

**BEFORE THE FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of

Connect America Fund

WC Docket No. 10-90

PETITION FOR EXTENSION OF TIME TO  
COMPLY WITH NEW RATE FLOOR

**COMMENTS  
OF THE  
COLORADO TELECOMMUNICATIONS ASSOCIATION  
IDAHO TELECOM ALLIANCE  
NEVADA TELECOMMUNICATIONS ASSOCIATION  
OREGON TELECOMMUNICATIONS ASSOCIATION  
And  
WASHINGTON INDEPENDENT TELECOMMUNICATIONS ASSOCIATION**

**March 31, 2014**

## INTRODUCTION

The Washington Independent Telecommunications Association (WITA) is a trade association representing incumbent local exchange carriers (ILECs) that serve rural areas in the State of Washington. A list of WITA's members is attached as Exhibit 1. The Oregon Telecommunications Association (OTA) is a trade association that has both ILEC members and members that are competitive local exchange carriers operating in Oregon. A list of OTA's ILEC members is attached as Exhibit 2. The Idaho Telecom Alliance (ITA) represents a group of ILECs that serve exchange areas in the State of Idaho. The members of ITA are listed on Exhibit 3. The Nevada Telecommunications Association (NTA) members are both ILECs and competitive local exchange carriers operating in the State of Nevada and its members are identified on Exhibit 4. The Colorado Telecommunications Association (CTA) represents ILECs that serve exchange areas in the State of Colorado. The members of CTA are listed on Exhibit 5. WITA, OTA, ITA, NTA and CTA are collectively referred to in these comments as the State Associations.

The State Associations strongly support the statements of Commission Pai calling for a moratorium on the implementation of the revised urban rate floor because continued implementation of the urban rate floor concept may have a negative impact on broadband deployment in rural areas without creating any savings.

In addition, NTCA – The Rural Broadband Association recently filed an ex parte raising concerns about the urban rate floor rules. The State Associations support those statements as well.

By Public Notice DA 14-384, released March 20, 2014, the Commission provided notice of the opportunity to comment on a petition filed by the Eastern Rural Telecom Association, the Independent Telephone & Telecommunications Alliance, NTCA - The Rural Broadband Association, The National Exchange Carrier Association, the United States Telecom Association and WTA – Advocates for Rural Broadband (the “Joint Petition”). The Joint Petition seeks to have the date for compliance for the urban rate floor modified from the current “snapshot” date of June 1, 2014, to January 2, 2015, and to make January 2 the annual compliance date going forward. The State Associations support the Joint Petition. The time gained by moving the urban rate floor implementation date as requested in the Joint Petition will allow the Commission to consider whether its rules related to the urban rate floor should remain in place.

## DISCUSSION

1. The Commission should revisit the public policy issues surrounding the urban rate floor.

In a statement released at the same time that DA 14-384 was released on March 20, 2014, Commissioner Pai has called into question whether the rate floor should continue. As noted by Commissioner Pai, the increase in rates for the urban rate floor is more than a forty-six percent rate hike. Commissioner Pai correctly asks a very important question: “Why should the FCC saddle rural Americans with rate increases when doing so may not save the Universal Service Fund a dime and may in fact divert scarce funds away from broadband deployment?” Commissioner Pai called for a freeze to the rate floor and an examination of the policy behind it. The State Associations agree with the call for the moratorium and the re-examination of the public policy issues surrounding the urban rate floor concept.

The State Associations also note that on March 21, 2014, NTCA – The Rural Broadband Association filed an ex parte comment calling into question whether the urban rate floor concept should continue. As pointed out by NTCA, the difference in calling scope between rural and urban areas raises a serious question about whether the urban rate floor concept has a valid underpinning. As pointed out by NTCA:

To this end, we question 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 service as a consumer in Arlington, Virginia, who can place a local call to several million people.<sup>1</sup>

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<sup>1</sup> NTCA – The Rural Broadband Association Ex Parte dated March 21, 2014 at p. 1.

