

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
High-Cost Universal Service Support)	WC Docket No. 05-337

**REPLY TO OPPOSITION OF
NTCA–THE RURAL BROADBAND ASSOCIATION**

To the Commission:

I. INTRODUCTION

NTCA–The Rural Broadband Association (NTCA)¹ hereby submits this filing on the *Application for Review of Silver Star Telephone Company* (Application).² (Pursuant to the relevant Public Notice,³ this filing would be cast a “Reply to Opposition.” However, and as noted in Section II.B, below, only filings in *support* of the Application were filed with the Commission on the day that Oppositions were due.) In the Application, Silver Star Telephone Company (Silver Star) requests the Commission to review an Order⁴ of Wireline Competition

¹ NTCA represents nearly 900 rural rate-of-return regulated telecommunications providers. All of NTCA’s members are full service local exchange carriers and broadband providers, and many provide wireless, video, satellite and/or long-distance services, as well.

² *Connect America Fund; High-Cost Universal Service Support: Silver Star Telephone Company Application for Review*, Docket Nos. 10-90, 05-337 (filed Jun. 10, 2013) (Application).

³ “Wireline Competition Bureau Reminds Parties of Deadlines for Filing Oppositions and Replies Regarding the Silver Star Telephone Company Application for Review,” Public Notice DA 13-1382 (Jun. 14, 2013).

⁴ *Connect America Fund; High-Cost Universal Service Support: Order*, Docket Nos. 10-90, 05-337, DA 13-1013 (2013) (Silver Star Order).

Bureau (Bureau) that denies certain requests Silver Star made in an *Expedited Waiver Request*⁵ (Waiver Request) to correct data sets underlying Quantile Regression Analysis (QRA) applications to the company. As described and set forth below, NTCA supports the Application of Silver Star and urges the Commission to direct the Bureau to ensure that any application of the QRA be administered on the basis of sound and correct data.

II. DISCUSSION

A. ANY APPLICATION OF THE QUANTILE REGRESSION ANALYSIS MUST BE UNDERTAKEN ONLY UPON THE BASIS OF SOUND AND CORRECT DATA.

NTCA is committed to achieving processes and mechanisms that facilitate specific, sufficient and predictable universal service support, consistent with the statute.⁶ This is necessary in order to ensure that, in accordance with the law, consumers in rural and insular areas of the Nation should have access to communications services that are reasonably comparable to those available in urban areas, and at rates that are reasonably comparable to those paid by users in urban areas.

As the Commission is aware, NTCA has disputed the appropriateness of the QRA to determine expense limits for rural, high-cost carriers. Nevertheless, NTCA recognizes the necessity of engaging alternative simultaneous actions in this regard. At the first instance, NTCA requested judicial review of the QRA, engaging the question of whether it is a lawful mechanism when held against the governing statute. And, yet, recognizing the unknown outcomes of judicial appeal, NTCA has also engaged with Commission Staff to discuss discrete modifications to the QRA that, if the QRA is ruled lawful, could at least enable the QRA to be implemented upon the

⁵ *Connect America Fund; High-Cost Universal Service Support: Expedited Waiver Request of Silver Star Telephone Company, Inc., Idaho Study Area 472295*, Docket Nos. 10-90, 05-337 (filed Sep. 27, 2012) (Silver Star Waiver Request).

⁶ 47 U.S.C. § 254(b).

basis of accurate data, substantive refinements and a transparent testing and implementation process.

While not waiving any rights relating to pending judicial or intra-agency appeals, NTCA and its advocacy partners have developed data-rich analyses of QRA impacts and proposed various modifications to the QRA. Structural modifications aside, buttressing the accuracy of underlying QRA data is essential to ensuring that even baseline predictability can be obtained from the methodology; absent the use of accurate data, those subject to the QRA, whether affected by a resulting cap or not at any given point in time, lack a meaningful and much-needed ability to predict outcomes.

By way of example, NTCA and other rural industry representatives (collectively, Rural Associations) illustrated the faulty outcomes borne of inaccurate data in a May 29, 2013, *ex parte* presentation.⁷ The Rural Associations submitted data illustrating instances of incorrect inclusion or exclusion of entire borderline census blocks from study areas,⁸ demonstrating the sizeable impact that input errors wreak on eventual outcomes.⁹

Intended to identify firms whose respective costs fall beyond a certain formulaic threshold, the QRA struggles with several challenges, including the task of identifying statistically significant outliers in a relatively small universe. This substantive conundrum, however, is compounded by the need to identify accurately quantified data. Where difficulties inherent to the structure of the model and the ability to establish accurate data befuddle the QRA

⁷ *Connect America Fund; High-Cost Universal Service Fund: Ex Parte Presentation of GVNW, NECA, NTCA, and WTA*. Docket Nos. 10-90, 05-337 (filed May 31, 2013) (May 31, 2013 *ex parte*)..

