

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
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 a 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

**OPPOSITION OF THE
NATIONAL CABLE & TELECOMMUNICATIONS ASSOCIATION
TO PETITION FOR WAIVER FILED BY
CIMARRON TELEPHONE COMPANY, CROSS TELEPHONE COMPANY, AND
POTTAWATOMIE TELEPHONE COMPANY**

The National Cable & Telecommunications Association (NCTA) opposes the petition for waiver filed by Cimarron Telephone Company, Cross Telephone Company, and Pottawatomie Telephone Company (Petitioners).¹ The instant petition is a “me too” filing nearly identical to

¹ Cimarron Telephone Company, Cross Telephone Company, and Pottawatomie Telephone Company Petition for Limited Waiver of 47 C.F.R. Section 51.917(c), WC Docket No. 10-90 *et al.* (Nov. 19, 2012) (Petition for Waiver).

one filed by TDS Telecommunications Corp. (TDS Telecom) in August.² Like TDS Telecom, the Petitioners are rate-of-return regulated incumbent local exchange carriers (LECs) seeking to include in their 2011 base period revenue unrecovered revenue that they billed to Halo Wireless, Inc. (Halo), which would increase the amount of support they can receive through the Commission's newly-adopted Access Recovery Charge and universal service high-cost support.³ As we explained in our opposition to TDS Telecom's petition, the waiver petitions should be denied.⁴

First, the Petitioners do not meet the requirement that revenues must be *recovered*, not merely billed, to be included in the revenue base pursuant to a waiver.⁵ Second, grant of the waiver would provide an unfair competitive advantage to incumbent LECs by providing them support to offset the revenue they are unable to collect from Halo, while similarly situated competitive providers that also cannot collect from Halo do not have access to this support.⁶ Finally, as we predicted in our TDS Telecom opposition, as more incumbent LECs seek the relief requested in this petition, the amount of high-cost support to be disbursed could increase significantly if the Commission does not make clear that universal service support and Access

² TDS Telecom Petition for Limited Waiver of 47 C.F.R. Section 51.917(c), WC Docket No. 10-90 *et al.* (Aug. 10, 2012).

³ Petition for Waiver at 1-2; 47 C.F.R. § 51.917.

⁴ Opposition of the National Cable & Telecommunications Association to TDS Telecom's Petition for Waiver, WC Docket No. 10-90 *et al.* (Oct. 1, 2012) (NCTA Opposition).

⁵ *Id.* at 4; *Connect America Fund, et al.*, WC Docket No. 10-90 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17982, ¶ 898 n.1745 (2011) (*CAF Order*) ("Carriers may, however, request a waiver of our rules defining the Baseline to account for revenues billed for terminating switched access service or reciprocal compensation provided in FY2011 but *recovered after the March 31, 2012 cut-off* as a result of the decision of a court or regulatory agency of competent jurisdiction.") (emphasis added).

⁶ NCTA Opposition at 4-5.

Recovery Charges are not meant to indemnify incumbent LECs against bankruptcy losses incurred in the normal course of business.⁷

The Commission should act quickly to deny TDS Telecom's and the instant Petitioners' requests for waiver.

Respectfully submitted,

/s/ Steven F. Morris

Steven F. Morris
Jennifer K. McKee
National Cable & Telecommunications
Association
25 Massachusetts Avenue, NW – Suite 100
Washington, DC 20001-1431

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⁷ *Id.* at 5.