



80 South Jefferson Road
Whippany, NJ 07981

Regina McNeil
Senior VP, Chief of Staff,
General Counsel
& Corporate Secretary
PH 973-884-8168
FX 973-884-8372
rmcneil@neca.org

May 13, 2019

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

DOCKET FILE COPY ORIGINAL

Kenneth Lynch; Acting Chief
Industry and Analysis Division
Office of Economics and Analytics
Federal Communications Commission
445 12th Street S.W.
Washington, DC 20554

Accepted / Filed
MAY 13 2019
Federal Communications Commission
Office of the Secretary

Suzanne Yelen; Assistant Division Chief
Telecommunications and Access Policy Division
Wireline Competition Bureau
Federal Communications Commission
445 12th Street S.W.
Washington, DC 20554

Re: Connect America Fund, WC Docket No. 10-90, *et. al.*
Supplemental Data Filing

Dear Ms. Dortch, Mr. Lynch and Ms. Yelen:

Enclosed please find an update to the response¹ of the National Exchange Carrier Association, Inc. (NECA) to the Federal Communications Commission's (Commission) directive to file the detailed

¹ See Letter from Regina McNeil, NECA to Marlene H. Dortch, Secretary - FCC, CC Docket No. 01-92, GN Docket No. 09-51, WC Docket Nos. 05-337, 07-135, 10-90 (filed Dec. 16, 2011; filed under Protective Order, 25 FCC Rcd. 13160 (2010)).

No. of Copies rec'd
List ABCDE

071

revenue requirement data received from member companies.² As requested by the Commission, this update provides similar data for calendar year 2017. This information is being filed pursuant to the *Third Protective Order* issued in this proceeding.³

The information supplied by NECA is contained on a CD-ROM accompanying this letter and was compiled from data received in the normal course of business. The data items reported are at the level of detail approximate to the items reported in the Tariff Review Plan (TRP) that accompanies NECA's annual tariff filing.

NECA seeks confidential treatment of the information provided on the CD-ROM under the *Third Protective Order*. Notwithstanding the *Third Protective Order*, the information provided on the CD-ROM is entitled to confidential, non-public treatment under the Freedom of Information Act (FOIA) and related provisions of the Commission's rules.⁴ The information satisfies the requirement of FOIA Exemption 4 (trade secrets or commercial/financial information).

NECA submits the following information pursuant to section 0.459 in support of its request for confidential treatment of the data on the CD-ROM.

- Identification of the specific information for which confidential treatment is sought:

NECA seeks confidential treatment for the study area specific information on the CD-ROM, which contains confidential and proprietary information related to common line revenue and total company and common line expenses and investment of NECA pool members.

- Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission:

Information for calendar year 2010 was submitted in response to the Commission's *USF/ICC Reform Order* in CC Docket Nos. 01-92, 96-45, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, GN Docket No. 09-51, WT Docket No. 10-208. Specifically, the order directed NECA to

² *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High Cost Universal Service Support; Developing an Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Universal Service Reform-Mobility Fund*, CC Docket Nos. 01-92, 96-45, WC Docket Nos.: 10-90, 07-135, 05-337, 03-109, GN Docket No. 09-51, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd. 17663 (2011) ¶ 225

³ *Connect America Fund*, WC Docket No. 10-90, *et. al.*, Third Protective Order, 27 FCC Rcd. 10276 (2012) (*Third Protective Order*).

⁴ 47 C.F.R. §§ 0.457 and 0.459; 5 U.S.C. § 552, *et. seq.* Section 0.457(d)(iii) specifically identifies information submitted in connection with audits, investigations, and examination of records pursuant to 47 U.S.C. 220 as material that has been accepted by the Commission on a confidential basis pursuant to 5 U.S.C. 552(b)(4).

“file the “detailed revenue requirement data it receives from carriers, no later than thirty days after release of this order.”⁵ The Commission has now requested that NECA provide similar data for calendar year 2017.

- Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged:

The information on the CD-ROM contains sensitive study area specific information provided by pool members to NECA in its capacity as interstate access tariff and pool administrator. At the study area level, the information is granular and highly confidential to the reporting pool members.

The interstate access and supplemental data is treated as a confidential trade secret by pool members. NECA would not agree to submit the data in response to the Commission staff’s request without assurances that the information will be kept confidential. It would be highly inappropriate for the data to be disclosed to the public or third parties.

- Explanation of the degree to which the information concerns a service that is subject to competition:

Rural telephone service has historically lent itself to “cherry picking” by competitors that choose to serve only the low cost areas within a study area. Detailed information about revenues and expenses may help prospective competitors to gain insight to incumbent LEC (ILEC) market strategies and gain competitive advantage.

- Identification of any measures taken by the submitting party to prevent unauthorized disclosure:

The information provided in the attached CD-ROM is made available only to NECA representatives on a need to know basis. Any public information is only made available on an aggregate basis.

- Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties:

The information in the Excel spreadsheet on the CD-ROM is not publicly available.

- Justification of the period during which the submitting party asserts that material should not be available for public disclosure:

⁵ *Supra*, notes 1-2

REDACTED – FOR PUBLIC INSPECTION

NECA requests that all of the data provided on the CD-ROM be treated as confidential indefinitely. Because of the sensitive nature of the data, it would not be appropriate for public disclosure at any time in the foreseeable future.

- Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted:

By addressing the data request to NECA, the Commission avoided the burden of seeking out the data for 500+ cost company study areas. However, the Commission should take care to not deprive those ILECs of the opportunity to speak for themselves in the event of a FOIA request for access to data. NECA requests that the Commission notify carriers of any FOIA request and allow them to be given a reasonable opportunity to file detailed information supporting continued confidential treatment of their respective data.

Accordingly, NECA requests confidential treatment of the data provided on the attached CD Rom pursuant to section 0.457 and 0.459 of the Commission's rules and paragraph 4 of the Protective Order. Pursuant to the Protective Order, NECA has marked the Excel spreadsheet on the CD-ROM and each page of the non-redacted version of this filing as follows:

REDACTED – FOR PUBLIC INSPECTION

NECA has also complied with the requirement of the *Third Protective Order* for delivery of both the confidential and redacted copies of the filing.



Enclosures

DOCKET NO.

10-90

Attachment A

DOCUMENT OFF-LINE

This page has been substituted for one of the following:

- o This filing contains confidential information (Not For Public Inspection)
- o An oversize page or document (such as a map) which was too large to be scanned into the ECFS system.
- o Microfilm, microform, certain photographs or videotape.
- o Other materials which, for one reason or another, could not be scanned into the ECFS system.

The actual document, page(s) or materials may be reviewed by contacting an Information Technician at the FCC Reference Information Center, at 445 12th Street, SW, Washington, DC, Room CY-A257. Please note the applicable docket or rulemaking number, document type and any other relevant information about the document in order to ensure speedy retrieval by the Information Technician.

1 CD-ROM