In Washington, the example is even more dramatic. Why should a customer in Pioneer Telephone Company's service area that can call less than a thousand customers pay much higher rates than a customer in Seattle, whose current stand-alone residential rate is \$13.50, and who can call over several hundred thousand or perhaps a million people? In Oregon, the customers of Eagle Telephone Systems, Inc. can call only a few hundred customers, while Portland, Oregon residential customers pay \$15.00 per month and can call hundreds of thousands of people. In Nevada, the comparison is to a Las Vegas residential rate of \$11.99 with a very large calling scope. To put this in context, a customer of Beehive Telephone Company in Nevada can call less than 200 customers on a local calling basis. What public purpose is served by having rural customers with a very limited calling area pay much higher rates than their urban counterparts? The discrepancy in the scope of calling brings into question the basis for an urban rate floor requirement.

It should be remembered that the principles of the universal service fund in 47 USC § 254(b) include the following:

- (1) Quality and rates. Quality services should be available at just, reasonable, and affordable rates.
- (2) Access to advanced services. Access to advanced telecommunications and information services should be provided in all regions of the Nation.
- (3) Access in rural and high cost areas. Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.

The increase in the urban rate floor threatens each of these principles.

First, given residential rate levels in the West, an urban rate floor of \$20.46 is not “reasonably comparable” to the \$13.50 residential rate in Seattle, the rate for local residential service in Portland of \$15.00 or the residential rate in Las Vegas of \$11.99. This is underscored by the calling scope discrepancy which exists between urban areas and many rural areas. Is local calling limited to a few hundred customers really a “similar service” to local calling to several hundred thousand customers? Why should a rural customer have to pay significantly more for decidedly less local calling capacity.

Second, shouldn't the concept of what is a “just, reasonable and affordable rate” be a state level decision based on conditions in a particular state? The State Associations assert that it should be. In addition, this concern suggests that perhaps the urban rate floor should be calculated on a regional basis.

Third, many rural customers subscribe to local service to be able to get an affordable rate for broadband service. By offering broadband as a service that is incremental to voice service, rural companies can offer a more affordable broadband service. Thus, increasing the urban rate floor increases the price for broadband and deflates the expansion of broadband availability.

In addition, this rate discrepancy between urban and rural rates in the West calls into question how the Commission's survey came up with a \$20.46 per month urban rate floor. At the time of the survey, the local rate for CenturyLink serving the urban areas of Seattle, Spokane and Tacoma in Washington was \$13.50 per month.<sup>2</sup> The rate paid by CenturyLink residential

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<sup>2</sup> While that rate will be going up in a month or so, it will not rise to anywhere close to \$20.46 a month.

customers in Portland, Oregon is \$15.00 per month.<sup>3</sup> The rate paid by CenturyLink residential customers in Nevada was and is \$11.99. What is the basis for the \$20.46 per month rate? It is certainly much higher than rates paid in several urban areas in the West.

Further, in reviewing the Commission's instructions and forms for the urban rate floor survey, it appears there is no reporting of demand quantities. If quantities are not considered, how can the average rate paid by the average urban customer be determined. A simple averaging of rates without demand quantities would be misleading. How was the urban rate floor calculation performed? This is the type of question that needs to be addressed.

2. The Joint Petition should be granted.

The Joint Petition seeks to extend the date for implementation of the current round of the urban rate floor from June 1, 2014, to January 2, 2015. The need that is addressed by the Joint Petition is the difficulty in putting new rates in place to comply with the urban rate floor by June 1, 2014. The timing of the announcement of the new urban rate floor creates a very short window to comply with making changes in rates to avoid being penalized for failure to have rates that are at the urban rate floor. The State Associations support the Joint Petition. The time gained by moving the urban rate floor implementation date as requested in the Joint Petition will allow the Commission to consider whether its rules related to the urban rate floor should remain in place.

