

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
ETC Annual Reports and Certifications	)	WC Docket No. 14-58
	)	
Developing an Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92

**REPLY COMMENTS OF THE  
EASTERN RURAL TELECOM ASSOCIATION**

**I. INTRODUCTION**

The Eastern Rural Telecom Association (“ERTA”) respectfully submits these reply comments in response to a Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking (“FNPRM”) <sup>1</sup> issued by the Commission on March 30, 2016. The Commission asked for comments on a variety of issues related to permitted expenses, cost allocations, affiliate transactions, compliance, and reporting among other issues. The Commission stated a concern with “alleged abuses;”<sup>2</sup> ERTA believes these are isolated events that should not dictate wholesale industry-wide changes when the Commission has already acted on the identified cases.

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<sup>1</sup> Connect America Fund, WC Docket No. 10-90, ETC Annual Reports and Certifications, WC Docket No. 14-58, Developing an Unified Intercarrier Compensation Regime, CC Docket No. 01-92, Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, FCC 16-33 (rel. March 30, 2016) (FNPRM).

<sup>2</sup> Id., Para. 330.

In its Order the Commission has set out rules that will result in major changes to RoR carriers. It would be prudent to evaluate the impacts of these changes before adding additional changes and layers on top. It could be very difficult to troubleshoot any subsequent problems or issues if there were not sufficient time between changes to evaluate impacts.

ERTA is a trade association composed of community based local exchange companies and support companies providing telecommunications, broadband Internet, and video services to rural customers in the Eastern half of America. ERTA members have deep community roots and are proud of the roles they play in providing capital-intensive services to rural America as small businesses in high-cost areas. Because they serve customers in high-cost areas ERTA members need recovery support to provide universal services at affordable rates. It is also important to remember that each new Commission regulation or change results in additional compliance expenses for ERTA members without necessarily benefitting customers.

## **II. EXPENSES**

The Commission's ultimate objective should be increased deployment of broadband in rural America. The Commission has made numerous changes to policy, rules, and guidance. The Commission's immediate rule changes are placing tremendous reactionary pressure on the industry to evaluate impacts and the best course of action for companies and customers. The rules have added an additional layer of complexity to an already complex industry. Time will be needed to examine if the actual results are what the Commission intended without first placing additional layers of regulation and change on top. Existing rules and increasing amounts of competitive pressure have already resulted in more focus on total expenses.

ERTA agrees with NTCA that "the very instances that appear to motivate the Commission's concerns in the *FNPRM* do not necessarily reflect shortcomings in current rules –

rather, they demonstrate *the effectiveness* of the current rules and systems in detecting and addressing isolated concerns when they arise.”<sup>3</sup>

ERTA believes that Alexicon Telecommunications Consulting stated it well when they said “[t]he Commission should allow the newly adopted operating expense capping mechanism to work, and determine if this cap, along with the other constraining and compliance mechanisms, will adequately address the Commission’s largely unsupported concerns.”<sup>4</sup>

ERTA agrees with the Montana Telecommunications Association that “[t]he interrelationship between investment in network deployment, maintenance and operation and investment in community economic development and personal/employee welfare is at the heart of ‘used and useful,’ ‘prudent expenditure’ and investment that is ‘necessary to the provision of interstate telecommunications.’”<sup>5</sup>

If the Commission does make changes then it should provide clarification instead of a new layer of regulation. Any changes should be on a prospective basis only. As NTCA stated, “there are certain operating expense categories listed in the Public Notice where all would indeed benefit from clearer, brighter lines rather than overly broad sweeping declarations as to eligibility for cost recovery.”<sup>6</sup> As ITTA stated “[a]mending the current rules to more clearly spell out the circumstances under which expenses and investments should be excluded is all that is necessary.”<sup>7</sup>

Should the Commission make more changes to rules it is recommended that changes make it simpler and clearer for companies rather than more complex. For example as stated by

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<sup>3</sup> NTCA-The Rural Broadband Association comments at page 9.

<sup>4</sup> Alexicon Telecommunications Consulting at page 6.

<sup>5</sup> Montana Telecommunications Association comments at page 5.

<sup>6</sup> NTCA-The Rural Broadband Association comments at page 13.

<sup>7</sup> ITTA-The Voice of Mid-Size Communications Companies at page 4.

NECA “[t]he Commission may also wish to avoid rules that require subjective judgments, as it may be difficult for company managers, NECA reviewers, or USAC auditors to make *ad hoc* determinations of whether certain types of expenditures ‘fit’ within or without specific categories.”<sup>8</sup>

### **III. COST ALLOCATION AND AFFILIATE TRANSACTIONS**

The Commission proposes to make several changes to cost allocation rules. Current rules serve the greater purpose of allowing carriers the ability to allocate costs between regulated and unregulated services as well as across business units. Allocated costs help determine profitability among services and among business units. ERTA agrees with NTCA when it stated “there is little, if any, indication that current rules and monitoring and enforcement procedures are failing to capture misallocation of costs in any material manner (if at all);...”<sup>9</sup> ERTA believes that time should be allowed for the Commission to examine the impacts of other changes before proceeding with more changes. If however the Commission finds it prudent to act now, then it should have a goal of simplifying rules and making changes on a prospective basis only.

### **IV. THE NATIONAL EXCHANGE CARRIER ASSOCIATION IS AN IMPORTANT RESOURCE FOR MEMBERS**

ERTA members are small, community based businesses providing capital intensive services in high-cost areas. In addition to state regulations, ERTA members operate under enormous amounts of complex, federal regulations. NECA is an important resource for members. As stated by NECA “[p]articipating companies generally appreciate NECA’s assistance in reviewing their data and helping to assure submissions are made in compliance with

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<sup>8</sup> National Exchange Carrier Association, Inc. comments at page 5.

<sup>9</sup> NTCA-The Rural Broadband Association comments at page 22.

the Commission's rules.”<sup>10</sup> As stated by NTCA “[i]t is also important to ensure that a knowledgeable resource such as NECA is present and actively empowered and engaged to monitor and provide guidance...”<sup>11</sup>

## V. CONCLUSION

ERTA members are small, community based businesses providing capital intensive services in high cost areas. ERTA members should not be penalized with additional confusion and costly rule changes based on apparent isolated events. It is important to remember that each new Commission regulation or change results in additional expenses for ERTA members without necessarily benefitting customers. If however the Commission finds it prudent to act now, then it should have a goal of simplifying rules and making changes on a prospective basis only.

Respectfully submitted,

**EASTERN RURAL TELECOM  
ASSOCIATION**

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<sup>10</sup> National Exchange Carrier Association, Inc. comments at page 5.

<sup>11</sup> NTCA-The Rural Broadband Association comments at page 37.