

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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 No. 01-92
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Lifeline and Link-Up)	WC Docket No. 03-109
)	
Universal Service Reform – Mobility Fund)	WT Docket No. 10-208

**REPLY OF LENNON TELEPHONE COMPANY TO OPPOSITIONS TO
PETITIONS FOR RECONSIDERATION**

Lennon Telephone Company (“Lennon” or the “Company”) hereby takes this opportunity to respond to oppositions to petitions for reconsideration of the *Report and Order*¹ adopted by the Federal Communications Commission (“FCC” or “Commission”) to provide additional support to petitions urging the Commission to reconsider its rule requiring privately-held rate-of-return carriers that receive high-cost and/or Connect America Fund

¹ *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carrier; High-Cost Universal Service Support; Developing an Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform – Mobility Fund*, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. Nov. 18, 2011) (“*Report and Order*”).

(“CAF”) support to file audited financial reports by April 1 of each year.² Lennon provides high quality communications service to over 3,000 businesses and residential customers in rural portions of Michigan and is a privately-held rate-of-return carrier subject to the new financial reporting requirements.³

Two petitions for reconsideration addressed the new financial reporting requirements. In the petition for reconsideration filed by the National Exchange Carrier Association (“NECA”) and other rural carrier associations (collectively the “Rural Associations”), the Rural Associations demonstrated that it would be “very difficult, if not impossible” for most privately-held rural local exchange carriers to comply with the new financial reporting requirements.⁴ The Rural Associations noted that the requirement would be “particularly onerous for companies that have not been required by regulators, investors or lenders to conduct financial audits during recent years, and who therefore do not have recently-audited financial statements on which to base reports.”⁵ In petition for reconsideration which dealt solely with the issue of the financial reporting requirement, the Comporium Companies contended that carriers that are required to submit annual financial information to their state regulators should be allowed to provide that same information to the

² See new Section 54.313(f)(2) promulgated in the *Report and Order* which does not become effective until approved by the Office of Management and Budget. The FCC recently modified this rule to allow carriers that receive loans from the Rural Utilities Service (“RUS”) to submit their RUS financial reports in lieu of an audited financial statement. See *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carrier; High-Cost Universal Service Support; Developing an Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform – Mobility Fund*, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, Order, DA 12-147 (rel. Feb. 3, 2012) at para. 14.

³ Lennon is not an RUS borrower and thus is not able to submit an RUS financial report in lieu of an audited financial statement. The Company’s CPA prepares an “audit review”; however, what the CPA reviews is not as in-depth as what the FCC requires in its *Report and Order*.

⁴ Petition for Reconsideration and Clarification of NECA, Organization for the Promotion and Advancement of Small Telecommunications Companies, and Western Telecommunications Alliance, WC Docket Nos. 10-90, *et al.* (filed Dec. 29, 2011) (“Rural Association Petition”), at 23.

⁵ *Id.* at 24.

Commission in lieu of the financial reports.⁶ The Comporium Companies explained that the state regulatory agencies in the states where they operate require “only a basic balance sheet, income statement and a few supporting schedules accompanied by an affidavit signed by an officer” and that “[n]o audit report with CPA attestation is required.”⁷ The Comporium Companies also provided several reasons why the Commission should reconsider its requirement that the financial reports be made publicly available.⁸

No oppositions were filed on the issue of the financial reporting raised in the petitions. On the contrary, comments filed by the National Association of State Utility Consumer Advocates and the New Jersey Division of Rate Counsel (collectively “Consumer Advocates”) recommended that the FCC, on its own motion, make the changes advocated by the Comporium Companies and that the public interest would be served by the Commission taking such action.⁹ This was echoed by the Independent Telephone & Telecommunications Alliance (“ITTA”) which emphasized that the FCC should give rate-of-return carriers “maximum flexibility” in complying with the financial reporting requirements.¹⁰ Similar to the Consumer Advocates, ITTA urges the Commission to adopt the recommendations of the Comporium Companies including changing the filing deadline to October 15 as well as recommending that carriers that are

⁶ Petition for Clarification and/or Reconsideration of Rock Hill Telephone Company d/b/a Comporium, Lancaster Telephone Company d/b/a Comporium, Fort Mill Telephone Company d/b/a Comporium, PBT Telecom, Inc. d/b/a Comporium, and Citizens Telephone Company d/b/a Comporium (collectively the “Comporium Companies”), WC Docket Nos. 10-90, et al. (filed Dec. 29, 2011) (“Comporium Petition”), at 7. The Comporium Companies argued that at a minimum, the Commission should clarify that in an instance where several rate-of-return carriers are under common control, the carriers may submit a consolidated audit and that the April 1 deadline be moved to October 15. *Id.* at 7.

