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June 23, 2011

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 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
Notice of *Ex Parte* Presentation

Dear Ms. Dortch

On June 21, 2011 the undersigned on behalf of Home Telephone Company, Inc. ("Home") and the Rural Broadband Alliance ("RBA") met with Angela Kronenberg, Legal Advisor to Commissioner Clyburn to discuss matters related to the above-referenced proceedings.

Home believes that universal service and intercarrier compensation must be reformed. In many respects, the existing rules for rural rate-of-return carries are causing financial instability and threaten the viability of expanding the provision of advanced services in the rural areas served by rural incumbent carriers. Most significantly, the existing cap on High Cost Loop ("HCL") results in the stranding of an ever increasing amount of loop cost investment made by rural carriers. The cap acts to counter the very policy considerations that led to the adoption of the loop expense adjustment that the Commission established to ensure rational recovery of the high costs to serve rural areas.

The application of the cap essentially reverses a growing portion of the loop investment and transfers the unrecovered adjustment amount to the intrastate jurisdiction. Unfortunately there is no practical way to recover these high cost elements within the state jurisdiction. The result is a steep decline in overall company earning levels. In fact the average overall rate of return for NECA pool members has declined to less than 8%. Loop cost that must be recovered from state rates has increased from $18 per line per month to almost $50 per line per month. Yet at the same time state access minutes and voice access lines have been declining.

While reform is clearly needed I pointed out that any reform undertaken must first focus on the recovery of investment in existing networks. Reform should not be implemented in a manner that neglects the realistic need for each rural rate-of-return carrier to recover the lawful investments and expenses incurred to provide universal service. Proposals that jeopardize the lawful cost recovery of rate-of-return carriers do not constitute reform. All such proposals are not only unsustainable and subject to legal challenge, but they exacerbate the growing financial instability of rural carriers that is impeding infrastructure investment in rural America and the economic development that robust broadband telecommunications networks can stimulate. If rural rate-of- return companies cannot rely on the Commission to consistently uphold prior policy related to existing investment recovery, future investment will dry up.

I also raised concern regarding reports of several Commission staff remarks to other rural carrier representatives. Specifically, I understand: 1) that staff has expressed its belief that the creation of financial distress by proposed reforms was valuable to the extent that this would force consolidation of small rural companies or even the bankruptcy or exit of small companies from business; and 2) that staff has questioned the deployment of fiber-to-the-home in rural America where recovery of investment relies, in part, on USF.

Rural rate-of-return carriers, whose expenses and investments are fully subject to regulatory scrutiny by the Commission, have made financial commitments to the provision of universal service and, in many instances, the provision of advanced fiber networks, in reliance on a successful private industry partnership with the government's universal service system and the R.U.S. finance program. The chilling nature of an agency's staff suggestion that small businesses should go out of business or that rural companies should not have deployed advance networks consistent with established rules and regulations and government finance programs is self-evident.

I trust that the reports I have heard are exaggerated and hopefully inaccurate, but they proliferate and create even more uncertainty, stifling investment in rural America. Accordingly, I raised this issue in the course of our meeting because I thought that Commissioner Clyburn and the entire Commission would want to know of these reports and consider action to disavow the reported statements and clarify that they do not reflect the policy of the Commission.

With regard to suggestions or proposals aimed at achieving consolidation of the rural rate-of-return carriers, I indicated that to my knowledge there are no specific facts or data that support the assumption that a large carrier can serve rural consumers better or more efficiently than a smaller independent carrier. Rather, the facts indicate the opposite and demonstrate the excellent job that the rural companies have done in delivering universal service and the deployment of advanced networks in rural America.

I next further discussed concerns with the existing HCL fund cap and the fact that reform of USF for rural rate-of-return carriers should ensure that the cost recovery of one rural carrier is not affected by the subsequent investment by other rural carriers. Under today's capped HCL fund, the available funding is distributed in a manner that leads to destabilizing financial results and inappropriate investment incentives. The FCC has recognized this problem in current funding in what it has termed the "race to the top".

