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November 23, 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 Thursday, November 19, 2015, Bob DeBroux, Director - Federal Affairs & Public Policy of TDS Telecommunications Corp. ("TDS Telecom"), spoke by telephone with Matt DelNero, Chief of the Commission's Wireline Communication Bureau about Federal universal service reform for Rate of Return ("RoR") companies. The focus of Mr. DeBroux's comments during the conversation was on the proposed optional model path and the proposed "bifurcated" approach to reform.

Mr. DeBroux first discussed the need for flexibility in utilizing the model to determine support for RoR companies. Specifically, he stated that, if the Commission increases the speed requirements for RoR companies above that of Price Cap companies, it will need to afford RoR companies additional flexibility in meeting those thresholds. Mr. DeBroux noted that if the Commission increases the speed requirements for RoR companies from the 10/1 Mbps ("10/1") used for Price Cap companies to 25/3 Mbps ("25/3"), that would increase deployment costs substantially, especially on the upload side. As the model demonstrates, costs increase substantially as one builds out from the core of the network to its outer edges, which typically are in less dense regions. To account for this increase in cost, flexibility would be needed to enable RoR companies to maximize their resources and reach the greatest number of subscribers given the amount of support generated by the model. Preliminary studies of network deployment costs by TDS Telecom indicate that building a 25/3 network to all of the eligible subscribers would make its adoption of the model difficult, at best. While TDS Telecom would aim to build out to 25/3 to as many customers as possible, flexibility in meeting all of the fully funded eligible locations could help ensure that the greatest number of customers received broadband at least at the 10/1 level.

In a recent ex parte submission, the Independent Telephone and Telecommunications Alliance ("ITTA"), proposed "that companies with density of more than 10 locations per square mile be required to build out at the 25/3 Mbps speed by the end of the 10-year term to 75% of all

fully funded eligible locations in a study area and companies with density of 10 or less locations per square mile be required to build out at the 25/3 Mbps speed by the end of the 10-year term to 50% of all fully funded eligible locations in a study area."[1] Mr. DeBroux explained that, without such flexibility, the model option may be infeasible for many carriers.

With regard to the proposed bifurcated approach, Mr. DeBroux discussed the transition from the old mechanism to the new mechanism, the importance of the benchmark in the new mechanism, and the 75 percent competitive overlap issue.

With respect to the transition, Mr. DeBroux noted that while he understands the need for a transition from the old mechanisms to a new one, it also is important for that transition to not be artificially short or create the wrong incentives. He noted that to achieve a reasonable transition period, it will be necessary to take into account many factors, including how networks are depreciated, how they are replaced, and how carriers pay for them. He explained that a failure to consider these issues could lead to unintended consequences and improper incentives.

With respect to the benchmark for recovering costs in the new mechanism, Mr. DeBroux noted that having a way to predict future support amounts is critical to the ability of RoR companies to invest in the future. If the benchmark itself, which determines which costs are supportable and which are not, is an unstable part of the plan, he explained, it will be difficult especially for RoR companies near the benchmark to be able to predict their cost recovery, as they could lose all of their support as the benchmark rises. Mr. DeBroux explained that this issue is similar to one created when the high cost loop mechanism was capped, creating a "cliff" from which many companies have since fallen. Due to the cliff effect, the Commission last year revised how that formula worked. [2]

With respect to the proposed 75 percent overlay issue, whereby a company's support would be reduced if its level of competition rises above 75 percent, Mr. DeBroux made the point that it would be premature to move to this level without additional vetting as to how it would be operationalized. Mr. DeBroux also noted that it does not make sense, even with additional vetting, to apply the 75 percent overlay proposal to the part of the bifurcated approach that deals with existing costs, as companies that have invested under the existing mechanisms did so under rules that did not take competitive overlap into account. However, Mr. DeBroux noted in the

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[1] Letter from Genevieve Morelli, President, ITTA, to Marlene Dortch, Secretary, FCC, WC Docket No. 10-90, November 19, 2015, at 3.

[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 ¶¶ 101-114.

event that the Commission adopts this proposal, the Commission should, at a minimum, allow for the same type of challenge process that it utilized in the 100 percent overlap proceeding.[3]

Lastly, Mr. DeBroux noted that while the timing of Commission action is important, it also is important that the Commission adopt rules and regulations that are considered and sustainable, particularly given their importance to the communications industry, and not act (or fail to act) in a way that perpetuates the challenges the exist today for RoR carriers.

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: Matt DelNero

[3] *See* FCC Public Notice, "Wireline Competition Bureau Publishes Preliminary Determination of Rate-of-Return Study Areas 100 Overlapped by Unsubsidized Competitors," DA 15-868, July 29, 2015.