

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matters of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
ETC Annual Reports and Certifications)	WC Docket No. 14-58
)	
Developing a Unified Intercarrier Compensation Regime)	CC Docket No. 01-92
)	
)	
)	

**COMMENTS OF
ITTA – THE VOICE OF MID-SIZE COMMUNICATIONS COMPANIES**

ITTA – The Voice of Mid-Size Communications Companies (ITTA) hereby submits its comments on the petitions for reconsideration and/or clarification filed in response to the *Rate-of-Return Reform Order* issued by the Federal Communications Commission in the above-captioned proceedings.¹ In the *Order*, the Commission adopted significant reforms to its universal service support mechanisms applicable to rate-of-return carriers.

I. INTRODUCTION

In the *Order*'s opening paragraph, the Commission specifically acknowledged the "extensive coordination and engagement with carriers and their associations" that culminated in the *Order*'s modernization of the rate-of-return program.² The reforms adopted by the Commission should provide the rate-of-return industry with needed stability and the opportunity to expand the reach of their networks to bring the benefits of broadband to greater numbers of

¹*Connect America Fund; ETC Annual Reports and Certifications; Developing a Unified Intercarrier Compensation Regime*, Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, 31 FCC Rcd 3087 (2016) (*Order* and/or *FNPRM*).

²*Id.* at 3089, para. 1.

consumers in the most rural, highest cost areas of the country. ITTA and its rate-of-return members worked diligently with the Commission for well over two years to foster this result, and are especially gratified with the Commission's decision to afford rate-of-return carriers the opportunity to participate in a cost model-based universal service support plan.

In the *Order*, the Commission "welcome[d] ongoing input and partnership" as it moves forward to implementing these reforms.³ Although ITTA shares the concerns expressed by NTCA in its Petition regarding the insufficiency of the current high-cost universal service fund budget,⁴ it is in this spirit of ongoing partnership and collaboration with the Commission that ITTA comments in support of three discrete issues raised in the petitions. First, ITTA agrees with NTCA that the Commission should clarify its order to ensure a better understanding of where an unsubsidized competitor actually purports to serve before eliminating support in a census block. Second, ITTA echoes NTCA's request that the Commission confirm that, where competitive overlap is found, rural local exchange carriers (RLECs) may choose freely from among the Commission's defined formulas for recovery of disaggregated costs. And third, ITTA supports NTCA's call for the Commission to reconsider the requirement to impute access recovery charges (ARCs) where a carrier can show that it had a certain number of standalone broadband connections when the Connect America Fund – Intercarrier Compensation support (CAF ICC) baseline was set.

³ *Id.*

⁴ *See* Petition for Reconsideration and/or Clarification of NTCA-The Rural Broadband Association, WC Docket Nos. 10-90 and 14-58, CC Docket No. 01-92, at i, 2-3 (filed May 25, 2016) (Petition)..

II. THE COMMISSION SHOULD CLARIFY THE INFORMATION UNSUBSIDIZED COMPETITORS MUST PROVIDE IN ORDER TO DEMONSTRATE THEY SUFFICIENTLY SERVE A CENSUS BLOCK

While observing that, in the *Order*, the Commission adopted a fairly robust evidentiary process whereby an unsubsidized competitor must establish its ability to deliver voice and broadband services in a given census block,⁵ NTCA notes that the Commission was unduly vague as to the means by which it will be determined that a would-be competitor in fact can serve 85 percent or more of the locations in a census block, and that this lack of clarity may lead to needless disputes over the actual extent of coverage in the absence of better definition. NTCA argues that although the Commission declined its proposal to require geocoded locations from competitors,⁶ it did not provide very clear direction on what the would-be competitor should then provide.⁷ NTCA particularly points to the *Order* asking “competitors to submit as much information as possible, including neighborhoods served and, for cable companies, boundaries of their franchising agreement,”⁸ and raises concerns with the lack of specificity inherent in mere provision of “neighborhoods” and “franchise boundaries.”⁹

ITTA agrees that the Commission should clarify what precise information must be furnished by would-be competitors. In the *Order*, specifically referring to the USTelecom/NTCA *Ex Parte* Letter, the Commission stated that “competitors will be required to certify that they are offering service to at least 85 percent of the locations in the census block,

⁵ *Id.* at 15 (citing *Order*, 31 FCC Rcd at 3133-39, paras. 122-37).

⁶ See Letter from B. Lynn Follansbee, Vice President, USTelecom, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90, at 2 (filed Feb. 5, 2016) (USTelecom/NTCA *Ex Parte* Letter).

⁷ See Petition at 16 (citing *Order*, 31 FCC Rcd at 3138, para. 131).

⁸ *Order*, 31 FCC Rcd at 3138, para. 131; see Petition at 16.

