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Northeast's Form 470s and Form 471s were either completed by Northeast Board members or Northeast's E-rate consultant Jill Duncan, who is not a Trillion employee.⁹⁶

C. Northeast Did Not Signal that Trillion Would be Awarded the Contract

In your letter, you allege that before bids were even submitted and the selection made, Northeast signaled that it would award the contract to Trillion. First, without specific information regarding the factual basis for your allegation, Northeast cannot provide a comprehensive response. As Mr. Mabe attests in his declaration, at no time prior to FY 2006 did Mr. Mabe signal to Trillion (or anyone else) that Trillion would be awarded the contract.⁹⁷

D. Northeast Did Not Dissuade Other Potential Bidders

In your letter, you alleged that after Trillion invested in northeast Texas, other vendors were "dissuaded" from bidding. More specifically, you assert that Mr. Mabe was actively encouraging other districts to go with a specific provider, working with Trillion and appeared not open to other potential bidders. However, *Northeast* did not dissuade other vendors from bidding nor did *Northeast* encourage other districts to go with Trillion. In his capacity as coordinator for Northeast, Mr. Mabe did entertain inquiries from other potential bidders during the bid windows in question.⁹⁸ As Mr. Mabe declares, he explained the consortium's needs and the Form 470 technical specifications. Each potential bidder chose for its own reasons not to submit a competitive bid.

It is not surprising, given the geographic region and the general lack of telecommunications competition, that potential bidders may not have found it economically feasible to submit competing bids. Indeed, Mr. Mabe speculates that at least some potential bidders may have been dissuaded from bidding by the significant upfront build-out costs required to construct a wireless WAN. Since Northeast was under an existing contract to receive wireless WAN services from Trillion, and Trillion owned the existing network and the related equipment, the vendor would have either had to build out a new network or purchase space on Trillion's poles.⁹⁹ However, network economics, not Mr. Mabe's contacts with Trillion, would appear to be the driving factors in such cases.

⁹⁶ Mabe Dec. ¶10.

⁹⁷ Mabe Dec. ¶¶ 20, 29.

⁹⁸ Mabe Dec. ¶ 20 (noting that for FY 2006, Mr. Mabe spoke with one vendor other than Trillion regarding the Form 470 posting); *Id.* ¶ 27 (noting that for FY 2007 Mr. Mabe did not receive any inquiries other than from Trillion); *Id.* ¶ 29 (same); *Id.* ¶ 35 (Mr. Mabe could recall two or three phone calls between 2004 and 2009 from other potential bidders to inquire about the services Northeast requested).

⁹⁹ Mabe Dec. ¶ 20.

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Importantly, USAC may not draw the conclusion that Northeast's bidding process was flawed merely because Northeast only received one bid. The Commission has previously held that the fact that an applicant received only one bid (or no bids, for that matter) does not disqualify it from receipt of e-rate funding.¹⁰⁰ In *Winston-Salem/Forsyth County School District*, the Commission granted an appeal where the applicant followed the Commission's prescribed procedures but only received one bid. The Commission held that the decision by the applicant was no different than the "thousands" of applicants that receive no bids, or only bid, in response to a Form 470.¹⁰¹ The FCC's rules require applicants to seek competitive bids, not to have competing bidders where there are none.¹⁰² Accordingly, the fact that an applicant received only one bid, "without more, cannot be the basis for denying [an applicant's] request for review."¹⁰³

IV. RESPONSES TO ADDITIONAL USAC QUESTIONS

In your letter you also request additional information from Northeast. Please see the Appendix, attached hereto, which addresses the additional questions in your letter.

V. CONCLUSION

I hope that this additional information addresses the concerns you raised in your June 4, 2010 letter to Northeast and that USAC will approve Northeast's E-rate funding requests. Northeast has at all times engaged in a fair and open competitive bidding process free from

¹⁰⁰ See, In the Matter of Request for Review of the Decision of the Universal Service Administrator by Keyport School District, Schools and Libraries Universal Support Mechanism, *Order*, File No. SLD-388346, CC Docket No. 02-6, DA 09-2241, 24 FCC Rcd 12702 ¶1(2009).