⁷ *Id.* at 4-5. The state regulatory agencies in the states where the Comporium Companies operate are the North Carolina Utilities Commission and the Public Service Commission of South Carolina. *Id.* at 4.

⁸ *Id.* at 7-8.

⁹ Comments on Request for Reconsiderations by the Consumer Advocates, WC Docket Nos. 10-90, et al. (filed Feb. 9, 2012), at 10.

¹⁰ Opposition of ITTA, WC Docket Nos. 10-90, et al. (filed Feb. 9, 2012) (“ITTA Opposition”), at 9.

unable to meet that deadline for “good cause” be able to obtain a waiver from any penalties associated with non-compliance.¹¹

Lennon agrees with these petitions and comments and offers the following additional recommendations. Like other rate-of-return carriers, Lennon is facing “caps and cuts” due to reforms that the Commission has enacted in its *Report and Order*. Among these are a reduction in the amount that carriers can recover for expenses related to corporate operations as well as reductions in capital and operating expenses under a regression analysis which has yet to be finalized. Yet while reducing the ability for carriers to recover these costs, the Commission has added more corporate operational costs by requiring carriers to submit audited financial reports. While Lennon does engage a CPA to prepare its tax returns, the CPA does not prepare audited financial statements in the manner required by the *Report and Order*. Accordingly, to provide the audited financial statements, Lennon will have to incur additional accounting expenses which would be an increase in the amount of corporate operations expense, a key area of expenses that the Commission has required rate-of-return carriers to reduce.

This is certainly not limited only to Lennon. According to Comporium, an additional \$200,000 would be required to provide the financial reports in the manner required by the Commission.¹² As noted by the Rural Associations, many carriers have not been required to conduct financial audits during recent years.¹³ These carriers will have to incur significant costs not only this year but also in following years to undergo audits solely for the purpose of providing the audited financial report. The costs for providing the audited financial reports are especially burdensome when considered in light of the

¹¹ *Id.* at 9-10.

¹² *See* Comporium Petition at 4.

¹³ *See* Rural Associations Petition at 24.

alternatives that are available to the Commission. As cited in the petitions and comments, many states have determined that only a basic balance sheet, income statement and a few supporting schedules accompanied by an affidavit signed by an officer is all that is required. No audit report with CPA attestation is required.

As recognized by the Consumer Advocates, such an alternative approach indeed is in the public interest. If carriers are required to conduct audits, they must spend limited financial resources on CPAs to conduct audits solely for the purpose of this new reporting requirement which reduces funds to provide quality services to rural consumers. Staff resources must also be allocated to the audit process which refocuses manpower away from services to customers and toward a non-revenue producing activity and increases inefficiencies. Adoption of an alternative such as the one above or allowing all carriers to submit an unaudited report which provides the same information as the RUS annual report that RUS borrowers are allowed to submit would eliminate all of these hindrances and promote the public interest. In adopting alternatives the Commission should also adopt a more realistic filing deadline such as October 15 to ensure that the new reporting requirement is as least burdensome as possible allowing carriers to devote as much time and resources as possible to providing service to rural consumers.

In closing, Lennon agrees with the petitions and comments that no justification exists for making any financial reporting information publicly available. As detailed in the comments and petitions, the financial information which will be disclosed in the reports—regardless of whether or not the reports contain audited data—contains sensitive

proprietary financial information which the Commission has ruled in other contexts should be kept confidential.¹⁴

Respectfully submitted,

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February 21, 2012

¹⁴ See, e.g. Comporium Petition at 7-8; ITTA Opposition at 11.