



NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION

The Voice of Rural Telecommunications

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October 20, 2011

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

Ex Parte Notice

In the Matter of 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 Tuesday, October 18, 2011, Joshua Seidemann and the undersigned on behalf of the National Telecommunications Cooperative Association, together with John Rose and Stuart Polikoff of the Organization for the Promotion and Advancement of Small Telecommunications Companies, Derrick Owens on behalf of the Western Telecommunications Alliance, Paul Cooper from Fred Williamson Associates, Robert DeBroux from TDS Telecommunications Corporation, Jeff Smith from GVNW, Steve Meltzer from John Staurulakis, Inc., Mark Gailey of Totah Communications, Larry Thompson of Vantage Point Solutions, and Jim Frame and Jeff Dupree of the National Exchange Carrier Association (collectively, the “Rural Representatives”) met with Carol Matthey, Michael Steffen, Al Lewis, Gary Seigel, Katie King, and Patrick Halley. Messrs. Smith, Meltzer, Gailey, and Frame participated via telephone.

In the meeting, the Rural Representatives discussed potential avenues and proposals for reform of existing universal service fund (“USF”) mechanisms through adoption of an order in the above-referenced proceedings. We discussed implementation of USF reforms consistent with the plan filed by a number of national, regional, and state associations 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). Our discussion also addressed the following issues:

Adoption of Caps on Supported Expenses. The Rural Representatives object to the adoption of any near-term rule that would cap reimbursable capital expenditures or operating expenses without full consideration of such a rule *in all respects* by the Commission itself. It is unclear

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what form such caps might take and how they might apply to any given carrier, precisely because they have yet to be developed. Indeed, the rule apparently under consideration is at once so complex and so ambiguous that it is virtually impossible either to understand it or to advocate effectively to the Commission regarding it at this time. The Rural Representatives have not seen the details, but they are concerned that misplaced “groupings,” “dynamic 90th% percentile cut-offs,” and other factors that may be employed in the regression analysis and caps could result in unjustified but substantial cuts to support for any given carrier, and thus put loans and investment at significant risk.

Adopting such a rule without the opportunity for complete comment and thorough presentation of arguments *to the Commission* (rather than to a bureau) would be of substantial procedural concern. Moreover, we highlighted that: (1) retroactive application of caps to prior capital investment is of particular concern given that carriers cannot “undo” investments made in reliance on current rules and based upon a reasonable assumption that the rules of cost recovery would not change mid-course; and (2) even those who were proponents of operating expense caps as a policy matter acknowledged that it had not yet been shown that such caps could truly be developed and implemented. Given the substantial and severe financial impact that such a rule could have on USF support distribution going forward for small companies and given the substantial policy implications of such a rule, procedural fairness indicates that the Commission should refrain from adopting any rule that would impose caps on supported capital or operating expenses until parties have had a chance to present to the full Commission the policy, technical, and financial implications of doing so.

Corporate Operations Expense Caps. The Rural Representatives urged the Commission to ensure that any updates to the existing Corporate Operations Expense cap formula reflect *all* necessary updates, including the effect of inflationary adjustment factors since the formula was first developed.

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: Carol Matthey
Michael Steffen
Al Lewis
Gary Seigel
Katie King
Patrick Halley