Before the

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
Developing a Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92

PETITION OF GREAT PLAINS COMMUNICATIONS FOR WAIVER OF 47 C.F.R. §51.909(a)(4)(ii)(A) and 47 C.F. R. §51.919(b)

Pursuant to Section 1.3 of the rules of the Federal Communications Commission ("FCC" or "Commission")[1], Great Plains Communications ("Great Plains" or the "Company") hereby respectfully requests waivers of 47 C.F.R. Sections 51.909(a)(4)(ii)(A)[2] and 51.919(b).[3]

As explained following, good cause exists for waivers of the above rules using National Exchange Carrier Association ("NECA") projected interstate switched access revenue from 2011-2012 in determining Great Plains' rate change factor for its 2017-2018 switched access rates as the Company exits NECA's switched and special access pools and a corresponding alignment of the eligible recovery amounts. Without grant of the waivers, the result will be almost a 150 percent increase in the Company's switched access rates amounting to an increase

[1] 47 C.F.R § 1.3.
[2] *Id.* at 51.909(a)(4)(ii)(A)
[3] *Id. a*t 51.919(b)

of $2.8 million annually, and elimination of most of the Company's existing support from CAF-ICC that has resulted through ordered reductions and recovery under the Commission's Universal Service Fund-Intercarrier Compensation Transformation Order ("Transformation Order").[4] In seeking the waivers, Great Plains requests that the Commission allow the Company to utilize actual switched access revenues in establishing rates and eligible revenue recovery instead of inaccurate projections based on years-old data. Granting of these waivers is in the public interest, as will be documented below.

I. Background

To better understand the inherent problem with utilizing 2011-2012 forecasts for setting Great Plains' switched access rates, it is imperative to describe the vastness of Great Plains network and the criticality of transport facilities within that network. Great Plains serves more than 14,000 square miles in and across Nebraska with an average density of under 2 customers per square mile. Much of the Company's service area is non-contiguous, thus making it costly and challenging to deploy facilities. Given the distances in the Great Plains service areas and the sparse population, transport facilities are a major component of the company's network. Great Plains has made significant progress in recent years in consolidating its network hubs and shortening the distances of its transport routes for carrying Great Plains' and other carriers' traffic.

In the last six years, Great Plains has consolidated its network down to three centralized Genband soft switches, which serve as tandems for the Company, interexchange carriers' and

[4] *See Connect America Fund et al.,* WC Docket No. 10-90 *et al.* Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. Nov. 18, 2011) ¶ 651.

wireless carriers' traffic in each of Nebraska's three local access and transport areas ("LATAs"). In the 644 LATA (otherwise known as the Omaha LATA), the switch is in Bloomfield in northeast Nebraska; in the 958 LATA (Lincoln LATA), the switch is in Red Cloud in southern Nebraska; in the 646 LATA (Grand Island LATA), the switch is in Sutherland in the west-central part of the state. Each of these switches is in a logical central location given the vastness of the Company's service territory. Great Plains followed and complied with all necessary notification requirements in the Local Exchange Routing Guide, and many carriers deliver traffic to and from each tandem. A primary benefit of this consolidation is allowing Great Plains and all carriers to significantly consolidate individual trunk groups scattered throughout the state down to one trunk group connecting to each tandem.

Effective January 1, 2017, Great Plains elected the A-CAM model-funding option for receiving high-cost universal service support to deploy additional broadband services across the company's service area. On March 1, 2017, Great Plains advised NECA as permitted by and following FCC rules that it would be exiting the NECA tariff for switched and special access.[5] As required, NECA provided a company rate change factor.[6] That factor, however, resulted in almost a *150 percent increase* in Great Plains' switched access rate cap compared to the company's existing rates.

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

In general, the FCC's rules may be waived for good cause shown.[7] Waiver is appropriate where the "particular facts would make strict compliance inconsistent with

[5] 47 C.F.R § 69.3(e)(6)
[6] 47 C.F.R § 51.909(a)(5)(ii)
[7] 47 C.F.R § 1.3.

the public interest."[8] The FCC may grant a waiver of its rules where the requested relief would not undermine the policy objective of the rule in question, special circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.[9]

The Commission, in adopting the A-CAM model-based support mechanism, created a successful response with more than 200 rate-of-return carriers electing model support. In addition to being an A-CAM elector, Great Plains chose to exit the NECA tariff to provide the company with more flexibility in the competitive special access marketplace with company-specific rates instead of rates that resulted from participation in the NECA tariff. However, the Company was not made aware until after its March 1, 2017, decision to exit the NECA traffic sensitive access tariff of the almost 150 percent increase in the Company's switched access rate cap, and there was no reasonable basis to anticipate such a result.

Great Plains believes that the NECA projection for the Company's switched interstate access revenues is understated by approximately 250 percent, resulting in a switched access cap factor for Great Plains that is well over double the existing cap factor. Great Plains believes that the NECA forecast did not account for the considerable transport distances inherent in the Company's network. The *average* distance of Great Plains' billed transport for an interexchange call is *59 miles* -- over a transport network comprised of more than 6,000 miles of fiber. If actual Great Plains switched access revenues – not inaccurate forecasts from 2011-2012 -- were utilized in the rate change factor calculation, Great Plains' traffic sensitive switched access rate caps would essentially remain the same, or even decrease slightly.

