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EX PARTE COMMENT

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

Re: *Developing a Unified Inter-carrier Compensation Regime, CC Docket No. 01-92; IP-Enabled Services, WC Docket No. 04-36; Universal Service Contribution Methodology, WC Docket No. 06-122*

Dear Chairman Martin:

The Nebraska Companies¹ (the "Companies") hereby submit this *Ex Parte* filing to the Federal Communications Commission (the "Commission") to support the legal positions, policy arguments and inter-carrier compensation proposal advocated in National Telecommunications Cooperative Association's ("NTCA") recent filings.² In light of the recent announcement regarding the forthcoming inter-carrier

¹ The Nebraska Companies consist of the following companies: Cambridge Telephone Company, Consolidated Telco, Inc., Consolidated Telcom, Inc., Consolidated Telephone Company, Curtis Telephone Company, Great Plains Communications, K&M Telephone Company, Nebraska Central Telephone Company, and Northeast Nebraska Telephone Company.

² See NTCA *Ex Parte* Notice, from Daniel Mitchell to Marlene H. Dortch, FCC, CC Docket No. 01-92; WC Docket No. 04-36 (Aug. 22, 2008); NTCA *Ex Parte* Notice, from Daniel Mitchell to Marlene H. Dortch, FCC, CC Docket No. 01-92; WC Docket No. 04-36 (Sept. 12, 2008); NTCA Letter, from Michael Brunner, CEO, to Senator/Representative (Sept. 29, 2008); NTCA *Ex Parte* Notice, from Daniel Mitchell to Marlene H. Dortch, FCC, CC Docket No. 01-92; WC Docket No. 04-36 (Sept. 30, 2008); NTCA *Ex Parte* Notice, from Daniel Mitchell to Marlene H. Dortch, FCC, CC Docket No. 01-92; WC Docket No. 04-36; WC Docket 05-337; CC Docket 96-45 (Oct. 17, 2008).

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compensation order, the Companies appreciate the opportunity to emphasize the importance of maintaining intercarrier compensation rates and funding support at a level sufficient to sustain the rural telecommunications industry. Rural, rate-of-return ("RoR") carriers depend on cost-based access rates and universal service support to provide high-quality, advanced telecommunication services to consumers in rural, high-cost areas. The Commission's failure to take into account the considerable geographic and network disparities between RoR carriers and urban, price-cap carriers could lead to potentially catastrophic results for the RoR carriers and the rural consumers they serve.

In the sparsely-populated, geographically-vast areas RoR carriers serve, RoR carriers have a considerably high average investment and expense per subscriber line. A RoR carrier must preserve the ability to charge other carriers accessing its network a rate that will allow it to recover its network investment related expenses. A below-cost rate would have a crippling effect on a RoR carrier's ability to provide its end-users with the advanced level of telecommunications services, including broadband, which Section 254 of the Telecommunications Act of 1996 intended to provide to rural consumers. The implications of a severe decline in access revenue are straightforward; RoR companies will not have the capital to repay outstanding debt, make continued and necessary investment in network infrastructure for broadband deployment, or cover the ongoing, operational costs of doing business. For these reasons, the Commission must make certain that any future intercarrier compensation regime allows RoR carriers to wholly recoup any ensuing revenue loss from a specific, predictable and sufficient universal service funding mechanism.

While significant strides have been made by RoR carriers in providing advanced services and broadband in rural, high-cost areas, the threat of a drastic decline in access revenue and the loss of specific, predictable and sufficient support will bring that progress to a screeching halt. The Commission must not disregard the principles of universal service; nor should it ignore Supreme Court precedent.³ Due to carrier-specific costs, rates need to be determined on an individual company basis. In order to safeguard rural consumers, ensure ongoing quality of service and continued broadband growth, state commissions must maintain regulatory authority over intrastate rates.

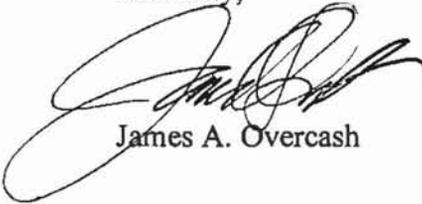
The Companies join in the positions advocated by NTCA and urge the Commission to reject adoption of any proposed uniform rate. The Companies admonish any attempt by the Commission to unlawfully set rates for intrastate traffic. Furthermore, the Commission's adoption of any rate without prior disclosure of its rate-setting methodology or allowance for a proper comment cycle on the utilized

³ *AT&T Corp. v. Iowa Utilities Board*, 525 U.S. 366 (1999); *Louisiana Public Service Commission v. FCC*, 476 U.S. 355 (May 27, 1986).

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methodology constitutes a violation of the Administrative Procedures Act.⁴ Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed via ECFS with your office.

Sincerely,



James A. Overcash

cc: Chairman Martin
Commissioner Copps
Commissioner Adelstein
Commissioner Tate
Commissioner McDowell

⁴ The Administrative Procedures Act ("APA") is codified at 5 U.S.C. § 551, *et. seq.* The APA requires the Commission to provide notice of a proposed rule making and the substance of the proposed rule, issue or subject involved, disclose the data upon which that rule is based and give interested parties an opportunity to provide adversarial critique of the agency proposal.