

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

In the Matter of	
Connect America Fund	WC Docket No. 10-90
A National Broadband Plan for Our Future	GN Docket No. 09-51
Establishing Just and Reasonable Rates for Local Exchange Carriers	WC Docket No. 07-135
High-Cost Universal Service Support	WC Docket No. 05-337
Developing an Unified Inter-carrier Compensation Regime	CC Docket No. 01-92
Federal-State Joint Board on Universal Service	CC Docket No. 96-45
Lifeline and Link-Up	WC Docket No. 03-109
Universal Service Reform - Mobility Fund	WT Docket No. 10-208

COMMENTS
OF THE
WASHINGTON INDEPENDENT TELECOMMUNICATIONS ASSOCIATION
COLORADO TELECOMMUNICATIONS ASSOCIATION
MONTANA INDEPENDENT TELECOMMUNICATIONS SYSTEMS, LLC
OREGON TELECOMMUNICATIONS ASSOCIATION
OKLAHOMA TELEPHONE ASSOCIATION
IOWA COMMUNICATIONS ALLIANCE
WISCONSIN STATE TELECOMMUNICATIONS ASSOCIATION
NEVADA TELECOMMUNICATIONS ASSOCIATION

In Support of the Emergency Petition for Waiver of Section 51.913(a)

August 4, 2014

The Wireline Competition Bureau is seeking comment on a petition for waiver of Section 51.913(a) of the Commission's rules.¹ On July 7, 2014, NTCA-The Rural Broadband Association, the National Exchange Carrier Association, ITTA, the Eastern Rural Telecom Association, WTA-Advocates for Rural Broadband, Frontier Communications Corporation and Windstream Communications, Inc. ("Petitioners") filed an Emergency Petition for Waiver of Section 51.913(a) ("Petition"). The Petition concerns reductions in intercarrier compensation rates for originating intrastate toll Voice over Internet Protocol (VoIP) traffic.

The Petition requests specific relief in the form of the waiver of Section 51.913(a)² of the Commission's rules. In the Petition, the effect of the requested waiver is described by the Petitioners as an action that will "thereby pause, effective June 30, 2014, any reductions in intercarrier compensation ("ICC") rates for originating intrastate toll Voice over Internet Protocol ("VoIP") traffic until full implementation of the Connect America Fund ("CAF") Phase II mechanism, in the case of price cap carriers, or a tailored CAF mechanism for rural, rate of return-regulated carriers ("RLECs"), respectively."³ The Western Associations⁴ support the Petition.

The Petition is premised primarily on two points. The first point is that an accompanying recovery mechanism for the reduction in intercarrier compensation rates for originating intrastate toll VoIP traffic has yet to be developed. The second point is that the transition to a broadband

¹ See, DA 14-1001

² 47 C.F.R. § 51.913(a).

³ Petition at page 2 (citations omitted).

⁴ The Western Associations consist of the Washington Independent Telecommunications Association, Colorado Telecommunications Association, Montana Independent Telecommunications System, LLC, Oregon Telecommunications Association, Oklahoma Telephone Association, Iowa Communications Alliance, Wisconsin State Telecommunications Association and Nevada Telecommunications Association. Please note that while AT&T and CenturyLink are members of the Nevada Telecommunications Association, they are not joining in these comments.

based CAF is progressing much slower than was contemplated in the *Transformation Order*.⁵ As stated in the Petition: "In both the *Transformation Order* and the *Second Order on Reconsideration* the Commission aimed to strike a careful balance between its desire to transition ICC to bill-and-keep and the disruption that such action could create. . . . While the *Second Order on Reconsideration* delayed the reduction in intercarrier compensation rates for originating intrastate toll VoIP traffic until June 30, 2014, an accompanying recovery mechanism remains to be developed."⁶

As the Petition points out, the Commission has explicitly observed that the ICC mechanisms and high-cost universal service mechanisms "have long been intertwined."⁷ Further, the Commission has underscored this concept when it stated "[t]he CAF will also help facilitate our ICC reforms."⁸

⁵ *In the Matter of 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*, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. Nov. 18, 2011)(*USF/ICC Transformation Order* or *Transformation Order*).

