



NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION

The Voice of Rural Telecommunications

www.ntca.org

October 17, 2011

Ex Parte Notice

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Connect America Fund, WC Docket No. 10-90; A National Broadband Plan for Our Future, GN Docket No. 09-51; Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No. 07-135; High-Cost Universal Service Support, WC Docket No. 05-337; Developing a Unified Intercarrier Compensation Regime, CC Docket 01-92; Federal-State Joint Board on Universal Service, CC Docket No. 96-45; Lifeline and Link-Up, WC Docket No. 03-109

Dear Ms. Dortch:

On Friday, October 14, 2011, the undersigned, on behalf of the National Telecommunications Cooperative Association (“NTCA”), met with Rebekah Goodheart of the Wireline Competition Bureau to discuss potential avenues and proposals for reform of intercarrier compensation (“ICC”) mechanisms through adoption of an order in the above-referenced proceedings. I discussed implementation of ICC reforms consistent with the plan filed on April 18, 2011, as updated by the “Consensus Framework” joint letter submitted on July 29, 2011 (the “RLEC Plan”). See Comments of NTCA, *et al.* (filed April 18, 2011), at 7-36, 61-74, and Appendices A and C; *Ex Parte* Letter from US Telecom (filed July 29, 2011).

The discussion also centered upon the following:

Local Voice Service Benchmark. I discussed NTCA members’ concerns with the adoption of any local voice service benchmark for purposes of ICC reform/restructuring higher than the \$25 benchmark set forth in the RLEC Plan. I explained that the proposed benchmark was intended to a reasonable compromise between “early adopter” states and those that have yet to undertake or complete intrastate ICC reform. In some cases, even states that have completed intrastate ICC reform may need to raise consumer rates to reach a \$30 benchmark. I explained that a different benchmark for RLECs as compared to other incumbent carriers is justifiable as a matter of law, given that “reasonable comparability” under Section 254 of the Communications Act of 1934, as amended (the “Act”), should reflect that RLEC consumers typically can reach far fewer other consumers through a local call (even with mandatory Extended Area Service).

Imposition of Access Recovery Charges on Multiline Business Customers. I discussed the potential imposition of different subscriber line-like charges for access recovery on NTCA’s members’ multiline business customers. Unlike some larger carriers, most RLECs already assess the full extent of existing subscriber line charges (“SLCs”), and the Commission should be concerned about adding several more dollars to a customer’s bill over time without reference to any maximum rate

benchmark or otherwise taking into account what they already pay in SLCs. NTCA urges the Commission to subject multiline business customers to the same SLC-like (lower) access recovery charge as applied to other customers, in lieu of adopting a different rate for such customers.

ICC Rate Reductions. I noted the essential nature of a restructure mechanism (“RM”) as part of a rate-of-return cost recovery mechanism and ICC rate reforms. Shortfalls in the recovery of interstate or intrastate switched access costs will lead to: (1) higher rates for consumers (where such rates can be raised) in violation of the “reasonable comparability” standard under Section 254 of the Act; (2) carriers retrenching on service in their highest-cost areas; and/or (3) carriers refusing to invest in newer, more efficient switching technologies (such as softswitches) for fear that such costs will be unrecoverable. NTCA therefore urges the Commission to adopt a fully compensatory RM, such as that set forth in the RLEC Plan and Consensus Framework. Moreover, the adoption of a bill and keep methodology or any reduction in ICC rates without a compensatory RM would be confiscatory, represent a taking by mandating the use of networks without adequate (or any) compensation by those making use of them, and violate Section 254 by undermining (if not defeating) universal service. Finally, NTCA observes that bill and keep is not a “methodology” at all, but rather simply another way of mandating a price of zero – *i.e.*, a setting of rates without evaluating or otherwise taking into account costs.

Phantom Traffic. Consistent with prior advocacy, NTCA requests that the Commission ensure the mid- to long-term efficacy of any phantom traffic rules it might adopt by not only requiring the accurate identification of the jurisdictional nature of any call, but also mandating the identification of the carrier or service provider responsible for that call. Comments of NTCA, *et al.* (filed April 1, 2011), at 16-30.

Rural Transport. Consistent with prior advocacy, NTCA urges the Commission to adopt a “rural transport” rule consistent with that previously requested by RLECs. Comments of NTCA, *et al.* (filed August 24, 2011), at 41-42. Such a rule has been under consideration in this proceeding since at least 2006, *see Ex Parte* Letter from NARUC Task Force on Intercarrier Compensation (filed July 24, 2006), at Sections I.A and I.C.1, and remains necessary to ensure that the obligations of RLECs to carry originating non-access traffic do not extend beyond their service area boundaries. Absent such a rule, RLECs could be forced to incur unrecoverable transport costs at a time when ICC reforms may already have a negative impact on network cost recovery – particularly given the path the Commission may also be considering with respect to a bill-and-keep approach. NTCA urges the Commission to adopt the specific rural transport rule proposed within the working draft of rules filed by NTCA and other associations on October 17, 2011 via separate *ex parte* letter.

Pursuant to Section 1.1206 of the Commission’s rules, a copy of this letter is being filed via ECFS with your office. If you have any questions, please do not hesitate to contact me at (703) 351-2016 or mromano@ntca.org.

Sincerely,

/s/ Michael R. Romano
Michael R. Romano

Senior Vice President - Policy

cc: Rebekah Goodheart