

**Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Dell Telephone Cooperative Petition	)	WC Docket No. 10-90
For Waiver OF Certain High-cost	)	WT Docket No. 10-208
Universal Service Rules	)	

**COMMENTS OF THE  
NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION**

The National Telecommunications Cooperative Association<sup>1</sup> (“NTCA”) submits these comments in response to the Wireline Competition Bureau’s Public Notice<sup>2</sup> seeking comments on Dell Telephone Cooperative’s (“Dell”) petition for waiver (“Petition”) of portions of the Commission’s recently adopted universal service and intercarrier compensation rules. Specifically, Dell requests a waiver of (i) the \$250 per line monthly cap on High Cost Loop Support (“HCLS”); (ii) the rule limiting reimbursable capital and operating expenses for HCLS; and (iii) the updated and extended limits on recovery of corporate operations expenses applied to HCLS and Interstate Common Line Support

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<sup>1</sup> NTCA is the premier industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents nearly 600 rural rate-of-return regulated telecommunications providers. All of NTCA’s members are full service local exchange carriers (LECs) and many of its members provide wireless, cable, Internet, satellite, and long distance services to their communities. Each member is a “rural telephone company” as defined in the Communications Act of 1934, as amended (Act). NTCA’s members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities. Allband Communications Cooperative is a NTCA member.

<sup>2</sup> *Wireline Competition Bureau Seeks Comments on Dell Telephone Cooperative Petition for Waiver of Certain High-cost Universal Service Rules, WC Docket No. 10-90, WT 10-208, DA 12-1113, Public Notice (rel. July 11, 2012).*

(“ICLS”). NTCA supports Dell’s waiver request to prevent immediate and irrevocable harm to the telephone company and the rural consumers it serves. The Petition highlights the difficulty that carriers face with so many implementation and rule development questions still unanswered or unclear. NTCA adheres to the position that providers who serve high-cost areas should receive support sufficient to achieve the purposes of Section 254 of the Communications Act of 1934, as amended.<sup>3</sup>

Dell has sufficiently demonstrated good cause for the Commission to waive Section 54.302 of its rules. The Commission made a waiver process available for circumstances where its new rules would reduce a carrier’s support to a point that it “would not be ‘sufficient to achieve the purposes of [Section 254] of the Act.’”<sup>4</sup> Dell demonstrates that absent a waiver, it is not financially viable and rural consumers would lose access to voice and broadband services. Dell demonstrates that it will realize net losses as early as next year, will deplete its cash reserves by 2015, and will be insolvent by 2016.<sup>5</sup>

Dell is a small company with a small base of customers over which to recover its cost. Its service territory consists of 10, 498 square miles in West Texas and Southeastern New Mexico. It serves approximately 800 rural customer premises, including ranchers and farmer as well as anchor institutions, including the U.S. Border Patrol, U. S. Customs, the Department of Homeland Security and the Texas Department of Transportation.

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<sup>3</sup> 47 U.S.C. § 254.

<sup>4</sup> *Connect America Fund*, Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 10-90, FCC 11-161, ¶ 540 (rel. Nov. 18, 2011) .

<sup>5</sup> Petition for Waiver of Dell Telephone Cooperative (filed June 6, 2012) (“Dell Petition”).

The company has high construction and operational costs due to rugged, mountainous terrain, but has provided reliable voice and broadband communications in a cost-effective manner. Dell is the sole provider of voice and broadband services that cover the entire service territory and provides wireless fiber backhaul to the wireless providers who offer limited voice coverage in the region. Dell's Petition describes at length its efforts to provide quality service with minimal expense.<sup>6</sup>

The requested waiver is justified. Dell demonstrates that absent a waiver, consumers, businesses, and critical anchor institutions – including government entities tasked with protecting the nation's border – will lose voice and broadband services, contrary to the public interest. The limits on HCLS set by the Commission's rule changes and the updated corporate operations expense limitations result in a greater than 36 percent reduction in Dell's universal service support between 2013 and 2016. The reduced level of support is insufficient to advance and preserve universal service as required by Section 254. Furthermore, Dell's local rates already exceed the Commission's new rate floor by several dollars and Dell indicates that the economically challenged area is unable to absorb sufficient increased rates to cover such losses. Dell's Petition highlights the fact that "universal service reform" that shifts so many costs solely to very few rural consumers in hard-to-serve locations does little, if anything, to serve the purpose of universal service at all.

Grant of the requested waiver would not undermine, and would in fact support, the Commission's goal of greater efficiency. Dell explains that it operates in a cost-

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<sup>6</sup> Dell Petition, pp. 7-10.

effective manner and is taking additional steps to increase efficiencies. As one example, Dell indicates that it employs alternative technology solutions to serve its most remote customers.<sup>7</sup> Dell notes that it is leanly staffed and continues to seek alternative sources of revenue to sustain operations.<sup>8</sup> Of critical importance, Dell also points out that it has been hampered in its investment plans, due in large part to the uncertainty created by the Commission's USF reforms.<sup>9</sup>

Given the unique and challenging circumstances faced by Dell and its consistent attempts to operate on a cost-effective and efficient basis, a waiver is necessary to preserve and advance universal service.

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<sup>7</sup> Dell Petition, p. 24.

<sup>8</sup> NTCA notes in this regard, however, that non-regulated operations cannot and should not be viewed as a "make-whole" for costs that are incurred by a carrier in providing regulated services and advancing the goal of universal service. Commission rules do not "give carriers credit" for losses in their non-regulated operations through supplemental universal service support, and thus neither should the Commission count non-regulated operations against costs that are incurred in operating as a carrier of last resort in the delivery of regulated services. As just one contrast worth noting, the Commission recently sought to give nearly \$20 million in incremental universal service support to Verizon, despite the fact that Verizon reported \$9.7 *billion* in wireline revenues in the most recent quarter (most which is outside of "Mass Market" retail services), and another \$18.6 *billion* in wireless revenues. See Verizon 10-Q Statement (dated July 30, 2012) (available at: <http://www22.verizon.com/investor/secfiling.htm>). If the Commission will apparently not take account of the total or non-regulated operations of larger service providers in determining whether and when to provide them with universal service support, there is no basis to do so for smaller firms.

<sup>9</sup> Dell Petition, p. 25.

NTCA therefore respectfully requests that the Dell Petition be granted. Circumstances warranting a deviation from the general rules exist. Absent relief, Dell has indicated that it is not financially viable and that rural consumers are at risk of losing terrestrial voice and broadband services. Dell has show good cause for relief and grant of the instant petition would be in the public interest.

Respectfully submitted,



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