⁶ Petition at page 5. The *Second Order on Reconsideration* is as follows: *Connect America Fund*, WC Docket No. 10-90, *A National Broadband Plan for Our Future*, GN Docket No. 09-51, *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135, *High-Cost Universal Service Support*, WC Docket No. 05-337, *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Lifeline and Link-Up*, WC Docket No. 03-109, *Universal Service – Mobility Fund*, WT Docket No. 10-208, *Second Order on Reconsideration* (rel. Apr. 25, 2012)

⁷ Petition at page 6 citing to *Connect America Fund*, WC Docket No. 10-90, *A National Broadband Plan for Our Future*, GN Docket No. 09-51, *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135, *High-Cost Universal Service Support*, WC Docket No. 05-337, *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Lifeline and link-Up*, WC Docket No. 03-109, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, FCC 11-13 (rel. Feb. 9, 2011), ¶ 45.

⁸ *USF/ICC Transformation Order* at ¶ 20.

As the Petition argues, the premise underlying the *Second Order on Reconsideration* "is imbued with the assumption that reorientation of the Universal Service Fund for a broadband world would be well underway by 2014 and that CAF programs would be operational by this point."⁹ That, of course, has not yet happened.

Under Section 1.3 of the Commission's rules, a rule may be waived by the Commission if good cause therefor is shown. As pointed out in the Petition, the good cause standard is as follows:

The "good cause shown" standard has been interpreted to grant the Commission discretion to waive application of its rules in situations where strict compliance would not be in the public interest. Generally, waiver of the Commission's rules is granted when both (i) special circumstances warrant a deviation from the general rule and (ii) such deviation will serve the public interest.¹⁰

Good cause exists in this situation. As stated at page seven of the Petition, assuming that thirty percent of voice connections are VoIP in nature based on the Commission's own monitoring data, the estimated annual revenue shortfall for RLECs would exceed \$18.5 million.¹¹

The Western Associations believe that the facts cited in the Petition are accurate. As an example, Kalama Telephone Company in Washington has received originating VoIP percentages from carriers as follows: Carrier A 89%, Carrier B 51% and Carrier C 22%.¹² Tenino Telephone Company, also in Washington, reports originating VoIP percentages from Carrier A at 91%, Carrier B at 62% and Carrier C at 22%. These are significant traffic factors and, without a waiver, represent substantial reductions in intercarrier compensation with no replacement mechanism in place for recovery of the lost intercarrier compensation.

⁹ Petition at page 5.

¹⁰ Petition at pages 4-5.

¹¹ Petition at page 7.

¹² Carrier names are not listed as a matter Carrier/Customer Proprietary Network Information protection.

The Western Associations believe that the Petition is well founded, meets the standard for good cause shown and should be granted.

Respectfully submitted this 4th day of August, 2014.

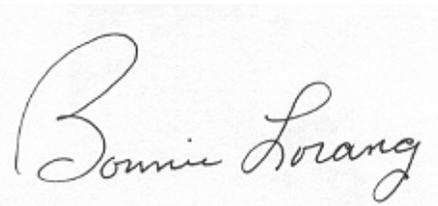
WASHINGTON INDEPENDENT
TELECOMMUNICATIONS ASSOCIATION

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Betty S. Buckley, Executive Director

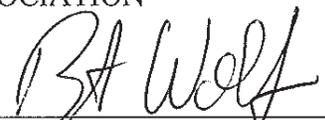
COLORADO TELECOMMUNICATIONS
ASSOCIATION

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Pete Kirchhof, Executive Vice President

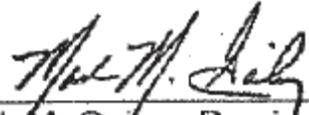
MONTANA INDEPENDENT TELECOMMUNICATIONS
SYSTEMS, LLC


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OREGON TELECOMMUNICATIONS
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Brant Wolf, Executive Vice President

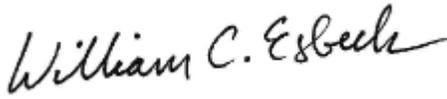
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