



March 21, 2014

Ex Parte Notice

The Honorable Thomas Wheeler
Chairman
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: *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*

Dear Chairman Wheeler:

I am writing on behalf of NTCA–The Rural Broadband Association (“NTCA”) to seek prompt action by the Federal Communications Commission (the “Commission”) in resolving concerns about implementation of the rule that requires small, rural rate-of-return-regulated local exchange carriers (“RLECs”) to increase their local voice services rates to a “rate floor” determined by a survey of rates in urban areas. The strict implementation of this rule presents real challenges for rural consumers and could put at risk access to both quality voice *and* broadband services in many rural communities across the 40% of the United States landmass served by RLECs.

By way of background, in 2011, the Commission adopted a rule that requires RLECs to meet a certain “rate floor” for local voice services; failure by an RLEC to charge local voice rates equal to the rate floor can result in a loss of certain universal service support for that carrier. Following adoption of that rule, NTCA and other stakeholders presented a series of arguments related to its wording and implementation. Among other things, we noted that the notion of “reasonable comparability” should not and does not require that rates in urban and rural areas be precisely the same. Moreover, we noted that in many rural areas, local voice rates should, if anything, be *lower* than those charged in urban areas given the relative populations within a particular rural local calling area. To this end, we questioned whether good public policy would dictate that a consumer in rural Kentucky who can call perhaps 5,000 people within his or her local calling area pay exactly the same rate for local voice service as the consumer in Arlington, Virginia, who can place a local call to several million people. *See, e.g., Comments of NTCA, et al., WC Docket No. 10-90 (filed Sept. 28, 2012), at 5.* (“The [rate] survey should therefore include an estimate of how many customers can be accessed in the local calling plan so that a fair comparison of local service pricing on an ‘apples to apples’ basis can be made.”)

Rural stakeholders also noted that, just as “reasonable comparability” could result in a rural rate that is somewhat higher (“two standard deviations”) than that available in urban areas, there should also be some similar level *below* urban rates at which rural rates could be considered reasonably comparable. See, e.g., *Petition for Reconsideration and Clarification of the National Exchange Carrier Association, et al.*, CC Docket No. 01-92, *et al.* (filed Dec. 29, 2011), at 13-14.

The Commission prior to your tenure rejected these arguments, declining to take account of the differences between rural and urban calling scopes. Consequently, the rate survey ultimately designed and conducted by the Wireline Competition Bureau made no distinction in this regard. See *Connect America Fund, et al.*, WC Docket No. 10-90, *et al.*, Third Order on Reconsideration (May 14, 2012), at ¶ 23 (“Adopting a rate benchmark of two standard deviations below the nationwide average urban rate could result in a rate benchmark so low as to be meaningless.”) As a result, the Public Notice released yesterday identifies an average urban rate of \$20.46 – an amount that is \$6.46 above the current rate floor adopted in 2011. Taken together with the federal Subscriber Line Charge, and *putting aside* additional federal Access Recovery Fees that are also assessed pursuant to the 2011 order, this new rate floor would translate to consumers paying almost \$27 for basic local voice service, even though in some cases a consumer might have been paying just half that only a few years ago.

We understand that the Commission is considering as part of yesterday’s Public Notice several potential means of transitioning to a new higher rate floor, and we appreciate greatly that consideration. For example, the Commission could both phase in the rate increase amounts *and* delay the dates by which those increases need to be implemented through state tariff filings and customer notifications. We also recognize that there was a need to bring rates in some rural areas into better balance. But, the specific means by which this is being done has led us to the point where we are hearing today from many members who have serious concerns about the ever-escalating increases in local rates mandated by the 2011 reforms. We expect that in turn those members will hear in short order from consumers and public interest groups when they go to state commissions to file for, what for some, could be their third multi-dollar local voice rate increase in three years. Again, even if some effort was in fact needed to bring rates into better balance, the method and pace by which this balance is being implemented should be more fair and properly measured than it is right now.

Of equal and significant concern, as RLECs keep increasing local voice rates (on top of also-increasing Access Recovery Charges) over a number of years, an increasing number of consumers may consider cancellation of their local voice service altogether and instead look to use, for example, an over-the-top VoIP service as a substitute. Unfortunately, the rules for universal service distribution in areas served by RLECs preclude this choice to the extent that consumers still want to keep reliable, affordable, and robust fixed broadband service thereafter. As NTCA has noted to the Commission since at least November 2012 through its “IP Evolution” petition, current universal service rules *compel* customers to keep buying local voice service in order to receive affordable fixed broadband. Under current rules, if a consumer drops voice service, that consumer’s *broadband rates* can then spike several times because universal service support is no longer available for the portion of the network that serves that customer. Therefore, and especially now in light of the serially escalating nature of the rate floor, updating the universal service mechanism to ensure that sufficient and predictable support is available for broadband-capable networks, regardless of whether the consumer in an RLEC area specifically chooses to take voice service, becomes all the more

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important for near-term resolution and must be seen by the Commission as an essential component of a successful nationwide “IP Evolution” strategy.

NTCA and its members are firmly committed to delivering on your vision for robust, broadband-capable networks that offer a variety of services to consumers in rural areas. Given their proximity to the consumers and the communities they serve, these RLECs have been and likely remain the best solution to deliver the benefits of broadband and quality voice services to many of the hardest-to-serve areas of the United States, both within their own incumbent serving areas and beyond. Rationalizing the rate floor rule and updating universal service mechanisms to provide sufficient and predictable support for broadband-capable mechanisms are equally essential in the near term to enable RLECs to sustain and build upon their steady success in fulfilling this vision. We look forward to productive and constructive conversations with you and the Commission staff to undertake this work and achieve these objectives as soon as possible.

Sincerely,

/s/ Shirley Bloomfield
Shirley Bloomfield
Chief Executive Officer

cc: Commissioner Mignon Clyburn
Commissioner Ajit Pai
Commissioner Jessica Rosenworcel
Commissioner Michael O’Rielly