Application. To my knowledge, Achieve was the only company to respond to our request for proposals for these services.
6. At all times we took necessary steps to comply, and I believe did comply, with all E-Rate Program rules and with any applicable state and local procurement rules.

I believe that we took all necessary steps to ensure that we conducted a fair and honest competitive bidding process. Achieve was an E-Rate approved provider of such services and was also approved by the Commonwealth of Massachusetts as a provider of such services.

7. At no time during any of my interactions with Achieve or any of its representatives was I ever informed of, made aware of, or otherwise led to believe or suspect that Achieve had any partnership or affiliation with United States Distance Learning Association ("USDLA"). In fact, even as of this date I am unaware of any partnership or affiliation between Achieve and USDLA except to the extent that I have been made aware that the same has been alleged by USAC in a Notification of Commitment Adjustment Letter.

8. Achieve did inform the District of the opportunity to apply for a grant from USDLA to cover the District's share of the cost of the services ("District Share") covered by the Application. Achieve also generally noted that there were other potential sources of such grants.

9. Achieve never represented, either orally or in writing in any way that it was offering a service that would be of "no cost" to the District. Achieve never represented, either orally or in writing, that if the District selected Achieve as its service provider and applied for a grant from USDLA that approval of the grant by USDLA was guaranteed. Achieve did not present an automatic Grant from USDLA as part of the Achieve service proposal made to the District.

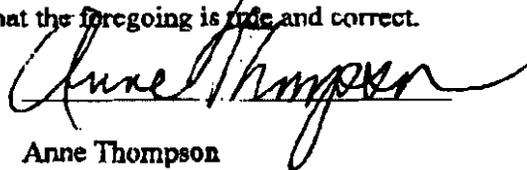
10. The District had sufficient funds in its overall technology budget to cover the District Share for its E-Rate Program supported services, including the service ultimately obtained from Achieve.

11. Again, Achieve was the only vendor to submit a bid or proposal in response to our RFP.

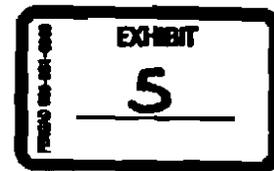
12. The District obtained, prepared and filed its own application with USDLA for a grant. Achieve was not involved in any way in the grant application process. District personnel dealt directly with USDLA personnel in completing the necessary forms to apply for the grant. USDLA never indicated in any way that it was affiliated with or in partnership with Achieve.

13. Any partnership or affiliation between Achieve and USDLA, if any existed, existed without the knowledge of the District, and the District was unaware of any impact of such partnership or affiliation on the price of Achieve's services in its proposal, if any.

I declare under penalty of perjury that the foregoing is true and correct.



Anne Thompson



AFFIDAVIT

1. My name is Daniel P. Vigeant.
2. Presently, I am employed by the Brockton Public School District (the "District") as the Director of Technology Services. My immediate predecessor was Anne Thompson.
3. My responsibilities as Director of Technology Services include oversight of programs benefiting from financial support from the Schools and Libraries Support Mechanism ("E-Rate Program") administered by the Universal Service Administrative Company ("USAC").
4. Consistent with my responsibilities, I have had the opportunity to meet and speak with representatives of Achieve Telecom Network of Massachusetts, LLC ("Achieve") the vendor that provides certain telecommunications services to the District resulting from FCC Form 470 Application No.560310000617305.
5. I am informed and believe that Achieve was at all times during which services have been provided by it to the District an E-Rate approved provider of such services and that Achieve was also approved by the Commonwealth of Massachusetts as a provider of such services.
6. At no time during any of my interactions with Achieve or any of its representatives was I ever informed of, made aware of, or otherwise led to believe or suspect that Achieve had any partnership or affiliation with United States Distance Learning Association ("USDLA"). In fact, even as of this date I am unaware of any partnership of affiliation between Achieve and USDLA except to the extent that I have

been made aware that the same has been alleged by USAC in a Notification of Commitment Adjustment Letter.

8. Achieve has never represented to me, either orally or in writing in any way that it was offering a service that would be of "no cost" to the District. Achieve has never represented to me, either orally or in writing, that if the District selected Achieve as its service provider and applied for a grant from USDLA that approval of the grant by USDLA was guaranteed.

9. Any partnership or affiliation between Achieve and USDLA, if any existed, or if any exists now, existed or exists without my knowledge and I believe without the knowledge of the District, and the District was unaware of any impact of such partnership or affiliation on the price of Achieve's services, if any.

