

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

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

**REPLY COMMENTS OF  
THE  
NATIONAL EXCHANGE CARRIER ASSOCIATION, Inc.**

**I. INTRODUCTION**

Great Plains Communications seeks waiver of section 51.909(a)(4)(ii)(A)(2) of the Commission's rules so as to permit it to utilize actual interstate switched access revenues in establishing rates and calculating amounts eligible for ICC recovery for its 2017-2018 switched access rates, as it exits NECA's Traffic Sensitive (TS) pool.<sup>1</sup> Great Plains asserts that without waiver, the result will be almost a 150 percent increase in its switched access rates and elimination of most of its existing Connect American Fund Intercarrier Compensation (CAF-ICC) support.<sup>2</sup>

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<sup>1</sup> See *Wireline Competition Bureau Seeks Comment on Petition for Waiver from Great Plains Communications*, WC Docket No. 10-90, CC Docket No. 01-92, Public Notice, DA 17-640 (rel. June 30, 2017). Great Plains initially sought waiver of section 51.919(b) of the rules as well, asserting this would synchronize its switched access rate caps with eligible recovery CAF-ICC calculations. 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 (filed June 21, 2017) (*Petition*). On July 27, 2017, however, Great Plains filed a Clarification saying the FCC could grant the requested relief by only waiving the provision in 51.909(a)(4) that requires switched access rates to increase when entities leave the NECA switched access pool. Clarification of Great Plains Communications Petition for Waiver of 47 C.F.R. § 51.909(a)(4) and 47 C.F.R. § 51.917 (filed July 27, 2017).

<sup>2</sup> *Petition* at 1.

In support of its request, Great Plains explains it faces extraordinary circumstances in serving a large and sparsely populated area in and across the state of Nebraska, with many non-contiguous serving areas that are expensive and difficult to serve. In Great Plains' view, the initial forecasts used to estimate Great Plains' 2011-2012 interstate switched access revenues and thus its switched access rate change factor failed to consider the costs of transporting traffic over its extensive serving area. Great Plains also claims it was not made aware of the magnitude of this rate increase until after the March 1, 2017 pool election deadline, and states it had no reasonable basis to anticipate such a result.<sup>3</sup>

Several commenters support grant of the requested relief.<sup>4</sup> USTelecom, for example, expressed concern that increases in Great Plains' switched access rates will undermine the Commission's ICC reforms and could exacerbate call completion concerns.<sup>5</sup> Verizon likewise argued that such a large rate increase would be inconsistent with the rate cap policy adopted by the Commission in its 2011 *Transformation Order*, and suggested the Commission grant the Great Plains' waiver and cap Great Plains' rates at June 30, 2017 levels.<sup>6</sup> Consolidated Communications and ITTA expressed similar support for Great Plains' petition, and further suggested the Commission grant similar relief to other companies experiencing dramatic rate increases.<sup>7</sup>

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<sup>3</sup> *Id.* at 4.

<sup>4</sup> Comments filed by Consolidated Companies, ITTA, USTelecom, Verizon, filed on July 31, 2017.

<sup>5</sup> USTelecom at 1.

<sup>6</sup> Verizon at 1, 4.

<sup>7</sup> Consolidated at 2. Nebraska PUC filed comments on August 4, 2017, in support of Great Plain's Petition.

Other parties oppose grant of the petition. The South Dakota Telecommunications Association, for example, states Great Plains has presented no unique circumstances that would justify a waiver, and further states there was no reason Great Plains could not have ascertained the effects of its decision to exit the NECA pools prior to making its March 1, 2017 tariff election.<sup>8</sup> SDTA also expressed concern that granting Great Plains' petition will have an adverse impact on other USF recipients, as additional CAF-ICC dollars flowing to Great Plains will reduce funds available to non-model RLECs.<sup>9</sup>

