

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
High-Cost Universal Service Support)	WC Docket No. 05-337
)	
Coalition for Equity in Switching Support)	
Petition for Clarification)	

COMMENTS OF GTA TELECOM, LLC

GTA Telecom, LLC (“GTA” or the “Company”) hereby files these comments in support of the tentative conclusion made by the Federal Communications Commission (“FCC” or “Commission”) to modify its Local Switching Support (“LSS”) rules to allow incumbent local exchange carriers (“LECs”) that are designated as Eligible Telecommunications Carriers (“ETCs”) that lose access lines to increase their LSS.¹ Specifically, in its NPRM, the Commission tentatively concluded to amend its rules to “allow an incumbent LEC ETC’s Dial Equipment Minutes of use (“DEM”) weighting factor and LSS to increase if a carrier’s access lines decrease below the thresholds set forth in the Commission’s rules.”² On April 20, 2009, GTA submitted comments in support of the Coalition for Equity in Switching Support’s Petition for Clarification and hereby resubmits and updates those comments in support of the Commission’s decision to amend its DEM rules.

¹ *High-Cost Universal Service Support; Coalition for Equity in Switching Support Petition for Clarification*; WC Docket No. 05-337, Order and Further Notice of Proposed Rulemaking, FCC 09-89 (rel. Oct. 9, 2009) (“NPRM”).

² *Id.* at para. 15.

I. Introduction

Until 2005, GTA (formerly known as the Guam Telephone Authority) was a government-of-Guam-owned utility and had over 64,000 access lines in service. Since privatization, however, the number of access lines has declined to such an extent that GTA is expected to reach less than the 50,000 threshold in December 2009 or early 2010, despite the fact that GTA has invested almost \$38M in upgrading a neglected telephone infrastructure.

Currently GTA is not receiving any LSS. Given the rapid loss of access lines, the Company would qualify for 2.0 times DEM weight support in the December 2009 or early 2010 timeframe when it anticipates that its line count will fall below the 50,000 threshold. However, given the current rules, GTA would continue not receiving any LSS support, although it would be in a position where it needs the support provided through LSS.

The need for LSS is due to the fact that GTA's cost of providing service is greater than other mainland carriers. Accordingly, LSS would ensure continued quality phone services for Guam. GTA recently upgraded its carrier switching capacity between Guam and the mainland United States at an estimated cost of \$1.8 million and continues to pay high cost of transport to provide connectivity across a 7,000 mile loop from Guam to Los Angeles and Portland. GTA also recently paid an estimated \$1 million for maintenance and software upgrades for its local switches. Additionally, Guam faces different logistical processes than the U.S. mainland. There is a vast ocean distance between Guam and the mainland, costs of goods are much higher and GTA faces long lead times for equipment, relying heavily upon overseas shipping for equipment needed to keep its

network operational. GTA is in a position where our switching costs are much higher than those of U.S. mainland carriers. Further, the island is subject to frequent power outages which results in additional costs that GTA must incur. For example, due to the high probability of typhoons in the region, GTA recently had to replace batteries and power equipment at significant cost to ensure that services remain operational in the event a typhoon were to hit the island.

II. The Commission’s Proposed Rule Changes are in the Public Interest

As the Commission has recognized, small rural LECs “generally have higher operating and equipment costs than price cap carriers due to lower subscriber density, smaller exchanges, and limited economies of scale.”³ The Commission then noted that these carriers “rely more heavily on revenues from interstate access charges and universal service support.”⁴ The Commission has also recognized that these carriers depend on the universal service fund “to reduce the costs associated with providing telecommunications and advanced services to the various communities served by these entities.”⁵

These realities are certainly true for GTA which depends heavily upon universal service funds to be able to provide quality telecommunications and advanced services to the communities in its rural service area. In 2008, 15% of the Company’s revenues came from USF. A key component of the universal service support that small rural incumbent

³ See *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, Federal-State Joint Board on Universal Service, Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation, Prescribing the Authorized Rate of Return for Interstate Services of Local Exchange Carriers*, Second Report and Order and Further Notice of Proposed Rulemaking in CC Docket No. 00-256, Fifteenth Report and Order in CC Docket No. 96-45, and Report and Order in CC Docket Nos. 98-77 and 98-166, 16 FCC Rcd 19613, para.4 (2001).

⁴ *Id.*

⁵ See *Section 257 Triennial Report to Congress Identifying and Eliminating Market Entry Barriers For Entrepreneurs and Other Small Businesses*, 22 FCC Rcd 21132, Report, FCC 07-181 (2007) at para. 94.

