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

In the Matter of	)
	)
Competitive Carrier Line Count Report and Self-Certifications as a Rural Carrier	) OMB Control Number 3060--0986
	)
	)
Connect America Fund	) WC Docket No. 10-90
	)
High-Cost Universal Service Support	) WC Docket No. 05-337

TO: Office of Managing Director

COMMENTS OF
THE WESTERN TELECOMMUNICATION ALLIANCE
REGARDING NEW FCC FORM 481

The Western Telecommunications Alliance, a trade association representing approximately 250 rural telephone companies ("RLECs") that operate in the twenty-four states located west of the Mississippi River, hereby submits its comments regarding certain revisions or new data collections with respect to the new FCC Form 481 Annual Reporting Form for High-Cost Recipients.

WTA recognizes that acceptance of high-cost support entails service and reporting obligations to ensure compliance with the statutory mandate that carriers receiving such support shall use it "only for the provision, maintenance, and upgrading of facilities and services for which the support is intended." 47 U.S.C. §254(e). However, during a period when infrastructure investment needs are increasing while critical high-cost support and intercarrier compensation revenue streams are limited or decreasing, the Commission should minimize the regulatory and reporting costs of high-cost recipients as much as practicable to ensure that as much support as possible goes directly to the improvement of the intended facilities and services.

WTA is aware that comments are being submitted in this proceeding by other RLEC associations, and generally concurs with the positions taken by those associations. WTA agrees that other portions of FCC Form 481 are in need of streamlining and modification to increase their utility and to decrease unnecessary burdens, but wishes to focus particularly upon the Service Quality Improvement Reporting (Lines 110—118) and Tribal Lands Reporting (Lines 910-929) sections of FCC Form 481. These two sections raise critical questions regarding: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission (including whether the information will have practical utility); (2) the accuracy of the Commission's burden estimate; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden on the collection of information on the respondents.

Service Quality Improvement Reporting

The initial Section 54.202(a)(1) Five-Year Plan requirement was designed primarily for federally-licensed wireless competitive eligible telecommunications carriers ("CETCs") that were not regulated by their states, that were receiving "portable" federal high-cost support which had no relation to their own facilities or costs, and that were frequently subject to Commission build-out requirements in order to retain all or part of their licensed service areas.

Transferring these wireless CETC Five-Year Plan requirements virtually verbatim to RLECs and other support recipients creates substantial timing and other complications. For example, unlike the "portable" support received by wireless CETCs, the high-cost support received by RLECs is tied to their own investment and operating costs but unfortunately lags these costs by two years. Hence, an RLEC in 2013 (during which it is receiving high-cost

support based upon its 2011 investment and operating costs) must propose a Five-Year Plan for a period beginning in 2013 (for which it will receive high-cost support for its investment and operating costs in 2015) and ending with 2017 (for which it will receive high-cost support for its investment and operating costs in 2019).[1] In addition to these lags, advance planning is complicated by various limitations on high-cost support, including unpredictable Quantile Regression Analysis ("QRA") benchmarks, caps on total support and corporate operations expense, and budget targets.

Line 112 of FCC Form 481 provides very little guidance regarding the Five-Year Plans of RLECs, and thus places major additional reporting burdens upon reporting RLECs. As recognized by the Joint Board, RLECs have long done a "commendable job" under the previous high-cost support mechanisms of providing voice and broadband services to nearly all of their subscribers.[2] However, whereas RLECs were enthusiastic early adopters of broadband, the Commission's recent changes to universal service and intercarrier compensation revenue streams have created a great deal of uncertainty as to whether (and, if so, how much) RLECs will be able to invest in broadband and other infrastructure improvements in the future. As a result, many RLECs are very worried about committing to specific future infrastructure investment proposals for fear that they will not have the resources or be able to obtain the lender or vendor financing to meet such commitments. They feel forced to retain attorneys and consultants at substantial additional expense to draft legalistic language similar to that found in stock prospectuses and Securities and Exchange Commission reports to condition and qualify their proposed five-year