¹⁰¹ In the Matter of Request for Review of the Decision of the Universal Service Administrator by Winston-Salem/Forsyth County School District, *et al*, Schools and Libraries Universal Support Mechanism, *Order*, CC Docket No. 02-6, DA 03-314, 18 FCC Rcd 26457, 26462 ¶14 (2003).

¹⁰² *Id.* at 26462 ¶14.

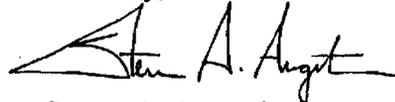
¹⁰³ *Id.* at 26462 ¶14.

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conflicts of interest, in compliance with FCC rules. Please feel free to contact me if you have any questions or concerns regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven A. Augustino". The signature is fluid and cursive, with a large initial "S" and "A".

Steven A. Augustino

*Counsel to Northeast Texas Regional Education
Telecommunications Network*

SAA:pab

Enclosures

APPENDIX
ADDITIONAL QUESTIONS IN
USAC JUNE 4, 2010 LETTER

1. Amount Northeast Would Like Amortized

QUESTION: For each FRN where the WANs were applied for separately, and the services requested include service provider equipment costs, and/or an upfront or non-recurring (one-time) charge for capital investment by the service provider that is equal to or greater than \$500K please provide amortization information. Please send a signed written response as to how many years you would like to amortize this cost.

RESPONSE: In response to your request, if USAC combines WAN A and B, Northeast would like to amortize the infrastructure costs for WAN A and WAN B over a three year period.

2. List of Schools Who Agreed to Purchase VoTN Services

QUESTION: Please provide a list of the schools, by Fund Year, who agreed to purchase the VoTN services prior to the filing of the Form 471.

RESPONSE: In response to your request, the following is a list of school districts who agreed to purchase the VoTN services. This list also includes the date the final contract was signed with the service provider and the school district to provide VoTN services. Please note that the schools may have agreed to purchase VoTN services at an earlier date, prior to when the contract was finalized. VoTN services were available to all schools within Northeast's WAN.

<u>District</u>	<u>Date Signed</u>
Chapel Hill Independent School District	12/13/2007
Chapel Hill Independent School District (2)	2/7/2008
Chapel Hill Independent School District (3)	1/15/2009
Clarksville Independent School District	5/31/2007
Daingerfield-Lone Star Ind. School District	2/9/2009
Harts Bluff School District	9/9/2007
Jefferson Independent School District	2/2/2009
Maud Independent School District (1)	6/29/2007
Maud Independent School District (2)	1/22/2008
McLeod Independent School District	2/21/2008
North Lamar Independent School District (1)	6/29/2007
North Lamar Independent School District (2)	1/22/2008
North Lamar Independent School District (3)	2/21/2008
Pewitt Consolidated Ind. School District	6/29/2007

3. Trillion Not Involved in Fiscal Year 2010 Application

QUESTION: Please indicate if Trillion was involved in the development of the specifications sought on the Form 470 and subsequent contract awarded to Trillion. Please indicate if you intended to entertain bids and have a fair and open competitive bidding process or if the School District intended to select Trillion for this new contract without use of a fair and open competition. Please provide detailed support for your responses, including any supporting documentation you can provide. Furthermore, please also indicate if any gifts were offered or received, other than those indicated on the NTxRETN Expenses.pdf document (attached), during the time leading up to the award of this contract.

RESPONSE: In response to your request, Northeast confirms that Trillion was *not* involved in the development of the specifications sought on FY 2010 Form 470 for FRN 2043353 and the subsequent contract signed on February 4, 2010. For FY 2010, Northeast intended to and did in fact entertain bids and conduct a fair and open competitive bidding process.¹ As support for these propositions, please find attached a copy of the Form 470 that was posted to USAC's website for the requisite 28 day period.² Please note that Form 470 contains the requisite certification signed by Mr. Mabe that all bids will be carefully considered.³ Further, to the best of Mr. Mabe's and our knowledge and belief, no gifts were offered or received during the time leading up to the award of the contract.

¹ Mabe Dec. ¶ 38.

² Attached hereto as **Exhibit I**.

³ See 47 C.F.R. § 54.504(c)(1)(xi).