Similar concerns were expressed by both NTCA and WTA.<sup>10</sup> While neither association specifically opposed the petition, both urged the Commission to consider carefully impacts on other companies before granting Great Plains' request.<sup>11</sup> Like SDTA, NTCA pointed out that grant of the petition would likely necessitate reducing support under the fixed budget for actual cost recovery mechanisms to accommodate the resulting change in CAF-ICC support for Great Plains. WTA expressed further concerns that relief for Great Plains might result in a stream of "me-too" petitions by other RLECs seeking similar treatment, thus exacerbating adverse CAF-ICC impacts.<sup>12</sup> WTA suggested, however, these concerns could be resolved if the Commission were to exclude resulting increases in CAF-ICC support from subsequent budget recalculations.<sup>13</sup>

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<sup>8</sup> SDTA at 1.

<sup>9</sup> *Id.* at 3 ("if Great Plains is given an extra \$2.8 million in CAF ICC support, the amount of support available to Legacy ROR carriers will be reduced by \$2.8 million.")

<sup>10</sup> NTCA at 2-3; WTA at 4-5.

<sup>11</sup> NTCA at 2; WTA at 6.

<sup>12</sup> WTA at 2, 5.

<sup>13</sup> *Id.* at 1-2.

## II. DISCUSSION

NECA did not file initial comments on Great Plains' petition and does not take a position on its merits, but nevertheless wishes to offer some observations regarding issues raised in the comments.

First, as suggested by WTA and Consolidated, Great Plains is not the only carrier to have experienced significant changes in rate caps following exit from NECA's TS pool. Indeed, each year since 2013, when the Bureau issued its *NECA Pool Order*<sup>14</sup> specifying procedures for adjusting rate caps to reflect pool entries and exits, NECA has calculated switched access rate adjustment factors for companies desiring to change their pool participation and has provided information detailing these factors to companies electing such changes. This information has also been included as part of NECA's annual access CAF-ICC Tariff Review Plan (TRP) filings with the Commission, starting in June 2014.<sup>15</sup>

A review of this information shows that in each of the past four years, as well as the 2017/2018 annual tariff period, a small but significant number of companies electing to exit the NECA TS pool have experienced significant rate changes, both increases and decreases. For example, in the 2017-18 test period, thirteen companies had rate increases greater than 50 percent, including four companies with increases between 100 and 150 percent, and four additional companies had rate adjustment factors exceeding 150 percent. Forty-five companies had rate decreases of more than 50 percent, all as displayed in the table below.

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<sup>14</sup> *Connect America Fund, et al.*, WC Docket No. 1090, *et al.*, Order, 28 FCC Rcd. 3319 (2013) (*NECA Pool Order*).

<sup>15</sup> See National Exchange Carrier Association, Inc., Trans. No. 1519, Tariff Review Plan (filed June 16, 2017).

Test Period Interstate Switched Access Rate Effects Companies Exiting the Traffic Sensitive Pool					
	TP 13/14	TP 14/15	TP 15/16	TP 16/17	TP 17/18
# of Study Areas with less than 50% rate increase		1	2	2	6
# of Study Areas with over 50% rate increase			1	2	3
# of Study Areas with over 75% rate increase			6	2	2
# of Study Areas with over 100% rate increase				1	4
# of Study Areas with over 150% rate increase		2	1		4
<b>Total Study Areas with rate increase</b>	0	3	10	7	19
# of Study Areas with less than 50% rate decrease	1	5	10	16	48
# of Study Areas with over or equal to 50% rate decrease		10	9	4	30
# of Study Areas with over 75% rate decrease		5			15
# of Study Areas with over 100% rate decrease					
# of Study Areas with over 150% rate decrease					
<b>Total Study Areas with rate decrease</b>	1	20	19	20	93
<b>Total Study Areas exiting TS Pool</b>	1	23	29	27	112

These rate changes recognize the effects of “deaveraging” rates as companies leave the pool. It is also important to note these rate changes apply to switched access originating and transport rates but not terminating end office rates, which continue to follow the rate transition prescribed in the Transformation Order.<sup>16</sup>