⁸ May 31, 2013 *ex parte* at 2.

⁹ May 31, 2013, *ex parte*, Attachment at 4, 5.

task, resolution cannot be completed under the qualified rubric of “good enough.” The Commission has consistently championed a “data driven” process, most recently stating,

. . . a careful data-driven process is consistent with – and indeed critical to – that implementation [of reform]. We emphasize our commitment to such a process, and we direct the Bureau, as it . . . proceeds with other reforms adopted in the *USF/ICC Transformation Order*, to continue taking all appropriate steps to seek input from affected stakeholders, and gather relevant data on the effect of reforms as they proceed.¹⁰

Neither the Commission nor the industry can countenance, nor does the statute permit, resignation to substandard data sets yielding questionable outcomes. Instead, the Commission must seize this opportunity to affirm its commitment to accurate data and rational outcomes.

B. SILVER STAR HAS DEMONSTRATED THE INADEQUACY OF DATA RELIED UPON BY THE BUREAU.

In its original Waiver Request, Silver Star requested the Bureau to correct: study area boundaries; density; road miles; and road crossing information for the company’s Idaho and Wyoming study areas. These data were incorporated in the QRA and resulted in incorrect benchmarks for the company that were estimated in the Application to threaten a \$1.8 million negative impact on the company’s cost recovery.¹¹ In support of its Waiver Request and subsequent Application, Silver Star submitted Tiger Line data sourced from the United States Census Bureau, as well as shape files and photographs illustrating where the ESRI data relied upon the Commission failed to include numerous sub-divisions and the roads that serve them. Silver Star also compared the Tiger Line data to publicly available maps to demonstrate the overall reliability of the Tiger Line sets.

¹⁰ *Connect America Fund; High-Cost Universal Service Support: Sixth Order on Reconsideration and Memorandum Opinion and Order*, Docket Nos. 10-90, 05-337, FCC 13-16, at para. 47 (rel. Feb. 27, 2013).

¹¹ Application at 7.

In rejecting Silver Star's Waiver Request, the Bureau criticized the company for comparing the Tiger Line data to ESRI version 9.3, noting that the Bureau had relied upon a subsequently-released ESRI version 10.¹² Additionally, the Bureau argued that the Tiger Line data was over-inclusive, and captured at least one driveway and intra-property access routes. In its Application, Silver Star has clarified that there are no consequential differences between ESRI version 9.3 and ESRI version 10 that would have the effect of invalidating the comparison to Tiger Line results.¹³ Moreover, Silver Star noted that even if Tiger Line captured a driveway and intra-property access roads, the Bureau itself had not previously distinguished between types of road miles.¹⁴ Finally, Silver Star noted that a comparative evaluation of the Tiger Line data must consider that the Bureau's ESRI exercise *undercounted* road miles by approximately 33 percent.¹⁵

Silver Star presented compelling graphic evidence that supports its assertion that the Tiger Line data pertaining to its service area is more accurate than the ESRI data relied upon the Bureau. In the face of those maps and photos, however, the Bureau has reiterated its commitment to the ESRI data. At the least, this outcome begs the question of why the Bureau did not engage a meaningful discussion to rebut the assertions and visible evidence set forth by Silver Star, and warrants Commission review of the summary Bureau decision in that regard. Moreover, the Bureau's abdication of revisions to population density following correction of study area boundaries also warrants Commission review, in that those data, too, feed the adverse impacts of the QRA.

¹² Order at para. 7.

¹³ Application at 6-8.

¹⁴ Application at 9.

¹⁵ Application at 4.

As noted above, these comments are, by strict definition, “Replies to Oppositions to the Application for Review.” But, as noted previously, no oppositions to the Application were filed. In fact, only comments *supporting* the Application were filed at the Commission on the day Oppositions were due.¹⁶ This outcome is not surprising. Even where industry participants disagree on policy, it would approach preposterousness to presume that any would file to support and promote bad data.

III. CONCLUSION

The Application illustrates the need for accurate cost-determination. Therefore, NTCA urges the Commission to not only address obvious, counterintuitive errors with respect to the Silver Star data, but to also redouble efforts to ensure that if the QRA is to be used at all, its inputs are accurate and its outcomes promote the provision of specific, sufficient and predictable high-cost support.

Respectfully submitted,

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¹⁶ See, *Connect America Fund; High Cost Universal Service Support: Comments of the United States Telecom Association*, Docket Nos. 10-90, 05-337 (filed Jun. 25, 2013); *Connect America Fund; High-Cost Universal Service Support: Comments of the Western Telecommunications Alliance and the Idaho Telecom Alliance in Support of Application for Review of Silver Star Telephone Company*, Docket Nos. 10-90, 05-337 (filed Jun. 25, 2013).