LECs that are below the 50,000 access line threshold receive is LSS which, as explained in the NPRM, was created by the Commission to “explicitly support the additional switching costs allocated to the interstate jurisdiction through the universal service fund.”⁶ Under the current separations rules, the costs associated with local switching equipment are allocated between the state and interstate jurisdictions through the DEM. LECs with less than 50,000 access lines adjust their DEM with a "weighting factor," thereby providing these LECs with a higher allocated cost basis for LSS. FCC rules established several thresholds in the weighting depending on number of access lines served.

As explained above, similar to most small rural incumbent LECs, GTA has experienced losses in access lines for the past several years. This loss in lines is due primarily to customers no longer needing second lines when the customers subscribe to the Company’s DSL service offerings and to customers switching their service to wireless carriers. Despite this loss, as an incumbent LEC, the Company must continue to invest in its telephone infrastructure to ensure that it is able to comply with its Carrier of Last Resort responsibilities. The Company projects that this loss of access lines will continue and that it will fall below a DEM weight threshold in December 2009 or early 2010.

The current FCC DEM rules require that a study area in which access lines *increase* over a weighting threshold move to a lower DEM weighting factor but are silent for a LEC study area that realizes a *decrease* in access lines to a level below a DEM weighting factor threshold. Because GTA will be experiencing a loss in access lines

⁶ NPRM at para 3 citing *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 8940-41 paras. 303-04 (1997).

resulting in the Company dropping below the 50,000 DEM weight threshold, this flaw in the rules will penalize the Company by prohibiting it from receiving any LSS support. This will encumber GTA's ability to improve and expand the quality telecommunications and advanced services that it provides to the rural communities in its service area.

Specifically, if the FCC does not amend its rules, the Company projects that the imbalance in the rules would cause GTA to forgo an estimated \$579,798 in 2009 LSS. To forgo this amount would be significant for the Company. The amount would represent approximately eight percent of all federal universal service the Company received and one percent of its total regulated revenues. Accordingly, the Commission's DEM rules must be changed as proposed in the NPRM to advance the public interest by ensuring that the Company is not penalized in its ability to receive LSS and is thus not encumbered in its ability to improve and expand the quality telecommunications and advanced services that it provides to the rural communities in its service area.

III. The Commission's Proposed Rule Changes are Necessary to Address Inequities in Current FCC LSS Rules

Further, by denying the Company the ability to use the 2.0 DEM weighting factor that is associated with the 50,000 access line threshold under which the Company will soon be below, current DEM rules create inequities which must be addressed. One of the primary goals that Congress established for universal service was that there should be "specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service".⁷ In furtherance of that goal, the FCC determined that there

⁷ 47 U.S.C. § 254(b)(5).

would be “key thresholds” for the DEM weighting factor which were based upon the number of access lines served by the incumbent LEC.⁸

Yet under the current rules, small incumbent LECs that have fallen below a certain threshold are not allowed to use the higher DEM weighting factor as other LECs that have always been below that threshold. This not only creates inequities which must be rectified but also further disadvantages LECs that fall below a threshold due to access line loss. As cited in the NPRM,

“The [Coalition for Equity in Switching Support] has provided evidence that failing to provide the higher level of LSS has caused or threatens to cause small incumbent LEC ETCs some hardship. Moreover, the Coalition asserts that a small carrier that gains, then loses, access lines is not in a meaningfully different situation than a similarly-sized small carrier that suffers no gain or loss. Indeed, a carrier that purchases equipment designed to support a greater number of access lines but then loses those access lines may be even more disadvantaged than a carrier that had never made purchasing decisions based on a higher access line count.”⁹

⁸ NPRM at para. 2.

⁹ *Id.* at para. 14 *citing* Coalition for Equity in Switching Support Petition for Clarification, CC Docket No. 80-286 and 96-45 (filed Jan. 8, 2009) at 3-7; John Logan, Counsel to the Coalition for Equity in Switching Support, to Marlene Dortch, Federal Communications Commission, WC Docket No. 05-337, CC Docket No. 80-286 (dated April 30, 2009).

IV. Conclusion

GTA urges the Commission to amend its rules and remove the inequitable and ambiguous treatment of small rural incumbent LECs under its current DEM rules. As demonstrated herein, amending the current DEM rules as proposed by the Commission would advance the public interest and make necessary corrections to address inequities. In sum, as the Commission has already concluded, “public policy” supports amending the rules.¹⁰ Accordingly, GTA urges the Commission to act expeditiously and amend its DEM rules as proposed.

Respectfully Submitted,

GTA Telecom, LLC

November 24, 2009

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¹⁰ *Id.* at para. 13.