Advocates for Rural Broadband

Jerry Piper
President

Kelly Worthington
Executive Vice President

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Filed Via ECFS
Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: *Connect America Fund*, WC Docket No. 10-90; *Authorizing Permissive Use of the Next Generation Broadcast Television Standard*, GN Docket No. 16-142

Dear Ms. Dortch:

On Tuesday, September 12, 2017, Mark Gailey of Totah Communications; and Derrick Owens, Bill Durdach and Gerry Duffy representing WTA – Advocates for Rural Broadband ("WTA") met with Travis Litman, Senior Legal Advisor to Commissioner Jessica Rosenworcel, and separately with Holly Saurer, Acting Media Legal Advisor to Commissioner Rosenworcel, to generally discuss various rural broadband and video issues.

WTA is a national trade association representing approximately 340 rural telecommunications providers that offer voice, broadband and video-related services. WTA members are generally small rate of return carriers that typically serve 2,000 to 3,000 lines scattered throughout some of the most rugged, remote and/or sparsely populated areas of the United States. WTA members are providers of last resort to many areas that the former Bell System did not want to serve, and that remain very difficult and expensive to serve today. Approximately 40 percent of WTA's members elected to receive federal high-cost support for the next ten years pursuant to the Alternative Connect America Cost Model ("ACAM") Path. Except for several Alaska Plan companies, the remainder of WTA's members have remained (and in many cases have been forced by circumstances or eligibility limitations to remain) on the alternative Rate of Return ("RoR") Path.

WTA members rely heavily upon high-cost support, and are currently facing the pressing problem that the funding of neither the ACAM Path nor the RoR Path is sufficient to meet the growing broadband needs of rural customers, which have long superseded the currently funded 10/1 level and are quickly surpassing the next 25/3 milestone. In particular, the budget control mechanism affecting the RoR Path is producing large and unpredictable reductions (currently 12.35 percent for Connect America Fund – Broadband Loop Service support for the 2017-2018 period, and 14.9 percent for High Cost Loop Support for the Fourth Quarter 2017) in otherwise distributable high-cost support that are becoming as disruptive to investment planning and loan repayment as the former Quantile Regression Analysis.

Another threat to predictability is the apparently planned movement of Universal Service Fund ("USF") dollars from a bank account in the name of the Commission's Universal Service Administrative Company ("USAC") administrative agent to the U.S. Treasury. In addition to the loss of interest income with respect to these funds, this plan is generating grave concerns that essential USF dollar flows ultimately will become embroiled, threatened and delayed in budgetary disputes, government shutdowns, and other political matters. WTA emphasizes that the USF has long served as a telecommunications industry mechanism to promote deployment of facilities and adoption of services that are intended to benefit all industry members and contributors by making their networks and services more valuable. It urges that the USF and its funds be kept as an industry program rather than being folded into the overall Treasury and budget operations.

WTA continues to support USF contribution reform, and to believe that all broadband Internet access services should contribute to a program that is increasingly intended to increase broadband deployment and adoption. It understands the political difficulties created by those who assert that USF contributions would constitute "taxation of the Internet," but does not see how the current substantial reliance upon contributions from a changing long distance toll service sector to support an increasingly broadband public network is sustainable.

WTA indicated that it is considering the re-submission of its prior proposal for the establishment of a second period wherein RLECs could voluntarily elect to opt into the ACAM Path. Particularly in light of the growing and unpredictable adverse impact of the budget control mechanisms upon RoR Path carriers and in light of the fact that many RLECs were denied a fair opportunity to opt into the ACAM Path during the initial period, WTA believes that providing a second opportunity for willing carriers to accept model-based support would be reasonable and equitable.

WTA noted that its RLEC members want edge providers and others to serve their rural customers, and have not been active in the debates regarding blocking, throttling or paid prioritization. However, WTA remains concerned that its RLEC members and their rural customers will be refused reasonable and affordable broadband interconnection, and has urged the Commission to retain a role in monitoring broadband interconnection and middle mile arrangements, and to step in when necessary to require good faith and timely negotiations between entities of widely varying size and bargaining power.

WTA provided a copy of the suggested Unsubsidized Competitor Form which it had submitted in this docket during October 2016 regarding the future challenge process for entities claiming to be unsubsidized competitors within Census Blocks served by RoR Path carriers.

WTA also spoke briefly with Ms. Saurer regarding the economic difficulties of RLEC provision of video services to their rural service areas. The primary problem is that skyrocketing content prices – both for retransmission consent from commercial network affiliates and for satellite programming channels – have pushed RLEC video service rates to the limits of affordability, and forced most RLECs to the point where they are, at best, breaking even and in most cases losing money on their video operations. In most instances, RLEC video operations comprise such a small portion of the potential television audience within a Designated Market Area ("DMA") that retransmission consent (and also satellite channel) negotiations are basically "take it or leave it" affairs wherein the RLEC video operations are forced to take the content pricing demanded (as well as additional affiliated program changes and/or favorable tier placement) if they want the channel. Moreover, after the DTV transition, the distance broadcast signals traveled diminished, and that many WTA members are now paying to transmit broadcast signals to rural customers who would otherwise not receive them.

Mr. Gailey stated that Totah Communications had twice offered video services and on both occasions was forced to stop due to financial losses. In addition WTA asserted that in the past year, five (5) of its members had shut down their video services.

In this harsh environment, any additional programming or regulatory costs can be the "straw that broke the camel's back" that drives an RLEC out of the video business. A major cloud on the horizon at this time is the upcoming transition to ATSC 3.0. WTA stressed that although the transition to ATSC 3.0 will technically be "voluntary," its members are concerned that retransmission consent agreements are likely to be used by broadcast stations as backdoors to force them to transition to the new standard anyway. Of note, WTA members have already received retransmission consent proposals containing language that would require them to transmit any "compliant ATSC standard."

WTA believes that a forced transition to the ATSC 3.0 standard would be disastrous for video service in rural communities. Right now, much is unknown about the cost of transitioning, but there is little doubt that it will require substantial investments. For example, the cost of updating set top boxes alone is estimated to cost at least $160-240 per unit. One WTA member has stated that the full transition would cost its company $400,000, and the cost would either be passed to customers or taken as a loss. Such losses are rapidly approaching a tipping point where they can no longer be sustained in the absence of hope that conditions will change, and where RLEC and other small provider exodus from the video business will become more and more common.

Pursuant to Section 1.1206(b) of the Commission's Rules, this submission is being filed for inclusion in the public record of the referenced proceeding.

Respectfully submitted,

/s/ Gerard J. Duffy

Gerard J. Duffy
WTA Regulatory Counsel
Blooston, Mordkofsky, Dickens, Duffy & Prendergast, LLP
2120 L Street NW (Suite 300)
Washington, DC 20037
Telephone: (202) 659-0830
Email: gjd@bloostonlaw.com

Attachment: WTA *Ex Parte* Letter in WC Docket No. 10-90, dated October 24, 2016

cc: Travis Litman
Holly Saurer