Before the

Federal Communications Commission

Washington, D.C. 20554

In the Matter of	)	
Connect America Fund	)	WC Docket No. 10-90
ETC Annual Reports and Certifications	)	WC Docket No. 14-58
Developing a Unified Intercarrier Compensation Regime	)	
	)	CC Docket No. 01-92
Appropriate Framework for Broadband Access to the Internet over Wireline Facilities	)	
	)	CC Docket No 02-33
Tri-County Telephone Association, Inc., Petition for Waiver of Accounting Rules	)	
	)	WC Docket No. 08-239
Separations of Costs of Regulated Telephone Service From Costs of	)	
Nonregulated Activities	)	CC-Docket No. 86-111

Petition of The Champaign Telephone Company for Waiver of Accounting Rules

Pursuant to Section 1.3 of the rules of the Federal Communications Commission ("FCC" or "Commission"),[1] The Champaign Telephone Company (the "CTC"), SAC 300594 seeks a waiver "of the requirement adopted in the 1980s' *Cost Separation* proceeding that 'investments once allocated to nonregulated use may not be reallocated to regulated use,' consistent with the waiver

[1] 47 C.F.R. § 1.3

process contemplated at that time."[2] By granting this waiver, CTC would be allowed to allocate its loop investment to regulated costs, which will bring CTC into compliance with the Commission's *2005 Wireline Broadband Order* (discussed below), the Commission's allocation and tariffing rules as defined in last years' *Rate-of-Return Reform Order* and will further the Commission's objective of supporting broadband-capable networks in areas served by rate-of-return carriers.[3] In addition, granting this waiver will be consistent with the Commission's finding in its Order released on August 22, 2017 (the *August 2017 Order*) which granted the waiver request of Tri-County Telephone Association.[4]

I Background

CTC is a rate-of-return incumbent LEC in Urbana, Ohio. CTC has historically allocated DSL-related loop investment used to provide broadband Internet access services to nonregulated accounts. In the *August 2017 Order*, the Commission provided a summary of its regulatory framework established in the *2005 Wireline Broadband Order*.[5] The Commission noted that its

---

[2] *Separation of Costs of Regulated Telephone Service from Costs of Nonregulated Activities, et al.* Order on Further Reconsideration, 3 FCC Rcd 6701, 6705, para. 29 (1988) (*Joint Cost Further Reconsideration Order*).

[3] *See Connect America Fund et al.*, Report and Order, Order and Order on Reconsideration and Further Notice of Proposed Rulemaking, 31 FCC Rcd 3087 (2016) (*Rate-of-Return Reform Order*).

[4] *See In the Matter of Tri-County Telephone Association, Inc., Petition for Waiver of Accounting Rules,* CC Docket No. 08-239, Order, August 22, 2017 (*August 2017 Order*)

[5] *See August 2017 Order,* paragraph 3, where the Commission cites *Appropriate Framework for Broadband Access to the Internet over Wireline Facilities et al.*, CC Docket No. 02-33 et al., Report and Order and Notice of Proposed Rulemaking, 20 FCC Rcd 14853 (2005) (*Wireline Broadband Order*).

historic treatment of wireline broadband Internet transmission service had been as a regulated, interstate special access service and concluded that incumbent LECs should continue to treat the provision of broadband Internet access transmission services as a regulated activity for accounting purposes even when choosing to offer the service on a non-common carrier basis.[6] The Commission explained that if the costs associated with broadband Internet access transmission service were treated as nonregulated, such costs would no longer be apportioned under Part 36 jurisdictional separations rules.[7]

The Commission, in its *Rate-of-Return Reform Order*, adopted significant reforms to the rules governing the provision of universal service support to rate-of-return incumbent LECs and provided support for situations where the customer no longer subscribes to traditional regulated local exchange voice service, and instead subscribers to stand-alone broadband.[8] As explained in the *August 2017 Order*, the Commission, in *the Rate-of-Return Reform Order,* specifically revised Part 69 of its rules to require rate-of-return carriers to move the costs of Consumer-Broadband-only Loop (CBOL) services from the Special Access category to the new CBOL category.[9]

In order for CTC to be compliant with Commission's rules pursuant to the *Wireline Broadband Order and the Rate-of-Return Reform Order*, CTC must reallocate its loops investment used to provide Internet access services from nonregulated to regulated accounts.

