

10-90, 07-135, 05-337,
DOCKET NO. 03-109, 09-51, 01-92, 96-45,
10-208 DOCUMENT OFF-LINE

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2 CD Roms



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March 13, 2014

Accepted/Filed

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street S.W.
Washington, DC 20534

MAR 13 2014

FCC Office of the Secretary

Lynne Hewitt Engledow
Pricing Policy Division
Federal Communications Commission
445 12th Street S.W.
Washington, DC 20534

Re: WC Docket Nos. 10-90, 07-135, 05-337, 03-109; GN Docket No. 09-51; CC
Docket Nos. 01-92, 96-45; WT Docket No. 10-208; Data Related to Universal
Service Reform

Dear Ms. Dortch and Ms. Engledow:

On February 25, 2014 the National Exchange Carrier Association, Inc. (NECA) filed an update¹ to NECA's 2011 response² to Federal Communications Commission (Commission) directive to file detailed revenue requirement data received from member companies for calendar year 2010.³ The update provided similar data for calendar years 2009, 2011, and 2012. Pursuant to Commission request,

¹ See Letter from Regina McNeil, NECA to Marlene H. Dortch, Secretary – FCC, WC Docket Nos. 10-90, 07-135, 05-337, 03-109; GN Docket No. 09-51; CC Docket Nos. 01-92, 96-45; WT Docket No. 10-208 (filed Feb. 25, 2014; filed under Protective Order, 27 FCC Rcd 10276 (2012)).

² See Letter from Regina McNeil, NECA to Marlene H. Dortch, Secretary - FCC, CC Docket No. 01-92, GN Docket No. 09-51, WC Docket Nos. 05-337, 07-135, 10-90 (filed Dec. 16, 2011; filed under Protective Order, 25 FCC Rcd. 13160 (2010)).

³ *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High Cost Universal Service Support; Developing an Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Universal Service Reform-Mobility Fund*, CC Docket Nos. 01-92, 96-45, WC Docket Nos.: 10-90, 07-135, 05-337, 03-109, GN Docket No. 09-51, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd. 17663 (2011) (*USF/ICC Transformation Order*) ¶ 225, *pets. for review pending sub nom. In re: FCC 11-161*, No. 11-9900 (10th Cir. filed Dec. 8, 2011).

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NECA is now revising the 2012 data to detail the impact of the corporate operations expense limitation applicable to the common line revenue requirement.⁴

This information is being filed pursuant to the *Third Protective Order* issued in this proceeding.⁵ In accordance with the *Third Protective Order*, this information has been marked:

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A handwritten signature in cursive script that reads "Regina McNeil".

Enclosures

CC: Julie Veach – Chief, WCB

⁴ 47 C.F.R. § 54.901(c).

⁵ *Connect America Fund*, WC Docket No. 10-90, *et. al.*, Third Protective Order, 27 FCC Rcd. 10276 (2012) (*Third Protective Order*).

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Re: WC Docket Nos. 10-90, 07-135, 05-337, 03-109; GN Docket No. 09-51; CC Docket Nos. 01-92, 96-45; WT Docket No. 10-208; Data Related to Universal Service Reform

Dear Ms. Dortch and Ms.Engledow:

Enclosed please find a revision to the updated response¹ of the National Exchange Carrier Association, Inc. (NECA) to the Federal Communications Commission's (Commission) directive to file the detailed revenue requirement data received from member companies.² As requested by the

¹ See Letter from Regina McNeil, NECA to Marlene H. Dortch, Secretary - FCC, WC Docket Nos. 10-90, 07-135, 05-337, 03-109; GN Docket No. 09-51; CC Docket Nos. 01-92, 96-45; WT Docket No. 10-208 (filed Feb. 25, 2014; filed under Protective Order, 27 FCC Rcd 10276 (2012)).

² *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High Cost Universal Service Support; Developing an Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Universal Service Reform-Mobility Fund*, CC Docket Nos. 01-92, 96-45, WC Docket Nos.: 10-90, 07-135, 05-337, 03-109, GN Docket No. 09-51, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd. 17663 (2011) (*USF/ICC Transformation Order*) ¶ 225, *pets. for review pending sub nom. In re: FCC 11-161*, No. 11-9900 (10th Cir. filed Dec. 8, 2011).

Commission, this to calendar year 2012 data details the impact of the corporate operations expense limitation applicable to the common line revenue requirement.³ This information is being filed pursuant to the *Third Protective Order* issued in this proceeding.⁴

The information supplied by NECA is contained on a CD-ROM accompanying this letter and was compiled from data received in the normal course of business. The data items reported are at the level of detail approximate to the items reported in the Tariff Review Plan (TRP) that accompanies NECA's annual tariff filing.