EXHIBIT A



Schools and Libraries Division

Date: June 4, 2010

David Mabe
Northeast Texas Regional Education Telecommunications Network
DMabe@reg8.net

Response Due Date: June 21, 2010

Dear Mr. Mabe:

We are in the process of reviewing your funding requests with Trillion Partners, Inc. for FY 2006-2010 to ensure that they are, in compliance with the rules of the Universal Service program. We have reviewed the documentation in your original response of June 18, 2009 as well as your reply dated August 10, 2009.

Failure to conduct a fair and open competitive bidding process free from conflict of interest.

Based on the documentation in your responses and the information provided by Trillion, your service provider, all FRNs committed for FY 2006, 2007 and 2008 will be rescinded because you did not conduct a fair and open competitive bid process free from conflicts of interest. The documentation you provided indicates that starting in 2005 and throughout your contractual relationship with Trillion, you were offered and accepted valuable gifts from the service provider. Specifically, Trillion provided meals, golf outings and travel. For yourself alone, total gifts by year were as follows: 2004 \$38.07; 2005: \$310.09; 2006: \$48.86; 2007: \$747.83; 2008 \$44.04. In both 2006 and 2008, a single meal exceeded \$20 per person and in 2005 and 2007, total gifts to one individual exceeded \$50. Finally, we note that according to Trillion's records, you did attend a dinner on 2/5/2008 at the Moonshine Bar and Grill, just prior to signing a contract with Trillion. (See NTxRETN Expenses.pdf and Receipt 400.pdf) The value of these gifts exceeds the federal gifts standards of \$20/person/occasion not to exceed \$50/person/per calendar year. Although these gifts may be acceptable under state law, the Federal Communications Commission has specifically determined that for another applicant in Texas that the offer and acceptance of gifts while allowable under Texas Penal Code does not mitigate the conflict of interest that is created when the you accepted the gifts, and therefore, you did not run a fair and open competitive bidding process, free from conflicts of interest as required by FCC rules. For additional guidance regarding the competitive bidding process, please refer to the USAC website at: <http://www.usac.org/sl/applicants/step03/run-open-fair-competition.aspx>.

FCC rules require applicants to conduct a fair and open competitive bidding process free from conflicts of interest. See *Request for Review of the Decision of the Universal Service Administrator by Ysleta Independent School District, El Paso, Texas, et al, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, SLD Nos. 321479, 317242, 317016, 311465, 317452, 315362, 309005, 317363, 314879, 305340, 315578, 318522, 315678, 306050, 331487, 320461, CC Docket Nos. 96-45, 97-

21, Order, 19 FCC Rcd 6858, ¶ 60 (2003) (“Ysleta Order”); See also *Request for Review of Decisions of the Universal Service Administrator by MasterMind Internet Services, Inc., Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, 16 FCC Rcd 4028-4032-33, ¶ 10 (2000); *Request for Review of Decisions of the Universal Service Administrator by SEND Technologies LLC, Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, DA 07-1270 (2007); *Request for Review of Decisions of the Universal Service Administrator by Caldwell Parish School District, et al., Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, DA 08-449 (2008)(Caldwell Parish).

If the FRNs should not be denied and you have alternative information, please provide an explanation and the supporting documentation.

Failure to keep an arms-length relationship with the service provider, especially during the competitive bidding process

Based on the documentation that has been provided to USAC, all FRNs except for (1) FY 2010 Application 752417, FRN 2043353, and (2) those FRNs that reference the original contract you signed with Trillion, based on Form 470 # 38179000479262, will be denied because you did not conduct a fair and open competitive bidding process. The documentation indicates that David Mabe engaged in numerous meetings, e-mail discussions, and verbal discussions with Trillion employees beginning in 2004 through the award of multiple contracts with Trillion. These discussions were not general marketing discussions, but rather show that you provided Trillion with inside information regarding your needs and details about their procurement process, that Trillion influenced the procurement process by providing input into your Request for Proposal (RFP) and FCC Form 470 to ensure that Trillion would be awarded the contract, and that before the bids were even submitted and the selection made, you signaled that they would award the contract to Trillion. Furthermore, Mr Mabe, as late as January 8, 2008 shared draft Forms 470 with Jennifer Carter, Trillion’s E-rate Consultant, prior to the Forms 470 being posted thereby providing information to one service provider prior to the information being available to all potential bidders.

