



March 20, 2013

***Ex Parte Notice***

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

***Connect America Fund, WC Docket No. 10-90; High-Cost Universal Service Support, WC Docket No. 05-337; AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition; Petition of the National Telecommunications Cooperative Association for a Rulemaking to Promote and Sustain the Ongoing TDM-to-IP Evolution, GN Docket No. 12-353; Technology Transitions Policy Task Force, GN Docket No. 13-5; Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No. 07-135; Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92; Petitions for Waiver of Commission's Rules Regarding Access to Numbering Resources, CC Docket 99-200***

Dear Ms. Dortch:

On March 18, 2013, Joshua Seidemann, Director of Policy and the undersigned on behalf of NTCA–The Rural Broadband Association (“NTCA”), met with David Grimaldi of Commissioner Mignon Clyburn’s office to discuss matters in the above-referenced proceedings.

NTCA expressed positions consistent with prior pleadings in certain of the above-referenced proceedings regarding the grant of any waiver by the Federal Communications Commission (the “Commission”) that would permit an entity to obtain direct access to telephone numbers without accepting the accountability and all of the responsibilities associated with operation as a regulated carrier. *See, e.g., Comments of NTCA*, CC Docket No. 99-200 (filed Aug. 23, 2012); *Ex Parte Letter of Michael R. Romano, Senior Vice President – Policy, NTCA, to Marlene H. Dortch, Secretary, Commission, WC Docket No. 10-90, et al.* (filed July 19, 2012); *Ex Parte Letter of Michael R. Romano, Senior Vice President – Policy, NTCA, to Marlene H. Dortch, Secretary, Commission, WC Docket No. 10-90, et al.* (filed May 31, 2012); *Ex Parte Letter of Michael R. Romano, Senior Vice President - Policy, NTCA, to Marlene H. Dortch, Secretary, Commission, WC Docket No. 10-90, et al.* (filed March 7, 2013). NTCA noted that many of the fundamental questions implicated by the waiver requests are comparable to those raised by NTCA’s IP evolution petition and the similar petition filed by AT&T (as well as the issues to be evaluated by the Technology Transitions Task Force). Indeed, nearly no issue is positioned more squarely within the consideration of regulatory processes and constructs (or lack thereof) than the question of whether an IP-enabled service should be eligible to obtain telephone numbering. Therefore, consideration of the questions and issues raised by a numbering waiver petition – even if just in “trial” form – is best addressed within the full discussions of those proceedings.

NTCA also noted that many questions remain regarding how traffic would be routed and compensated in the context of any waiver given to a VoIP provider. For example, to the extent that a VoIP provider obtains a waiver and then uses a “carrier partner” to help route traffic, the Commission must consider how inter-carrier compensation (ICC) would be managed when such a “middle man” tandem provider is lodged between the VoIP provider and carrier. If that resolution directs ICC payment away from the loop and into the restructuring mechanism, the corresponding impact could undermine the Commission’s Universal Service Fund “budgetary” objectives. It is similarly unclear how, if the “carrier partner” is to be responsible for ICC payments, such a condition could in fact be enforced against a carrier partner that is not a party to the waiver being granted – or where disputes involving any carrier, the carrier partner, and/or the VoIP provider would be resolved given the VoIP provider’s potential lack of regulatory status. Such questions, too, underscore the need for better definition, at a minimum, before any “trial” is considered pursuant to waivers and ultimately highlight the need for a comprehensive, holistic approach of any waiver request within the full complement of issues being considered in the TDM/IP transition proceeding.

NTCA also explained that the Commission should proceed with extreme caution in considering the effects of any potential waiver on areas served by rural local exchange carriers (“RLECs”). As an initial matter, section 251(f) of the Communications Act of 1934, as amended, captures Congressional intent to ensure that the effects of competitive entry and use of rural networks are coordinated with the objectives of universal service. Since, however, there has been no examination of how any proposed waiver would affect the public interest or universal service specifically in rural areas pursuant to section 251(f) or otherwise, the Commission should therefore ensure that waivers are carefully targeted to avoid implicating such concerns.

Moreover, as explained further in recent *ex parte* submissions, NTCA highlighted that the Commission’s universal service distribution rules still compel consumers in RLEC-served areas to purchase regulated local exchange service (“POTS”) from the RLEC in order to obtain reasonably priced broadband services as well. *See, e.g., Ex Parte Letter of Michael R. Romano, Senior Vice President – Policy, NTCA, to Marlene H. Dortch, Secretary, Commission, WC Docket No. 10-90, et al. (filed Feb. 22, 2013).* Therefore, any waiver that would provide direct access to telephone numbers to an “over-the-top” non-carrier VoIP provider should not apply in RLEC-served areas unless and until the Commission also ensures that predictable and sufficient universal service support will remain available for the underlying broadband-capable network should a consumer decide to cease procuring POTS and procure such an “over-the-top” VoIP service instead. The Commission’s goals of promoting broadband access and competition would be ironically undermined if the broadband-capable network that enables the VoIP provider’s offering loses universal service support simply because the consumer takes broadband, and not POTS, from the RLEC. NTCA therefore urges the Commission to implement the technical-type amendments to its rules in order to support standalone broadband provided by RLECs. NTCA objects to the grant of any waiver that would apply in RLEC-served areas in the absence of predictable and sufficient universal service support for the broadband-capable networks that make it possible to offer VoIP services in the first instance.

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Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed via ECFS. If you have any questions, please do not hesitate to contact the undersigned.

Sincerely,

/s/ Michael R. Romano

Michael R. Romano  
Senior Vice President - Policy

cc: David Grimaldi