The Washington Utilities and Transportation Commission (WUTC ) has been very helpful in

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<sup>3</sup> Oregon does have a state universal fund surcharge, currently at 8.5 percent. This would make the rate for urban rate floor purposes \$16.28. Oregon does not have a state SLC. Washington has neither a state SLC nor a state universal service surcharge. Nevada does not have a state SLC and has a very low USF assessment of 0.01%.

facilitating the first two rounds of the urban rate floor filings, generally being able to process the filings to move rates to the urban rate floor within sixty days from the date the new rates are filed. However, that shortened process may be difficult to accomplish in this case, given the magnitude of the contemplated increase. Technically, the WUTC has up to ten months from the rate filing's stated effective date (essentially eleven months from the date of filing) to consider the filing.<sup>4</sup> In Oregon, for commercial companies (i.e., other than cooperatives), if ten percent or 500, whichever is less, customers of a company petition the Oregon Public Utility Commission, a full investigation of the rate filing is triggered.<sup>5</sup> Under Nevada law, a small-scale provider of last resort generally cannot change its rates without submitting a formal rate application with the Public Utilities Commission of Nevada (PUCN).<sup>6</sup> By statute, the PUCN must process rate applications within 210 days of submission, but applications are very resource-intensive and typically take the entirety of the 210-day period.<sup>7</sup> The effective date of resulting rate changes can be even longer than 210 days from the date of the rate application.

Increasing the rate floor by forty-six percent from \$14.00 to \$20.46 is a huge increase in local rates which will certainly produce consumer rate shock. No doubt it will also produce a large out-cry from consumers. This may well make it more difficult to move very quickly. As a result, the State Associations believe that the extra time sought by the Joint Petition is a judicious step. The State Associations note that there does not appear to be any opposition filed to the Joint Petition. Therefore, it does not appear that it will harm anyone's interest to allow the

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<sup>4</sup> RCW 80.04.130, RCW 80.36.110.

<sup>5</sup> ORS 759.040.

<sup>6</sup> Nevada Revised Statutes (NRS) 704.100.

<sup>7</sup> NRS 704.110(2).

change in the date. Given the penalty that is associated with not having rates at the urban rate floor – a dollar for dollar reduction in support – it seems only prudent to allow additional time.

### CONCLUSION

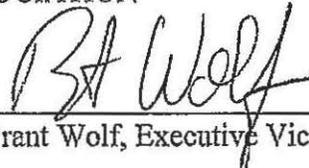
The State Associations urge the Commission to take the time to take a very close look at whether the urban rate floor is a good public policy and should continue in federal rules. The State Associations also urge the Commission to grant the Joint Petition.

At the very least, the Commission should re-examine in detail the underpinnings for the urban rate floor rate of \$20.46 per month. In the interest of transparency and the advancement of public policy, the Commission should make the data and methodology public. It is vital to determine if the urban rate floor is truly in keeping with the tenants of universal service.

Thank you for the opportunity to submit these comments.

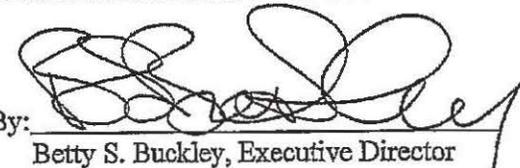
Respectfully submitted this 31st day of March, 2014.

OREGON TELECOMMUNICATIONS  
ASSOCIATION

By: 

Brant Wolf, Executive Vice President

WASHINGTON INDEPENDENT  
TELECOMMUNICATIONS ASSOCIATION

By: 

Betty S. Buckley, Executive Director

NEVADA TELECOMMUNICATIONS  
ASSOCIATION

By:   
Mike Eifert, Executive Director

IDAHO TELECOM ALLIANCE

By: /s/ Kate A. Creswell  
Kate A. Creswell, Executive Director

COLORADO TELECOMMUNICATIONS  
ASSOCIATION

By:   
Pete Kirchhof, Executive Vice President

**Washington Independent Telecommunications Association Members**

Asotin Telephone Company d/b/a TDS Telecom  
Ellensburg Telephone Company d/b/a FairPoint Communications  
Hat Island Telephone Company  
Hood Canal Telephone Co., Inc. d/b/a Hood Canal Communications  
Inland Telephone Company  
Kalama Telephone Company  
Lewis River Telephone Company, Inc. d/b/a TDS Telecom  
Mashell Telecom, Inc. d/b/a Rainier Connect  
McDaniel Telephone Co. d/b/a TDS Telecom  
Pend Oreille Telephone Company, d/b/a RTI  
Pioneer Telephone Company  
St. John Co-operative Telephone and Telegraph Company  
Skyline Telecom, Inc.  
Tenino Telephone Company  
The Toledo Telephone Co., Inc. d/b/a ToledoTel  
Western Wahkiakum County Telephone Company d/b/a Wahkiakum West Telephone  
Whidbey Telephone Company d/b/a Whidbey Telecom  
YCOM Networks, Inc. d/b/a FairPoint Communications