Specifically, your answers to questions 6-16 in your response of August 10, 2009 seems to indicate that after Trillion invested in your region, other vendors were dissuaded from bidding. While expanding your network is consistent with FCC rule requirements, in this case, it appears as though you were actively encouraging other districts to go with a specific provider. You continued to work with Trillion to find new business for them and did not appear to remain open to other potential bidders.

FCC rules require applicants to conduct a fair and open competitive bidding process free from conflicts of interest. See *Request for Review of the Decision of the Universal Service Administrator by Ysleta Independent School District, El Paso, Texas, et al, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, SLD Nos. 321479, 317242, 317016, 311465, 317452, 315362, 309005, 317363, 314879, 305340, 315578, 318522, 315678, 306050, 331487, 320461, CC Docket Nos. 96-45, 97-

21, Order, 19 FCC Rcd 6858, ¶ 60 (2003) (“Ysleta Order”); See also *Request for Review of Decisions of the Universal Service Administrator by MasterMind Internet Services, Inc., Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, 16 FCC Rcd 4028-4032-33, ¶ 10 (2000); *Request for Review of Decisions of the Universal Service Administrator by SEND Technologies LLC, Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, DA 07-1270 (2007); *Request for Review of Decisions of the Universal Service Administrator by Caldwell Parish School District, et al., Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, DA 08-449 (2008)(Caldwell Parish). Applicants cannot reveal to one prospective service provider information they do not provide to all. See Caldwell Parish, ¶ 16. Service providers are prohibited from filling out forms that require an applicant’s signature and the 470 must be complete by the entity that will negotiate with prospective service providers. See Caldwell Parish, ¶ 17.

Additionally, please provide responses to the following questions:

- In response to our question 5 regarding WAN A and WAN B, you state that Trillion recommended that you list separate the WANs in that manner. Based on your response, we will combine the two part of the WAN and which may result in service provider infrastructure costs requiring to be amortized. For each FRN where the WANs were applied for separately, and the services requested include service provider equipment costs, and/or an upfront or non-recurring (one-time) charge for capital investment by the service provider that is equal to or greater than \$500K please provide amortization information. Pursuant to the FCC’s “Brooklyn” decision, the costs must be amortized over at least a 3-year period. For additional information, see: <http://www.usac.org/sl/applicants/step06/wide-area-network-fact-sheet.aspx#5>. Please send a signed written response as to how many years you would like to amortize this cost. The amortization will be modified on a straight-line basis, i.e., the same dollar amount each year. For example; if the cost is \$600K, it will be amortized for 3 years at \$200K each year.
- Based on the responses that you provided to USAC in question 4 you indicate that schools other than Sulphur Bluffs ISD were not aware of the VoIP/VoTN services which you applied for on their behalf. Therefore, we will need to rescind or deny funding for all other entities since they did not provide specific authorization to you to file for those services on their behalf. Please provide a list of the schools, by Fund Year, who agreed to purchase the VoTN services prior to the filing of the Form 471. Funding for those school that first heard about or agreed to the offering after the filing of the Form 471 will be rescinded and/or denied.
- Regarding FY 2010 Application 752417, FRN 2043353, USAC’s records indicate that this FRN is based on a contract signed 2/4/2010, and pursuant to the posting of Form 470 # 950030000800033, which was posted on 12/18/2009. Please indicate if Trillion was involved in the development of the specifications sought on the Form 470 and subsequent contract awarded to Trillion. Please indicate if you intended to entertain bids and have a fair and open competitive bidding process or if the School District intended to select Trillion for this new contract without use of a fair and open competition. Please provide detailed support for your

responses, including any supporting documentation you can provide. Furthermore, please also indicate if any gifts were offered or received, other than those indicated on the NTxRETN Expenses.pdf document (attached), during the time leading up to the award of this contract.

You have 15 days to respond to this request. Your response is due by the close of business June 21, 2010. Please reply via e-mail or fax. Please provide complete responses and documentation to the questions listed above. It is important that you provide complete responses to ensure the timely review of your applications. If you do not respond, or provide incomplete responses, your funding request(s) (FRNs) may be reduced or denied, or in the case of committed FRNs subjected to commitment adjustment.

