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October 19, 2011

Written Ex Parte; Via Electronic Filing

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

RE: *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 an Unified Intercarrier Compensation Regime*, CC Docket No. 01-92; *Federal-State Board on Universal Service*, CC Docket No. 96-45

Dear Ms. Dortch:

Pursuant to 47 C.F.R. § 1.1206 of the Commission's rules, Transcom Enhanced Services, Inc. ("Transcom") respectfully submits this written *ex parte* communication into the above-captioned proceedings.

The attached letter was submitted to William Dever in connection with the FCC's Rural Call Completion Workshop, held on October 18, 2011.

Respectfully submitted,

McGuire, Craddock & Strother, P.C.

By:
Steven H. Thomas

SHT/vwk
Attachment

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October 17, 2011

VIA EMAIL TO: William.Dever@fcc.gov
Mr. William Dever
Chief, Competition Policy Division
Wireline Competition Bureau
Federal Communications Commission
445 12th St., S.W.
Washington, DC 20554

Re: FCC Rural Call Completion Workshop.

Dear Mr. Dever:

Thank you for considering my client, Transcom Enhanced Services, Inc. ("Transcom"), as a possible participant in the FCC's Rural Call Completion Workshop (the "Workshop") scheduled for Tuesday, October 18, 2011. We were disappointed that the FCC now believes the ongoing litigation between Transcom and TDS (another Workshop participant) raises concerns about possible off-topic discussions. While I can understand the concern, it is difficult to understand how this concern translates into TDS remaining on the panel while Transcom is removed. As I mentioned in my conversation with you, the entire premise of the Workshop appears to center on pointing blame at companies the RLECs call "Least Cost Routers" ("LCRs"), and you said that the RLECs had identified Transcom as one of these LCRs. Aside from the basic point that every carrier today has an LCR engine, the entire logical construct that the LECs are advancing fails when applied to Transcom, because it simply is not true. Now Transcom will not be in a position to defend itself against any unwarranted or baseless attacks made during the Workshop, and therefore Transcom's only alternative is to anticipate such attacks and rebut them in advance. Please accept this letter and place it in the record.

As I mentioned in our telephone conversation, Transcom has not received any complaints from the RLECs about call quality. On the contrary, Transcom's enhanced services platform is highly-capable and does not cause any of the problems the RLECs are reporting. Transcom's system actually *improves* call quality and actively *prevents* the problems the RLECs attribute to "LCRs." Transcom's platform continuously monitors calls to ensure that they complete, both sides can hear each other clearly, and the audio quality is *superior* to what would have been achieved had Transcom's platform not been involved. Transcom's platform also offers enhanced functions and capabilities to end users that are not otherwise available

from carriers. The bottom line is that if and to the extent any of the RLECs are attributing the "problems" they report to Transcom they are completely off the mark. The reality is far different than what they say at least insofar as Transcom is concerned.

The RLECs assert they experience the following types of problems:

- "Dead Air" issue where the calling party hears nothing after attempting to launch the call. This is issue is largely attributed by the RLECs to call attempts that never reach the terminating network.

- "Ring Back Tone" issue where the calling party hears ring tone but there is no answer and they hang up. The RLECs also largely attribute this to call attempts that never reach their system.

- "One-Way Audio" issue where one party can hear the other, but the second cannot hear the first. The called phone rings and is taken off hook, but the audio portion is for some reason not discernible to one, the other, or both.

- Incorrect caller ID displayed to called party.

- "Error Message" issue where the caller receives incorrect or misleading message interceptions before call reaches tandem.

- FAXs do not work.

None of these complaints can be attributed to Transcom. Most of the problems are caused by the RLECs themselves because of their own actions and positions. Several RLECs have taken positive action to block calls they can identify as coming from Transcom's system; now they complain that calls are not completing and try to blame the "LCRs."

Transcom has been attacked by both ILECs and RLECs (collectively "LECs") repeatedly over the eight years of its existence. These LECs refuse to recognize that Transcom is an ESP even though it has four decisions by two separate courts expressly holding that Transcom is an ESP, is not a carrier and is exempt from exchange access. I doubt there is any other company in the country that has a more solid foundation for claiming the ESP exemption than does Transcom. Nonetheless, when Transcom seeks to purchase telephone exchange service from the LECs as an end user, the LECs refuse to provide this service. All of them reject Transcom's ESP status (despite the judicial decisions) and demand that Transcom waive its right to purchase telephone exchange service as an end user and instead purchase Feature Group D lines as if it were an IXC, and then (of course) pay access charges. The LECs refuse to directly connect with Transcom on any basis other than exchange access. Of course, none of them will even consider connecting to Transcom via IP using SIP trunks even though many

LECs now have IP-capable softswitches that could easily do so if they merely used these new switches to their full capability.

