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May 5, 2016

Via ECFS

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

Re: WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, WT Docket No. 10-208
Emery Telcom Petition for Limited Waiver of 47 C.F.R. § 51.917(c)(ii)

Dear Ms. Dortch:

This ex-parte document requests a specific transitional mechanism to implement the waiver requested by Emery Telcom (Emery) in the above-referenced docket.

In its waiver petition filed on October 25, 2012, Emery asked the Commission to waive Section 51.917(c)(ii) of the Commission's rules to permit Emery to include within its Base Period Revenues amounts received after March 31, 2012 for Transitional Intrastate Access Service provided in Fiscal Year 2011 (FY2011). The subject revenue related to switched access traffic appearing as phantom traffic on four direct trunks. Special circumstances warrant a deviation from the general rule in this case and such deviation will serve the public interest because the traffic in question appeared as phantom traffic as the calls did not contain carrier identification information (CICs or OCNs) in the call detail records; the intrastate switched access minutes in question were billed in 2011; the payment for all of the traffic was due by January 2012, and one of the interexchange carriers paid the charges by the due date; 100% of the charges for all of the traffic ultimately were paid by the interexchange carriers; and none of the charges were disputed. This traffic has been continuously billed and collected since its discovery in 2011.

Because Emery was not allowed to include all 2011 revenues in its Base Period Revenue amount, Emery was precluded from assessing the ARC that it otherwise would have been allowed to assess via its access tariff effective July 2014 and 2015 and its ability to recover revenues through CAF also is impacted. In order to keep Emery whole and minimize the impact on CAF from grant of the waiver, Emery proposes a transition for the waiver that includes both accelerated ARC increases and true-up CAF funding. Emery first proposes a two year transition of residential and single-line business ARC increases on July 1, 2016 and 2017 after which Emery will be charging the same ARC it would have charged had the associated waiver revenue been included in the Transitional Intrastate Access Service component of Base Period Revenues. In 2015, because Emery was not able to include all 2011 intrastate access service revenues in the Base Period Revenues, Emery was able to charge a multi-line business ARC of $1.00 and a residential ARC of $0.36 instead of $0.50, resulting in a shortfall of $0.14 per line. To make up this shortfall, Emery proposes that it be allowed to charge an additional $0.07 per line residential and single-line business ARC in 2016 and 2017. As a result, the ARC increases would be as follows:

	2016	2017
Multi-line business	$1.00	$1.00
Residential and single-line business	$0.57	$0.57

At the end of the two year transition, the total residential and single-line business ARC charged by Emery would be $1.50 and the Multi-line business ARC would be $3.00, which is the same ARC Emery would have assessed if all 2011 intrastate access service revenues were included in its Base Period Revenues.

To the extent this approach is granted and to the extent it would require a limited waiver of 47 C.F.R. §51.917(e)(6)(vi), which sets a maximum annual increase in the residential/single-line business ARC of $0.50, Emery hereby requests this limited waiver.

For the revenues not recovered through the ARC, Emery requests that it should be allowed to recover the revenue shortfall through the TRP true-up process for the effected years. For the year 2014-15, Emery's revenue requirement shortfall was $21,963, the true-up for which could be included in the June 2016 TRP filing (with timely grant of this subject waiver). For the year 2015-2016, Emery estimates a revenue requirement shortfall of $158,360, which could be trued-up with the June 2017 TRP filing. Though the amounts are relatively small in comparison to the total universal service high cost support fund, they are material to the regulated operations of Emery and the loss of this revenue has caused Emery to reduce its capital budget and fiber investment.

Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed via ECFS. If you have any questions, please do not hesitate to contact the undersigned.

Respectfully submitted,

/s/ Mary J. Sisak

cc: Matthew DelNero
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