If the applicant's authorized representative completed the information in this document, please attach a copy of the letter of agency or consulting agreement between the applicant and the consultant authorizing them to act on the school or library's behalf. If you receive assistance outside of your organization in responding to this request, please indicate this in your reply.

Should you wish to cancel your Form 471 application(s), or any of your individual funding requests, please clearly indicate in your response that it is your intention to cancel an application or funding request(s). Include in any cancellation request the Form 471 application number(s) and/or funding request number(s). The cancellation request should be signed and dated and including both the name and title of the authorized individual.

Thank you for your cooperation and continued support of the Universal Service Program.

Pina Portanova
USAC, Schools and Libraries Division
Phone: 973-581-5016
Fax: 973-599-6552
E-mail: pportan@sl.universalservice.org

STATE OF TEXAS §
 §
COUNTY OF HOPKINS §

DECLARATION OF TOMMY LONG

My name is Thomas ("Tommy") Long. I am above the age of 18 years, have personal knowledge of the facts contained herein, and am competent to make this Declaration.

1. I am currently retired and work as an independent educational consultant.
2. Prior to my retirement I served as the superintendent of schools for the North Hopkins Independent School District for 21 years. I also served as a board member for the Northeast Texas Regional Education Telecommunications Network consortium (NETRETN or "the Consortium") for approximately 12 years.
3. In 1997, I was elected to serve as a director of the Consortium in the first year of organization and continued as a director until my retirement in 2009. In approximately 2002, I was elected as board chairman of the Consortium and served as chairman until my retirement in 2009.
4. The Consortium was formed by school districts located in northeast Texas in the late 1990's by 47 school districts and the Texas Region VIII Education Service Center ("Region VIII ESC"). The Consortium was organized to facilitate the development and delivery of a high-speed telecommunication network to serve member schools; to improve student learning and to improve the overall quality of education in a region that otherwise would not have access to advanced telecommunications services. Member school district superintendents met to form committees and discuss organization,

finance, and delivery of services. The Consortium was organized with a 12 member board of directors ("the Board"), elected based on the size of each school district, representing the 47 school districts and the Region VIII ESC. The Region VIII ESC executive director or his designee served as a board member. The Consortium is funded through district contributions based on student enrollment.

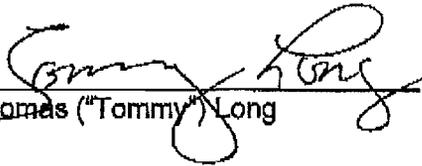
5. The Region VIII ESC is a member of the Consortium. The Region VIII ESC is one of twenty state Educational Service Centers created by the Texas legislature to assist Texas school districts with a variety of educational administrative needs, including (but not limited to) technology. Region VIII ESC has relationships established with each of the Consortium's member school districts and therefore was selected as fiscal agent by the Board. The Board worked with the Region VIII technology coordinator, which was Mr. Don Melody until 2005 and then Mr. David Mabe until 2009.
6. The Consortium's member school districts operate in an area of Northeast Texas where consumers in general have limited telecommunications service and access. As a rural area, there is little to no competition to provide telecommunications services to consumers in the region. Consumers in the region are served by mainly small rural telephone companies and some satellite companies but there is virtually no cable or high-speed Internet access available to consumers.
7. The Consortium's member school districts would be unable to access high-speed telecommunications services without the assistance of the E-rate

program. Consortium member school districts range in size from less than 100 to a little over 5,000 students. However, most of the schools served by the Consortium have less than 500 students. The Consortium serves schools receiving National School Lunch Program (NSLP) support for low-income students. Over 60% of the Consortium's member schools have half or more of their students qualifying for and receiving free or reduced lunches under the NSLP. NSLP support is as high as 100% for some member schools.

8. At the time the Consortium was formed most of the member school districts only had dial-up connectivity. The Consortium initially helped provide a T1 connection to each district with a wide area network (WAN) monitored from a central location. Many of the schools were served by small local telephone companies and had no other options. As bandwidth usage became greater in the earlier 2000s, the Board explored alternatives for delivery. The Board investigated providing more T1 and T3 wired (copper) circuits (where they were available), as well as wireless solutions.
9. The Board considered a wireless WAN as a viable option for service delivery considering the number of small rural member school districts with limited telephone service. Consequently, the Board decided to upgrade the Consortium's network with a wireless WAN. The Board sought to procure a wireless WAN following E-Rate bidding procedures and submitting funding requests to the Universal Service Administrative Company (USAC).

