GVNW CONSULTING, INC.

8050 SW WARM SPRINGS STREET, SUITE 200
TUALATIN, OR 97062
TEL 503.612.4400
FAX 503.612.4401
www.gvnw.com

June 25, 2019

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

RE: *Connect America Fund*, WC Docket No. 10-90

Dear Ms. Dortch:

On Monday, June 24, 2019, Jeff Smith of GVNW Consulting, Inc. met on behalf of Copper Valley Telephone Cooperative, Inc. ("CVTC") with Randy Clarke, Acting Legal Advisor for Wireline and Public Safety to Commissioner Geoffrey Starks, to discuss CVTC's pending May 24, 2019 appeal of a Universal Service Administrative Company ("USAC") audit decision.

The CVTC appeal presents the following two legal questions: (1) whether a rural local exchange carrier can lawfully and equitably be penalized by a loss of substantial high-cost support due an arrangement it entered in order to comply with Alaska state law; and (2) whether the restrictions against sale and lease-back transactions set forth in Section 36.2(c)(2) of the Commission's Rules and interpreted in the Commission's 2001 *Moultrie Independent Telephone Company* order (16 FCC Rcd 18,242) can be stretched and twisted to encompass a lease of dark fiber and purchase of tariffed services that is wholly different in form, intent and operation..

CVTC has asserted throughout the audit, a USAC appeal and the pending Commission appeal that the arrangement whereby it leased four (4) non-operational dark fibers along each of three separate interexchange routes to its interexchange subsidiary and then purchased some of the tariffed interexchange services that the subsidiary offered to the public over those fibers after it had lit and upgraded them, was not the type of manipulative and self-serving "sale and lease-back" arrangement that Section 36.2(c)(2) was intended to prevent. The subject interexchange dark fibers were never a part of CVTC's operational assets (much less, a substantial part) because CVTC was prohibited by Alaska law from providing interexchange services. CVTC did not lease the dark fibers back from its subsidiary or otherwise use them in its own operations; rather, the subsidiary improved the fibers and used them to provide a variety of tariffed services to a number of unrelated carrier and business customers in addition to CVTC. CVTC neither made nor

GVNW CONSULTING, INC.

8050 SW WARM SPRINGS STREET, SUITE 200
TUALATIN, OR 97062
TEL 503.612.4400
FAX 503.612.4401
www.gvnw.com

negotiated any “sweetheart” rental payments to its subsidiary; rather, it paid the tariffed prices at which subsidiary offered the same services to the public in general. Finally, CVTC did not “voluntarily” make the lease arrangement with its subsidiary, but rather had no choice due to the Alaska restrictions but to sell or lease the interexchange dark fibers to an entity authorized to provide interexchange services unless it wanted to let them remain unused.

If USAC’s decision is upheld, it would effectively put the Commission in the position of preempting Alaska’s regulation of the intrastate services of Alaskan local exchange carriers and interexchange carriers. CVTC is aware of no past instance where a carrier has been penalized by the Commission for complying with governing state law. Rather, the long-established Commission policy of cooperation between the interstate and intrastate jurisdictions has never, to CVTC’s knowledge, put regulated entities in the position of choosing between retaining their high cost support or complying with applicable state law.

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 proceedings.

Respectfully submitted,

/s/ Jeffrey H. Smith

Jeffrey H. Smith
GVNW Consulting, Inc.
8050 SW Warm Springs Street (Suite 200)
Tualatin, OR 97062
Telephone: (503) 612-4400
Email: jsmith@gvnw.com

cc: Randy Clarke