

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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

VERIZON COMMENTS¹

Verizon supports the waiver request by Great Plains Communications (“Great Plains”) that would allow it to avoid large increases in access rates. In its July 1, 2017 annual access filing, Great Plains tariffed originating access rates and transport rates that are 148 percent higher than the rates that Great Plains billed before it left the NECA pool. Because such a large rate increase is inconsistent with the rate cap policy adopted by the Commission in the 2011 *Transformation Order*,² the Commission should grant the Great Plains waiver petition and cap Great Plains’ rates at June 30, 2017 levels.³

I. Background

In the 2011 *Transformation Order*, the Commission adopted a multi-year transition to reduce rate of return carriers’ terminating end office rates to bill and keep by 2020.⁴ In addition,

¹ The Verizon companies participating in this filing are the regulated, wholly owned subsidiaries of Verizon Communications Inc.

² *Connect America Fund*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17,663 (2011) (“*Transformation Order*”).

³ 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), WC Docket No. 10-90 (June 21, 2017) (“Great Plains Petition”); Clarification of Great Plains Communications Petition for Waiver of 47 C.F.R. 51.909(a) and 47 C.F.R. § 51.917, WC Docket No. 10-90 (July 27, 2017) (“Clarification”).

⁴ *Transformation Order*, ¶¶ 800-801.

the Commission capped other rate of return carrier switched access rates, including originating end office rates and transport rates, at the rate in effect on December 29, 2011.⁵ The Commission explained that it was capping originating access rates and transport rates as a first step towards comprehensive reform.⁶

In the 2013 *NECA Pool Order*,⁷ the Wireline Competition Bureau (Bureau) adopted a limited modification to the *Transformation Order*'s cap on originating access and transport rates. The modified rule, which the Bureau described as correcting an omission in the rate cap rules,⁸ applies to rate of return LECs that elect to leave the NECA traffic sensitive pool and file their own switched access tariff. Under the modified rule, a LEC that leaves the NECA pool is subject to new rate caps that are calculated by multiplying a rate change factor by the NECA pool's rate caps.⁹ The rate change factor varies from LEC to LEC, and is based on the LEC's revenues and settlements for the 2011-2012 tariff year.¹⁰ The LEC's new standalone rates will be higher than the NECA pool rate if the LEC was a "net recipient" from the NECA pool.¹¹ The LEC's new standalone rates will be lower than the NECA pool rate if the LEC was a "net contributor" to the NECA pool.¹²

For the 2017 annual access filing, Great Plains elected to exit the NECA pool and file its own tariff. The Great Plains rate change factor (calculated for Great Plains by NECA) was 148

⁵ *Id.* ¶¶ 778, 800-801.

⁶ *See id.* ¶ 800.

⁷ *Connect America Fund; et al.*, Order, 28 FCC Rcd 3319 (2013) ("*NECA Pool Order*").

⁸ *Id.*, ¶ 13.

⁹ 47 C.F.R. § 51.909(a)(5).

¹⁰ 47 C.F.R. § 51.909(a)(4)(ii)(A).

¹¹ 47 C.F.R. 51.909(a)(5)(i).

¹² *Id.*

percent – a much larger factor than Great Plains had anticipated.¹³ As a result, Great Plains’ originating access rate increased from the NECA rate of \$0.024140 per minute to a new standalone Great Plains rate of \$0.059969 per minute; its tandem switching rate increased from \$0.005668 per minute to \$0.014080 per minute; and its tandem facility rate increased from \$0.000433 per minute per mile to \$0.001076 per minute per mile.¹⁴

Great Plains asks the Commission to waive sections 51.909(a)(4) and 51.917 of the Commission’s rules so that Great Plains may cap its rates at June 30, 2017 levels. Great Plains suggests that the Commission could not have anticipated that the rules adopted in the *NECA Pool Order* could cause such a large rate increase, and explains that grant of the requested waivers is in the public interest.¹⁵

II. The Commission Should Grant the Great Plains Waiver

The Commission adopted the *Transformation Order*’s rate cap policy in order to preserve the status quo until the Commission adopted rules to transition originating access and transport to bill-and-keep. Although the *NECA Pool Order* made targeted changes to the rate cap rule, nothing in the *NECA Pool Order* indicates that it intended to undercut the *Transformation Order*’s rate cap policy.¹⁶ Rather, the rule changes adopted in the *NECA Pool Order* were

¹³ Great Plains Petition, at 4.

¹⁴ Moss Adams Tariff FCC No. 1, Transmittal No. 4, filed June 16, 2017, Great Plains depooling worksheet.

¹⁵ Great Plains Petition at 5-6.

¹⁶ Indeed, it is likely that the Bureau expected most LECs leaving the NECA pool to be net contributors that would reduce their rates. Pool exit issues resulting from the *Transformation Order* first arose in a 2012 investigation of the tariffs filed by several LECs leaving the NECA pool, all of which were net contributors. See *Joint Petition of Price Cap Holding Companies for Conversion of Average Schedule Affiliates to Price Cap Regulation and for Limited Waiver Relief*, Order, 27 FCC Rcd 15,753 (2012).

technical modifications designed to reconcile the rate cap policy and the pool exit process.¹⁷

Notably, the *NECA Pool Order* was adopted by the Bureau, which does not have the authority to undercut the *Transformation Order*'s rate cap policy; the Bureau only has authority to "make sure the reforms adopted in [the *Transformation Order*] are properly reflected in the rules."¹⁸

The Commission should grant the waiver requested by Great Plains. The very large increase in Great Plains' rates –148 percent – provides the requisite special circumstances justifying waiver of the Commission's rules.¹⁹ For LECs leaving the NECA pool, a rate decrease or even a modest rate increase would be consistent with the *Transformation Order*'s goal of preserving the status quo pending further reform. However, a 148 percent rate increase is clearly inconsistent with the rate cap policy.

Grant of the waiver requested by Great Plains is in the public interest. First, the waiver would avoid creating new opportunities for arbitrage, especially the transport arbitrage described in the *Transformation Order*. For example, higher transport rates increase the incentives for CLECs to engage in "mileage pumping."²⁰ Second, the waiver would preserve the status quo for Great Plains' customers while the Commission completes reform of originating access and transport rates, consistent with the goals of the *Transformation Order*'s rate cap policy. Without a waiver, the much higher rates tariffed by Great Plains will only complicate the task of completing originating access and transport reform.

¹⁷ *NECA Pool Order* ¶¶ 11-13.

¹⁸ *Transformation Order* ¶ 1404.

¹⁹ Generally, a waiver is appropriate if "special circumstances warrant deviation from the general rule and such deviation will serve the public interest." *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); see also *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972).

²⁰ *Transformation Order* ¶ 820.

III. Conclusion

In order to meet the objectives of the *Transformation Order's* rate cap policy, the Commission should grant the Great Plains petition for waiver.

Respectfully submitted,

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