10. During my tenure on the Board, the Board solicited bids and requested funding through the E-rate program for wireless WAN services and upgrades to that network. The purpose was to provide a high-speed telecommunications network to serve students and school administrators.
11. Based on member school district's technology plans, the Board prepared and submitted FCC Form 470s between 2004 and 2009, explaining the technology needs of the Consortium and soliciting bids from service providers to provide those services. The Board would meet to consider bids received in response to the Form 470s for services under the E-Rate program. The primary consideration of the Board when it reviewed the bids was to procure for Consortium school districts the best possible network for the best price. Ultimately, every decision to upgrade and expand the wireless WAN was made by the Board alone. The Board approved the criteria for building the network and approved all contracts for its implementation.
12. As a former superintendent of a small rural Texas school district, I know personally that the NETRETN network has been an incredible upgrade for our students. The NETRETN Board is very proud of the NETRETN network. The network has allowed every student within the network to access educational experiences that simply would not have been possible prior to the development of the network. The network itself would not have been possible without E-Rate funding.

Signed under the penalty of perjury.


Thomas ("Tommy") Long

7-29-10
Date

EXHIBIT C

STATE OF TEXAS §
 §
COUNTY OF TITUS §

DECLARATION OF DAVID MABE

My name is David Mabe. I am above the age of 18 years, have personal knowledge of the facts contained herein, and am competent to make this Declaration.

1. I am currently owner of David Mabe Enterprises, LLC. ("DME"). Through DME I serve as a consultant to the Region VIII Education Service Center's TIPS/TAPS Purchasing Cooperative.
2. Prior to my work with DME, I served as the Deputy Executive Director of the Region VIII Education Service Center ("Region VIII ESC"). I assumed the role of Deputy Executive Director of the Region VIII ESC on August 1, 1995 and continued in that capacity until I retired in October of 2009.
3. The Northeast Texas Regional Education Telecommunications Network (NETRETN) was established in 1997; however, I was not involved with the consortium at that time.
4. NETRETN is a consortium of local school districts and the Region VIII Education Service Center. NETRETN was created through an interlocal agreement between the participating school districts and the Region VIII Service center.

5. The Region VIII ESC is a member of the consortium and serves as the fiscal agent for NETRETN. As the fiscal agent, the Region VIII ESC undertook the task of administering the NETRETN network. I took over as the Director of Network Services for the Region VIII ESC in 2002 which included my role as the coordinator of the NETRETN network. However, I was never an employee of NETRETN nor have I ever been an NETRETN board member.
6. The Region VIII Service Center is one of 20 statutorily created education service centers across Texas. Region VIII ESC provides a multitude of services to the school districts in its area. Region VIII ESC did not receive any fees for its services.
7. At the time I became involved with NETRETN, consortium members had available a typical telecommunications network for the time. It consisted of aggregated T-1 lines that went into a single hub, in Longview, Texas. Shortly after I became involved with NETRETN, we identified two major problems with the existing network:
 - a. The T-1 lines could not supply the school districts in the consortium with enough bandwidth. Most of the school districts in NETRETN are rural districts that did not have an alternative source of bandwidth; and

- b. The network was becoming cost prohibitive to the members of the consortium. Some of the schools in the consortium were on the Longview LATA and some were in the Dallas LATA. Because Longview was NETRETN's hub, the members had to pay very high DS3 charges to SBC (now AT&T) to get the data from the Dallas LATA to the network hub because SBC owned the lines.
8. In 2002 or 2003 we decided to seek alternate ways to get the data from Dallas to Longview. NETRETN met with several service providers and discovered that there were providers in the marketplace that could not only wirelessly transfer the data to Longview, but could also build an entire broadband infrastructure for the rural schools of Northeast Texas.
9. All of the school districts that comprised NETRETN at the time had technology plans in place. The NETRETN board members worked closely with the technology coordinators at each of the member school districts to amend their respective technology plans and to develop the needs and specifications for the new proposed network to ultimately seek E-Rate funding.
10. NETRETN also engaged the services of the Origin Group, specifically Jill Duncan, to assist NETRETN in developing its Form 470 for the construction

of the wireless broadband network for funding year 2004. Jill Duncan has served as NETRETN's E-Rate consultant for a number of years. Jill Duncan and the NETRETN Board members were the only individuals involved in drafting the specifications for the Form 470 for funding year 2004 and any applicable funding year thereafter.