Transcom therefore must purchase connectivity through resellers, CLECs and other third parties rather than purchasing directly from the LECs. That necessarily means multiple providers will be in the call path. The requirement that a call traverse multiple networks and interconnection points necessarily increases the possibility that call quality problems will arise. This, however, is not at all attributable to Transcom because the bottom line is that Transcom's new technology works; the problem arises from other parties' legacy networks and the multiplicity of networks involved.

Several of the specific call quality issues raised by the RLECs are plainly not attributable to Transcom. Since Transcom is an end user it cannot connect to the ILEC tandem like carriers do. The ILECs are engaged in a boycott against Transcom on any basis other than exchange access, so Transcom cannot directly connect to them.

Dead Air Issue. The "Dead Air" Issue as described by the RLECs is actually either a misunderstanding or an intentional mislabeling of a different condition know as excessive Post Dial Delay (PDD). Any excessive PDD happens purely because of the ILECs' boycott of direct connection by non-IXC "LCRs" on any basis other than exchange access. The "LCRs" that attempt nonetheless to play by the rest of the rules laid out by the ILECs end up having to deal with PDD because of the multiple sequential routing decisions that follow.

PDD is the time between when the calling party finishes dialing and when Ring Back Tone (RBT) is provided. RBT lets the calling party know that the called party is being notified of the call. In traditional ISDN- and SS7-based networks, the accepted rules require that the calling party not receive RBT from their serving equipment until that equipment receives either an ISDN Alerting message or an SS7 Address Complete Message (ACM) from the terminating (or "destination") office serving the called party. In other words, the RLECs' own switch is the one that determines when RBT is supplied. These rules would work well if the ILECs would directly connect on a competitive basis with Transcom because PDD will be short enough that the calling party will not have to wait very long for RBT. The ILECs' boycott of any connection mechanism other than access, however, often means non-IXC "LCRs" will have to sequentially try one or more alternative paths to the RLEC. This necessarily drives up PDD and the calling party will hear a long period of "dead air" since it takes a long time to reach the destination office and obtain RBT. Transcom cannot control how much PDD a call may experience before it gets to Transcom's platform, but within its platform, Transcom implements strict PDD controls to minimize this very problem. If it appears there will be an unacceptable PDD before Transcom can arrange for completion, the call will be released back to the calling party's provider – and that provider will have to find a different route. Transcom's PDD quality practice actually costs Transcom revenue. It also means the calling

and called parties are not able to enjoy Transcom's high-quality audio capabilities or its other enhanced features and functions. The ILECs – once again – bear the blame for all of this.

Ring Back Tone Issue. The "RBT" Issue is probably related to the "Dead Air" Issue addressed immediately above. Some providers – including the carriers serving the calling party – might understandably become so frustrated with the loss of revenue and additional costs imposed by the competition-destroying practices of the ILECs that they decide to vary from industry practices relating to RBT. In an effort to try to keep calling parties on the line while the extended attempt to secure a through connection proceeds, a provider might choose to insert a self-generated RBT before actual receipt of the required signaling messages (ISDN Alerting message or SS7 ACM) from the terminating office. If the call ends up not successfully completing (and actual RBT does not come) the provider would then be forced to stop RBT and abandon the call attempt. Once again, however, Transcom does not employ this practice. Transcom continues to abide by the rules, but is nonetheless accused of improper business practices.[1]

One Way Conversations. Interestingly, the RLECs description of this call quality issue is an apt metaphor for the relationship between Transcom and the RLECs; it is a one-way conversation. They issue an exchange access diktat, and will not listen or consider any other possible result despite the clear mandate from Congress that ESPs be treated as End Users and that access charges are disfavored and must be eliminated. Regardless, the RLECs are the cause of and solution to this "one way conversation" issue as well. This "issue" stems from the asymmetrical, lower-quality connections non-carrier "LCRs" are forced to use as a result of the ILECs continued attempts to impose access on access-exempt traffic. These are definitely not "separate but equal" connections. And again, this might affect providers upstream from Transcom, but this is not an issue affecting Transcom since its platform monitors for issues like these and then Transcom removes them through application of its advanced processing that improves call quality.