[1] Neither FCC Form 481 (Line 112) nor Section 54.202(a) of the Rules nor Section 54.313(a)(1) of the Rules are clear regarding the specific five-year period for which the required Five-Year Plan must be filed. For example, if a Five-Year Plan is required to be filed on July 1, 2013, should it encompass: (a) Calendar Years 2013, 2014, 2015, 2016 and 2017; (b) Calendar Years 2014, 2015, 2016, 2017 and 2018; or (c) the years July 1, 2013 to June 30, 2014, July 1, 2014 to June 30, 2015, July 1, 2015 to June 30, 2016, July 1, 2016 to June 30, 2017, and July 1, 2017 to June 30, 2018?

[2] *In the Matter of High-Cost Universal Service Support*, Recommended Decision, WC Docket No. 05-337 and CC Docket No. 96-45, FCC 07J-4, released November 20, 2007, at paras. 30 and 39.

service improvement plans so that they can readily be revised, postponed or terminated if sufficient funds or financing are not available, or other circumstances change.

In addition, the provision of "maps detailing progress towards meeting plan targets" was not required by Section 54.202(a)(1)(ii) of the Commission's Rules, but rather is new with Section 54.313(a)(1). Whenever this mapping requirement becomes applicable, many small RLECs do not have the personnel or software required to produce detailed network maps, but rather will have to pay engineers or other consultants to develop and produce them. In addition to the cost, detailed map preparation is likely to take almost all of (or even more than) the Commission's estimated maximum 100 hours for completion of the entire FCC Form 481. It will require an RLEC's employees and consultants to review and analyze its entire network and service area to map the nature and extent of the services presently provided and the nature and extent of the service extensions and upgrades to be made during each of the subject future five years.

WTA recently joined in a petition with other RLEC associations requesting that the filing of Five-Year Plans by RLECs be clarified or postponed until at least July 1, 2014. However, particularly given the two-year lag between RLEC capital and operating expenses and the corresponding RLEC high-cost support, WTA believes that futuristic Five-Year Plans are not necessary for the proper performance of the Commission's statutory Section 254(e) obligation to ensure that RLECs receiving high-cost support use it only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. It would be far more relevant and effective for the Commission's information collection efforts to focus instead upon Lines 114 through 117, and to have individual RLECs show how they used their high-cost support in the Year B for which they are reporting: (a) to make infrastructure investments and/or

repay infrastructure loans during Year A (two years previously), in order to improve their service coverage, capacity and quality; (b) to pay maintenance and other operating expenses during Year A, in order to improve their service quality and reliability; and (c) to recover overhead and other costs of doing business during Year A, in order to maintain their local service rates at affordable levels. Using an approach that is wholly congruent with the way that high-cost support is calculated and distributed to RLECs will satisfy the Commission's regulatory needs and enhance the quality, utility and clarity of the information collected. In addition, by eliminating the non-relevant burdens and costs of Five-Year Plan preparation, it will reduce the regulatory burdens upon RLECs to a point well within the Commission's 0.5 hour to 100 hour estimate of the time required to complete the new FCC Form 481, and free up more of their net financial and administrative resources to serve their rural customers rather than preparing reports for the Commission.

Tribal Lands Reporting

WTA understands that the Tribal Government engagement provisions in Section 54.313(a)(9) of the Rules were intended to improve telecommunications service on Tribal lands, as well as to increase cooperation between Tribal Governments and telecommunications carriers. WTA further understands that one or more Tribal organizations and/or carriers are likely to be filing comments in this proceeding, and will let them speak for themselves regarding their needs and interests.

