



March 27, 2012

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 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; Rules and Regulations Implementing the Truth in Caller ID Act of 2009, WC Docket No. 11-39

Dear Ms. Dortch:

On Monday, March 26, 2012, the undersigned spoke via telephone on behalf of the National Telecommunications Cooperative Association (“NTCA”) with Angela Kronenberg, Wireline Legal Advisor to Commissioner Mignon Clyburn, to discuss ongoing universal service fund (“USF”) and intercarrier (“ICC”) reform efforts in the above-referenced proceedings and also to highlight continuing concerns with respect to call completion and related issues.

USF and ICC Reform.

I first highlighted a series of substantive problems with the proposed regression analysis-based approach to developing and implementing caps on capital and operating expenses supported through USF; the specific points raised were consistent with an *ex parte* filing submitted by NTCA last week. *See Ex Parte* Letter from Michael R. Romano, Senior Vice President-Policy, NTCA, to Marlene H. Dortch, WC Docket No 10-90, *et al.* (filed Mar. 23, 2012). I further emphasized that the structure of the caps as currently contemplated defeats the predictability required of USF support as required by the Communications Act of 1934, as amended.

Ms. Marlene H. Dortch

March 27, 2012

Page 2 of 3

Specifically, the dynamic, year-by-year alteration of the caps presents substantial challenges for *all* rural local exchange carriers (“RLECs”). NTCA members have expressed a consistent fear that any given RLEC might be next in line to trigger the caps if that RLEC undertakes further broadband deployment. Lenders and investors have expressed similar confusion in attempting to forecast the effects of any caps because of their dynamic and opaque nature. I explained that this unpredictability has led those that appear unaffected by the caps at first – and even those individual RLECs that might be poised to receive some incremental support in the first year – to avoid much-needed broadband deployment or upgrades (including stimulus-related construction efforts) for fear of triggering the caps in subsequent years.

Allowing such uncertainty to perpetuate and to potentially stymie the deployment of broadband would be contrary to the very purpose of the National Broadband Plan, the President’s own stimulus initiatives, and the stated objectives of the Commission’s reforms. Consistent with the December 29, 2011 Petition for Reconsideration and/or Clarification filed by the National Exchange Carrier Association, the Organization for the Promotion and Advancement of Small Telecommunications Companies, and the Western Telecommunications Alliance, I urged the Commission to remedy the dynamic unpredictability presented by the caps in their currently contemplated form.

I also conveyed concern with respect to any further reductions to USF support and ICC revenues in the wake of the Commission’s November 18, 2011 Order in the above-referenced proceedings. The “dust has not even started to settle” on the many support and revenue reductions adopted in that Order – including the regression analysis-based caps that are still subject to further development as discussed above. I observed that Bureau staff and lenders, investors, and service providers all continue to grapple daily with numerous questions with respect to implementation of the Order. I expressed the view that the Commission, rural consumers, and all parties involved would be far better served by first answering these many outstanding questions and then taking the time to implement, adjust to, and evaluate the impacts of the many significant changes just made, in lieu of racing forward with additional changes.

Call Completion and Related Concerns.

Finally, I brought to Ms. Kronenberg’s attention a meeting last week between NTCA, representatives of Canby Telecom (“Canby”), and staff from the Wireline Competition and Enforcement Bureaus regarding continuing concerns with respect to call completion issues, phantom traffic, Truth in Caller ID issues, and access avoidance. *See Ex Parte* Letter from Michael R. Romano, Senior Vice President-Policy, NTCA, to Marlene H. Dortch, WC Docket No 10-90, *et al.* (filed Mar. 22, 2012). In that meeting, Canby presented evidence highlighting the increase in such concerns just in recent weeks and the dire need for the Commission to take a proactive role in monitoring and enforcing the Caller ID rules it adopted last year, its relatively new phantom traffic rules, and its February 2012 call completion Declaratory Ruling.

Ms. Marlene H. Dortch

March 27, 2012

Page 3 of 3

I noted that the Commission has previously taken concrete public steps to address concerns about “blocking” and denial of consumer choice in other contexts. For example, the Commission’s Wireless Telecommunications Bureau took immediate (and very public) note when, in 2009, it examined whether AT&T and Apple may have collaborated to deny the deployment of a Google Voice application on iPhone devices. In letters sent to AT&T, Apple, and Google at the time, the Commission staff asked a series of detailed questions intended to ensure that service providers were not acting unreasonably to deny consumer choices, expectations, and demands. I suggested that if the Wireless Telecommunications Bureau could send public letters in a matter of days asking questions about potential “blocking” concerns in connection with a pending rulemaking that involved services over which the Commission’s jurisdiction is unclear, it is long past time for similar public correspondence to be sent to regulated carriers that are subject to allegations of material and repeated failures in the provision of regulated retail services. I shared that NTCA had provided a comprehensive list of questions that the Wireline Competition Bureau could send to such regulated retail interexchange carriers in June 2011, and that I had provided a copy again to the staff with the above-referenced *ex parte* filing. I urged the Commission to support and encourage such proactive outreach by staff.

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: Angela Kronenberg