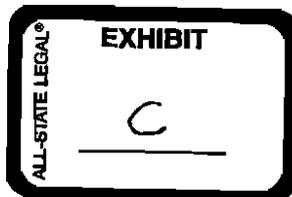
10. I am informed and believe that the District has engaged in honest and open competitive bidding procedures in obtaining the services provided by Achieve; that Achieve was the only vendor that responded to the District's request for proposals for such services; and that the District is in no way responsible for or complicit in any wrongdoing which has been alleged to have occurred.

I declare under penalty of perjury that the foregoing is true and correct.



Daniel P. Vigeant

November 6, 2008



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***Please Respond to Boston***

April 30, 2009

Filed electronically at [appeals@sl.universalservice.org](mailto:appeals@sl.universalservice.org)  
and via facsimile to **1-973-599-6542**

Letter of Appeal  
Schools and Libraries Division, Dept. 125  
Correspondence Unit  
100 South Jefferson Road  
Whippany, NJ 07981

**Re: Billed Entity Name: Brockton Public School District**  
**Form 471 Application Number: 514834**  
**Billed Entity Number: 120639**  
**FCC Registration Number: 001812971**

Our office represents the Brockton Public School District. This letter is a **Letter of Appeal** and is submitted in response to **Notification of Commitment Adjustment Letter dated January 14, 2009 ("COMAD")**.

**This Appeal addresses a recurring issue. The allegations contained in the COMAD are identical to those contained in two prior notifications. The Brockton Public School District has already responded to and appealed these allegations on two occasions. We respectfully**

**MURPHY, HESSE, TOOMEY & LEHANE, LLP**  
**Attorneys At Law**

**refer the Division to our appeals in those matters dated and received by the Division on November 7, 2008 (FORM 471 Application Number 575224) and December 29, 2008 (FORM 471 Application Number 614875) respectively. We hereby incorporate herein by reference our responses to those appeals as the factual and legal issues are identical.**

Specifically, we appeal the following:

1. the determination of USAC that **“Achieve’s bids to applicants indicate that Achieve markets their service to applicants as a no cost service because Achieve is able to guarantee applicants that they will receive USDLA grants to pay their share for the Achieve funding requests;”**
2. USAC’s determination that **“the information obtained shows that Achieve guarantees that the applicants will receive a grant from the USDLA to use to pay the applicant’s share for the Achieve funding requests;”**
3. USAC’s determination that **“both the applicant and the service provider are responsible for these rule violations because the applicant was unable to conduct a fair and open competitive bidding process based on Achieve’s no-cost guarantee;”**
4. USAC’s determination that **“both the applicant and the service provider are responsible for this rule violation.”**

**CONCLUSION**

We have previously addressed these allegations in full and continue to deny any wrongdoing. To the extent that Achieve has engaged in any impropriety by promising other applicants that it would provide services at no cost, it never made any such promise, representation or suggestion to the District. To the extent that any partnership existed between Achieve and USDLA as alleged by USAC, then it was a partnership that the District had no knowledge of. Where any such partnership between USDLA and Achieve also apparently escaped the scrutiny of both USAC and MDTE officials, it would seem unfair and unjust to expect the District to discover it sooner, or to levy the severe consequence of funding withdrawal against the District where it performed reasonable due diligence, engaged in an honest and open bidding process and selected the only vendor to respond to its RFP – one that held itself out as

**MURPHY, HESSE, TOOMEY & LEHANE, LLP**

**Attorneys At Law**

highly qualified, experienced, and both familiar with, and in compliance with, USAC and FCC rules.

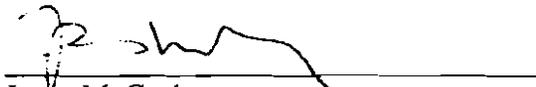
To the extent that any wrongdoing has occurred, the District denies any responsibility for, or complicity in it.

The initial determination of USAC to provide an 82% discount to the Brockton Public School District for telecommunications services underscores the poverty that pervades its student population and the severity of its educational and technological needs. Throughout the period of time to which this matter pertains, the District has, in the best of faith, attempted to meet those needs in the most cost-effective manner possible. This effort is entirely consistent with the aim and mission of USAC.

For each of the foregoing reasons, the District appeals the determination set forth in the Notification of Commitment Adjustment and respectfully requests that the District's funding commitment be fully restored.

Respectfully submitted,  
Brockton Public School District

By its attorneys,



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