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April 24, 2012

Via ECFS

Marlene Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: American Cable Association (“ACA”) and National Cable & Telecommunications Association (“NCTA”), *Ex Parte* Presentation: *In the Matter of Connect America Fund*, WC Docket No. 10-90 et al.

Dear Ms. Dortch:

On April 20, 2012, Jennifer McKee, NCTA, and Ross Lieberman, ACA, and the undersigned, Thomas Cohen of Kelley Drye & Warren LLP, had a telephone conversation with Michael Steffen, Legal Advisor to Chairman Genachowski. The purpose of the call was to follow-up on the March 29, 2012 *ex parte* communication filed by ACA and NCTA¹ which urged the Commission to reject proposed changes by price cap local exchange carriers (“LECs”) to the new rules providing for Connect America Fund (“CAF”) Phase I incremental support. We urged the Commission to ensure that CAF Phase I support is used only to achieve the Commission’s stated objective “to provide an immediate boost to broadband deployment in *areas that are unserved by any broadband provider.*”² We asked the Commission to reject attempts by the price cap LECs to expand CAF

¹ See American Cable Association and National Cable & Telecommunications Association *Notice of Ex Parte Communication*, WC Docket No. 10-90 et al. (Mar. 29, 2012).

² *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a 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.

Marlene H. Dortch
April 24, 2012
Page Two

Phase I support beyond this objective, and to provide transparency and accountability so that the Commission, USAC, and the public can verify that price cap LECs use this support to increase broadband deployment in unserved areas.

Ever since the new CAF Phase I support rules were adopted, the price cap LECs have sought to revamp the new regime to their advantage, including by asking the Commission to revise the allocation of funds among carriers and change the company-specific level of support per unserved location. In a more recent series of filings by the price cap LECs, they ask the Commission to expand areas where support may be used from wholly unserved areas as determined by the National Broadband Map to partially served (and presumably lower cost) census blocks. This “mission creep” would alter the basic intent of CAF Phase I support and would increase the likelihood that price cap LECs would receive support either in areas where competitors are the predominant providers of broadband service or where competitors could offer consumers higher performance broadband service more efficiently.

Similarly, a recent *ex parte*³ requests that the Commission permit a price cap LEC to receive CAF Phase I support not only in unserved locations receiving very low speed broadband but in areas where higher speed (4 Mbps) broadband service is not yet offered – which is the objective of CAF Phase II support.

On this call, ACA and NCTA representatives urged the Commission to refrain from agreeing to this mission creep. In addition, they submitted that the Commission should increase the transparency and accountability of the CAF Phase I program. As a condition to receiving support in any area, a price cap LEC should provide information about both currently unserved locations and planned deployments to unserved locations, including the specific locations to be served and the current network facilities serving those locations, and any broadband services offered. Price cap LECs should also identify the locations where broadband will be deployed pursuant to merger commitments, in which CAF Phase I support cannot be used, prior to receiving this support. By adopting such measures, the Commission will not only ensure that funding is spent properly, but will indicate to other providers that these new locations would be served by virtue of government support. The Commission will also have baseline information against which to measure the CAF Phase I support recipients’ progress and success in deploying broadband to unserved areas.

09-51, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, ¶ 137 (rel. Nov. 18, 2011).

³ See *Windstream Ex Parte*, WC Docket No. 10-90 et al. at 10 (filed Apr. 16, 2012).

KELLEY DRYE & WARREN LLP

Marlene H. Dortch
April 24, 2012
Page Three

This letter is being filed electronically pursuant to section 1.1206 of the Commission's rules.

Sincerely,



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cc: M. Steffen