

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

In the Matter of)	
)	
Petition of NTCA—The Rural Broadband)	WC Docket No. 17-206
Association and the United States Telecom)	
Association for Targeted, Temporary Forbearance)	
Pursuant to 47 U.S.C. § 160(c) from Application)	
of Contributions Obligations on Broadband Internet)	
Access Transmission Service Pending Universal)	
Service Fund Comprehensive Contributions Reform))	

COMMENTS OF GVNW CONSULTING, INC.

GVNW Consulting, Inc.¹ respectfully submits these comments in support of the Petition of NTCA—The Rural Broadband Association and the United States Telecom Association for Targeted, Temporary Forbearance Pursuant to 47 U.S.C. § 160(c) from Application of Contributions Obligations on Broadband Internet Access Transmission Services Pending Universal Service Fund Comprehensive Contributions Reform (“Petition”). The Petition requests that the Commission temporarily forbear from application of universal service fund (USF) contribution requirements with respect to broadband Internet access transmission services provided by RLECs, whether tariffed or offered on a de-tariffed basis.² Specifically, NTCA and USTelecom seek forbearance from 47 U.S.C. 254(d) and 47 C.F.R. § 54.706.³ The Petition asks that the Commission forbear “until such a time as the Commission reaches a decision on whether

¹ GVNW Consulting, Inc. is a management consulting firm that provides a wide variety of consulting services, including regulatory and advocacy support on issues such as universal service, intercarrier compensation reform, and strategic planning for communications carriers in rural America.

²See Petition at pp. 1-2.

³*Id.* at p. 2.

any and all broadband services . . . should be required to contribute to support of Federal USF programs or completes some other form of contributions reform.”⁴

I. Granting the Petition is a Simple Matter of Fundamental Fairness and Good Public Policy

Granting the Petition is a simple matter of fundamental fairness and good public policy. As the Petition notes, grant of the Petition request for temporary forbearance from application of Universal Service Fund (USF) contribution requirements with respect to broadband Internet access transmission services (BIAS) provided by RLECs “(1) will eliminate the current disparate and discriminatory treatment of one discrete class of broadband as compared to all other similarly situated services; (2) will avoid the anti-competitive implications of a regime that picks ‘winners and losers’ in the broadband marketplace by treating one type of offering differently from all others based merely upon regulation which uniquely handicaps rural providers; (3) it would serve the public interest by mitigating to some degree the already high cost of broadband for rural consumers; and (4) is fully consistent with courses of action and clarification with respect to contribution assessment applicable to similar broadband Internet access services as articulated and adopted by the Commission in both its Title II proceeding and more recent USF reform efforts, as well as prior orders in 2002 involving cable modem service and in 2005 involving wireline broadband Internet access service.”⁵ Further, the Petition notes that “This persistent mismatch in treatment [between all other BIAS providers and RLECs] is also anti-competitive, in that it imposes upon a subset of RLECs and their customers a unique and discriminatory obligation to contribute to USF on broadband Internet Access services.”⁶

⁴*Id.*

⁵*Id.* at 3.

⁶*Id.* at 2.

II. The Commission Itself Has Indicated That It Recognizes the Equity and Public Policy Issues with Assessing BIAS Revenues from Only RLECs

The Commission itself has indicated that it recognizes the equity and public policy issues with assessing BIAS revenues from only RLECs. The Petition notes that, in the recent *Rate-of-Return Reform Order*, the Commission indicated that if an RLEC “chooses to detariff its wholesale consumer broadband-only loop offering,” it would no longer be subject to USF contributions obligations for that service, “similar to other carriers that previously chose not to offer a separate tariffed broadband transmission service. Thus, the Commission clearly intended to provide RLECs with an opportunity to achieve “equal footing” from a USF contributions perspective.”⁷

III. The Petition for Temporary Forbearance is the Best Approach to Addressing the Equity and Public Policy Issues in a Timely Manner

