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June 23, 2016

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S. W., Room TW-A325
Washington, DC 20554

**RE: Request for Review or Waiver of a Decision of the Universal Service Administrator
by Sweetwater City Schools et al, Docket No. 02-6**

Dear Ms. Dortch:

AT&T Services, Inc. on behalf of its affiliates (“AT&T”) submits this letter in response to a letter filed by Gina Spade of Broadband Legal Strategies, on behalf of Education Networks of America, Inc., ENA Services, LLC, and the Sweetwater City Schools Consortium, which misrepresented AT&T’s 2013 bid to provide E-rate supported services to the Sweetwater Consortium.¹ Despite their claims to the contrary, AT&T submitted a fully compliant bid in response to the Sweetwater Consortium’s RFP, which contained accurate all-inclusive pricing.

Specifically, the Consortium Letter incorrectly asserts that AT&T’s bid was incomplete because “installation charges were not included in AT&T’s pricing,” and because AT&T did not provide a copy of the NetTN state master contract.² First, the Consortium Letter is patently incorrect when it states that “AT&T itself indicated in its bid response – that installation charges were not included in AT&T’s pricing.”³ To be clear, AT&T’s bid response did not include such a statement. To the contrary, AT&T’s bid included all of the prices that it intended to charge for the services had AT&T won the bid. Importantly, AT&T’s pricing was all-inclusive, i.e. AT&T did not intend to charge separate installation charges, and consequently there was no need for AT&T to create a separate section in its bid response for installation charges. A careful review of AT&T’s response to the Compensation and Cost Data section of the bid demonstrates that AT&T submitted a price for every service element that it intended to assess a charge. For example, for Managed Internet Services, AT&T proposed a price of \$525 for a T-1 connection with a managed router, and proposed a price of \$0.25 cents per active session per month for CIPA compliant content filtering.⁴

¹ Letter from Gina Spade, Counsel, Broadband Legal Strategies, to Marlene H. Dortch, Secretary, FCC, Docket No. 02-6, dated May 23, 2016 (Consortium Letter).

² *Id.* at p. 2.

³ *Id.*

⁴ *See* AT&T’s Compensation and Cost Data, page 2 and 3.

In addition, the Consortium Letter also indicates that the bid evaluators incorrectly interpreted AT&T's bid response when stating "AT&T's bid response said its lowest pricing was limited to the prices contained in the state master contract, NetTN, not those included in AT&T's pricing."⁵ To begin with, AT&T's bid response did not state that Sweetwater should not use the pricing contained in its bid response. It would have been absurd for AT&T to submit one set of prices if it was obligated to charge a completely different set of prices.

Further, as discussed above, AT&T's bid response included a price for every service that it intended to assess a charge. AT&T's bid response acknowledged that it was obligated to utilize the NetTN state master contract vehicle for this transaction to remain compliant with the lowest corresponding price requirement. Importantly, the prices in AT&T's bid response were lower than the then current NetTN contract. Consequently, AT&T knew that if it won the Sweetwater bid, the prices bid to Sweetwater would become the lowest corresponding price for those services when provided to similarly situated customers. As a result, if AT&T won the bid, AT&T planned to amend the NetTN contract to include the new rates. AT&T's bid response anticipated such a result by advising Sweetwater that the terms and conditions associated with NetTN contract would apply to the Sweetwater transaction⁶, such as the requirement to bill an administrative fee on behalf of the State of Tennessee (which is also included in AT&T's bid response).⁷

Interestingly, the Consortium Letter reveals that Sweetwater gave very little weight to the enormous pricing differential between AT&T and ENA's pricing proposals. The letter indicates that Dr. Miller and Ms. Gray's opinion was that ENA's pricing was *only 50% higher than AT&T's pricing*.⁸ Refusing half-off is a deal that's hard to justify under any circumstances, and such a deal should be even more difficult to justify when E-rate funds will be used to subsidize the costs.

In sum, AT&T's bid response was accurate and complete as submitted to the Sweetwater Consortium. Sweetwater cannot, now, support their vendor selection using erroneous assumptions about AT&T's bid strategy. To the extent that Sweetwater had questions about AT&T's bid response, it had the opportunity to ask AT&T's designated representative, as permitted by the RFP.⁹

⁵ See Consortium Letter at p. 2.

⁶ See AT&T's Bid Response, Tab VI - Proforma Contract at page 1.

⁷ See AT&T's Compensation and Cost Data at pp. 2 – 6 (Net TN services will include an additional 2% admin fee billed on behalf of the State of Tennessee that is not E-Rate eligible).

⁸ See Consortium Letter at p. 3 (emphasis added).

⁹ See Tab VI – Proforma Contract at p. 1 ("Provide a contact person to field questions from the evaluation team. This person should be available by phone on February 27, 2013 from 1:00 to 4:00 pm").

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Please feel free to contact me with any questions.

Respectfully submitted,

/s/ Terri L. Hoskins

cc:

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Ryan Palmer (via email)
Aaron Garza (via email)
Bryan Boyle (via email)
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