11. As the network coordinator I was listed as the contact person on Form 470 application number 381790000479262 for funding year 2004 as well as the Forms 470 filed between 2004 and 2009. This Form 470 was posted with USAC in accordance with the requirements and NETRETN kept its bidding open for the requisite 28 days. NETRETN did not develop a separate request for proposals (RFP) for any of the funding years.
12. During the 2004 bidding window, I met with two potential bidders to discuss NETRETN's requirements and ask questions, Trillion and SBC. SBC had recently built a wireless network for the Net-net consortium of colleges in the Northeast Texas Area and was interested in NETRETN's project. However, shortly before the bidding window closed, SBC contacted me and told me SBC would not be submitting a bid. Ultimately, NETRETN only received one bid, from Trillion, in response to Form 470 application number 381790000479262.

13. The NETRETN Board met and reviewed the proposal from Trillion. The price, which was the primary factor considered by the Board, was initially too high. However, the Board was able work with Trillion to achieve a better price. By negotiating a multi-year contract, the Board was able to afford to build the network from the ground up. The cost to NETRETN's members to receive internet service from the new broadband network was only 7-10% higher on average than the fees they were paying for NETRETN's old T-1 network. NETERETN could never have achieved such a low cost increase for the increased bandwidth without an initial multiyear contract.

14. NETRETN signed a five (5) year contract with Trillion in 2004 and construction began shortly thereafter. Under the contract, Trillion owns all of the transmission facilities and equipment, and NETRETN purchases the services from Trillion as a Priority 1 service. NETRETN has individual contracts with each member of NETRETN. In order for NETRETN to act on behalf of each member, each entity executes a letter of agency with NETRETN each year. The E-Rate funds were used to pay for the services purchased from Trillion.

15. Throughout the construction process and the first year of the contract I was in almost constant contact with representatives of Trillion. The network

encountered several service issues that required extensive troubleshooting. Many of the maintenance and troubleshooting occurred on individual campuses throughout the consortium. As the coordinator for the NETRETN network, I was the liaison between the NETRETN member school districts and our service provider and the owner of the infrastructure, Trillion. Therefore, I had to work closely with both Ken Proud, Trillion's Vice President for Construction, and my Trillion service contact, Dave O'Rourke.

16. While working closely with Trillion during the first year of the network we determined that many of our problems were related to redundancy issues and some links needed to be added and some needed to be closed. We also determined that part of the connectivity issues were directly related to the amount of bandwidth. As a result of my troubleshooting exercises with Trillion, the NETRETN board and I decided that we needed to add another POP. When the network began we had 45MB of internet and added 50 MB during the second year (2005). The cost of these repairs were paid by Trillion because they were necessary to achieve the services contemplated under the original contract

17. Because NETRETN signed a multi-year contract with Trillion it was not necessary to file another form 470, rather NETRETN along with Jill Duncan simply completed a form 471 for subsequent E-Rate funding years.
18. As I mentioned before, during 2004 and 2005, I spent a considerable amount of time with representatives from Trillion working out issues with the network. During this time I shared several working lunches with the Trillion folks; however, none of the meals were social outings and I don't remember who paid for the meals each time.
19. In 2006, the Board determined that the network needed to be upgraded so that the network could be expanded because additional connections needed to be made and more bandwidth was necessary. The board also decided to add voice telephone services to the network. The initial contract was still in effect and, as a result, I continued to have contact with Trillion related to maintenance and improvement of the network. Because NETRETN was seeking additional bandwidth and expanded services that were not a part of the original contract with Trillion, it was necessary to seek E-Rate funding, and file new Forms 470, for the additional services sought.
20. In 2006, NETRETN, with the assistance of Jill Duncan, prepared two Form 470s for the upgrade and expansion of the network. The 470 was filed with USAC and was posted according to the rules. NETRETN did not prepare a

separate RFP for the expansion. While I don't remember the name of the company, one vendor other than Trillion called me to inquire about the posting. I explained the structure of the network and what NETRETN needed. The vendor I spoke with indicated that because Trillion owned the existing network and the related equipment, the vendor would have had to purchase space on Trillion's poles or construct their own poles in order to offer the services NETRETN sought. Because of this, the vendor indicated to me they would not submit a competitive bid. Trillion was the only potential vendor to submit proposals. However, I never signaled to Trillion (or anyone else) that Trillion's bid would be accepted. My only contact with Trillion during this time was to review current service issues unrelated to the expansion.

