Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act	)	GN Docket No. 14-126

REPLY COMMENTS OF
NTCA–THE RURAL BROADBAND ASSOCIATION

NTCA–The Rural Broadband Association ("NTCA")[1] hereby submits these reply comments in response to the Federal Communications Commission's ("Commission's") Notice of Inquiry ("NOI") on immediate action to accelerate deployment of advanced telecommunications capability.[2] NTCA specifically responds to the request for input on additional steps the Commission should take to facilitate broadband deployment by removing "barriers to infrastructure investment" and promoting "competition."[3]

[1] NTCA represents nearly 900 rural rate-of-return regulated local exchange carriers ("RLECs"). All of NTCA's members are full service local exchange carriers and broadband providers, and many provide wireless, video, satellite, and/or long distance services as well.
[2] In the Matter of Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act, 2015 Broadband Progress Report and Notice of Inquiry on Immediate Action to Accelerate Deployment, *Notice of Inquiry*, GN Docket No. 14-126 (rel. Feb. 4, 2015)
[3] *Id.*¶¶ 153-163.

I. IMMEDIATE TAILORED AND TARGETED UPDATES TO EXISTING USF MECHANISMS WOULD ALLOW RURAL CARRIERS TO BETTER RESPOND TO CONSUMER DEMAND AND INCREASE BROADBAND DEPLOYMENT

The Commission should continue to promote efficient and carefully targeted broadband deployment in rural areas through the Connect America Fund ("CAF"). The CAF program is focused on stimulating investment by making available public funds necessary to deploy broadband in areas that would be otherwise uneconomic to serve. While the Commission has been moving forward with model-based support for incumbent price cap carriers, work on updates to the USF mechanisms that support investment and operations by smaller rural companies has lagged.

Representatives of rural carriers have put forth a well-defined and targeted proposal that would update current mechanisms that would help rural carriers respond to increasing consumer demand.[4] The rural representatives urge the Commission to move forward as soon as possible to implement this simple and straightforward updated fix focused on supporting broadband capable networks in high-cost areas served by smaller carriers. It would directly solve the fundamental concern that the current support mechanisms result in a loss of universal service support – and a corresponding dramatic increase in consumer broadband rates – when a consumer seeks to procure only broadband service from a RLEC, even though the RLEC also offers the consumer "voice telephony service" either on a regulated or non-regulated basis (*e.g.,* via interconnected

[4] *See, e.g.,* Comments of NTCA, NECA, WTA and the Eastern Rural Telecommunications Association, WC Docket NO. 10-90 (filed June 17, 2013),; *Ex parte* Letters from Michael R. Romano, Senior Vice President-Policy, NTCA, to Marlene H. Dortch, Secretary, Commission, WC Docket No 10-90, *et al. (filed Sept. 12, Nov,. 26, Dec. 16, 2013).*

VoIP.[5] While voluntary model-based support options for support may be of interest to a subset of RLECs, as the price cap carrier experience with CAF Phase II demonstrates, the complexity in designing and implementing such a program is substantial, and more immediate, targeted action can and must be taken to update the existing programs that affect *all* RLECs and the consumers they serve.

Many rate-of-return carriers who are otherwise ready to make additional investments in broadband infrastructure hold back due to concerns about the lack of a broadband-focused rural universal service program. Until the Commission adopts and implements a tailored update to the universal service high-cost support mechanism for rate-of-return carriers, deployment will lag and rural Americans will be denied the benefits of advanced telecommunications capability.

[5] *See Ex Parte* Letter from Michael R. Romano, Senior Vice President-Policy, NTCA, to Marlene H. Dortch, Secretary, Commission, WC Docket No. 10-90, *et al.* (filed Jan. 24, 2013) (explaining the mechanics of the existing mechanisms that result in such loss of support and increase in consumer rates). By contrast, simply tweaking the rules to treat the provision of VoIP by a RLEC (either via regulated service or interconnected VoIP) as "voice telephony service" would fail to address two scenarios that all observers agree are likely to occur with increasing frequency in coming months and years: (a) the scenario in which a consumer chooses not to take voice telephony service offered by the RLEC, but instead chooses to utilize mobile wireless service for voice in addition to RLEC-provided broadband; and (b) the scenario in which a consumer chooses not to take voice telephony offered by the RLEC, but instead chooses to utilize over-the-top VoIP provided by a third party that relies upon the broadband connection supplied by the RLEC.

