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

In the Matter of	)	
	)	
Jurisdictional Separations and Referral	)	CC Docket No. 80-286
To the Federal-State Joint Board	)	
ETC Annual Reports and Certifications	)	
	)	

COMMENTS OF CLAY COUNTY RURAL TELEPHONE COOPERATIVE (“ENDEAVOR COMMUNICATIONS”) IN RESPONSE TO THE NOTICE OF PROPOSED RULEMAKING

Dated: August 27, 2018

Clay County Rural Telephone Cooperative

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I. Introduction and Summary

Clay County Telephone Cooperative d/b/a Endeavor Communications ("Endeavor") hereby submits these Comments in response to the Further Notice of Proposed Rule Rulemaking (the "Notice") issued by the Federal Communications Commission ("Commission") in the above captioned proceedings.[1]

The Notice seeks comment on: 1) whether the Commission should extend the existing short-term jurisdictional separations freeze; 2) whether the Commission should alter the scope of its referral to the Joint Board regarding comprehensive separations reform; and 3) the Commission's proposal to allow rate-of-return carriers that elected to freeze their category relationships in 2001 to opt out of that freeze. Endeavor's focus in these comments is to strongly encourage the Commission to allow Endeavor and other rate-of-return carriers to opt out of the separations freeze.

Endeavor is a rural, rate-of-return incumbent local exchange carrier serving approximately 9,300 customers in central Indiana with high-quality voice, broadband, video, and other services. Endeavor participates in the revenue pools and tariffs administered by the National Exchange Carrier Association (NECA).[2] Endeavor elected to freeze their category relationships in 2001. Endeavor updated their central office equipment ("COE") allocation in 2003 to take into account a new category.

Endeavor supports the Commission's proposal to provide a one-time opportunity for carriers that opted to freeze their category relationships in 2001 to opt out of that freeze. As the

[1] *Federal-State Joint Board on Jurisdictional Separations Seeks to Refresh the Record on Issues Related to Jurisdictional Separations*, CC Docket No. 80-286, Further Notice of Proposed Rulemaking (rel. July 18, 2018).

[2] Endeavor does not participate in the NECA DSL tariff.

Commission has recognized, this will allow carriers, including Endeavor, to categorize their costs based on current circumstances rather than their circumstances in 2000. In addition, when the Commission granted rate-of-return carriers the opportunity to elect the category relationships freeze, it specified that the freeze would be an interim "transitional measure" lasting no more than five years. The Commission recognizes that since 2000, many, and perhaps all, carriers subject to the category relationship freeze have made substantial investments to modernize their networks and to improve and expand their service offerings. This is certainly true of Endeavor. Endeavor has since invested heavily in network upgrades since the freeze and has been limited in how it recovers its costs of those upgrades due to the freeze.

Endeavor has replaced outdated copper plant and invested in Fiber-to-the-Home ("FTTH") technology since the time of the separations freeze. At the time of the freeze, no subscribers were served with FTTH technology. Today, all of Endeavor's subscribers are served with FTTH technology. COE and outside plant investment has nearly tripled since the time of the freeze. Endeavor will continue to replace electronic equipment as necessary but given Endeavor has previously invested in FTTH technology, there are no large scale investment projects planned as a result of a potential unfreezing of separations factors.

The vast majority of COE investment and outside plant investment under the freeze has been allocated to the exchange line categories, outside plant Category1.3 and COE Category 4.13. Minimal proportions have been allocated to the wideband categories, outside plant Category 2.1 and COE Category 4.11.   With wide scale adoption of DSL and Fiber based technology, the largest changes caused by unfreezing and re-categorization will be to increase the wideband account proportion, particularly in COE circuit equipment, which is estimated to increase by close to five times its current allocation proportion. All other COE circuit equipment

accounts will decline as a result.

Endeavor believes that unfreezing and re-categorization will cause minimal if any pricing changes. As an example, business data services make up a relatively small proportion of its service mix and total revenues. As a result, opting out of the freeze will have little impact on the pricing for business data services. Also, as Endeavor pools its costs and revenues with NECA, small changes in these costs are further minimized when averaged with NECA's pooled costs.

Endeavor's costs that are allocated to the Exchange Line Categories of outside plant and COE circuit equipment accounts are currently allocated 25% to the interstate jurisdiction. Since the allocation of wideband outside plant and COE circuit equipment are allocated 100% to the interstate jurisdiction, unfreezing and re-categorizing costs to wideband will cause a shift to the interstate jurisdiction. As consumers' preferences shift from voice-only telephone line or voice/data line to broadband only lines, a greater shift will occur.[3]

The frozen factors have been preventing Endeavor from receiving support related to their transition to CBOL. Without an opportunity to unfreeze and re-categorize investment levels, Endeavor's eligibility for support via CAF-BLS for broadband lines is significantly reduced.

The freeze combined with the BCM is currently reducing the amount of support received by Endeavor despite significant investments in fiber. As currently applied to Endeavor, the freeze eliminates any incentive to move towards more broadband-only services. Since Endeavor's transition to broadband only is necessarily below the industry average caused by the

[3] This shift is consistent with the Commission's revised high-cost universal service rules to provide support for consumers electing to subscribe to "broadband-only" service from rate-of-return carriers. *See In the Matter of Connect America Fund*, WC-Docket No. 10-90, Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, Released March 30, 2016, paras. 86-94.

separation's freeze, Endeavor's share of the budge control mechanism is above the industry average. Unfreezing and re-categorizing will only cause Endeavor to increase universal service if its transition to broadband only is greater than industry average. Endeavor therefore supports the Commission's proposal to allow a limited, one-time opportunity for carriers to opt out of the separations freeze.

The Commission also seeks comment on whether it should impose measures to prevent carriers that opt out of the category relationship freeze from double-recovering costs through end-user charges and Connect America Fund intercarrier compensation (CAF ICC) support. Although Endeavor believes that its potential impacts on CAF-ICC will be minor, Endeavor does not oppose the Commission's effort to impose measures to prevent carriers that opt out of the category relationships freeze from double-recovering costs through end-user charges and CAF ICC support. If required and based upon the *Eastex Waiver Order*, Endeavor would (1) recalculate its base period revenue using the unfrozen category relationships based upon the 2011 cost study; (2) refile a revised interstate switched access revenue requirement; and (3) adjust its interstate switched access rate cap proportionately with the change made to the interstate projected revenue requirement.

In addition, Endeavor will make conforming changes to the relevant tariffs effective on July 1, 2019 or sooner if allowed to do so. Endeavor will notify the Commission and NECA by March 1, 2019 or sooner if allowed to do so of regarding the decision to opt out of the category relationships freeze.

Endeavor supports the Commission's proposal to allow carriers to unfreeze their category relationships and urges the Commission to expeditiously move forward with this proposal.

Dated: August 27, 2018

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