

**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 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 Reform – Mobility Fund)	WT Docket No. 10-208

**Comments of GVNW Consulting, Inc.
On Emergency Petition for Waiver of
NTCA, NECA, ITTA, ERTA, WTA
Frontier and Windstream**

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INTRODUCTION AND BACKGROUND

GVNW Consulting, Inc. (GVNW) submits comments related to the Emergency Petition for waiver of Section 51.913(a) of the rules of the Federal Communications Commission filed by NTCA- The Rural Broadband Association (NTCA), the National Exchange Carrier Association (NECA), ITTA, the Eastern Rural Telecom Association (ERTA), WTA- Advocates for Rural Broadband (WTA), Frontier Communications Corporation, and Windstream Communications, Inc.

GVNW is a management consulting firm that provides a wide variety of consulting services, including regulatory and advocacy support on issues such as universal service, intercarrier compensation reform, and strategic planning for communications carriers in rural America. We are pleased to have the opportunity to offer comments addressing the issues the Commission has requested on the Emergency Petition for Waiver of the rules by NTCA, et al.

DELAYS IN IMPLEMENTING THE TRO HAVE CREATED A HARDSHIP THAT NEEDS AN IMMEDIATE REMEDY

In his statement approving in part and dissenting in part the recent *Omnibus Order* (FCC 14-54), Commissioner Ajit Pai stated in part: “*In the Universal Service Transformation Order, the Commission performed the Heracleian task of reorienting the Universal Service Fund away from supporting telephone service and toward supporting broadband service. But no commissioner is the child of Zeus, so it is unsurprising that the Commission made some mistakes and left some labors unfinished. So here we are, reconsidering the Transformation Order for the seventh¹ time. . . To start with the positive, today’s order strikes the quantile regression analysis (QRA) benchmarks from our books. As Chairman Wheeler likes to say, this is a big deal. I applaud him for tackling this challenge, even though the benchmarks had been unanimously adopted in the Transformation Order. This has been a long and hard struggle.*” (Pai Footnote omitted)

But such a high level of effort that has been required to implement the *Transformation Order* has strained the staff resources of the Commission and certain key tasks remain on the to-do list. Of significance on that to-do list are items anticipated when the *Second Order on Reconsideration* delayed the reduction in intercarrier compensation rates for originating intrastate toll VOIP traffic until June 30, 2014. The anticipated recovery mechanism to accompany this change in rates still remains to be developed. This delay in mechanism development and implementation was the genesis for the Emergency Petition for Waiver of Section 51.913(a) of the rules of the Federal Communications Commission by NTCA, et al.

¹ We note that with the “non-numbered” orders that addressed important items of explanation or clarification on various aspects of the *Transformation Order*, the count is actually approaching two dozen documents issued subsequent to November 18, 2011. This equates to a document roughly every 41 days, nearly a monthly occurrence.

A WAIVER PROVIDES AN OPPORTUNITY FOR THE FCC TO MAKE THE RIGHT NEXT MOVE

The staff at the Commission still have a very full plate. Over a million comments have flooded into the Commission, at times crippling or crashing the usually sturdy Electronic Comment Filing System (ECFS), in the Open Internet proceeding on the issue of what is the appropriate next step in the epic battle on net neutrality.

Mobility issues emanating from the *Transformation Order* deserve attention, and have already experienced some level of delay from the original schedule anticipated. This will require staff resources in the near term.

As to Connect America Fund specific issues, the several years long process of developing the model-based support for just the thirteen larger, price cap regulated carriers is still an ongoing effort and is not complete. While the Commission has stated that the current CACM Version 4.1.1 is being designed only for application to price cap carriers, industry debate has commenced stemming from the section of the *Omnibus Order* beginning at paragraph 276 as to optional adoption for rate-of-return carriers. Discussion of specific impacts in this regard is restricted by the provisions of the Third Supplemental Protective Order released in December, 2012 and not permitted in this context. However, it is fair to say that adapting the CACM current version to be applicable to the 1,000 plus RLEC study areas will require considerable effort from many parties over an extended period.

Providing a “pause point” as the Emergency Petition seeks while the Commission continues the still considerable task of implementing every facet of its Transformation Order provides an opportunity to “get it right the first time” and provides equity to the impacted carriers that are doing the heavy lifting of implementing a national broadband platform across the entire nation.

THE CIRCUMSTANCES TO MEET THE FCC WAIVER STANDARD ARE PRESENT

As the petitioners note in their Emergency Petition, Section 1.3 of the Commission's rules stipulates that "*rules may be waived by the Commission on its own motion or on petition if good cause therefore is shown*²." This standard has been construed to allow waivers to be granted where strict compliance with a rule or rules would not be in the public interest.

In brief, the Emergency Petition recounts the Commission's attempt to "*strike a careful balance between its desire to transition ICC to bill-and-keep and the disruption that such action could create.*" (Emergency Petition at 5) To achieve such a balance, the Commission's stated goal was to develop offsetting recovery mechanisms, which in the case of the instant emergency petition for waiver still remain to be developed.

As the Emergency Petition notes at footnote 24 referencing a June 6, 2014 ex parte from NTCA Senior Vice-President Michael R. Romano: "*Indeed, as the Petitioners have previously noted, there is good reason to question whether all ICC rate reductions (and recovery mechanism reductions too) should continue robotically apace when CAF updates, including a number of objectives and deadlines identified specifically within the Transformation Order, are still pending.*" The public interest standard is met by granting relief that will enable carriers operating in high-cost areas to have access to cash flows needed for investment and maintenance while the CAF program continues its lengthy development.

Such a waiver is timely to assist the Commission in maintaining the careful balance that it attempted to craft with its complex and far-reaching *Transformation Order*. We support the pleading in the Emergency Petition that it be granted without further delay.

² 47 C.F.R. Section 1.3.

GVNW Consulting, Inc.
Comments on Emergency Petition for Waiver by NTCA, et al.
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Respectfully submitted,

Via ECFS at 8/4/14

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