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May 11, 2011

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street S.W.
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FILED/ACCEPTED

MAY 11 2011

Federal Communications Commission
Office of the Secretary

Lynne Hewitt Engledow
Pricing Policy Division
Federal Communications Commission
445 12th Street S.W.
Washington, DC 20534

Re: CC Docket No. 01-92; GN Docket No. 09-51; WC Docket Nos. 05-337, 07-135, 10-90;
Data Related to Universal Service and Intercarrier Compensation Reform

Dear Ms. Dortch and Ms. Hewitt Engledow:

Attached is the redacted amended response of the National Exchange Carrier Association (NECA) to a request (DA 11-575, dated March 29, 2011) from Sharon E. Gillett, Chief – Wireline Competition Bureau. This information is being filed pursuant to the Protective Order issued in this proceeding.¹ In accordance with the Protective Order, this information has been marked:

REDACTED – FOR PUBLIC INSPECTION

Enclosures

CC: Sharon E. Gillett – Chief, WCB

¹ *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *et. al.*, Protective Order, 25 FCC Rcd 13160 (2010).

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Federal Communications Commission
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Re: CC Docket No. 01-92; GN Docket No. 09-51; WC Docket Nos. 05-337,
07-135, 10-90; Data Related to Universal Service and Intercarrier
Compensation Reform

Dear Ms. Dortch and Ms. Hewitt Engledow:

Enclosed please find the National Exchange Carrier, Inc. (NECA) amended response to a request (DA 11-575, dated March 29, 2011) from Sharon E. Gillett, Chief – Wireline Competition Bureau (Bureau) to Regina McNeil, Vice President and General Counsel – National Exchange Carrier Association, Inc. Per Bureau request, NECA is re-filing this information to include study area codes. This information is being filed pursuant to the Protective Order issued in this proceeding.¹

¹ *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *et. al.*, Protective Order, 25 FCC Rcd 13160 (2010).

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The information supplied by NECA is contained on a CD-Rom accompanying this letter and was compiled from data received in the normal course of business, as well as data obtained through voluntary data requests. In addition, Universal Service data was obtained from the High Cost Disbursement tool available on the Universal Service Administrative Company (USAC) website. The data used for access tariff administration is complete, reliable, and available for all pool members; however, in some instances the Commission has requested data at a more granular level than what NECA collects for access tariff development and pooling settlements. Data from voluntary data requests may not be available for all years requested and is available only for the companies that responded to the voluntary surveys. This voluntary data is included pursuant to the Commission's request but has not been fully verified and may not be completely reliable. A full description of data availability is contained in Attachment 1, as well as a cross reference between the data items requested by the Commission and the Excel spreadsheet contained on the CD-Rom. A template for the data contained on the CD-Rom is included in Attachment 2.

NECA seeks confidential treatment of the information provided on the CD-Rom under the Protective Order. Notwithstanding the Protective Order, the information provided on the CD-Rom is entitled to confidential, non-public treatment under the Freedom of Information Act (FOIA) and related provisions of the Commission's rules.² The information satisfies the requirement of FOIA Exemption 4 (trade secrets or commercial/financial information).

NECA submits the following information pursuant to section 0.459 in support of its request for confidential treatment of the data on the CD-Rom.

- Identification of the specific information for which confidential treatment is sought:

NECA seeks confidential treatment for the information on the CD-Rom, which contains confidential and proprietary information related to inter- and intrastate intercarrier compensation revenues, expenses, line counts, usage patterns, other regulated and non-regulated revenues, and long-term debt of NECA pool members.

- Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission:

² 47 C.F.R. §§ 0.457 and 0.459; 5 U.S.C. § 552, et. seq. Section 0.457(d)(iii) specifically identifies information submitted in connection with audits, investigations, and examination of records pursuant to 47 U.S.C. 220 as material that has been accepted by the Commission on a confidential basis pursuant to 5 U.S.C. 552(b)(4).

This information was submitted in response to a Wireline Competition Bureau request in connection with CC Docket No. 01-92, GN Docket No. 09-51, WC Docket Nos. 05-337, 07-135, and 10-90.

- Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged:

The information on the CD-Rom contains sensitive study area specific information provided by pool members to NECA in its capacity as interstate access tariff and pool administrator. At the study area level, the information is granular and highly confidential to the reporting pool members.

The information provided also includes supplemental items beyond the scope of interstate access administration, including items concerning non-regulated lines of business, that were provided to NECA in conjunction with data requests under the understanding that such information would be kept confidential.

The interstate access and supplemental data is treated as a confidential trade secret by pool members. NECA would not agree to submit the data in response to the Commission staff's request without assurances that the information will be kept confidential. It would be highly inappropriate for the data to be disclosed to the public or third parties.

- Explanation of the degree to which the information concerns a service that is subject to competition:

Rural telephone service has historically lent itself to "cherry picking" by competitors that choose to serve only the low cost areas within a study area. Detailed information about revenues and expenses may help prospective competitors to gain insight to incumbent LEC (ILEC) market strategies and gain competitive advantage. In addition, data on non-regulated services (e.g., video, Internet, etc.) is highly sensitive and commercially valuable. Public disclosure would harm the respondent's competitive position.

- Identification of any measures taken by the submitting party to prevent unauthorized disclosure:

The information provided in the attached CD-Rom is made available only to NECA representatives on a need to know basis. Any public information is only made available on an aggregate basis.

- Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties:

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The information in the Excel spreadsheet on the CD-Rom is not publicly available.

- Justification of the period during which the submitting party asserts that material should not be available for public disclosure:

NECA requests that all of the data provided on the CD-Rom be treated as confidential indefinitely. Because of the sensitive nature of the data, it would not be appropriate for public disclosure at any time in the foreseeable future.

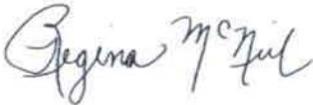
- Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted:

By addressing the data request to NECA, the Commission avoided the burden of seeking out the data for 1100+ study areas. However, the Commission should take care to not deprive those ILECs of the opportunity to speak for themselves in the event of a FOIA request for access to data. NECA requests that the Commission notify carriers of any FOIA request and allow them to be given a reasonable opportunity to file detailed information supporting continued confidential treatment of their respective data.

Accordingly, NECA requests confidential treatment of the data provided on the attached CD Rom pursuant to sections 0.457 and 0.459 of the Commission's rules and paragraph 4 of the Protective Order. Pursuant to the Protective Order, NECA has marked the Excel spreadsheet on the CD-Rom and each page of the non-redacted version of this filing as follows:

CONFIDENTIAL INFORMATION (ADDITIONAL COPYING PROHIBITED) -
SUBJECT TO PROTECTIVE ORDER IN CC DOCKET NO. 01-92, WC DOCKET
NOS. 05-337, 07-135, 10-90, GN DOCKET NO. 09-51 BEFORE THE FEDERAL
COMMUNICATIONS COMMISSION

NECA has also complied with the requirement of the Protective Order for delivery of both the confidential and redacted copies of the filing.



Enclosures

CC: Sharon E. Gillett – Chief, WCB

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