



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

July 23, 2015

The Honorable Bob Corker  
United States Senate  
185 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Senator Corker:

Thank you for your inquiry regarding the letter sent by the Universal Service Administrative Company (USAC) to the Sweetwater City School District Consortium (Sweetwater or the Consortium) notifying Sweetwater that USAC intends to deny E-rate funding to the Consortium. Upon receiving your letter, I asked FCC staff to look into the matter. In light of the fact that any USAC decision may come to the Commission on appeal, it would not be appropriate for me to offer an opinion on the merits of USAC's review of the Sweetwater applications at this stage in the process. However, I can tell you that USAC has followed and will continue to follow its standard practice for reviewing this type of application, and Sweetwater will continue to be given every opportunity to offer evidence and explain how its applications are consistent with the E-rate rules.

As you know, the E-rate program is designed to provide eligible schools, libraries and consortia of schools and libraries with discounts on eligible Telecommunications, Internet access, and internal connections (WiFi equipment). Broadband connectivity to and within schools and libraries is not a luxury – it is absolutely necessary to prepare our students for the 21<sup>st</sup> Century. Recognizing the importance of E-rate to our nation's schools and libraries, in 2014 the FCC adopted two orders reorienting the program to focus on broadband support and otherwise modernizing the program.

A hallmark of the program has always been its competitive bidding rules. In order to maximize the benefit of the federal and local money spent for E-rate eligible services, E-rate participants must seek competitive bids on eligible services. E-rate applicants do not necessarily need to select the lowest price bid, but when evaluating the bids they receive, E-rate applicants must use price as the primary factor in their bid evaluation and they must select the most cost-effective option. These requirements are a crucial part of protecting the integrity of the program and safeguarding it against waste, fraud, and abuse. It is essential to ensure that funds collected from ratepayers are being used as efficiently as possible. Failing to strictly enforce these requirements would also frustrate the program's ability to meet the broadband funding needs of all participating schools and libraries.

With respect to Sweetwater's applications, for each of the funding years at issue, USAC has sought, received, and reviewed the documentation supporting the Consortium's application. That documentation shows that Sweetwater selected ENA as its broadband provider despite the fact that AT&T offered to provide equivalent services for substantially less money. According to USAC's letter notifying Sweetwater of its intent to deny funding, the annual difference in price between ENA and AT&T for essentially the same services is more than \$3 million: ENA bid more than \$9 million and AT&T bid slightly more than \$6 million. As I am sure you can

appreciate, USAC had an obligation to inquire further about the basis for the Consortium's decision upon learning of the significant price differential between the bids received by the Consortium for broadband services.

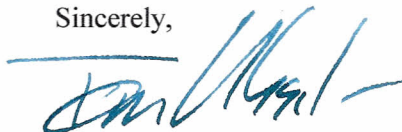
In addition to the cost-effectiveness issue, USAC has sought evidence from Sweetwater that a signed contract with ENA exists for the services at issue. During the time at issue, the program rules required applicants to have a signed contract in place prior to applying for E-rate support. According to USAC's intent to deny letter, ENA has not provided evidence that a signed contract was in place between Sweetwater and ENA.

It is my understanding that Sweetwater has responded to USAC's requests for information, and USAC is reviewing that response. If USAC ultimately determines that Sweetwater violated the E-rate rules, USAC will notify Sweetwater of its determination, and Sweetwater will have a full opportunity to appeal that ruling, first to USAC and then to the Commission.

In closing, I want you to know that I share your concern about the length of time it has taken to address Sweetwater's applications. We are working closely with USAC to improve the application and review processes and will continue to push forward on such improvements. I have asked my staff to keep your staff apprised of the status of the matter. If you have any further questions, please reach out to us for more information.

Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Wheeler", with a horizontal line drawn above it.

Tom Wheeler