

1776 K STREET NW
WASHINGTON, DC 20006
PHONE 202.719.7000
FAX 202.719.7049

7925 JONES BRANCH DRIVE
MCLEAN, VA 22102
PHONE 703.905.2800
FAX 703.905.2820

www.wileyrein.com

February 12, 2013

Bennett L. Ross
202.719.7524
bross@wileyrein.com

EX PARTE

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

Re: *Dell Telephone Cooperative Petition for Waiver of Section 54.302 of the Commission's Rules and the Impact of Limiting Capital and Corporate Operations Expenses on Receipt of High-Cost Universal Service Support, WC Docket No. 10-90 and WT Docket No. 10-208*

Dear Ms. Dortch:

Dell Telephone Cooperative (“Dell Telephone” or “Company”) submits this letter in support of its pending petition for waiver of certain of the Commission’s new universal service rules.¹ In the *USF/ICC Transformation Order*, the Commission made clear that a “[w]aiver would be warranted where an ETC can demonstrate that, without additional universal service funding, its support would not be ‘sufficient to achieve the purposes of [section 254 of the Act].’”² Dell Telephone has made the requisite demonstration. The purpose of this letter is to provide additional evidence that consumers in Dell Telephone’s service territory are not only “at risk of losing voice services” but are in fact losing such services – a result contrary to the letter and the spirit of section 254.³ Accordingly, the Commission should promptly grant the requested waiver.

In its petition, Dell Telephone submitted detailed financial projections which reflected that the Company would realize net losses as early as 2013, deplete its cash reserves by 2015, and be insolvent by 2016. Since filing its petition more than eight months ago, Dell Telephone regrettably is on track to making these financial

¹ See Petition for Waiver of Dell Telephone Cooperative, WC Docket No. 10-90 et al. (June 6, 2012).

² *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) (“*USF/ICC Transformation Order*”) (quoting 47 U.S.C. § 254(e)).

³ See *id.*

Marlene H. Dortch

February 12, 2013

Page 2

projections a sad reality. In 2012, the Company lost more than \$900,000 in high-cost support, a reduction of approximately 14 percent. And, based on the January 2013 federal USF distribution to the Company, Dell Telephone will lose approximately \$1.8 million in high-cost support in 2013, as originally projected.⁴

Not surprisingly, with such a significant reduction in support, Dell Telephone has been forced to change the way it operates – changes that regrettably undermine the Company’s ability to serve its customers. In fact, in just the past few months, Dell Telephone has had no choice but to turn down requests for voice and broadband services because the Company did not have the financial resources necessary to deploy and maintain the required network facilities. The services that Dell Telephone recently declined to provide include: (i) a request for voice and broadband service from a potential customer in Cornudas, Texas; (ii) a request to provide voice and broadband service to three potential customers located near Timberon, New Mexico; (iii) a request to provide broadband service to eight existing telephone customers near Sierra Blanca, Texas; and (iv) a request to deploy broadband service to the Guadalupe National Park Service at McKittrick Canyon Park. In each case, Dell Telephone determined that it would be cost-prohibitive to provide the requested services given the Company’s current financial circumstances and the dramatic reductions in high-cost support it is experiencing. Certainly, this is not “universal service” as envisioned by Congress or the Commission.

Not only is Dell Telephone increasingly unable to provide service to new customers, it also is increasingly having difficulty serving its existing customers. For example, the Company has ceased making certain investments in its network, such as replacing important components of its network, including certain components that are obsolete and no longer supported by their manufacturers.⁵ In an effort to reduce its network maintenance expenses, Dell Telephone also has delayed performing routine network maintenance on its equipment and facilities,

⁴ The Company anticipates that its total support during the period from 2013 through 2016 will decrease by more than 36 percent.

⁵ For example, Stutler Technologies recently informed the Company that network equipment purchased several years ago will no longer be manufactured or supported. The Company also was recently notified by ThinRoute that it has ceased manufacturing wireless equipment deployed in Dell Telephone’s network. The Company does not have the financial resources to replace this equipment or the in-house expertise to repair this equipment in the event of a malfunction.

Marlene H. Dortch

February 12, 2013

Page 3

limiting such work to only once a year. As a result, the Company's network is more vulnerable to service outages and other service quality issues.

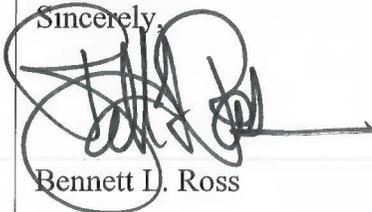
Furthermore, when service problems do arise, the Company is unable to respond in a timely fashion. The Company no longer dispatches a technician immediately in response to a repair call but rather aggregates trouble calls prior to dispatching a technician in order to reduce costs. The Company also has discontinued having its technicians work on weekends, holidays, and after-hours in an effort to eliminate overtime.

These steps, while financially prudent in the face of the dramatic reductions to the Company's high cost support, put customers' telephone service at risk. In fact, in 2013, it has taken Dell Telephone an average of four days to resolve trouble calls from its customers. This is almost twice the length of time (2.3 days) it took the Company to resolve customer trouble calls in 2011.

* * *

Unfortunately, Dell Telephone is increasingly unable to provide voice and broadband services to customers in its service territory – a circumstance that is certain to continue and only worsen in the absence of a waiver. Accordingly, Dell Telephone respectfully urges the Bureau to complete its review of the Company's waiver petition and promptly grant the requested relief.

Sincerely,



Bennett L. Ross

cc: Carol Matthey
Rebekah Goodheart
Gary Seigel
Joseph Sorresso
Joseph Cavender
Dania Ayoubi