

September 14, 2016

VIA ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW, Room TW-A325
Washington, DC 20554

Re: **WC Docket No. 10-90 *et al.***
West Kentucky and Tennessee Telecommunications Cooperative
Petition for Limited Waiver of Section 51.917(b)(7)(ii), 2011 Rate-of-
Return Carrier Base Period Revenue
Notice of Ex Parte Presentation

Dear Ms. Dortch:

On September 12, 2016, on behalf of West Kentucky and Tennessee Telecommunications Cooperative (“WK&T” or the “Cooperative”), Bryan Tramont and I met separately with Claude Aiken, Legal Advisor to Commissioner Clyburn, and Amy Bender, Legal Advisor to Commissioner O’Rielly, to request support for WK&T’s pending petition for waiver of Section 51.917(b)(7)(ii) of the Commission’s rules.¹ During the meeting we reiterated the points made in a recent letter filed by WK&T² articulating how grant of the petition would advance the public interest by permitting WK&T to establish a Base Period Revenue (“BPR”) that accurately reflects its revenue for the period contemplated by the Commission’s intercarrier compensation (“ICC”) rules.

As the Commission has stated, because a rate-of-return carrier’s BPR is calculated one time, but is used during each step of the ICC recovery mechanism over a multi-year transition,³

¹ See Second Amended Petition of West Kentucky and Tennessee Telecommunications Cooperative for Limited Waiver of 47 C.F.R. § 51.917(b), WC Docket No. 10-90 *et al.* (March 10, 2014) (“Petition”).

² See Letter from Trevor R. Bonnstetter, CEO, WK&T, to Marlene H. Dortch, Secretary, *Ex Parte* Presentation in WC Docket No. 10-90 *et al.* (Aug. 29, 2016).

³ See 47 C.F.R. 51.917(d).

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“accurate BPR calculations are critical to the successful operation of the recovery mechanism.”⁴ Grant of the WK&T Petition would advance the public interest by permitting the Cooperative to base its participation in the recovery mechanism on an accurate BPR calculation that includes certain revenues associated with minutes-of-use for “actual service provided” that were billed during FY2011. As described in the Petition, those revenues would have been included in WK&T’s BPR but for a billing error and the time needed to correct that error.

We noted that grant of a waiver that ensures an accurate BPR based on actual service provided during FY 2011 and which included undisputed revenues that were billed and collected for such service (and which would have been received by March 31, 2012 but for a billing error) would be consistent with the Commission’s intent in establishing the rule. We also indicated that a grant of the waiver, over four years after March 31, 2012, would not lead to additional “me too” waivers given that the industry practice for backbilling uncollected revenues is limited to a 24 month window. Any waiver request that would be consistent with the rationale of WK&T’s Petition – actual service provided in FY 2011, undisputed revenues for service in FY 2011 that have been billed and collected (in WK&T’s case all in 2012) – would very likely already have been filed.

Finally, we indicated that the public interest would not be served if the ICC recovery mechanism were to provide insufficient revenue to a rural cooperative due to an error which the cooperative took steps to remedy as quickly as possible. Without the requested waiver, WK&T’s inaccurate BPR will continue to have a compounded impact for years to come, with a profoundly negative impact on WK&T’s ability to provide necessary services to its rural and primarily low-income population. The requested waiver is consistent with the purpose of the Commission’s ICC recovery rules and will make the Cooperative whole so that it can continue to effectively serve its customers.

Please direct any questions concerning this submission to the undersigned.

Respectfully submitted,

/s/ Patrick R. Halley
Patrick R. Halley

cc: Claude Aiken
Amy Bender

⁴ See *Connect America Fund; Developing a Unified Intercarrier Compensation Regime; Petitions for Waiver of Section 51.917(b)(7) of the Commission's Rules.*, Order, 29 FCC Rcd 9958, 9961, ¶ 7 (2014).