



NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION

*The Voice of Rural Telecommunications*

www.ntca.org

March 12, 2012

***Ex Parte Notice***

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> 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 an 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***

Dear Ms. Dortch:

On Thursday, March 8, 2012, the undersigned, on behalf of the National Telecommunications Cooperative Association (“NTCA”), together with Stuart Polikoff of the Organization for the Promotion and Advancement of Small Telecommunications Companies, Gerry Duffy and Derrick Owens on behalf of the Western Telecommunications Alliance, Jeff Dupree of the National Exchange Carrier Association, Robert DeBroux of TDS Telecom, Paul Cooper of Fred Williamson Associates, and Larry Thompson of Vantage Point Solutions (collectively, the “Rural Representatives”) met with Dan Ball, Randy Clarke, Rebekah Goodheart, Travis Litman, and Doug Sloten of the Wireline Competition Bureau and Peter Trachtenberg of the Wireless Telecommunications Bureau. Messrs. DeBroux and Thompson participated via telephone. The Rural Representatives raised the following issues relating to further intercarrier compensation (“ICC”) reform and implementation of those reforms already adopted in the Order released on November 18, 2011 by the Federal Communications Commission (the “Commission”) in the above-referenced proceedings.

**Clarification Regarding Originating Access Charges.** The Rural Representatives expressed support for the positions taken and arguments advanced by Frontier and Windstream regarding the need for clarification with respect to the applicability of originating intrastate access charges to all traffic, regardless of whether it terminates in TDM or VoIP format on the distant end. *See* Reply of Frontier and Windstream to Petition for Reconsideration and/or Clarification (filed Feb. 21, 2012). In addition to the many valid arguments already raised by Frontier and Windstream, the Rural Representatives noted that the Order could not have been more clear that there was no

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intent to reduce originating intrastate access charges in any manner for rural rate-of-return regulated incumbent local exchange carriers (“RLECs”). Specifically, the Order identified concerns about “overburdening the Universal Service Fund” as well as a belief that the wholesale toll market would constrain originating rates as justification to avoid capping or otherwise reforming originating intrastate access rates for RLECs. Order at ¶ 805.

The Rural Representatives further provided their estimate of the revenue shortfall that would result from applying the originating interstate access rate in lieu of originating intrastate access rates for calls placed to VoIP customers on the distant end within the same state. Of approximately \$253 million (as of 2010) in annual originating intrastate access revenues for RLECs, the Rural Representatives estimated that 40% of these revenues could be associated with calls to VoIP customers based upon current adoption data and the fact that many 8YY calls that are subject to such charges likely terminate to IP-based platforms. This would mean that approximately \$101.2 million of such revenues would be subject to potential reduction if the interstate rate were applied in lieu of the intrastate rate. The average originating interstate access rate is approximately 50.8% of the average originating intrastate access rate, which would amount to revenues of \$51.4 million if these calls were “re-rated” at the interstate level. The resulting shortfall for RLECs would be approximately \$49.8 million based upon 2010 access revenue figures – a figure that would need to be addressed through Connect America Fund (“CAF”) ICC support since, as the Rural Representatives noted, the imposition of Access Recovery Charges (“ARCs”), local rate benchmarks, and reductions in legacy high-cost support mechanisms under the Order leaves little, if any, ability to recover any additional revenues from end users.

Accordingly, the Rural Representatives recommended that the Commission apply faithfully its determination in the Order that reform of originating intrastate access charges would be addressed solely through the Further Notice of Proposed Rulemaking.

**IntraMTA Calls Routed Through Interexchange Carriers.** The Rural Representatives next raised continuing concerns about the confusion that will result from attempting to apply a bill-and-keep regime to calls between RLEC and commercial mobile radio service (“CMRS”) customers that are routed through an interexchange carrier (“IXC”). See *Ex Parte* Letter from Michael R. Romano, Sr. Vice President-Policy, NTCA, to Marlene H. Dortch, Secretary, FCC (filed Feb. 9, 2012). The Rural Representatives attempted to make clear that, notwithstanding their legal, policy, and economic objections to a bill-and-keep regime, the question presented was not whether CMRS providers should be able to avail themselves of this regime. To the contrary, it is clear that CMRS providers can do so through direct interconnection with RLECs or via indirect (transit) local interconnection. Instead, the sole question presented was whether IXCs should be able to assert the purported intraMTA nature of a call placed by or to a CMRS customer for purposes of evading any payment of access charges. The Rural Representatives urged the Commission to address this issue in short order, as the industry remains unprepared from a technical routing or billing perspective to implement this regime by July 1, 2012.

**Further ICC Reforms.** The Rural Representatives urged the Commission to decline to undertake any additional ICC reforms at this time and to note expressly that it would take time to evaluate the impacts of reforms already adopted before taking any further steps. As noted earlier

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in this letter, the imposition of new ARCs, local rate benchmarks, and reductions in support from legacy high-cost mechanisms already place substantial new burdens on end-user cost recovery, and it is not clear that these changes can be accommodated without undermining the statutory universal service objective of ensuring that reasonably comparable services are available at reasonably comparable rates. The resulting need for additional CAF ICC support would place significant strains on the Commission's professed objective to manage within a Universal Service Fund budget. The Commission should therefore allow "the dust to settle" on ICC (and other) reforms just made (and not even implemented yet) before undertaking additional changes such as reducing the rates applicable to originating access or transport services.

**Local Rate Benchmark Clarifications.** The Rural Representatives encouraged the Commission to clarify that compliance with local rate benchmarks could be determined using study area-wide calculations in lieu of requiring service-by-service or exchange-by-exchange analyses. They noted that such an approach would greatly simplify the burdens of demonstrating compliance with such benchmarks, and help address pending confusion about certain rate structures, such as local measured service and emergency-only lines, that do not squarely fit within benchmark concepts.

**Recovery Mechanism Clarifications.** The Rural Representatives supported the positions taken by the U.S. Telecom Association with respect to the use of billed, rather than collected, revenues for purposes of establishing the Recovery Mechanism eligible recovery baseline. *See* Petition for Reconsideration of U.S. Telecom Association (filed Dec. 29, 2011), at 30. The Rural Representatives observed that the data provided to the Commission to date regarding ICC revenues likely incorporated booked/billed revenues rather than collected totals, and that using collected revenues in the baseline would punish carriers that had the misfortune of facing arbitrageurs engaging in conduct such as masking themselves as CMRS providers only to then file for bankruptcy before any payments could be collected.

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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](mailto:mromano@ntca.org).

Sincerely,

/s/ Michael R. Romano

Michael R. Romano

Senior Vice President - Policy

cc: Dan Ball  
Randy Clarke  
Rebekah Goodheart  
Travis Litman  
Doug Slotten  
Peter Trachtenberg