21. After the 2006 bidding window closed, the Board considered Trillion's proposal, with price being the primary factor and decided to accept its proposal. The Board negotiated a new six year contract in accordance with the specifications on the form 470 to provide the expanded network services.
22. No one from Trillion was involved in developing the technical specifications for the Forms 470 posted in 2006. I continued to have contact with Trillion during the competitive bidding window; however, that contact

was only for the purposes of maintaining and servicing the existing network. I did not have any meals or play golf with anyone from Trillion during the bidding window. In fact, it would have been impossible for NETRETN's network to remain functional if I was prohibited from having constant contact with the service personnel at Trillion to resolve technical issues with the network.

23. While I don't specifically remember nor do I have any records I may have had working lunches during 2006 with representatives from Trillion;

however, I do not remember who paid. I also may have played golf with a representative from Trillion in 2006; however I don't remember where the

game took place. Between 2006 and 2009, I established friendly

relationships with employees at Trillion because we have had to work so

closely together in improving and maintaining the network. When I

traveled to Austin, Texas, whether on NETRETN business or on other

business, I have occasionally played golf with Ken Proud, who at the time

was working for Trillion. On several other occasions, when Trillion folks

have traveled to Mt. Pleasant, I have hosted them at my golf club, where I

am a member. On those occasions, my golf fees were not paid by anyone

from Trillion. In fact, my golf was at my expense, as a member of the club

where we played.

24. I understand that USAC may believe Trillion purchased golf equipment for me as a gift. Specifically, I understand that USAC is investigating whether Trillion ever purchased a golf club – a new driver – for me. This contention is not true. During one of my visits to Austin, I had recently purchased, at my expense, a new driver. I played with Ken Proud that day and I recall playing very well. In fact, I beat Ken that particular round, much to my enjoyment. After I returned to work, I recall Ken sending me an email to the effect that I should “take good care of [my] new driver.” This was a reference to how well I played with my new equipment that round, but it in no way indicates that Trillion purchased a golf club for me. To the contrary, as stated above, I purchased the new driver myself, at my own expense. Trillion never purchased golf equipment for me.

25. Under no circumstances did my encounters with Trillion employees create a conflict of interest in the E-Rate bidding situations. Also, I have never been on the NETRETN board, so I have never voted to accept or reject any Trillion contract.

26. From 2006-2009, I continued to work closely with Trillion to improve the functionality of the network and to ensure that the members of NETRETN received reliable internet service. Again, all of my contact with Trillion was absolutely necessary to maintain the integrity of the existing network.

27. For funding year 2007, NETRETN submitted Forms 471 for funding under the previous contracts and prior Forms 470. NETRETN also needed to add services to the network to continue expansion to new locations within the network. Therefore, it was necessary to file a new Form 470 for funding year 2007. NETRETN filed the form 470 with USAC and kept the bidding window open for the requisite 28 days. I did not receive any inquiries from any other vendor other than Trillion. I did not ever signal to Trillion that its bid would be accepted. After the bidding window closed Trillion was the only vendor to submit a proposal. The Board reviewed the proposal, with price being the primary factor, and accepted Trillion's proposal. NETRETN entered into a contract for the expanded services to be offered by Trillion.

28. In 2007, I had one or two working lunches throughout the course of working with Trillion on the technical aspects of maintaining the network. Also in 2007, Trillion invited me and a member of the NETRETN board to attend its customer summit in Austin. Trillion provided airline transportation to attend the one day meeting in Austin where Trillion customers from around the country gathered to give feedback regarding customer service and reliability issues to Trillion. I participated in the meeting to the same extent as other Trillion customers from around the country. Trillion provided a box lunch during the meeting and I believe we