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

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

REPLY COMMENTS OF THE SOUTH DAKOTA TELECOMMUNICATIONS ASSOCIATION

The South Dakota Telecommunications Association (SDTA) hereby files its reply comments pursuant to this Commission's Public Notice of September 8, 2017 asking interested parties to update the record on certain issues raised in the *2011 ICC Transformation FNPRM*,[1] including issues related to the determination of the "network edge" for purposes of traffic delivery/exchange and possible transitioning of remaining access rate elements in a manner consistent with a "bill-and-keep" framework. Specifically, SDTA supports the joint comments filed by NTCA- The Rural Broadband Association and WTA- Advocates for Rural Broadband (NTCA/WTA Comments) which urge the Commission to: (1) not undertake any further intercarrier compensation reforms until it both addresses the current high-cost universal service funding shortfalls and provides for

[1] *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing an Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform – Mobility Fund*, WC Docket Nos. 10-90, 07-135, 05-337, 03-109; GN Docket No. 09-51; CC Docket Nos. 01-92 and 96-45; WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (*2011 ICC Transformation FNPRM*).

sufficient, supplemental CAF-ICC support; and (2) ensure that states retain their responsibility for defining “network edges” in the first instance, but at the same time establish a “rural transport rule” applicable to all traffic exchange that will protect rural carriers from increased transport obligations that would impose excessive costs and undermine universal service efforts.

I. INTRODUCTION

SDTA is an association representing many of South Dakota's rural incumbent local exchange carriers ("RLECs"), including rural telecommunications cooperatives, municipally-owned telecommunications companies, a tribally-owned telecommunications company, and several privately-held rural telephone companies which are either locally-based or which have local network facilities within the State of South Dakota. The SDTA member RLEC service areas cover approximately 75% of the State's geographic area, encompassing an area of approximately 60,434 square miles. The average customer density, taking into account the entirety of the SDTA member company service areas, is approximately 1.8 access lines per square mile. In most cases, the SDTA member RLECs were the first companies to provide basic telephone services to the rural communities they serve, and they have existed in these areas as "Carriers of Last Resort" ("COLR") for fifty (50) years or more. In addition to basic telephone services, all of the RLECs also universally offer access to broadband service within their service areas.

Federal high-cost universal service support and intercarrier compensation revenues have been, and continue to be, crucial to rural area broadband facility investment in the

State of South Dakota. Clearly, the RLECs' voice and broadband networks would not exist as they do today without the assistance of federal high cost funding, federal access support mechanisms like ICLS and CAF ICC, and without support of switched access charges still assessed to other carriers/service providers for their use of rural local exchange networks. The limited number of potential customers and the greater number of miles to cover generally makes it difficult, if not impossible, to rely on end user charges alone to either support a business case for investing in network facilities or a plan for providing voice and/or broadband services at affordable rates.

At present, as indicated by the NTCA/WTA filing, "RLEC budgets are already strained beneath the Commission's existing rural high cost budget cap and prior ICC reforms."[2] Similar to the situation faced by many rural carriers throughout the United States, the South Dakota RLECs have already seen significant access revenue declines (as a consequence of declining access minutes of use and ICC rate reductions) and are now struggling with substantial high cost support reductions under the Commission's established "Budget Control Mechanism". The impacts of that Budget Control Mechanism in South Dakota have been particularly harsh.[3] Total statewide rate-of-return high cost funding has been significantly reduced over a very short time period and, as a result, a number of previously planned rural broadband deployment projects have either been delayed or shelved by SDTA members. If the Budget Control Mechanism continues in its

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[2] NTCA/WTA Comments at p. 4.

[3] Only three of South Dakota's rural telephone companies elected ACAM/Model Support (representing 3 of the thirty SD rural study areas). In addition, the higher cost characteristics in a good number of the SD study areas make it more difficult, under the present federal high cost support mechanisms, to affordably offer stand-alone broadband services. This results in fewer CAF Broadband Loop Support (BLS) lines and under the existing Budget Control Mechanism results in greater high cost funding reductions.

current form and broader USF "insufficiency" issues are not addressed, it is reasonable to expect that broadband deployments and improvements will be further slowed and that the ability of SDTA members to satisfactorily maintain existing network facilities and also provide affordable broadband services to their rural customers will be diminished. Under these circumstances, SDTA would urge the Commission to proceed cautiously before adopting any additional reforms that would have the effect of further reducing RLEC access revenues or increasing rural transport costs and, thereby, adding to already existing cost recovery challenges.