WTA notes the experience of several of its RLEC members that have sought to initiate the required engagements with Tribal governments. In virtually all such instances, the RLEC requests to schedule meetings and commence the engagement process have been met by a

perceived lack of interest on the part of Tribal governments. The common RLEC interpretation of this response is that many of the Tribal governments would be interested if RLECs were in a position to propose substantial new or additional infrastructure deployments at an early date on Tribal lands. However, at a time when uncertain and unpredictable revenue streams are discouraging significant new RLEC investment projects on non-Tribal as well as Tribal lands, WTA members believe that many Tribal governments understandably are not very interested in scheduling meetings to discuss generalities or vague future possibilities. To the extent this is true, other alternatives (for example, budgeting increased high-cost support so that RLECs can deploy more broadband on Tribal lands) would appear to have much more practical utility than the Tribal Government engagement process.

WTA emphasizes that its members are very interested in serving Tribal lands, and in upgrading and extending the networks that they have already built on some Tribal lands. WTA members comply with Tribal rules and procedures (just like they do with other state and local government rules and procedures) regarding rights-of-way, land use permits, facilities siting, environmental review and historical and cultural preservation. It is not clear why or how these localized Tribal government matters are relevant to the Commission's jurisdiction or regulatory functions, or why Tribal government rules and procedures are singled out for more intensive Commission oversight (*e.g.*, on Lines 924 to 928) than those of other state and local governments. WTA recommends that these portions of FCC Form 481 be deleted unless the Commission can show that it has the jurisdiction and substantial reasons to exercise oversight over these Tribal government functions.

While not evidencing any clear and concrete benefits at this time, the Tribal engagement processes can entail substantial costs that will divert RLEC resources from infrastructure and

service improvements on Tribal lands. For example, one Alaskan RLEC serves an area containing over fifty Regional Native Corporations and Village Corporations.[3] Given Alaska's lack of roads, to fly and meet with all of these separate entities will require a high-level company employee to spend at least 100-to-150 **days** a year in travel and meetings (i.e., many times the 100 hours estimated as necessary to complete FCC Form 481). The cost of such engagements is simply not justified, particularly when the dollars are far more urgently needed to build and maintain infrastructure and improve quality.

WTA submits that the Tribal Lands Reporting should be deferred at this time, so that the Commission, Tribal governments and carriers serving Tribal lands can determine whether more effective and efficient alternative procedures and reporting requirements can be developed. For example, the major purpose of Tribal Government engagement – the improvement of service and service quality on Tribal lands – can be met in large part by requiring carriers that serve both Tribal and non-Tribal lands to certify that they provide access to telecommunications and information services on Tribal lands that are reasonably comparable to those provided in their non-Tribal service areas, and that are available at rates that are reasonably comparable to the rates that they change for similar services in their non-Tribal service areas.

The current Tribal Government engagement procedures and reporting are not necessary for the proper performance of the Commission's functions, and in many cases will by themselves require far more than the 0.5 hour to 100 hours estimated by the Commission to be necessary for preparation of the entire FCC Form 481. Further review and modification of the existing information requirements on Lines 910 through 929 holds the promise of enhancing the quality,

[3] Alaska is comprised in major part of Tribal lands, with hundreds of separate governmental authorities. The Tribal Government engagement process imposes a massive burden upon Alaskan carriers, which must now "contact" dozens or hundreds of groups of their customers in addition to dealing with the harsh climate, sparse populations, lack of roads, and other difficulties of serving Alaska.

utility, and clarity of the information collected; of minimizing the information collection burdens imposed upon RLECs; and of freeing up more RLEC resources to extend and improve service on Tribal lands.

Conclusion

WTA requests that the Five-Year Plan requirement and associated mapping requirement on Lines 112 and 113 be eliminated for RLECs, and that RLEC reporting regarding compliance with Section 254(e) of the Act focus upon their use of high-cost support for costs incurred two years previously to improve their service coverage, capacity and quality; and to maintain affordable local service rates. In addition, WTA requests that the Tribal Lands Reporting should be deferred at this time, so that the Commission, Tribal governments and carriers serving Tribal lands can determine whether more effective and efficient alternative procedures and reporting requirements can be developed.

Respectfully submitted,
WESTERN TELECOMMUNICATIONS ALLIANCE

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