

October 11, 2016

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Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: Connect America Fund, WC Docket No. 10-90; Protecting the Privacy of Customers of Broadband and Other Telecommunications Services, WC Docket No. 16-106

Dear Ms. Dortch:

On Wednesday, October 5, 2016, Brad Veis of 3 Rivers Communications in Montana; Archie Macias of Wheat State Telephone in Kansas; David Shipley of US Connect in Colorado; and Derrick Owens, Patricia Cave and Gerry Duffy representing WTA – Advocates for Rural Broadband (“WTA”) met with Travis Litman, Senior Legal Advisor to Commissioner Jessica Rosenworcel, to discuss the current status of their consideration of the upcoming November 1, 2016 election between the Alternative Connect America Model (“ACAM”) Path and the Rate of Return (“RoR”) Path; and the Commission’s pending rule making on broadband customer proprietary network information (“CPNI”) and security.

Mr. Veis stated that 3 Rivers is a telephone cooperative serving approximately 20,000 customers in a 12,000 square mile portion of rural Montana extending from Yellowstone National Park to Glacier National Park. It is currently working on its second substantial Rural Utilities Service (“RUS”) loan to bring fiber-to-the-home service to its rural Montana customers, and has currently deployed FTTH services to approximately 60-to-65 percent of its customers. 3 Rivers has spent substantial time and effort to analyze the respective impacts of the ACAM Path and the RoR Path on its short-term and long-term broadband deployment and service goals, and has retained consultants to assist it. At present, 3 Rivers would be inclined to accept its initial ACAM Path offer of support and build-out obligations if they remain unchanged. However, it is aware that in the case of over-subscription the Commission may: (a) reduce its 10/1 eligibility ceiling below the current 90% level (which would render 3 Rivers ineligible at its 87.2 percent 10/1 level); (b) reduce its maximum ACAM funding level below \$200 per location (which could adversely impact the initial 3 Rivers analysis); or (c) take other potential actions.

Mr. Macias noted that Wheat State Telephone serves the sparsely populated Flint Hills region of south central Kansas. Whereas Wheat State has been fortunate to complete a major RUS-financed broadband project under budget, it is now providing 25/3 service over FTTH facilities to 100 percent of its service area and is consequently ineligible to elect the ACAM Path. Mr. Macias noted that Wheat State still has to repay its RUS loan, and emphasized the critical need for a stable RoR Path.

Mr. Shipley stated that US Connect operates local exchange carriers of different size, scope and technology in Colorado, Nebraska, Kansas, Georgia and Texas, and that it is struggling to make appropriate elections in a variety of complicated circumstances. For example, one of its Colorado companies has deployed significant FTTH facilities, while the other employs a fixed wireless technology and could make beneficial use of ACAM to enhance its network, however, is unlikely to

meet the ACAM 25/3 build-out requirements due to the challenges of deploying a 25/3 capable wireless technology in a sparsely populated (approx. 140 subscribers) and geographically challenged area (600 square miles). Mr. Shipley noted that US Connect has spent a substantial amount of resources to evaluate ACAM Path and RoR Path impacts, and that it has encountered significant difficulties and expense trying to identify the “locations” to which it may have build-out obligations. Whereas US Connect’s Texas company is not eligible for the ACAM Path (more than 90% 10/1 deployment), its decisions regarding its Colorado, Nebraska, Kansas and Georgia service areas are still under consideration.

All three companies emphasized the difficulties of deploying additional broadband and operating their existing networks on the limited support from the ACAM Path or the RoR Path. There is simply not enough money for them to keep up with the growing broadband service needs and demands of their rural customers. In such a climate, they urgently ask the Commission not to impose unnecessary regulatory burdens and costs upon them.

A prime area of concern is the pending rulemaking on broadband privacy and security. The three companies, plus the WTA membership as a whole, understand the need for customer privacy and cybersecurity, and are willing to do their part to protect the network and their customers from bad actors. However, such efforts will not be effective if WTA members and other rural local exchange carriers (“RLECs”) are required to divert substantial effort and resources to CPNI practices and technology that are unnecessary to protect their customer data under their actual operating circumstances.

WTA explained that RLECs typically do not use CPNI for marketing purposes. Rather small providers generally announce new service offerings and direct marketing campaigns to all of their customers or to all residents of their service areas. The most common RLEC use of CPNI is with express customer approval during customer-initiated service calls where it is employed to help identify additional products or services that may meet the calling customer’s needs. WTA noted that expansion of the definition of CPNI to include names, addresses and telephone numbers will interfere with RLEC ability to communicate non-marketing materials to subscribers, including announcements for annual customer appreciation picnics and digital literacy events, without first obtaining affirmative consent. WTA urged that publicly available information (such as name, address and phone number) that has not previously been included within the scope of Section 222 should not be included within the scope of new broadband privacy rules adopted in this proceeding.

WTA also expressed opposition to a requirement that carriers develop and make available “privacy dashboards.” Some small carriers do not currently provide online account access at all, and those that do generally have online account systems that lack the ability to allow customers to change their CPNI opt-out preferences. In small rural communities, customers can readily interact with their RLEC to change any and all elements of their service, including their CPNI preferences. Given the lack of evidence in the record demonstrating an inability for RLEC customers to change their CPNI preferences, there is no justification to require small providers and their vendors to engage in the complex and expensive task of updating and integrating unrelated billing and other systems to develop and implement privacy dashboards.

WTA also expressed concern regarding the imposition of prescriptive data security requirements on small providers that lack the resources and IT teams of large providers. WTA noted that most small providers engage third-parties to review and modify their network and customer information security practices, as well as outsourcing many areas of operations including help-desk and other support services. Mr. Shipley described US Connect’s review of its security practices and recent engagement of a cybersecurity firm at significant expense to conduct penetration testing and encrypting data for each of

US Connect's operating companies. Mandating that RLECs and their ISP affiliates frequently conduct penetration testing would be prohibitively expensive for small providers, particularly given existing limitations on their recovery of corporate operating expenses. Furthermore, whereas RLECs may be able to obtain generic CPNI protection agreements, RLECs lack the knowledge, ability and size to monitor the practices of their frequently much larger vendors on an ongoing basis or to train their vendors' employees on data security. Rather than imposing these or other specific requirements and strict liability for third-party behavior, the Commission should adopt a data security standard based on "reasonableness" that includes specific consideration of company size.

Pursuant to Section 1.1206(b) of the Commission's Rules, this submission is being filed for inclusion in the public record of the referenced proceeding.

Respectfully submitted,

/s/ Gerard J. Duffy

Gerard J. Duffy
WTA Regulatory Counsel
Blooston, Mordkofsky, Dickens, Duffy & Prendergast, LLP
2120 L Street NW (Suite 300)
Washington, DC 20037
Telephone: (202) 659-0830
Email: gjd@bloostonlaw.com

cc: Travis Litman