II. BEFORE PROCEEDING WITH ANY FURTHER ACCESS CHARGE REDUCTIONS THE COMMISSION MUST ADDRESS THE CURRENT HIGH-COST FUNDING SHORTFALLS AND ENSURE THAT ADDITIONAL FUNDING IS AVAILABLE TO SUPPLEMENT CAF ICC SUPPORT

SDTA supports the NTCA/WTA Comments that the Commission should not undertake further ICC reforms until it addresses the current high-cost budget shortfalls and provides for sufficient, supplemental CAF-ICC support. In addition, as pointed out by NTCA and WTA, before the Commission proposes further specific access reforms, including any transitions, it should at a minimum evaluate the degree to which consumers have actually benefitted from earlier access rate reductions and should also collect and analyze other relevant data (necessary to determine rural carrier impacts) regarding current ILEC minutes, revenues and rates. As set forth in the NTCA/WTA Comments, the reductions in support for rate-of-return RLECs that receive support via legacy universal service support mechanisms have grown dramatically under the established Budget Control Mechanism. An overly restrictive high cost support budget for rural carriers and application of the current Budget Control has led to a total high cost funding shortfall for rural rate-of-return carriers estimated at $173 million.[4] Many of the SDTA member-RLECs have experienced significant reductions in their high cost support due to the Budget Control and, as noted in the NTCA/WTA Comments, these support reductions are likely to worsen. The total statewide reduction in rate-of-return high cost funding, as shown by the Universal Service Administrative Company (USAC) "2017-2018 Budget Analysis" (representing an annual view for July 2017 through June 2018) is approximately 8.6 million dollars (reflecting a decrease in the annual forecasted high cost support amounts of 12.2 percent).[5] Across the 27 separate South Dakota rate-of-return study areas impacted, the decrease in support ranges from a low of 9 percent to a high of 25.5 percent. It is important to note that these reductions in support are (in large part) for broadband investments already made by the impacted rural carriers.

Any action by the Commission at this time aimed at moving closer to a bill-and-keep framework for all access charges, including forced reductions in originating access rates, absent corresponding action to provide additional offsetting revenue in the form of additional CAF-ICC support, will only deepen the revenue hole that the RLECs find themselves in due to the existing Budget Control Mechanism. Currently, SDTA member-RLECs, as a group, receive approximately $10 million in annual revenues from originating switched access charges (both interstate and intrastate) as of 2017.[6] The adoption of any proposals to reduce these ICC charges would have severe negative consequences for many of the RLECs in South Dakota and their rural customers. End user rates simply could not

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[4] NTCA/WTA Comments at 7.
[5] See Budget Control Mechanism for Rate of Return Carriers, available at http://www.usac.org/hc/program-requirements/budget-control-rate-of-return.aspx.

rise to levels needed to replace the additional revenue losses and at the same time remain "reasonably comparable" to urban rates as is required under federal law. The stand-alone broadband rates of many SDTA member RLECs which as a result of insufficient USF are already too high, would be even higher. Further revenue losses caused through an expansion of "bill-and-keep", unless replaced with additional explicit high cost funding, would not only threaten continued new broadband deployment plans, but would also likely impact the ability of many RLECs to reasonably upgrade their existing broadband capacities in response to ever increasing consumer broadband needs and, for some RLECs, could even raise problems with respect to existing infrastructure loan commitments. Thus, SDTA shares the position of NTCA and WTA that the Commission should not undertake any further ICC reforms unless those reforms are also coupled with actions to address the current high cost funding shortfalls and make additional explicit CAF-ICC funding available to fully offset implicit access support losses.

III. THE REGULATORY FRAMEWORK APPLYING TO NETWORK EDGE DETERMINATIONS SHOULD GUARD AGAINST THE IMPOSITION OF ADDITIONAL TRANSPORT COSTS ON RURAL CARRIERS AND RURAL CONSUMERS

SDTA also supports the positions expressed by the joint NTCA-WTA Comments regarding the regulatory framework that should apply to ensure a proper and fair determination of the "network edge" for purposes of carrier traffic exchange. As SDTA emphasized in comments filed by SDTA in 2012 in response to the 2011 ICC Transformation FNPRM:

[6] Annual originating access MOU and the revenues association with these minutes has steadily and substantially declined in recent years, but the originating switched access revenue received on a per access line basis still averages approximately $7 monthly per line.