NECA seeks confidential treatment of the information provided on the CD-ROM under the *Third Protective Order*. Notwithstanding the *Third Protective Order*, the information provided on the CD-ROM is entitled to confidential, non-public treatment under the Freedom of Information Act (FOIA) and related provisions of the Commission's rules.⁵ The information satisfies the requirement of FOIA Exemption 4 (trade secrets or commercial/financial information).

NECA submits the following information pursuant to section 0.459 in support of its request for confidential treatment of the data on the CD-ROM.

- Identification of the specific information for which confidential treatment is sought:

NECA seeks confidential treatment for the study area specific information on the CD-ROM, which contains confidential and proprietary information related to common line revenue and total company and common line expenses and investment of NECA pool members.

- Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission:

This information for calendar year 2010 was submitted in response to the Commission's *USF/ICC Transformation Order* in CC Docket Nos. 01-92, 96-45, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, GN Docket No. 09-51, WT Docket No. 10-208. Specifically, the order directed NECA to file the "detailed revenue requirement data it receives from carriers, no later than thirty days after release of this order."⁶ The Commission requested that NECA provide

³ 47 C.F.R. § 54.901(c).

⁴ *Connect America Fund*, WC Docket No. 10-90, *et. al.*, Third Protective Order, 27 FCC Rcd. 10276 (2012) (*Third Protective Order*).

⁵ 47 C.F.R. §§ 0.457 and 0.459; 5 U.S.C. § 552, *et. seq.* Section 0.457(d)(iii) specifically identifies information submitted in connection with audits, investigations, and examination of records pursuant to 47 U.S.C. 220 as material that has been accepted by the Commission on a confidential basis pursuant to 5 U.S.C. 552(b)(4).

⁶ *USF/ICC Transformation Order* at ¶ 225. NECA filed the required data on December 16, 2011 under Protective Order, 25 FCC Rcd. 13160 (2010).

similar data for calendar years 2009, 2011, and 2012, which NECA filed under protective order on February 25, 2014. The Commission has now requested that NECA revise calendar year 2012 data to detail the impact of the corporate operations expense limitation applicable to the common line revenue requirement as adopted in the *USF/ICC Transformation Order*.

- Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged:

The information on the CD-ROM contains sensitive study area specific information provided by pool members to NECA in its capacity as interstate access tariff and pool administrator. At the study area level, the information is granular and highly confidential to the reporting pool members.

The interstate access and supplemental data is treated as a confidential trade secret by pool members. NECA would not agree to submit the data in response to the Commission staff's request without assurances that the information will be kept confidential. It would be highly inappropriate for the data to be disclosed to the public or third parties.

- Explanation of the degree to which the information concerns a service that is subject to competition:

Rural telephone service has historically lent itself to "cherry picking" by competitors that choose to serve only the low cost areas within a study area. Detailed information about revenues and expenses may help prospective competitors to gain insight to incumbent LEC (ILEC) market strategies and gain competitive advantage.

- Identification of any measures taken by the submitting party to prevent unauthorized disclosure:

The information provided in the attached CD-ROM is made available only to NECA representatives on a need to know basis. Any public information is only made available on an aggregate basis.

- Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties:

The information in the Excel spreadsheet on the CD-ROM is not publicly available.

- Justification of the period during which the submitting party asserts that material should not be available for public disclosure:

NECA requests that all of the data provided on the CD-ROM be treated as confidential indefinitely. Because of the sensitive nature of the data, it would not be appropriate for public disclosure at any time in the foreseeable future.

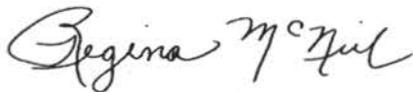
- Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted:

By addressing the data request to NECA, the Commission avoided the burden of seeking out the data for 700+ cost company study areas. However, the Commission should take care to not deprive those ILECs of the opportunity to speak for themselves in the event of a FOIA request for access to data. NECA requests that the Commission notify carriers of any FOIA request and allow them to be given a reasonable opportunity to file detailed information supporting continued confidential treatment of their respective data.

Accordingly, NECA requests confidential treatment of the data provided on the attached CD Rom pursuant to section 0.457 and 0.459 of the Commission's rules and paragraph 4 of the Protective Order. Pursuant to the Protective Order, NECA has marked the Excel spreadsheet on the CD-ROM and each page of the non-redacted version of this filing as follows:

REDACTED – FOR PUBLIC INSPECTION

NECA has also complied with the requirement of the *Third Protective Order* for delivery of both the confidential and redacted copies of the filing.



Enclosures

CC: Julie Veach – Chief, WCB

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