II. ENABLING RLECS' TO ACCESS VIDEO CONTENT AT AFFORDABLE RATES AND ACCORDING TO REASONABLE TERMS AND CONDITIONS WILL SPUR BROADBAND INVESTMENT IN RURAL SERVICE AREAS

Access to video content at affordable rates and under reasonable terms and conditions spurs rural broadband investment. This is because when RLECs offer video and broadband Internet access services together, rural consumers' adoption of broadband increases. The Commission has long recognized the intrinsic link between a provider's ability to offer video service and to deploy broadband networks.[6] This assessment has been reinforced by state regulators.[7] Furthermore, an industry survey found that rural carriers offering broadband along with a video component had broadband adoption rates nearly 24 percent higher than those companies offering broadband without access to subscription-based video services.[8]

The provision of video services is a key to the ability of NTCA's members to deliver robust broadband services to consumers in high-cost areas. Access to video content at affordable rates and under reasonable terms and conditions is needed not only to generate greater video competition, but also to help justify network investments and boost adoption of broadband in rural areas. A substantial majority of respondents to NTCA's most recent video survey,[9] nearly

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[6] MB Docket No. 05-311, 22 FCC Rcd 5101, 5132-33, ¶ 62 (2007).

[7] *Resolution on Fair and Non-Discriminatory Access to Content*, National Association of Regulatory Utility Commissioners (adopted Feb. 16, 2011), available at http://www.naruc.org/Resolutions/Resolution%20on%20Fair%20and%20Non%20Discriminatory%20Access%20to%20Content.pdf .

[8] National Exchange Carrier Association comments, GN Docket Nos. 09-47, 09-51, 09-137, p. 6 (filed Dec. 7, 2009).

[9] NTCA 2013 Broadband/Internet Availability Survey Report (released May 2014). http://www.ntca.org/images/stories/Documents/Advocacy/SurveyReports/2013ntcabroadbandsurveyreport.pdf

77 percent, indicated that they currently offer video services to customers.[10] Significantly, 98.6 percent of respondents – whether they currently provide video or not – stated that access to reasonably-priced programming is a significant barrier to the provision of video services. It is therefore unsurprising that 48.6 percent also named the challenges associated with making a business case for offering video services as a main impediment to the provision of these services. RLECs encounter inherent disadvantages serving high-cost, sparsely populated areas, and lack the scale and scope as com compared to larger video providers.

NTCA's members overwhelmingly convey that difficulty obtaining access to "must have" programming at affordable rates and under reasonable terms and conditions is the most significant obstacle that RLECs face when attempting to provide or expand video services. Forced "tying" and "tiering" arrangements, and the outdated and broken retransmission consent process, among other factors, impede RLECs' ability to offer the video content that consumers desire at affordable rates. This ultimately harms competition and reduces consumer choice in rural service areas.

Unfortunately, the barriers encountered by RLECs that attempt to serve as video providers result in limits to consumer choice and higher prices, which dissuade customers from subscribing to rural carriers' video services.[11] This, in turn, impedes broadband investment and

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[10] Internet protocol television ("IPTV") was the most common delivery technology cited by respondents, at 80.3 percent. Legacy coaxial cable was used by 55 percent, while only 7.4 percent reported offering video via direct broadcast satellite. These figures total more than 100 percent as many respondents use more than one technology depending on the needs of their service areas.

[11] RLECs operating as video providers routinely do so at or near break-even levels, if that. In these instances, video services are provided in order to meet community needs and consumer

adoption, as well as video competition. Therefore, the Commission can and should use this proceeding to thoroughly investigate anti-competitive practices of video programming vendors and take certain steps to improve RLECs' access to video content at affordable rates and under reasonable terms and conditions.

III. CONCLUSION

As described more fully above, the Commission will facilitate broadband deployment by acting quickly to adopt tailored and targeted updates to existing USF mechanisms and reforming rules and regulations to ensure that small video providers have access to content according to reasonable terms and conditions.

Respectfully Submitted

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demands, in addition to countering competition from other service providers, despite the lack of a compelling business case.