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) and 47 C.F.R. §51.917	))

REPLY COMMENTS
OF
NEBRASKA LEGACY RATE OF RETURN COMPANIES

The Nebraska Legacy RoR Companies ("Nebraska Legacy") – which is comprised of the following eighteen (18) Nebraska rural local exchange carriers ("RLECs"): Northeast Nebraska Telephone Company; Clarks Telecommunications Co.; Hartelco Inc.; Stanton Telecom Inc.; Henderson Cooperative Telephone Company; Three Rivers Telco; Plainview Telephone Co.; Glenwood Telephone Membership Corporation; Benkelman Telephone Co.; Wauneta Telephone Company; Hartman Telephone Exchanges, Inc.; Diller Telephone Company; Cozad Telephone Company; Hershey Cooperative Telephone Company; Southeast Nebraska Communications, Inc.; Hemingford Cooperative Telephone Co.; Cambridge Telephone Co.; and ATC Communications -- hereby submits its filing in support of the South Dakota Telecommunications Association's comments opposing the "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)" (later clarified to seek waiver of 47 C.F.R. §51.909(a)(4) and 47 C.F.R. §51.917) in the referenced proceeding.

The Nebraska Legacy carriers are concerned that grant of the proposed Great Plains Communications ("Great Plains") waiver, as well as the identical or substantially similar waiver

petitions by other RLECs seeking like treatment that are certain to follow, will adversely affect those RLECs that remained – in fact, that in many cases were forced to remain -- on the Rate of Return Path by increasing the percentage reductions of their High Cost Loop Support ("HCLS") and Connect America Fund – Broadband Loop Support ("CAF-BLS") imposed by the budget control mechanisms of 47 C.F.R. §§54.901(f) and 54.1310(d).

I. NEBRASKA Legacy RoR

Nebraska Legacy is a collection of 18 providers that offer voice, broadband and video-related services in Rural Nebraska. Nebraska Legacy members are small RLECs that serve some parts of Nebraska that are similar demographically and geographically to areas served by Great Plains. We are providers of last resort to many areas and communities that are both very difficult and very expensive to serve.

Nebraska Legacy members are all Rate of Return (RoR) carriers that have not chosen ACAM and in many cases have been forced by circumstances or eligibility limitations to remain on the alternative Rate-of-Return ("RoR") Path.

The latter point requires emphasis. Many Nebraska Legacy members and other RLECs that remain on the RoR Path did not choose to do so voluntarily. For example, sixteen (16) of the Nebraska Legacy companies were not eligible to elect the ACAM Path because of their previous deployment of 10/1 Mbps or greater broadband facilities and services that are rapidly being superseded by increasing broadband speeds and customer capacity demands, while two (2) were "offered" ACAM support that was so much less than their existing high-cost support that they had no reasonable or practicable option but to reject the inexplicable reductions and remain on the RoR Path.

II. The Proposed Waiver And Precedent Can Have A Substantial Adverse Impact Upon RoR Path RLECs

The workings of Section 51.909(a)(4) require the National Exchange Carrier Association ("NECA") to calculate a net contribution or net receipt and an adjustment factor for RLECs leaving the NECA tariff. RLECs can then use this factor to adjust their originating switched access and transport rates. In some cases the originating switched access and transport rates of the exiting RLEC may increase; in others they may decrease. These rate increases and rate decreases impact the amounts of access revenues that are subtracted from each exiting RLEC's Eligible Recovery in order to determine its Connect America Fund – Intercarrier Compensation ("CAF-ICC") support.

In the normal course of events, RLECs leaving the NECA tariff will increase or decrease their originating access and transport rates pursuant to Section 51.909(a). As a result of these rate changes, some exiting RLECs will have an increased amount of originating access and transport revenues that reduce their CAF-ICC support while others will have a reduced amount of originating access and transport revenues that increase their CAF-ICC support. Although it is impossible to predict which and how many RLECs may leave the NECA tariff and the aggregate impact of the ultimate rate and revenue changes upon CAF-ICC, it is reasonable to assume that there will be both increases and decreases in the affected rates and hence, some offsetting access revenue changes that will net against each other and reduce the overall net impact on total CAF-ICC support distributions.

