December 11, 2014

<u>Ex Parte</u>

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: Connect America Fund, WC Docket No. 10-90; A National Broadband Plan for our Future, GN Docket No. 09-51; Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No. 07-135; High-Cost Universal Service Support, WC Docket No. 05-337; Developing an Unified Intercarrier Compensation Regime, CC Docket No. 01-92; Federal-State Joint Board on Universal Service, CC Docket No. 96-45; Lifeline and Link-Up, WC Docket No. 03-109; Universal Service Reform – Mobility Fund, WT Docket No. 10-208

Dear Ms. Dortch:

The attached proposal by USTelecom, ERTA and ITTA addresses the significant access revenue reductions for many local exchange carriers resulting from the requirement to change the switched access rates applicable to intrastate originating VoIP-PSTN traffic resulting from an FCC rule change which became effective July 1, 2014 (see FCC Rules, Section 51.913(a)(2)). These intrastate access revenue reductions result from the requirement to change the switched access rates applicable to intrastate originating VoIP-PSTN traffic. This VoIP-PSTN traffic, which was previously billed at the local exchange carrier's intrastate originating access rates, is now required to be billed at the local exchange carrier's interstate originating access rates. The rate differential, in some cases, can be fairly significant and will result in significant intrastate access revenue reductions.

On July 7, 2014, NTCA, NECA, ITTA, ERTA, WTA, Frontier Communications Corp. and Windstream Communications filed an Emergency Petition for Waiver[1] ("petition") which sought to

[1] *See* Emergency Petition for Waiver of NTCA-The Rural Broadband Association, the National Exchange Carrier Association, ITTA, the Eastern Rural Telecom Association, WTA-Advocates for Rural Broadband, Frontier Communications Corporation, and Windstream Communications, Inc., WC Docket Nos. 03-109, 05-337, 07-135, 10-90; CC Docket Nos. 01-92, 96-45; GN Docket No. 09-51; WT Docket No. 10-108 (filed July 7, 2014 ("Petition").

607 14th Street NW, Suite 400 • Washington, DC 20005-2164 • 202.326.7300 T • 202.326.7333 F • www.ustelecom.org

address the access revenue reductions by requesting that the Commission waive the application of Section 51.913(a) of its rules, and thereby pause, effective June 30, 2014, any reductions in intercarrier compensation ("ICC") rates for originating intrastate toll VoIP traffic.[2] The Commission has not yet acted on the petition.

In response to the Public Notice[3] in which the Wireline Competition Bureau sought comment on the petition, USTelecom recognized the revenue shortfall stemming from the rate reductions that took effect on July 1, 2104, and, in place of a pause in the rate reduction, recommended that the Commission develop and implement a mechanism to recover revenues lost due to the reduction in intrastate originating access for originating intrastate toll VoIP. USTelecom stated that the relief should be in the form of increases to ARC charges within the current cap and CAF/ICC support for the remainder of the lost revenue.

The attached document proposes changes to the FCC rules which would provide both price cap and rate-of-return regulated local exchange carriers with a methodology for cost recovery in the same manner the FCC has allowed cost recovery for the lost terminating switched access revenues that resulted from reducing intrastate and interstate terminating access rates following the USF/ICC Transformation Order. Since several most of the price cap companies' ARC rates are currently below the maximum levels specified in section 51.915(e)(5) of the Commission's rules, a substantial portion of the shortfalls described in the petition is expected to be recovered via increases to ARC rates rather than CAF/ICC support.[4]

---

[2] *Id* at 2.
[3] *See* Public Notice, Wireline Competition Bureau Seeks Comment on Petition for Waiver of Section 51.913(a) Regarding Reductions in Intercarrier Compensation Rates for Originating Intrastate Toll Voice Over Internet Protocol Traffic, (WC Docket Nos. 03-109, 05-337, 07-135, 10-90; CC Docket Nos. 01-92, 96-45; GN Docket No. 09-51; WT Docket No. 10-108), DA 14-1001 (rel. July 15, 2014).
[4] *See* petition at 7.

The undersigned urge the Commission to promptly grant the relief requested.

Respectfully submitted,

UNITED STATES TELECOM ASSOCIATION

By: ______________________________
David Cohen
607 14th Street, NW, Suite 400
Washington, D.C. 20005
(202) 326-7300

EASTERN RURAL TELECOM ASSOCIATION

/S/

By: Jerry Weikle
Regulatory Consultant
PO Box 6263
Raleigh, NC 27628
(919) 708-7464

ITTA – The voice of mid-size communications companies

/S/

By: Micah M. Caldwell
Vice President, Regulatory Affairs
1101 Vermont Avenue NW, Suite 501
Washington, DC 20005
(202) 898-1520

cc: Deena Shetler
Victoria Goldberg

<u>Proposed Rules to Address Cost Recovery for VoIP-PSTN Access Revenue Reductions</u>