Second, as suggested by SDTA, NTCA and WTA in comments, any increase in CAF-ICC amounts to Great Plains that occur because of the requested waiver would indeed result in an overall decrease in HCLS and CAF-BLS support to carriers remaining on legacy high-cost support mechanisms. This occurs because, in the support payment attribution process, ACAM and CAF-ICC are paid in full, with HCLS and CAF-BLS subject to reductions when overall

<sup>16</sup> *Connect America Fund, et al.*, WC Docket No. 10-90, *et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd. 17663 (2011) ¶ 736, *et seq.* (*Transformation Order*). For example, Great Plains reduced its terminating end office rate nearly 29 percent, to \$0.003567, effective July 1, 2017.

support totals exceeds \$2B.<sup>17</sup> SDTA correctly points out that a waiver permitting Great Plains to recover \$2.8 million dollars in CAF-ICC support rather than via switched access rates would, under existing rules, cause carriers remaining on legacy support mechanisms to lose an additional \$2.8 million in support as a result of the overall budget cap on high-cost funding. WTA is also correct that grant of additional waivers to other companies experiencing significant increases will likewise adversely affect carriers receiving legacy support.<sup>18</sup> While the magnitude of such impacts is difficult to determine in the absence of knowledge of which companies may exit the pool in future years and the projected demand data for each exiting company, grant of similar waivers to all companies experiencing significant rate increases under current rules could have a material effect on carriers receiving legacy support.

Finally, NECA urges the Commission to consider carefully claims regarding the availability of information needed by carriers (including Great Plains) to make an informed decision regarding rate adjustment impacts of an election to exit the NECA pool. Since the *NECA Pool Order* was issued in 2013, NECA has routinely and promptly provided companies electing to exit the NECA TS pool with information regarding their resulting rate change factor, as required under part 51.909 of the Commission's rules. Great Plains, for example, received its rate change factor information on March 15, 2017, only a few days after it elected to exit.<sup>19</sup>

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<sup>17</sup> As WTA notes (at 4), these support reductions would not apply to companies such as Great Plains who elected ACAM support.

<sup>18</sup> For example, the Consolidated Companies' comments support the Great Plains petition and request that any company that exited the pool and experiences dramatically higher access rates receive similar treatment. Consolidated at 2.

<sup>19</sup> Given the availability of such information on March 15, it is unclear why Great Plains would have waited more than three months, until June 21, 2017, to file its Petition for Waiver.

A company considering exiting the NECA TS pool can reasonably be expected to have knowledge of Commission rules applicable to access tariff filings, and should be aware that if it is a net recipient from the NECA pools (*i.e.*, it reports greater costs than revenues to the pool), a decision to operate outside the pooling environment will necessitate increases in its individual tariff rates. Indeed, since the *NECA Pool Order* was issued, NECA has received several requests from companies considering exiting the pool for information regarding potential rate change factors, and has always responded to such requests in a timely manner. Prior to the Great Plains petition, no company has suggested they lacked adequate information to make an informed decision. Thus, contrary to concerns expressed by USTelecom,<sup>20</sup> additional disclosure requirements in this area do not appear to be necessary.<sup>21</sup>

### III. CONCLUSION

In considering Great Plains' petition for waiver, the Commission should consider the fact that a number of carriers electing to exit the NECA pools may experience significant percentage increases in rates as a result of the operation of sections 54.909(a)(4)(2)(A) and 51.919(b) of the Commission's rules. NECA agrees with commenters that suggest taking into consideration impacts of granting the requested waiver on support for legacy carriers under the current overall budgetary cap on high-cost universal service funding. Finally, companies considering exiting the

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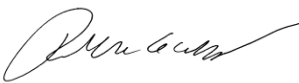
<sup>20</sup> USTelecom at 5.

<sup>21</sup> If Great Plains (or any other exiting carrier) believes it would be in its interest to do so, NECA would of course have no objection if it desires to return to the NECA pools, assuming it obtains any necessary waivers of the Commission's rules.

pool currently can obtain all necessary information regarding the effects of exiting on their access rates and there is no need to prescribe additional procedures regarding such calculations.

Respectfully submitted,

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