[8] *See AT&T Wireless Services, Inc. et. al. v. Federal Communications Commission*, No. 00-1304 (D.C. Cir. 2001), *citing Northeast Cellular Tel. Co. v. FCC,* 897 F.2d 1164, 1166 (D.C. Cir. 1990) ("Northeast Cellular")
[9] *See generally, WAIT Radio v. FCC,* 418 F.2d 1153 (D.C. Cir. 1969), *cert. denied,* 409 U.S. 1027 (1972); *see also Northeast Cellular* (D.C. Cir. 1990).

It is reasonable to conclude that the switched access transition rules contained in the Transformation Order did not contemplate the potential pool exiting activity brought about by companies electing A-CAM.[10] Further, it is also apparent that in relying on 2011-2012 forecasts for establishing rate change factors for companies exiting the NECA traffic sensitive tariffs, the Commission did not anticipate – nor could never have contemplated -- such volatility in an increase as has resulted in this instance. Conversely, it is clear from the policy objectives contained in the Transformation Order and the combination of actions contained in it related to switched access that the overall objective of the Commission was traffic sensitive rate stabilization, gradual reduction in terminating rates, and a balance in cost recovery from CAF-ICC and the Access Reduction Charge ("ARC").[11]

There are several reasons that granting of the waivers is in the public interest. First, such a large increase in switched access rates is contrary to Commission policies to spur advancements in Internet Protocol ("IP") networks. In formulating an intercarrier compensation transition to bill-and-keep, the Commission made clear that the existing intercarrier compensation system is "in tension with and a deterrent to deployment of all-IP networks.[12] Significant switched access rate increases are in direct opposition to this objective.

In addition, there are other company-specific reasons the Company believes support a public interest finding to grant the waivers. Great Plains is concerned that such a large increase in switched access rates will be highly unexpected and unwelcome by its carrier customers, with whom it has worked cooperatively over the years to migrate to a more efficient network as

---

[10] Transformation Order ¶ 651 ("…We provide for a measured, gradual transition to a bill-and-keep methodology for these rates…")
[11] Because of its latest tariff filing, Great Plains' ARC levels are at the caps prescribed by the FCC in § 47 C.F.R. 51.917(e)(6)(F).
[12] Transformation Order ¶ 648

described above. Again, evidence of this cooperation is the fact that numerous national and regional carriers – both interexchange and wireless – deliver their traffic to and from Great Plains' three tandems across the state.

There is also valid cause for concern that such a large rate increase will create further incentive for certain providers to resort to network routing practices that intentionally result in blocked or uncompleted calls, a situation that has plagued Great Plains retail customers over the years despite the Company's extensive attempts to remedy such call blocking with the assistance of federal and state regulators and Great Plains' own actions to work directly with parties suspected of such activity.

In addition, and perhaps most important, if these large rate increases take effect, there is no doubt the result will be exorbitantly higher rates for retail customers. Great Plains' own long-distance subsidiary is presubscribed to by more than 80 percent of the Company's local service voice customers, and the subsidiary resells wholesale services of a national network provider to provide the retail product. In Great Plains' experiences, wholesale long-distance carriers routinely change their rates in response to changes in cost inputs, and in fact require the ability to do so on short notice. The Company is very concerned that these rate increases of almost 150 percent will result in large increases in wholesale rates for Great Plains' long-distance business, and ultimately similar increases for retail customers.

Coincident with the requested waiver of 47 C.F.R. §51.909(a)(4)(ii)(A), Great Plains also requests a waiver of 47 C.F.R. §51.919(b). §51.919(b) addresses the reporting requirements and timeframes associated with the filing of data in the recovery mechanism calculations as set forth in §51.917. Granting of this waiver will "synchronize" the switched access rate caps with the eligible recovery CAF-ICC calculations.

For these reasons, granting of the requested waivers is in the public interest.

Great Plains has submitted all required filings and complied with all calculations, rate filings and imputations as required by Section 51 of the Commission's rules. Great Plains respectfully requests that in granting these waivers, the Commission permit the Company to utilize actual interstate switched access revenues in establishing rates and calculating revenues eligible for recovery. The Company requests the waivers be granted expeditiously, and that the Commission further direct the Universal Service Administrative Corporation to accept the revised Great Plains' CAF-ICC eligible recovery calculations commensurate with the reduced switched access rate caps.

III. Conclusion

Great Plains respectfully requests that the FCC grants waivers of 47 C.F.R. §51.909(a)(4)(ii)(A) and 47 C.F.R. §51.919(b) and permits the Company to utilize actual interstate switched access revenues in establishing rates and calculating the amounts eligible for recovery. As explained above, such waivers are in the public interest.

Respectfully Submitted,

Great Plains Communications

By: Riley J. Garrigan
Secretary and
Director Legal and Regulatory Affairs

June 21, 2017