We also discussed the need to ensure that broadband investment which is considered 100% interstate should be fully eligible for federal support. I understand the intent of the NPRM[1] to propose that any funding for new investment would be for infrastructure that supports broadband. Because broadband has been determined to be wholly interstate, no costs associated with broadband should be allocated to the intrastate jurisdiction where there would be no revenues available to support costs. Accordingly, I suggested that the Commission should reject any plan or proposal that does not recognize that broadband investment is 100% interstate.

The need for incentive options was also discussed. I briefly described how the Rural Broadband Alliance plan would provide such an option. This plan would allow electing rate of return carriers to freeze their interstate revenue requirement as of a certain date. The electing carrier's frozen interstate revenue requirement would then be subject to an annual reduction based on an adjustment to reflect additional accumulated depreciation over time. This revenue requirement would also be subject to an annual increase to reflect additional expenses needed to maintain universal service or to provide an evolving expansive definition of universal service. These adjustments, subject to prior FCC approval, ensure that the rural carrier has a meaningful opportunity to recover costs, and that it is not subject to unfunded mandates. To the extent that the electing carrier demonstrates a requirement for additional funding, any additional funding would be distributed from the Connect America Fund. I explained how the RBA proposal provided a path to transition fully from the legacy USF system to a broadband-based system.

The plan filed by fellow South Carolina company Hargray Telephone Company ("Hargray") was also discussed.[2] I pointed out that the Hargray plan could also provide an alternative incentive option for some companies depending on several factors including the company's geographic service area and demographic characteristics. While the proposal may provide a useful approach for some rural carriers, I expressed concerns that the plan could not be applied to all rural rate-of-return carriers serving high cost areas where the incumbent carrier of last resort requires funding to support an entire high cost network irrespective of the number of lines it serves.

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[1] *In the Matter of Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing an Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, and Lifeline and Link-Up,* WC Dockets No. 10-90 et al., FCC 11-13 (rel. Feb. 9, 2011); 76 Fed. Reg. 11632-11663 (2011) ("NPRM").

[2] See Hargray Telephone Company Notice of *Ex Parte* filed June 10, 2011, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket 01-92, CC Docket No. 96-45, WC Docket No. 03-109.

Instead of support for the network as a whole, the Hargray proposal would provide support only for those lines serving customers who choose to take and maintain service. In high cost to serve areas, a rural carrier meeting its network carrier of last resort responsibilities may lose a customer line for many reasons; but, when it loses a customer line, it does not lose costs necessary to support a network. If funding is provided only on a per customer line basis to these high cost carriers, the result is a mismatch between the funding received and the funding needed to support the deployment and maintenance of a network capable of serving the entire high cost area. While Hargray's proposal to provide funding on a "per line" basis offers a potentially valuable and significant incentive option for some rural carriers, most higher cost companies must address the fundamental problem of building and maintaining a network as a carrier of last resort, irrespective of whether they grow or lose customer base. These rural carriers of last resort require the continuation of a universal service network support system that provides support for the network, not individual lines.

I concluded our discussion by reiterating that both Home and the RBA fully support the efforts of Commissioner Clyburn and the entire Commission to establish a viable broadband universal support mechanism that constructively addresses: 1) the provision of cost recovery for existing investment and expenses incurred by rural rate-of return carriers in their provision and maintenance of universal service; and 2) the establishment of a mechanism that fosters the provision of broadband in unserved and underserved areas of rural America. I urged consideration of the RBA's Transitional Stability Plan as a framework that is responsive to the Commission objectives set forth in its NPRM.

Should there be any questions concerning this matter, kindly contact the undersigned.

Respectfully submitted,

/s/ Keith Oliver

Keith Oliver
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Home Telephone Company

Co-Chairman, Rural Broadband Alliance

cc: Angela Kronenberg