

April 16, 2012

Ms. Sharon Gillett  
Chief, Wireline Competition Bureau  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, DC 20554



**Re: WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109  
Written Ex Parte Communication**

Dear Ms. Gillett:

North Central Telephone Cooperative, Inc. ("NCTC") hereby notifies the Federal Communications Commission (FCC) of its intent to seek a waiver of FCC rules that eliminated the payment of Safety Net Additive ("SNA") for NCTC investments made during the year 2010 and also waiver of FCC rules limiting reimbursable capital and operating costs if the FCC adopts the proposed quantile regression analysis methodology for High Cost Loop Support (HCLS) and Interstate Common Line Support (ICLS). This methodology is currently under consideration in the FNPRM in the *USF-ICC Order*.<sup>1</sup>

NCTC provides telecom and broadband service to its members in very rural portions of Tennessee and Kentucky. As a cooperative, NCTC has a mission to provide the same quality of service to all of its members. In fulfilling this cooperative mission, NCTC has worked diligently over the last several years developing and implanting a business plan utilizing a FTTP network under the FCC rules that were in place to bring high-speed broadband and modern telecommunications services to its members. NCTC also wanted to further the objectives of universal service set forth in the Communications Act of 1934 and of the National Broadband Plan as passed by Congress and supported by the White House.

NCTC has reviewed the results of impact statements run by its cost consultant and has found with the SNA payments being eliminated along with the proposed regression analysis if adopted, NCTC would be significantly harmed beginning February, 2012 when the SNA payment for 2010 investments were to begin and will be further harmed when the proposed regression analysis impacts begin on July 1, 2012.

In discussions with its cost consultant, it appears that the only reason why NCTC has been impacted so severely by the new rules is due to NCTC's efforts undertaken over the last several

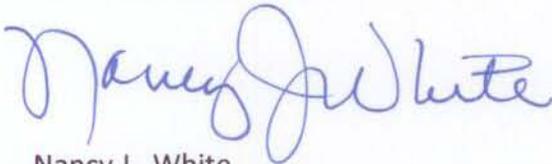
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<sup>1</sup> See *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carrier; High-Cost Universal Service Support; Developing an Unified Intercarrier Compensation Regime; Federal-State 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, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. Nov. 18, 2011) ("*USF-ICC Order*").

years to make significant investments in its network to bring FTTP and high-speed broadband services to its cooperative members. NCTC qualified for SNA based on its 2010 investments without regard to line loss and was scheduled to receive SNA starting in February, 2012. FCC policies, such as SNA, previously encouraged such investments. Now the retroactive SNA rule change denies NCTC any opportunity to adjust or even plan for such radical shifts in network investment policy. The SNA change alone has an impact to NCTC of \$3,014,400 over 5 years from the loss of SNA it otherwise would have received. In addition, proposed caps on HCLS will reduce NCTC's HCLS by over \$50,000 per month.

Therefore, if the FCC's proposed methodology above is adopted, "good cause" would exist to waive the application of these rules regarding their harsh impacts on NCTC and its members.<sup>2</sup> Under the FCC's waiver rules and the particular facts in this case, NCTC will show that strict compliance is inconsistent with the public interest.<sup>3</sup> Further, waiving the rules regarding the regression analysis would be in the public interest since the comments that have been received on this methodology have shown that it is fundamentally flawed and that there are a myriad of technical problems associated with applying the methodology to NCTC or other rural LECs.<sup>4</sup> Even the "father of quantile regression analysis" submitted a paper which stated that the Commission's use of this analysis would "lead to serious distortions in support if applied to high cost loop support or other high-cost support calculations"<sup>5</sup> and a peer review conducted by economists in other Bureaus revealed numerous flaws.<sup>6</sup>

Respectfully Submitted,



Nancy J. White  
President/CEO  
North Central Telephone Cooperative, Inc.

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<sup>2</sup> The FCC's Rules may be waived for "good cause" shown. See 47 C.F.R. 1.3.

<sup>3</sup> See *Northeast Cellular Telephone co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (Northeast Cellular)

<sup>4</sup> No comments were filed that supported adoption of the methodology.

<sup>5</sup> See Comments of the National Exchange Carrier Association, Inc., the National Telecommunications Cooperative Association, The Organization for the Promotion and Advancement of Small Telecommunications Companies and the Western Telecommunications Alliance, WC Docket No. 10-90 et. al, filed Jan. 18, 2012, Appendix E.

<sup>6</sup> See Letter from Patrick Halley, Legal Counsel, Wireline Bureau, to Marlene Dortch, Secretary, WC Docket No. 10-90 et. al, (dated Mar. 9, 2012), Appendix B and Appendix C.