



NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION

The Voice of Rural Telecommunications

www.ntca.org

April 18, 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

Dear Ms. Dortch:

On Tuesday, April 17, 2012, Joshua Seidemann and the undersigned, on behalf of the National Telecommunications Cooperative Association (“NTCA”), met with Pamela Arluk, Randy Clarke, Victoria Goldberg, Rhonda Lien, Travis Litman, Deena Shetler, and Doug Slotten of the Wireline Competition Bureau. NTCA 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. NTCA 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, NTCA notes that the Federal Communications Commission (the “Commission”) could not have been more clear that there was no 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.

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NTCA also discussed the revenue shortfalls that would result from applying the originating interstate access rate for calls placed to VoIP customers within the same state. *See Ex Parte* Letter from Michael R. Romano, Senior Vice President-Policy, NTCA, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90, *et al.* (filed March 12, 2012). NTCA noted that any such shortfalls would need to be addressed through incremental Connect America Fund intercarrier compensation support given that there would be no other means to “adjust” to such material changes in access rate structures and in light of a lack of certainty as to the availability of Recovery Mechanism support for such shortfalls under the rules as presently structured (precisely because the Order evidences a clear and unmistakable intent *not* to reform RLECs’ originating intrastate access rates). We further noted that the incremental imposition of Access Recovery Charges (which would be up to \$1.50 per month as of July 2014), local rate benchmarks (which could be up to \$16.00 per month or more in a few years), and material reductions in legacy high-cost support mechanisms under the Order (which would appear to average several dollars per month per line for RLECs as a whole and much more for many individual carriers) will leave little, if any, ability to recover additional revenues from end users – presuming that such costs of originating access could properly be recovered from such end users in the first instance. Indeed, this piling of regulatory policy-driven consumer rate increases atop one another reinforces the insufficiency of the Recovery Mechanism as currently structured and calls into serious question how the Commission’s intercarrier compensation reforms (including any changes to originating access as may be presently contemplated) can possibly be squared with the statutory mandate to ensure that service rates are reasonably comparable between urban and rural areas.

Finally, NTCA noted that any reduction in originating access revenues should be accompanied by corresponding relief from equal access obligations. Equal access is a component of the access service provided by local exchange carriers, in return for which interexchange carriers tender payment to RLECs. Reduction of originating access charges by regulatory fiat should result in the elimination of a regulatory mandate to render equal access service and comply with related equal access obligations. *See also* Comments of NTCA, *et al.*, WC Docket No. 10-90, *et al.* (filed Feb. 24, 2012), at 13.

Use of Billed vs. Collected Revenues in Calculating Eligible Recovery. NTCA expressed support for the use of billed, rather than collected, revenues for purposes of calculating base period revenue and the determination of eligible recovery. Petition for Reconsideration of U.S. Telecom Association (filed Dec. 29, 2011), at 30. In particular, NTCA observed that using collected revenues would deprive RLECs of revenues they would have received but for certain access avoidance schemes, such as the Halo efforts that the Commission attempted to foreclose late last year. *See* Order at ¶ 1006. If the Commission were to determine that some allowance is required for uncollectible amounts in connection with the use of billed revenues, NTCA believes that the approach suggested by US Telecom – using a national safe harbor revenue percentage to adjust billed amounts – would seem reasonable and fairly consistent with accounting practices for revenue recognition. NTCA notes that the ARMIS data recently filed by US Telecom could provide a reasonable basis for establishing such a safe harbor, and further observes here that such data appear to relate specifically to traffic-sensitive switched revenues. *See Ex Parte* Letter of Jonathan Banks, US Telecom, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90, *et al.* (filed April 17, 2012).

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IntraMTA Calls Routed Through Interexchange Carriers. Finally, NTCA raised continuing concerns about the confusion that will result as of July 1, 2012 in 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). NTCA attempted to make clear that, notwithstanding its legal, policy, and economic objections to a bill-and-keep regime, the question presented here 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. *See id.* at Slides 13 and 24 (explaining options for CMRS providers to groom or establish various trunk groups for purposes of obtaining “local” interconnection). We also noted reports of at least two CMRS providers specifically seeking to avoid (or discontinue) use of local interconnection/trunking options because of the greater costs of establishing such interconnection in lieu of using IXCs to route traffic. Thus, the sole question at issue here is 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 when the CMRS provider in question has made an affirmative choice *not* to groom trunks and establish direct or indirect *local* interconnection. NTCA 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.

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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.

Sincerely,

/s/ Michael R. Romano
Michael R. Romano

Senior Vice President - Policy

cc: Pamela Arluk
Randy Clarke
Victoria Goldberg
Rhonda Lien
Travis Litman
Deena Shetler
Doug Slotten