<u>Background:</u>

Under the current FCC rules, a recent change which became effective July 1, 2014, will result in significant intrastate access revenue reductions for many local exchange carriers (see FCC Rules, Section 51.913(a)(2)). Intrastate access revenue reductions result from the requirement to change the switched access rates applicable to intrastate originating VoIP-PSTN traffic. This VoIP-PSTN traffic, which was previously billed at the local exchange carrier's intrastate originating access rates, is now required to be billed at the local exchange carrier's interstate originating access rates. The rate differential, in some cases, can be fairly significant and will result in significant intrastate access revenue reductions. The purpose of this document is to propose changes to the FCC rules which would provide local exchange carriers with a methodology for cost recovery in the same manner the FCC has allowed cost recovery for the lost terminating switched access revenues that resulted from reducing intrastate and interstate terminating access rates following the USF/ICC Transformation Order. Based on information from most price cap companies and information for rate-of-return companies provided by NECA, USTelecom estimates that the initial year would require $13.1 million to recover the costs of the July 1, 2104, rule change.

Below are proposed FCC rule changes required to address a local exchange carrier's recovery of lost originating access revenues associated with the change in originating access rates applicable to VoIP-PSTN traffic effective July 1, 2014. Because of the detailed company billing records required and complexity involved in some of the calculations required by these proposed rules to quantify a local exchange carrier's originating VoIP-PSTN revenue reductions, we have provided a comprehensive example to show how these calculations might work with proxy local exchange carrier data.

51.903 Definitions

<u>(j) "VoIP-PSTN" traffic is traffic described in §51.913(a) of this Part.</u>
<u>(k) VoIP Baseline Originating Access MOU – The annual VoIP-PSTN traffic for originating MOU from July 1, 2014 to June 30, 2015.</u>
<u>(l) VoIP Incremental State-specific Demand Change - The percentage change of VoIP usage starting with a baseline of June 30, 2014, using the FCC's Local Telephone Competition Status Report as released on December 31 of each year.</u>

51.913 Transition for VoIP-PSTN traffic.

<u>(a) 4. Effective July 1, 2014, originating Access Reciprocal Compensation subject to this subpart, exchanged between a local exchange carrier and another telecommunications carrier in Time Division Multiplexing (TDM) format that originates and/or terminates in IP format as defined above, shall be subject to a switched access rate equal to the relevant interstate originating access rate as specified by subpart 51.913(a)(2) above.</u>

51.915 Recovery mechanism for price cap carriers.

(d)(1)(iv) Beginning July 1, 2015, a Price Cap Carrier's eligible recovery will be equal to the CALLS Study Area Base Factor and/or the Non-CALLS Study Area Base Factor, as applicable, multiplied by the sum of the amounts in paragraphs (d)(1)(iv)(A) through (d)(1)(iv)(E), of this section, and then adding the amount in paragraphs (d)(1)(iv)(F) and (d)(1)(iv)(G) of this section to that amount:

(d)(1)(iv)(G) Due to a tariff transition year beginning on July 1, 2014, both the Plan Years for 2014 and 2015 will be summed and included in the July 1, 2015 Recovery Mechanism.

Each local exchange carrier shall quantify its VoIP-PSTN annual originating intrastate access revenue reductions which result from the application 51.913 (a) (4) of this rule change using the following methodology:

i. An amount equal to the VoIP-PSTN originating intrastate access revenue reductions for the year beginning July 1, 2014.

   For each Study Area, a Price Cap local exchange carrier shall calculate the difference between its interstate and intrastate originating End Office Access Service rates and Tandem Switched Transport Access Service rates from the application 51.913(a)(4) and multiply the results times the VoIP Baseline Intrastate Originating access minutes for each rate element.

ii. An amount equal to the VoIP-PSTN originating intrastate access revenue reductions for the year beginning July 1, 2015.

   For each Study Area, a Price Cap local exchange carrier shall calculate the difference between its interstate and intrastate originating End Office Access Service rates and Tandem Switched Transport Access Service rates from the application 51.913(a)(4) and multiply the results times the VoIP Baseline Intrastate Originating access minutes for each rate element and then multiplied by 1 plus the VoIP Incremental State-specific Demand Change for July 2015.

(v) Beginning July 1, 2016, a Price Cap Carrier's eligible recovery will be equal to the CALLS Study Area Base Factor and/or the Non-CALLS Study Area Base Factor, as applicable, multiplied by the sum of the amounts in paragraphs (d)(1)(v)(A) through (d)(1)(v)(E), of this section and then adding the amount in paragraphs (d)(1)(v)(F) and (d)(1)(v)(G) of this section to that amount:

(d)(1)(v)(G) An amount equal to the VoIP-PSTN originating intrastate access revenue reductions for the year beginning July 1, 2016.

For each Study Area, a Price Cap local exchange carrier shall calculate the difference between its interstate and intrastate originating End Office Access Service rates and Tandem Switched Transport Access Service rates from the application 51.913(a)(4) and multiply that result times the VoIP Baseline Intrastate Originating access minutes for each rate element multiplied by 1 plus the VoIP Incremental State-specific Demand Change for July 2016.

