



February 12, 2019

***Ex Parte Notice***

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

**RE: *Connect America Fund, WC Docket No. 10-90; Updating the Inter-carrier Compensation Regime to Eliminate Access Arbitrage, WC Docket No. 18-155; 8YY Access Reform, WC Docket No. 18-156***

Dear Ms. Dortch:

On Monday, February 11, 2019, the undersigned on behalf of NTCA–The Rural Broadband Association (“NTCA”) met with Arielle Roth, wireline legal advisor to Commissioner Michael O’Rielly, to discuss matters in the above-referenced proceedings.

**Rate Floor.** NTCA encouraged swift action by the Federal Communications Commission (the “Commission”) with respect to elimination of the outdated rate floor policy. I discussed how the policy risked inflicting local voice telephony rate increases of as much as nearly \$9 per month on rural consumers as of May 1, and the limited amount of time left for some carriers to decide whether to pass along such increases given state notification and tariffing requirements. NTCA noted prior broad-based support for avoiding such rate shocks for rural consumers, including past support from groups such as AARP and the National Consumer Law Center.

**Network Performance Testing.** NTCA expressed concerns with respect to the process whereby network performance testing requirements will be applied to recipients of federal high-cost universal service fund support. To be clear, NTCA does not object to the imposition of rigorous standards intended to confirm that supported networks are capable of delivering reasonably comparable services in terms of speed and latency as demanded by consumers and expected by the Commission. The process by which such tests will be implemented, however, presents serious concerns and challenges for smaller operators in particular.

As an initial matter, the standards for testing remain in flux, with various petitions for reconsideration and applications for review still pending, along with articulation of measures by which customers will be selected for testing and reports will be submitted to the Universal Service Administrative Company. Yet, even as the standards remain unsettled, vendors are attempting to design testing solutions for smaller operators to implement, and smaller operators are attempting to evaluate those solutions and consider changes to their operating procedures and internal systems

to accommodate testing in advance of testing later this year. Among other things, uncertainty remains as to how providers will test across portions of networks they neither own nor control, how providers will test for service speeds that active subscribers have not ordered, what will happen if customers repeatedly decline to accept installation of testing devices at their premises notwithstanding “inducements,” and what the costs of all such efforts will ultimately be on an initial and an ongoing basis.

Thus, as a matter of process, NTCA recommends that implementation be delayed until: (1) standards and systems for performance testing are finalized (including final disposition of petitions for reconsideration and applications for review and final establishment of HUBB portal changes and other reporting systems); (2) vendors have had the opportunity to design a variety of solutions that conform to the finalized standards and offer options for deployment to smaller operators (*i.e.*, rather than effectively requiring all smaller operators to deploy new customer premises equipment); and (3) each carrier has had a reasonable chance or “on-ramp” to “test the testing” through a grace period following its own deployment, during which time that carrier can ensure its selected testing solution is calibrated to produce accurate and reliable results consistent with the expectations and demands of the program. NTCA further recommends that, within the coming months, the Commission conduct a public workshop – much as it has in other contexts involving technical programs and new processes – regarding the implementation of performance testing obligations to ensure effective communication with affected stakeholders and a common understanding and articulation of open questions and concerns.

**Intercarrier Compensation.** NTCA urged the Commission to confine any action with respect to intercarrier compensation only to those areas in which clear and convincing evidence on the record confirms concerns exist with respect to particular practices or routing patterns. To this end, NTCA suggested greater analysis and additional evidence are needed to establish where such concerns arise specifically and to target and tailor solutions for such concerns prior to adoption of any order in these proceedings. Nonetheless, NTCA indicated that if the Commission will proceed to address perceived arbitrage in the context of transport charges in particular, it should proceed consistent with NTCA’s prior recommendations. *See* Comments of NTCA, WC Docket No. 18-155 (filed July 20, 2018); Reply Comments of NTCA, WC Docket No. 18-155 (filed Aug. 3, 2018).

Thank you for your attention to this correspondence. Pursuant to Section 1.1206 of the Commission’s rules, a copy of this letter is being filed via ECFS.

Sincerely,

/s/ Michael R. Romano

Michael R. Romano  
Senior Vice President –  
Industry Affairs & Business Development

cc: Arielle Roth