

14 February, 2018

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

Re: WC Docket 10-90 (Connect America Fund)
AU Docket 17-182 (CAF Phase II Auction)
WC Docket 14-58 (ETC Annual Reports and Certifications)
WC Docket 14-259 (Rural Broadband Experiments)
GN Docket 17-258 (Promoting Investment in the 3550-3700 MHz Band)
RM-11788 and RM-11789 (Petitions for Rulemaking Regarding CBRS)
WC Docket 16-143 (Business Data Services in an IP Environment)
GN Docket 14-126 (Broadband Data Improvement Act)
WC Docket 17-108 (Restoring Internet Freedom)
CG Docket 17-59 (Methods to Target and Eliminate Unlawful Robocalls)

Ms. Dortch:

This letter is to advise you that on 14 February, 2018, at approximately 4:30 PM Eastern Standard Time, I met with Evan Swarztrauber and Will Adams of the office of Commissioner Brendan Carr regarding a variety of topics related to the provision of wireless Internet service.

I noted that, as the owner and operator of LARIAT, the world's first WISP (fixed, terrestrial wireless ISP), I was disappointed – after the Commission's issue of its Order on Reconsideration on January 30, 2018 and accompanying auction documents – to see that several census tracts to which my small broadband provider – and two or three competitors – already served with excellent high speed broadband service were to be included in the CAF Phase II auction. I explained that the customers in these areas were more than adequately served, and had not only a choice of telephony providers (including “over the top” VoIP, cellular, and land line providers) but also a choice of high speed Internet providers... and thus that any buildout subsidy awarded in the auction would be an egregious and avoidable waste of taxpayer money. I further noted that our company, while it was not a telephony provider itself, had an arrangement with one OTT VoIP provider in which it bought the provider's equipment, resold it at cost (considerably below retail) to customers, and installed it for those customers – thereby effectively installing telephone service for them.

I explained that needlessly subsidizing the overbuilding of small, rural ISPs such as my own would, in fact, harm broadband deployment by driving some of us out of business... having the paradoxical effect of *depriving* some of users we served of broadband. I further explained that most of the nation's more than 5,000 wireless ISPs, or WISPs – would be unduly burdened by the redundant task of becoming telephone companies, arranging interconnection, filling out the vast amount of additional paperwork required to become a 19th Century-style telephone company, and spending thousands of dollars per year to conform to the regulatory requirements applicable

to such companies when so many good alternatives already existed.

I mentioned that I had met telephonically with staff from the WCB to discuss this matter and ask what contractual or other business arrangement between a small ISP and a third party VoIP provider – perhaps an OTT provider – would satisfy the Commission that the ISP was, or was functionally equivalent to, a telephone company – allowing it to qualify as an unsubsidized competitor and/or an ETC and possibly bid in the CAF auction(s). I indicated my preference that the VoIP provider be allowed to handle the filing of FCC reports related to the telephony component of any such service, so that the ISP could concentrate on its specialty: the deployment and provision of rural broadband.

Finally, I noted that the financial requirements in the CAF Phase II Order on Reconsideration might make it impossible for ISPs which were sole proprietorships, rather than well funded corporations, to bid in the CAF auctions due to the difficulty that sole proprietorships have in obtaining Letters of Credit.

I next addressed the proposed changes to the geographic areas to be licensed as part of the CBRS Petition for Reconsideration. I explained that increasing the size of the areas auctioned to PEAs would utterly prevent my small WISP from bidding. I further noted that increasing them to include entire counties would prevent us from expanding service across a county line near our city, because we would be required to bid on that entire county – including a large city 45 miles away from which service could not easily be extended to the same area. (By sheer coincidence, consumers in that area had called on my cell phone that very day to request that we extend service to them. However, unless we could obtain granular licenses for those specific census tracts or blocks we could not get licenses to use CBRS to do so.) I urged Commissioner O’Rielly to allow my WISP – for the first time in its 25 years of existence – to rise from the level of “spectrum serf” to one which had at least a small patch of ground of its own to till by ensuring that at least some channels in my area, if not all of them, were available for licensing by census tract or block

Our conversation also touched on other topics, including Special Access (“Business Data Services”), the Restoring Internet Freedom Order and the Draft 2018 Broadband Deployment Report. I expressed my disappointment that, in its Order, the Commission declined to address anticompetitive pricing of Special Access services by incumbent local exchange carriers, which priced wholesale data transport – one of several inputs required to provide retail Internet service – above retail Internet service so as to forestall competition at the retail level. I noted that this practice limited consumer choice and forced new providers of broadband service to perform difficult and expensive “end runs” around the local exchange carrier – if they were able to do so at all – to obtain Internet connectivity at a price that allowed them to compete. I expressed my concern that the Restoring Internet Freedom Order would discourage the Supreme Court from granting certiorari to the appeal of USTelecom et al v. FCC, and possibly ruling on the legality of the 2015 Open Internet Order and on the extent of deference accorded the Commission under Chevron. I mentioned that investors had raised concerns that the Restoring Internet Freedom Order was ephemeral and might not outlast the current administration, and that my small ISP needed more certainty than the Order provided to ensure that it could obtain funding that was not conditioned upon an “exit strategy” should partisan control of the White House change. I also expressed concern about the fact that the Commission was poised to retain the 25 Mbps / 3 Mbps standard for broadband – which, in our view, was originally contrived to produce reduced deployment figures and thereby provide an argument for increased Commission authority under Section 706. I asked that the Commission not do so, but revert to a scientifically derived standard – based on consumers’ actual bandwidth needs – rather than a politically convenient one. Finally, I inquired as to why the Commission itself – using its own technical staff and technological savvy – had not itself employed out-of-band signaling and “honeypots” to catch those who made unlawful “robocalls.”

I am filing this letter electronically via the Commission's Electronic Comment Filing System in compliance with Section 1.1206(b)(2) of the Commission's rules.

Sincerely,

/s/

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