If the Commission supports addressing the equity and public policy issues of assessing only RLECs’ provision of BIAS for contributions to the USF, why is this discriminatory policy that hurts competition and consumers still in effect? The answer is that the Commission’s attempts to resolve the issue have unfortunately been ineffectual or delayed. The attempt in the recent *Rate-of-Return Reform Order* to address the issue established an opportunity that, as noted in the Petition, “is difficult, if not impossible, for most RLECs to pursue due as a practical matter to the mechanical operation of the Commission’s current rules.”⁸ The Petition relates the interaction of the Commission’s rules that inhibits most RLECs from using the method offered in the *Rate-of-Return Reform Order*, and so “the contributions “relief” clearly intended by the *Rate-of-Return Reform Order* provides little aid in practice.”⁹ Other similar approaches suffer from

⁷*Id* at 9.

⁸*Id*.

⁹*Id* at 10.

the same problem – the complex interaction of the rules governing cost recovery for rate-of-return carriers forces such carriers to make unacceptable tradeoffs to achieve the equity and public policy benefits of not being assessed USF contributions on their BIAS revenues. As noted in the Petition, a rulemaking approach instead of a forbearance approach would “require the burdensome diagnostics and surgery and substantial additional process that would be needed to assess and “clean up” rules that may be scattered across Parts 32, 36, 54, 64, 65, and 69.”¹⁰

Another opportunity to address the issue arose in the *Title II Order* when the Commission granted temporary forbearance from contributions requirements for BIAS services and expressly excluded BIAS from that forbearance with the rationale that it did not seek “to disturb the status quo with respect to current contributions obligations,” and that with respect specifically to the disparate treatment of RLEC-provided broadband Internet access services as compared to all other broadband Internet access services, “there will be a future opportunity to consider these issues in the contributions docket.”¹¹ The conundrum that is USF contributions reform has yet to be addressed in the more than two years since the release of the *Title II Order*, and no active proceeding, let alone resolution of the issue, is on the horizon.

The NTCA/USTelecom Petition for forbearance from USF contribution requirements applied pursuant to Section 254(d) of the Act and Section 54.706 of the Commission’s rules is a targeted, temporary approach that simply and elegantly addresses the discriminatory treatment of RLECs and their BIAS customers. It does not implicate the structure of the USF high-cost regime for rate-of-return carriers adopted by Commission. It is temporary, requesting relief “until such time as the Commission reaches a decision on whether *any and all* broadband

¹⁰*Id* at 12.

¹¹*Id* at 7, *Title II Order*, at 30 FCC Rcd at 5837, n. 1472.

services (and not just RLEC-provided broadband Internet access transmission services) should be required to contribute to support of federal USF programs or completes some other form of contributions reform.”¹²

Furthermore, grant of the Petition will have a *de minimis* effect on USF contribution levels. The Petitioners estimate that grant of the forbearance requested could have the effect of increasing the contribution factor by only 0.2% (rounded up), which represents roughly \$0.10 per month ... on the bill of a consumer purchasing \$50 per month in telecommunications services.”¹³

IV. The Petition Should be Promptly Granted

The Petition should be promptly granted. Section 10 of the Communications Act provides the Commission with up to one year to address petitions for forbearance, unless the one-year period is extended by the commission if it finds that an extension of 90 days is necessary to meet the requirements of subsection (a) of Section 10, before they are deemed granted.¹⁴ There is no reason for the Commission to use the full term allowed by Section 10. The relief requested by the Petitioners is simple, already supported by the Commission, and necessary to promote fundamental fairness, equity, consumer benefit and competition. As noted by the Petition “The Commission has already found that for every kind of provider, *other* than RLECs, there is no need for the time being to collect USF contributions on broadband Internet access services pending further consideration of comprehensive reform.”¹⁵ The Petition clearly satisfies the standards for forbearance and should be promptly granted.

¹²See Petition at 2.

¹³*Id* at 13-14.

¹⁴47 U.S.C. 160

¹⁵See Petition at 17.

Respectfully submitted,

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