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[1] At the same time, some carriers appear to break the rules with impunity. For example, in at least one prior situation another provider discovered that AT&T Wireless appeared to be violating a different signaling practice. When an AT&T Wireless customer was already on the phone and an additional call attempt was made, the line should have been signaled as "busy" through SS7, unless the AT&T Wireless user had the equivalent of Call Waiting or the call rolled over to voice mail. AT&T Wireless was instead sending a false ISUP Answer Message (ANM) - even though the call was not truly completed to the called party or delivered to voice mail. AT&T Wireless' network (or a node on the network that pretended to be the called party for signaling and bearer purposes) then played an audio sound resembling a busy tone in the bearer call path. The result was that while the calling party "heard" a busy signal, the "network" was tricked into thinking the call completed, even though it did not in fact complete. Such "false call completions" lead to interesting compensation results. Most intercarrier agreements consider any call in which SS7 ANM is returned – as AT&T Wireless was doing in this circumstance – to be a completed call. This practice would artificially increase reported "terminated" calls (and therefore revenue for "intraMTA" calls) for intercarrier compensation purposes. And – given the way many intercarrier compensation agreements work – it could also lead to an incorrect transport cost responsibility sharing factor for interconnection facilities. Finally, it would increase the number of minutes (and, of course, revenue) the ILEC could bill for transit it provides between unaffiliated carriers and affiliated wireless operations.

Caller ID Issue. The RLECs consistently allege that Transcom is "altering" "Calling Party Number." This is flatly false. One of the first firm policies Transcom instituted eight years ago was that it would not in any manner alter, manipulate or change the address signal content that belongs in the SS7 ISUP IAM CPN parameter. The RLECs repeatedly accuse, but never bother to try to prove. Instead, they just move on and repeat the lie somewhere else. They must cease their defamatory practices.

Error Message Issue. The RLECs do not provide much information about the specific error messages involved. Transcom therefore cannot address any technical causes. We will remind the Commission, however, that in the SS7 world the originating switching office – the network serving the calling party – is typically the one that generates error messages and recordings.

FAX Issues. FAX issues have existed since the introduction of FAX technology, which, like data modem technology, tries to squeeze digital data signals into a network built for analog voice. Faulty or legacy FAX machines, dirty analog lines, and poor analog-to-digital conversion in the network are the top causes of FAX issues today. Transcom's platform is all-digital and purpose-built to support any kind of signal, which means none of these top causes appear on Transcom's platform. In addition, Transcom detects and adapts to incoming FAX signals on the bearer path (something the RLECs cannot do) and actively ameliorates the impact that poor RLEC networks can have on FAX transmissions. The RLECs should be thankful that Transcom is out there cleaning up their FAXs rather than accusing Transcom of having "FAX Issues."

Transcom's platform can handle any type of FAX modulation method, including "Group 4" FAXs that require a digital 64kbps channel and T.38-based units that are designed to run on IP networks. The RLECs analog "TDM" networks cannot. To clarify these "FAX Issues" the Commission might inquire whether the RLECs can handle a reliable 33.6 kbps session. Two FAX machines that agree to use V34bis/QAM modulation would expect this data rate. It may even be that the RLEC network cannot reliably support 28.8 kbps V.34. It may be the RLECs still use technologies in the outside plant that impede full use of FAX machines.

There is a simple solution to this problem. The RLECs should suggest that their users subscribe to Internet FAX. They will receive their FAXs in the form of an email from a provider that can handle new technology. Of course, since the RLECs have successfully prevented other providers from obtaining a local presence it is often not possible to get a "local" number, so any other customers in the same local calling area would pay toll to send a "local" FAX. Transcom suspects while the RLECs would enjoy the higher toll revenue they would not support this simple alternative since it would mean the RLEC customer no longer needs a separate "FAX line."

As mentioned previously, we do not understand why the FCC is only interested in hearing the LECs' perspective on these issues. Transcom was invited to be on the "solutions" panel, but then was uninvited, thus ensuring that only the positions of TDS and other LECs would be presented. The entire Workshop appears to be extraordinarily one-sided. If rural consumers indeed are experiencing call quality problems, then the search for proper technical solutions must involve cooperation and participation by all involved parties, not one-sided finger pointing. Transcom stands ready to participate and assist in identifying and resolving any actual problems that may exist.

On the other hand, the Commission should strongly consider whether these allegations of call quality problems are merely another attempt by RLECs to eliminate new technology competitors by ascribing blame where no blame is due. The solution to any real problems in this country's telecommunications infrastructure does ***not*** involve violating §§ 157, 254(k) and 257 by effectively barring market entry by entrepreneurs and information service providers through expansion of the access subsidy regime to ESPs, or rewarding the RLECs for their monopolistic and anti-competitive actions.

Thank you for giving this letter your consideration. Please let me know if Transcom can be of any further assistance in the FCC's investigation into rural call quality issues.

Sincerely yours,

McGuire, Craddock & Strother, P.C.

By: _____
Steven H. Thomas

SHT/vwk

cc: Jeff Goldthorp, Moderator, Causes and Effects Session ***(Via Email)***
Deena Shetler, Moderator, Solutions Session ***(Via Email)***
Myrva Charles, Competition Policy Division, Wireline Competition Bureau ***(Via Email)***