**Oregon Telecommunications Association ILEC Members**

Asotin Telephone Company d/b/a TDS Telecom  
Beaver Creek Cooperative Telephone Company  
Canby Telephone Association d/b/a Canby Telecom  
Cascade Utilities, Inc., d/b/a Reliance Connects  
Clear Creek Mutual Telephone Company  
Colton Telephone Company, d/b/a ColtonTel  
Eagle Telephone System, Inc  
Frontier Communications Northwest, Inc.\*  
Gervais Telephone Company  
Helix Telephone Company  
Home Telephone Company d/b/a TDS Telecom  
Molalla Telephone Company d/b/a Molalla Communications Company  
Monitor Cooperative Telephone Company  
Monroe Telephone Company  
Mt. Angel Telephone Company  
Nehalem Telecommunications, Inc., d/b/a RTI Nehalem Telecom  
North-State Telephone Co.  
Oregon-Idaho Utilities, Inc.  
Oregon Telephone Corporation  
People's Telephone Co.  
Pine Telephone System, Inc.  
Pioneer Telephone Cooperative  
Roome Telecommunications, Inc.  
St. Paul Cooperative Telephone Association  
Scio Mutual Telephone Association  
Stayton Cooperative Telephone Company  
Trans-Cascades Telephone Company, d/b/a Reliance Connects

\*Frontier Communications Northwest, Inc. is not participating in these comments.

**Idaho Telecom Alliance Members**

ATC Communications  
CTC Telecom  
Custer Telephone Cooperative  
Direct Communications  
Farmers Mutual Telephone Company  
Filer Mutual Telephone Company  
Fremont Communications d/b/a FairPoint Communications, Inc.  
Inland Telephone Company  
MTE Communications  
Oregon-Idaho Utilities  
Project Mutual Telephone Cooperative Association, Inc.  
Rural Telephone Company

**Nevada Telecommunications Association ILEC Members**

AT&T – Nevada\*

Beehive Telephone Company Inc.

CC Communications

Central Telephone Company d/b/a CenturyLink \*

CenturyTel of the Gem State, Inc. d/b/a CenturyLink\*

Filer Mutual Telephone Company

Oregon-Idaho Utilities, Inc. d/b/a Humboldt Telephone Company

Lincoln County Telephone Company

Moapa Valley Telephone Company

Rio Virgin Telephone Company d/b/a Reliance Connects

Rural Telephone Company

\*AT&T – Nevada and CenturyLink are not participating in these comments.

**Colorado Telecommunications Association Members**

Agate Mutual Telephone Cooperative Association  
Big Sandy Telecom, Inc. d/b/a Fairpoint Communications, Inc.  
The Blanca Telephone Company  
Columbine Telecom Company d/b/a Fairpoint Communications, Inc.  
Delta County Tele-Comm, Inc. d/b/a TDS Telecom  
Dubois Telephone Exchange, Inc.  
Eastern Slope Rural Telephone Association, Inc.  
Fairpoint Communications, Inc.  
Farmers Telephone Company, Inc.  
Haxtun Telephone Company  
Nucla-Naturita Telephone Co.  
Nunn Telephone Company  
Peetz Co-operative Telephone Company  
Phillips County Telephone Company  
Pine Drive Telephone Company  
Plains Cooperative Telephone Association, Inc.  
Rico Telephone Company  
Roggen Telephone Cooperative Company  
The Rye Telephone Company  
South Park Telephone Company  
The Stoneham Cooperative Telephone Corporation  
Strasburg Telephone Company d/b/a TDS Telecom  
Sunflower Telephone Company, Inc. d/b/a Fairpoint Communications, Inc.  
TDS Telecom  
Union Telephone company  
Wiggins Telephone Association  
The Willard Telephone Company