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November 12, 2015

Via ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Notice of *Ex Parte* Presentation, WC Docket No. 10-90

Dear Ms. Dortch:

On Monday, November 9, 2015, Bob DeBroux, Director - Federal Affairs & Public Policy of TDS Telecommunications Corp. (“TDS Telecom”), spoke with Carol Matthey, Deputy Bureau Chief of the Commission’s Wireline Competition Bureau, about Federal universal service reform.¹ Mr. DeBroux’s comments focused on the process for implementing reform, and the importance of reforming the current system, which was designed primarily to support voice services. Mr. DeBroux explained that while the current system has been instrumental in promoting investment in areas served by rate-of-return (“ROR”) companies, it needs to be reformed to take into account the Commission’s goal of deploying broadband to as many areas as possible within a limited, fixed budget.

The Commission is proposing two paths in its efforts to reform federal universal service for ROR companies – (1) an optional model path and (2) a ROR path that has been dubbed the “bifurcated” approach because it provides for different treatments of company investment and expenses based on whether the investment was made under the current regime or under the plan that now is being formulated. Mr. DeBroux discussed both paths. His comments on the model path focused on the need for flexibility when utilizing a model to determine the universal service obligations of individual ROR companies. Specifically, he noted that it will be more challenging for ROR companies to utilize a model that was developed primarily for use with price cap companies. With price cap companies, he explained, flexibility had to be added to address differences between the model and the actual “facts on the ground” that reflect and determine how networks are deployed.² For example, price cap companies are allowed to true up the

¹ Mr. DeBroux also participated in an industry group discussion on Sunday, November 8, 2015, in which Ms. Matthey was in attendance, that addressed universal service reform more broadly. In that discussion, Mr. DeBroux raised many of the same comments and observations that are described herein.

² See *In re Connect America Fund, et al.*, WC Docket No. 10-90, *Report and Order*, FCC 14-190 (rel. Dec. 18, 2014) at ¶¶ 38-39.

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number of locations as determined by the model for eligible census blocks with actual locations to which networks are deployed within the eligible areas. The same type of flexibility granted to price cap companies should be afforded to ROR companies utilizing the model.

Mr. DeBroux also explained that there will need to be flexibility with regard to the speed obligations associated with the available funding. He discussed whether a standard of 25/3 Mbps is an appropriate target for ROR companies when the target for price cap companies was set at 10/1 Mbps. He noted that the cost differences between deploying 25/3 Mbps and 10/1 Mbps to individual locations can be very large, especially as one deploys network facilities further from the central office. During previous meetings with staff, the idea of deploying 25/3 Mbps to a percentage of eligible locations as a way of keeping the costs within the parameters of the support generated by the model was discussed. Mr. DeBroux explained that since that meeting, TDS Telecom has looked at a sample of its network deployment costs and has preliminarily determined that if the parameters were set such that 75 percent of the fully funded eligible locations below the funding cap were required to be built out to 25/3 Mbps and 25 percent to 10/1 Mbps by the end of the term of the model-based plan, that flexibility would make it more likely that the support provided under the model would be sufficient. It is TDS Telecom's intention to build a network capable of 25/3 Mbps wherever possible, and if TDS Telecom is able to exceed 75 percent of such locations with the funding provided it would make every effort to do so.

Because the model option, even with the flexibility described above, may not be workable in all of TDS Telecom's study areas, however, Mr. DeBroux explained that the company continues to be interested in the bifurcated approach to reform as well. This approach would distribute support to companies based on their costs of providing networks capable of broadband service, which differs from today's voice-centric approach. Under the current regime, unless a customer subscribes to the incumbent local exchange carrier's voice service (*i.e.*, POTS), the line is not eligible for Federal universal service funding. Thus, broadband only lines cannot receive such funding. The bifurcated approach would solve that problem.

Mr. DeBroux explained that if the Commission is to be successful in winding down old support mechanisms -- *i.e.*, High Cost Loop Support ("HCLS") and Interstate Common Line Support -- then the bifurcated approach as currently envisioned by the FCC will may require adjustments. Mr. DeBroux noted that one of the reasons that the HCLS mechanism is considered to be failing is the so called "cliff effect." This cliff is caused by the fact that the funding produced by the mechanism is capped, and the method for enforcing that cap historically has been to raise the cost per loop that a company has to experience to qualify for support. This has produced what has been termed a "race to the top," where companies have to invest more year over year relative to other companies to continue to receive money from the fund. If they don't raise the level of their investments enough to stay above the HCLS mechanism, they "fall off the cliff" and their funding stops. TDS Telecom is among the companies that have experienced a significant loss of its share of HCL dollars throughout the years because of this phenomenon

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even though it does not receive enough revenue from its customers to support continued deployment of broadband throughout its networks.

Mr. DeBroux noted that the Commission recognized this problem and has already taken action to solve it by changing the mechanism such that the benchmark for support does not increase. Mr. DeBroux's comments in this regard focused on the fact that this very problem that the Commission has solved in the HCL mechanism context could be recreated under the new bifurcated approach if the Commission is not careful. In the bifurcated plan, there is a benchmark above which some of a carrier's costs would be supported. Like the HCL mechanism, the current version of the bifurcated plan as proposed by the Commission has a mechanism that is designed to prevent total funding from exceeding the FCC's imposed budget. This mechanism is commonly referred to as the "haircut." The way this mechanism is structured in the current version of the plan would have the effect of raising the benchmark. This benchmark determines which companies will get support and how much support they will receive based on their costs in the same way that the HCLS mechanism determines which companies receive HCLS and how much they receive. Thus, this mechanism for controlling the budget, if enacted the way currently proposed, would recreate the same type of cliff. The Commission addressed this issue squarely in its recent revision to the HCLS mechanism, and the discussion and conclusions in that order are relevant here.³

Lastly, Mr. DeBroux discussed the transition from the old mechanism to the new mechanism under the bifurcated plan, pointing out that the Commission should follow the spirit of allowing companies to recover the costs of their old investment based on the rules in place when those investments were made. This would preclude an artificially short transition period to the new mechanism, as well as not change the way in which areas facing competition are addressed.

Pursuant to the Commission's rules, a copy of this letter is being filed in the above-referenced docket. Please contact me if you have any questions.

Respectfully submitted,

/s/

Yaron Dori
Counsel for TDS Telecom

cc: Carol Matthey

³ *Id.* at ¶¶ 101-114.