(vi) Beginning July 1, 2017, a Price Cap Carrier's eligible recovery will be equal to ninety (90) percent of the sum of the amounts in paragraphs (d)(1)(vi) through (d)(1)(vi)(F) of this section, and then adding the amount in paragraphs (d)(1)(vi)(G) and (d)(1)(vi)(H) of this section to that amount:

(d)(1)(vi)(H) An amount equal to the VoIP-PSTN originating intrastate access revenue reductions for the year beginning July 1, 2017.

For each Study Area, a Price Cap local exchange carrier shall calculate the difference between its interstate and intrastate originating End Office Access Service rates and Tandem Switched Transport Access Service rates from the application 51.913(a)(4) and multiply that result times the VoIP Baseline Intrastate Originating access minutes for each rate element multiplied by 1 plus the VoIP Incremental State-specific Demand Change for July 2017.

(vii) Beginning July 1, 2018, a Price Cap Carrier's eligible recovery will be equal to ninety (90) percent of the sum of the amounts in paragraphs (d)(1)(vii)(A) though (d)(1)(vii)(G) of this section, and then adding the amount in paragraphs (d)(1)(vii)(H) and (d)(1)(vii)(I) of this section to that amount:

(d)(1)(vii)(I) An amount equal to the VoIP-PSTN originating intrastate access revenue reductions for the year beginning July 1, 2018.

For each Study Area, a Price Cap local exchange carrier shall calculate the difference between its interstate and intrastate originating End Office Access Service rates and Tandem Switched Transport Access Service rates from the application 51.913(a)(4) and multiply that result times the VoIP Baseline Intrastate Originating access minutes for each rate element multiplied by 1 plus the VoIP Incremental State-specific Demand Change for July 2018.

(viii) Beginning July 1, 2019, and in subsequent years, a Price Cap Carrier's eligible recovery will be equal to the amount calculated in paragraph (d)(1)(vii)(A) through (d)(1)(vii)(H) of this section before the application of the Price Cap Carrier Traffic Demand Factor applicable in 2018 multiplied by the appropriate Price Cap Carrier Traffic Demand Factor for the year in question, and then adding an amount equal to True-up Revenues for Access Recovery Charges for the year beginning July 1 two years earlier, and then adding the amount in paragraph (d)(1)(viii)(A) of this section to that amount:

(d)(1)(viii)(A) An amount equal to the VoIP-PSTN originating intrastate access revenue reductions for the year beginning July 1, 2019.

For each Study Area, a Price Cap local exchange carrier shall calculate the difference between its interstate and intrastate originating End Office Access Service rates and Tandem Switched Transport Access Service rates from the application 51.913(a)(4) and multiply that result times the VoIP Baseline Intrastate Originating access minutes for each rate element multiplied by 1 plus the VoIP Incremental State-specific Demand Change for July 2019.

51.917 Revenue recovery for Rate-of-Return Carriers.

51.917 Revenue recovery for Rate-of-Return Carriers.

(a) *Scope*. This section sets forth the extent to which Rate-of-Return Carriers may recover, through the recovery mechanism outlined in paragraphs (d) through (f) of this section, a portion of revenues lost due to rate reductions required by §20.11(b) of this chapter, and §§51.705 ~~and,~~ 51.909 and 51.913.

***

(d)(1)(iii) Beginning July 1, 2014, a Rate-of Return Carrier's eligible recovery will be equal to the 2011 Rate-of-Return Carrier Base Period Revenue multiplied by the Rate-of-Return Carrier Baseline Adjustment Factor less:

(A) The Expected Revenues from Transitional Intrastate Access Service for the year beginning July 1, 2014, reflecting forecasted demand multiplied by the rates in the rate transition contained in §51.909 (including the reduction in intrastate End Office Switched Access Service rates), adjusted to reflect the True-Up Adjustment for Transitional Intrastate Access Service for the year beginning July 1, 2012;

(B) The Expected Revenues from interstate switched access for the year beginning July 1, 2014, reflecting forecasted demand multiplied by the rates in the rate transition contained in §51.909, adjusted to reflect the True-Up Adjustment for Interstate Switched Access for the year beginning July 1, 2012;

(C) Expected Net Reciprocal Compensation Revenues for the year beginning July 1, 2014 using the target methodology required by §51.705, adjusted to reflect the True-Up Adjustment for Reciprocal Compensation for the year beginning July 1, 2012;

(D) An amount equal to True-up Revenues for Access Recovery Charges for the year beginning July 1, 2012 multiplied by negative one; plus

(E) An amount equal to the VoIP-PSTN cumulative originating intrastate access revenue reductions as computed per §51.913(a)(4) for the year beginning July 1, 2014. This amount shall be subject to a True-up adjustment in subsequent years as True-Up Revenues as described in §51.917 of this Part become available for VoIP-PSTN services.

(d)(1)(iv) Beginning July 1, 2015, and for all subsequent years, a Rate-of-Return Carrier's eligible recovery will be calculated by updating the procedures set forth in paragraph (d)(1)(iii) of this section for the period beginning July 1, 2014, to reflect the passage of an additional year in each subsequent year.