> ... absent well-defined interconnection rights and obligations, larger carriers will be incented to dictate distant points of interconnection with smaller rural carriers and will attempt to transfer significant additional transport costs onto the backs of rural consumers. Any such attempts by interconnecting carriers to further shift transport costs to rural consumers (on top of receiving the benefit of access and reciprocal compensation rate reductions) would be patently unfair to rural carriers and would seriously undermine universal service efforts. In the first instance, permitting such a result ignores the smaller local calling areas and more limited service areas and networks of rural carriers, and effectively, works to put rural carriers at a competitive disadvantage. Under such circumstances, RLECs are effectively forced to build out their networks into areas where they do not presently serve, and areas where they likely will never serve, for no purpose, other than to allow another carrier to gain an unfair competitive advantage by shifting their costs to RLEC subscribers. Moreover, the imposition of transport responsibilities on smaller rural carriers, far beyond the actual boundaries of their service areas, would have serious negative financial impacts undermining this Commission's core universal service objectives.[7]

SDTA agrees that states should retain their essential role in defining network edges for the purpose of traffic exchange, and that they should continue to have an opportunity to define the network edge in the first instance. It is also necessary, however, given the very real concerns noted above, that the Commission provides guidance for these state determinations and that it establish a minimum or default standard that will guard against the unloading of excessive out-of-area transport costs on rural carriers and rural consumers. Specifically, SDTA, like NTCA and WTA, believes that the Commission should retain and expand the "rural transport rule" set forth in 47 C.F.R. 51.709(c) so that it is applicable to all carrier traffic exchange. The clear intention of that rule is to ensure that points of interconnection for traffic exchange are not located outside of rural incumbent local exchange carriers' service areas and that existing traffic exchange meet points within RLEC areas are considered in dividing transport responsibilities between carriers that

[7] *See* Reply Comments of the South Dakota Telecommunications Association, WC Docket No. 10-90, at p. 7 (filed March 30, 2012).

either directly or indirectly interconnect for traffic exchange. SDTA shares the view that adopting a rural transport rule applicable to all CMRS, CLEC, and interexchange carrier traffic exchange should be considered a critical part of any additional reforms that may be undertaken in this proceeding. Such a rule is essential to effectively prevent other larger carriers from imposing additional and excessive transport costs on rural carriers that cannot reasonably be absorbed within end user customer rates.

Proposals like those offered by Sprint and T-Mobile, which are nothing more than self-serving attempts to excessively shift transport costs to rural end user consumers, should be rejected outright. Sprint's proposal would require rural carriers to bear the cost of transporting traffic to its nearest Internet exchange point (IXP). For South Dakota, this would mean that each RLEC in the State, regardless of where they may provide end user voice and broadband services, would take on the financial responsibility for transport to or from the city of Sioux Falls. T-Mobile similarly proposes that rural carriers should be required to transport traffic to a single, safe harbor point of interconnection ("POI") in the carrier's state.[8] These proposals are patently unfair and would clearly work to competitively and financially disadvantage rural carriers and penalize many of South Dakota's rural area consumers.[9] They fail to give any recognition to the fact that the RLEC local exchange networks and service areas are more geographically limited and could in some instances require that RLECs provision transport facilities extending hundreds of miles outside of their service areas.

[8] Comments of T-Mobile USA, Inc., WC Docket No. 10-90, at ii-iii (Oct. 26, 2017).
[9] *See* Reply Comments of the South Dakota Telecommunications Association, WC Docket No. 10-90, at pp.7-10.

As earlier noted herein, the SDTA member RLECs are already experiencing substantial revenue losses due to the Commission's existing Budget Control Mechanism and earlier ICC reforms. The network edge proposals of Sprint and T-Mobile, and any similar proposals expanding rural carrier transport obligations beyond existing rural service areas, if adopted, would by substantially adding to rural carrier costs create new cost recovery challenges and produce additional USF deficiencies. The proposals are plainly contrary to federal universal service principles and are undeserving of any serious consideration in this proceeding.

IV. CONCLUSION

Based on the foregoing, SDTA urges the Commission to forego any further intercarrier compensation reforms until it both addresses the current high-cost budget shortfalls and provides for sufficient, supplemental CAF-ICC support. SDTA also urges the Commission to ensure that states retain their responsibility for defining “network edges” in the first instance, but at the same time establish a “rural transport rule” applicable to all traffic exchange that will protect rural carriers from unreasonable transport obligations that would impose excessive costs and undermine universal service efforts. These measures are necessary to ensure that the RLECs can continue to maintain and expand high quality voice and broadband services throughout their rural service areas.

Respectfully submitted,
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