However, if RLECs like Great Plains that should increase their originating access and transport rates pursuant to the Section 51.909(a) adjustment factors when they leave the NECA tariff are granted waivers that allow them to avoid such rate increases, the result of such waivers will be to decrease the originating access and transport revenues of the waiver recipients and to

increase their CAF-ICC support above the amounts they would receive in the absence of the waivers. The aggregate impact of multiple waivers of this type will be to disrupt the normal Section 51.909(a) netting process and to increase total CAF-ICC support.

For ACAM Path companies like Great Plains, increases in their CAF-ICC support have no impact on their model-based ACAM support or upon the ACAM support budget. However, for Nebraska Legacy RoR Path companies, increases in total CAF-ICC support (whether received by ACAM Path companies and/or RoR Path companies) increase the amount of total federal high-cost support subject to the applicable $2.0 billion annual RoR budget constraint. That is, when (as is currently the case and expected to be the case during the foreseeable future) the total calculated HCLS, CAF-BLS, CAF-ICC and ACAM (less the CAF Reserve addition) support exceeds the applicable RoR budget (currently, $2.0 billion per year), the Section 54.901(f) and 54.1310(d) budget control mechanisms require each RoR Path carrier's HCLS and CAF-BLS to be reduced by a certain percentage that will decrease HCLS and CAF-BLS distributions to RoR Path carriers by the amount necessary to bring the total calculated HCLS, CAF-BLS, CAF-ICC and relevant ACAM back down to the RoR budget cap. Hence, any increase in total CAF-ICC support due to the proposed Great Plains waiver and similar waivers will increase the required HCLS and CAF-BLS reductions, or "haircuts/scalpings," imposed upon the Nebraska Legacy carriers and other RoR Path (*i.e.*, non-model) carriers.

For the second half of 2016, when they were first implemented, the Section 54.901(f) and 54.1310(d) budget control mechanisms reduced the HCLS and CAF-BLS support of RoR Path carriers by 4.86 percent. For the first half of 2017, this "haircut/scalping" increased to 9.0664 percent. It has been calculated to grow even further to 12.3505 percent for the July 2017 to June 2018 period. These growing and **unpredictable reductions** of HCLS and CAF-BLS support

that would otherwise have been payable under the applicable Commission HCLS and CAF-BLS calculation rules are rapidly becoming the equivalent of the discredited Quantile Regression Analysis and are having the same types of adverse impacts upon the infrastructure investment plans, lender financing negotiations, and operating conditions of RoR Path RLECs.

While the Great Plains' petition does not contain much data or impact estimates, it appears relatively clear that the intent of its requested waiver is to permit it to reduce its originating access and transport rates and consequently, its aggregate access revenues. Such decreases would result in an increase in its CAF-ICC support over and above the amount it would otherwise receive in the absence of the requested waiver. If other similarly situated RLECs that have left or that will leave the NECA tariff file "me-too" waiver petitions to take advantage of the precedent set by a Great Plains' waiver, the result is likely to be more access rate and revenue reductions and further increases in total annual CAF-ICC support distributions that will further exacerbate the "haircuts/scalpings" imposed upon RoR Path carriers by the Section 54.901(f) and 54.1310(d) budget control mechanisms.

The Nebraska Legacy companies are well aware of rural call completion problems. However, contrary to the assertions of Great Plains, it is not clear how the workings of Section 51.909(a) can or will exacerbate rural call completion problems. It has been higher than average **terminating** switched access rates that have given interexchange carriers and their least cost routing agents financial incentives not to complete calls to numbers in rural service areas. However, the Section 51.909(a) adjustments do not affect switched access end office (*i.e.*, terminating) rates, which continue to decrease toward bill-and-keep. They only increase the caps on the originating switched access rates of RLECs leaving the NECA tariff (which should have no impact upon calls to rural areas) and on their transport rates (which may have some impact

upon rural calls, but far less than the terminating switched access end office rates that have already transitioned to amounts below $0.005 per minute).

III. Conclusion

Nebraska Legacy RoR Companies understand Great Plains' desire to obtain a waiver; however, we see granting that waiver as increasing the "haircut/scalping" that is already being experienced by Nebraska Legacy RoR Companies. Further, it sets a waiver precedent that other companies are very likely to follow, and which would further increase the cuts imposed by the all budget control mechanism upon RoR Path companies. Therefore, we are opposed to the Commission granting Great Plains' waiver of Section 51.909(a)(4) and 51.917 and file these comments in support of South Dakota Telecommunications Association Opposition to the aforementioned waiver.

Respectfully submitted,
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