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HOUSE OF REPRESENTATIVES
WASHINGTON, D. C. 20515

August 8, 2017

Federal Communications Commission
445 12th Street SW
Washington, DC 20554

RE: Support for Brooklyn Public Library waiver request/appeal

Dear Chairman Pai, Commissioner Clyburn and Commissioner O'Rielly:

We, the undersigned, are members of the United States House of Representatives who represent diverse communities all across the great borough of Brooklyn, NY. We are writing in support of Brooklyn Public Library's (BPL's) request for a waiver of the Federal Communication Commission's (FCC's or Commission's) competitive bidding rules¹ filed on May 22, 2017.² A unifying factor across all of our wonderfully different and diverse districts is the incredible service the Brooklyn Public Library provides to our constituents. We are concerned that the FCC's decision to require BPL to fully refund federal E-rate funding from FY2014 – based solely on an admitted clerical error – will have significant impacts on the individuals and families we represent.

We understand that in FY2014, BPL conducted a competitive bidding process to select a vendor to provide E-rate-funded digital transmission and internet access services. BPL, which has received E-rate funding for these purposes for nearly 20 years with absolutely no issues, set bidding evaluation criteria consistent with the FCC's rules and otherwise conducted the bidding process in a good-faith manner. However, BPL made a clerical error during the scoring of competitive bids which led to a service provider being selected who was not, in fact, the lowest-cost bidder. A subsequent audit turned up this error and BPL acknowledged that it was the result of two numbers being transposed during scoring. We understand that BPL has since instituted additional safeguards to ensure that this sort of clerical error does not occur again in the future. However, the Universal Service Administration Company (USAC) has ruled that BPL violated the FCC's competitive bidding rules and demanded a full refund of the entire \$570,000 funded in FY2014.

BPL has sought a waiver of the FCC's rules, assuming the FCC initially agrees with USAC that BPL's error constituted a violation of the competitive bidding rules. If the FCC and USAC force BPL to fully refund its FY2014 E-rate funding, then BPL will be forced to make major cuts to its technology budget—thereby cutting service to our constituents.³ We further understand that not

¹ 47 C.F.R. §§ 54.504, 54.511.

² See Petition for Waiver by Brooklyn Public Library of Sections 54.504(a)(1)(ix) and 54.511(a) of the Commission's Rules, CC Docket No. 02-6 (filed May 22, 2017) (Waiver Petition).

³ See Waiver Petition at 8-9.

only has BPL acknowledged its error and taken definitive steps to prevent such mistakes from occurring again, but also put forth an eminently reasonable compromise should a waiver of the full \$570,000 penalty not be granted: BPL has proposed returning only the portion of the funding that represents the cost-difference between what it actually paid and what the lowest bid would have been without the clerical error. This would achieve the goal of reimbursing the federal government for those actual funds which should not have been allocated in the first place – were it not for the error – without needlessly harming Brooklyn residents.

We find such a proposal reasonable and, frankly, we fail to understand what public policy objective would be served by forcing a highly regarded institution like the BPL to cut critically important resources to Brooklyn residents as a penalty for an admitted clerical mistake. Hundreds of thousands of our Brooklyn constituents across the borough rely on the technology services provided by BPL and this decision absolutely will negatively impact them as BPL will be forced to significantly reduce its technology budget.

As noted above, BPL has an exemplary, nearly two-decades-long history of being a responsible fiscal steward for E-Rate funding, and that there is no need to “send a message” or impose such a drastic penalty as some sort of deterrent to prevent similar actions in the future.

Therefore, on behalf of our Brooklyn constituents, we once again urge you to consider the Brooklyn Public Library’s waiver request and work with this community anchor institution to arrive at a more thoughtful and reasonable resolution.

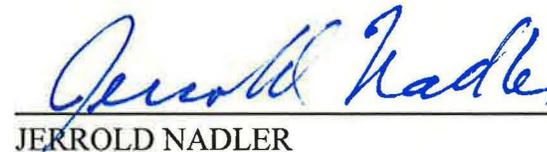
Sincerely,

Congressional Brooklyn Delegation


YVETTE D. CLARKE
Member of Congress


DANIEL M. DONOVAN, JR.
Member of Congress


HAKEEM JEFFRIES
Member of Congress


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