⁹ Petition at 17.

and must provide evidence sufficient to show the specific geographic area in which they are offering service.”¹⁰ Tagged to the end of that sentence is footnote 258, which states:

“Documentary evidence should provide information sufficient to identify the geographic area where service is offered, such as a map of a local franchise area, street addresses or other information that would enable interested parties to determine the specific area allegedly served on a map.”¹¹

ITTA shares NTCA’s concern that a lack of specificity regarding the form of the competitor’s required submission will deprive the RLEC potentially challenging the submission of sufficient information in order to evaluate the submission, and lead to disputes that will bog down the challenge process.

ITTA has consistently emphasized in this proceeding the importance of verified evidence that an unsubsidized competitor is in the census block.¹² The clarifications urged above should help to achieve that goal.

III. THE COMMISSION SHOULD CONFIRM THAT RLECS MAY CHOOSE FREELY FROM AMONG THE COMMISSION’S DEFINED FORMULAS FOR RECOVERY OF DISAGGREGATED COSTS

In the *Order*, the Commission adopted several options to disaggregate costs for purposes of recalculating support following a finding of unsubsidized competition in particular census blocks. NTCA expresses apprehension that the *Order* appears to reserve the right for the

¹⁰ *Order*, 31 FCC Rcd at 3134, para. 122.

¹¹ *Id.* at n.258.

¹² *See Order*, 31 FCC Rcd at 3133, para. 121 n.254 (citing Letter from Genevieve Morelli, President, ITTA, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90 (filed Nov. 19, 2015)).

Commission to override any disaggregation option chosen by an RLEC.¹³ NTCA describes how the *Order* defends this position by suggesting that the prior disaggregation rule worked the same way, but that the prior rule actually worked differently than that adopted in the *Order* insofar as only broad methodologies were prescribed, whereas the disaggregation options adopted in the *Order* are very specific, detailed formulas, with no discretion to be had in the calculations.¹⁴ Thus, according to NTCA, there is no need or justification to question an RLEC's choice of a specific formula and, in any event, the standard for such "second-guessing" is unduly vague.¹⁵

For the reasons espoused by NTCA, ITTA concurs with the request that the Commission confirm that RLECs "may choose freely from among the three pre-defined' formulas, and that there will be no 'second-guessing' or veto" of an RLEC's choice from among the specific options defined by the Commission.¹⁶

IV. THE COMMISSION SHOULD RECONSIDER THE REQUIREMENT TO IMPUTE ARCS WHERE A CARRIER CAN SHOW THAT IT HAD A CERTAIN NUMBER OF STANDALONE BROADBAND CONNECTIONS WHEN THE CAF ICC BASELINE WAS SET

In the *Order*, to avoid "upset[ting] the careful balancing of burdens" as between end-user ARCs and universal service support via CAF ICC, the Commission required rate-of-return carriers to impute an amount equal to the ARC charge they assess on voice/broadband lines to their supported consumer broadband-only lines.¹⁷ NTCA, while not opposing the requirement, seeks reconsideration in one discrete respect: those standalone broadband connections that were

¹³ See Petition at 19.

¹⁴ See *id.* at 19 (citing *Order*, 31 FCC Rcd at 3139-42, paras. 138, 140-44).

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Order*, 31 FCC Rcd at 3162, para. 203.

in place on September 30, 2011, when the CAF ICC baseline for eligible recovery was first established, should not be subject to ARC imputation, as such connections were never included within the CAF ICC baseline and thus were not part of the “careful balancing” that went into establishing the mechanism.¹⁸ NTCA therefore urges that the Commission reconsider the requirement to impute ARCs to the extent that a carrier can show it had a certain number of standalone broadband connections in place as of the date the CAF ICC baseline was set.¹⁹

ITTA supports the reconsideration requested on this point by NTCA. ITTA also notes that, to its knowledge, the National Exchange Carrier Association only has data on the standalone broadband connections in place at that time for companies operating under traffic-sensitive tariffs. To the extent that other companies would need to provide such data to the Commission themselves, this should not run afoul of the information collection requirements of the Paperwork Reduction Act of 1995, as such companies should have every incentive to volunteer such data to the Commission in order to benefit from the requested exception to the imputation requirement.

V. CONCLUSION

ITTA wholeheartedly appreciates the Commission’s action in adopting the *Rate-of-Return Reform Order*. Nevertheless, in the spirit of continued collaboration sought by the

¹⁸ See Petition at 23; see also Letter from Trey Judy, Director-Regulatory, Hargray Communications Group, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 10-90 and 06-22, at 1 (filed June 13, 2016).

¹⁹ See *id.*

Commission in implementing these reforms, ITTA supports the three points of reconsideration or clarification sought by NTCA and discussed above.

Respectfully submitted,

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August 15, 2016