

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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

**COMMENTS OF
USTELECOM ASSOCIATION**

I. Introduction

USTelecom¹ respectfully submits these comments in response to the Public Notice (“Notice”)² issued by the Wireline Competition Bureau (“Bureau”) of the Federal Communications Commission (“FCC” or “Commission”). The Notice seeks comment on a petition filed by Great Plains Communications (“Great Plains”) seeking waiver of the Commissioner’s rules to prevent its switched access rates from increasing nearly 150 percent as a result of Great Plains leaving the National Exchange Carrier Association (“NECA”) switched and special access pools.³

Absent a grant of the waiver, increases in Great Plains’ switched access rates will undermine the Commission’s intercarrier compensation (“ICC”) reforms and could exacerbate call completion concerns. USTelecom therefore supports Great Plains’ waiver request.

¹ USTelecom is the premier trade association representing service providers and suppliers for the telecom industry. Its diverse member base ranges from large publicly traded communications corporations to small companies and cooperatives – all providing advanced communications service to both urban and rural markets.

² Public Notice, *Wireline Competition Bureau Seeks Comment on Petition for Waiver from Great Plains Communications*, DA 17-640 (June 30, 2017) (*Notice*).

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, CC Docket No. 01-92 (June 21, 2017) (*Petition*).

II. Granting the Waiver furthers the Commission's ICC Reforms

USTelecom played a key role in developing the proposals for ICC reforms that the Commission adopted in the 2011 *USF/ICC Transformation*.⁴ Reforming a system that reflected a bygone era was necessary to migrate to modern, IP networks. In that Order, the Commission adopted a framework to transition to a bill-and-keep framework, beginning by reducing terminating switched access rates and providing predictability and stability to providers.⁵ To implement these broader policy goals, the Commission, among other things, capped all interstate switched access rates for rate-of-return carriers at their 2011 level.⁶

In 2013, without much record support, the Bureau issued an Order that arguably exceeded its delegated authority and effectively undermined the Commission's reforms by waiving the *USF/ICC Transformation Order*'s cap on switched access rates and requiring NECA to adjust these rates when carriers enter or exit the pool.⁷ At the time, there was no notion of the Alternative Connect America Fund ("A-CAM") funding option for receiving high cost universal service support, let alone that a significant number of carriers would elect to receive model-based support and leave the NECA common line pool.⁸ Yet, the rules adopted in the Bureau's 2013 Order effectively rewrite the *USF/ICC Transformation Order* by allowing otherwise capped rates to increase. While it may be appropriate for the Commission as a whole to reconsider the implications of this rule and the potentially negative incentives it creates for carriers electing the

⁴ See *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17,663 (2011) (*USF/ICC Transformation Order*).

⁵ *Id.* at 17,676 ¶ 35.

⁶ *Id.* at 17,933 ¶ 800; 47 C.F.R. § 51.909(a).

⁷ See *Connect America Fund et al.*, WC Docket No. 10-90 et al., Order, 28 FCC Rcd 3319 (Wireline Comp. Bur. 2013) (*2013 Rate of Return Order*).

⁸ See *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, 31 FCC Rcd 3087, 3160 ¶ 195 (2016).

incentive regulation of a model, in the interim, the Great Plains' waiver should be granted to ensure that its switched access rates do not increase by 150%.

III. The Waiver is Consistent with USTelecom's and ITTA's Pending Business Data Services ("BDS") Petition

On May 25, 2017, USTelecom and ITTA filed a petition for rulemaking requesting that model-based rate-of-return carriers be permitted to opt into existing price cap regulation for their provision of BDS.⁹ As the USTelecom ITTA Petition notes, it is increasingly difficult for model-based carriers to be competitive under the Commission's existing BDS framework.¹⁰ Among other benefits, the USTelecom ITTA Petition argues that relying on price-cap-based rules will be more efficient and create greater regulatory certainty.

The USTelecom ITTA Petition and the Great Plains' Waiver Petition share the same underlying goal - the Commission should be setting policies that encourage carriers to move to more efficient regulation. In the case of the rate-of-return providers, this frequently requires leaving the NECA pool. Grant of Great Plains waiver is also consistent with the goals of the recent BDS decision.¹¹ By leaving the NECA pool, Great Plains can provide more competitive and lower rates to consumers and businesses.

IV. The Requested Waiver Will Help to Mitigate Further Rural Call Completion Concerns

USTelecom also supports a grant of Great Plains' waiver because it furthers the goals of the Commission's rural call completion proceeding. The Commission has noted that unacceptable performance with respect to rural call completion "causes rural businesses to lose

⁹ ITTA and USTelecom Petition for Rulemaking, WC Docket No. 17-144 (filed May 25, 2017) (USTelecom ITTA Petition).

¹⁰ *Id.* at 3.

¹¹ *Business Data Services in an Internet Protocol Environment*, Report and Order, WC Docket No. 16-143, 32 FCC Rcd 3459 (2017) (*BDS Order*).

customers, cuts families off from their relatives in rural areas, and creates potential for dangerous delays in public safety communications in rural areas.”¹² In 2013, the Commission adopted rules to address these significant concerns.¹³ And, recently, the Commission sought comment on revising these rules to better address the concerns.

The Commission has explained that one reason for the call completion problems in rural areas is that calls to rural areas are often handled by numerous providers in the call’s path and, “given the particularly high rates long-distance providers incur to terminate long-distance calls to rural rate-of-return carriers, long-distance providers have additional incentives to reduce the per-minute cost of calls.”¹⁴ As a result, there is greater incentive for the long-distance provider to hand off the call to an intermediate provider that is offering to deliver it cheaply, and potentially less incentive to ensure that the calls are actually completed.¹⁵ According to the Commission, “the prevalence of these problems accords with providers’ incentives to engage in blocking or degrading traffic...in an effort to minimize their intercarrier compensation payments.”¹⁶

USTelecom urges the Commission to grant the requested waiver because if switched access rates are allowed to increase to this degree when a provider leaves the NECA pool, such a result could further exacerbate rural call completion problems by creating an even greater incentive for providers to use network routing practices that result in blocked or uncompleted calls. To avoid this outcome, the Commission must freeze switched access rates at their current levels.

¹² *Rural Call Completion*, Notice of Proposed Rulemaking, WC Docket No. 13-39, 28 FCC Rcd 1569, 1570 ¶ 2 (2013).

¹³ *Rural Call Completion*, Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 13-39, 28 FCC Rcd 16,154 (2013) (*2013 Rural Call Completion Order*).

¹⁴ *Id.* at 16,163 ¶ 17.

¹⁵ *Id.*

¹⁶ *Id.*

V. The Commission Should Encourage Greater Transparency with Respect to NECA's Rate Calculations

USTelecom additionally urges the FCC to consider adopting policies that provide more transparency into NECA's rate recalculation methodology to enable carriers to have better insight into NECA's calculations. Although the Bureau's *2013 Rate of Return Order* provided a formula for recalculating a carrier's switched access rates, the formula is based on NECA forecasts, and the impact of leaving the pool is not predictable for carriers. Indeed, it is difficult for carriers to make informed decisions about whether to leave the NECA pools when they do not have access to the data that would allow them to make such a comparison.

VI. Conclusion

For the foregoing reasons, the Commission should grant the Great Plains waiver to reaffirm its commitment to the policy goals laid out in the *USF/ICC Transformation Order* and to support its recent work in both the rural call completion and business data services proceedings.

Respectfully submitted,

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