---

[6] *See August 2017 Order*, paragraph 4.

[7] *Id.*

[8] *See Rate-of-Return Order.*

[9] *See August 2017 Order*, paragraph 5.

Since the *Joint Cost Orders* prohibit a carrier from reallocating investments to regulated use once allocated to nonregulated use, CTC files this petition seeking a waiver of that prohibition.

In the *August 2017 Order*, the Commission discussed its Part 32 rules, under which incumbent local exchange carriers regulated pursuant to rate-of-return methodology are required to keep their accounts.[10] Specifically, the Commission explained that Section 32.14 requires carriers to keep regulated accounts, which "include the investments, revenues and expenses associated with those telecommunications products and services to which the tariff filing requirements . . . are applied."[11] Further, according to the Commission, Section 32.23 governs the accounting treatment of activities treated as nonregulated, which include activities that have either been deregulated, or were never regulated.[12]

As the Commission explained in the *August 2017 Order*, the Commission had issued a series of Orders in the late 1980s, that for the purpose of protecting rate payers, separated the costs of regulated and nonregulated accounts so that rates for regulated services would not be inflated to subsidize nonregulated services.[13] As discussed in the *August 2017 Order*, a requirement established by the Commission in the *Joint Cost Orders* was that investments once allocated to nonregulated use must not be allocated to regulated use. The rule known as the Cost

---

[10] *See August 2017 Order*, paragraph 2.

[11] *Id.*

[12] *Id.*

[13] In footnote 4 of the *August 2017 Order*, the Commission cites the *Joint Cost Further Reconsideration Order*, , 3 FCC Rcd at 6701; Order on Reconsideration, 2 FCC Rcd 6283 (1987) (*Joint Cost Reconsideration Order*); Report and Order, 2 FCC Rcd 1298 (1987) (*Joint Cost Order*).

Separation Rule is intended to ensure that investment risks of nonregulated ventures are not shifted to a carriers' regulated activities.[14]

II. Grant of the Requested Waiver is in the Public Interest

With respect to the Cost Separations rule, the Commission explained that it will waive this requirement when a carrier makes "a convincing showing that (1) the carrier's regulated activities require the use of plant capacity allocated to nonregulated activities, and (2) that the carrier cannot obtain the needed capacity elsewhere at lower cost."[15] Granting CTC's petition is necessary so that CTC can provide CBOL pursuant to the Commission's findings in the *Rate-of-return Reform Order*. CTC must use these facilities to provide CBOL as no other facilities exists in which to provide CBOL. Further, CTC cannot obtain the needed to capacity elsewhere at a lower cost in order to provide CBOL.

Granting CTC's petition for waiver will allow CTC to transfer its nonregulated DSL-related loop investment to regulated accounts so that CTC may offer broadband transmission service pursuant to the accounting treatment required by the *Wireline Broadband Order*. In addition, allowing CTC to reallocate investments would be consistent with the Commission's policy objective of promoting deployment of broadband service in areas served by rate-of-return carriers.[16] This would be in the public interest by allowing CTC to obtain all available resources

---

[14] *See August 2017 Order*, paragraph 3.

[15] See August 2017 Order, Paragraph 7. There, the Commission cites *Joint Cost Further Reconsideration Order*, 3 FCC Rcd at 6705, para. 31 (citing *Joint Cost Order*, 2 FCC Rcd at 1320 n. 284).

[16] *See August 2017 Order*, Paragraph 8.

to deploy broadband services to CTC customers.[17] CTC therefore requests that the Commission grant CTC waiver.

Respectfully Submitted,

The Champaign Telephone Company

By: Tim Bolander
President and General Manager

October 11, 2017

[17] *Id.*