

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Jurisdictional Separations and Referral to the)	CC Docket No. 80-286
Federal-State Joint Board)	WC Docket No. 16-66
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REPLY COMMENTS OF NTCA–THE RURAL BROADBAND ASSOCIATION

NTCA–The Rural Broadband Association (“NTCA”)¹ hereby submits these Reply Comments regarding the Petition for Clarification (“Petition”) filed by Clay County Telephone Cooperative d/b/a Endeavor Communications (“Endeavor”) in the above-captioned proceedings.² Endeavor’s Petition seeks clarification that rate-of-return carriers that elected to freeze their category relationships in 2001 are permitted to assign costs directly to new categories of investment introduced subsequent to the inception of the freeze if that category is ordinarily directly assigned in according with Part 36 rules.

¹ NTCA is an industry association composed of nearly 900 rural local exchange carriers (“RLECs”). While these entities were traditional rate-of-return-regulated telecommunications companies and “rural telephone companies” as defined in the Communications Act of 1934, as amended, all of NTCA’s members today provide a mix of advanced telecommunications and broadband services, and many also provide video or wireless services to the rural communities they serve.

² *Wireline Competition Bureau Seeks Comment on Endeavor Communications’ Petition for Clarification Regarding Direct Assignment of Costs to New Categories by Rate-of-Return Carriers Subject to the Part 36 Separations Freeze*, CC Docket No. 80-286, WC Docket No. 16-66, Public Notice, DA 16-257 (rel. Mar. 8, 2016).

Two sets of comments were filed with respect to Endeavor’s Petition.³ Both filings demonstrate the need for some further action by the Federal Communications Commission (the “Commission”) to address concerns arising from a freeze that was intended to last five years but has now lasted for fifteen.

NTCA has repeatedly urged the Commission to provide RLECs that chose to freeze their cost category relationships in 2001 with an opportunity to update these relationships to reflect current investments and service offerings.⁴ In a 2014 Further Notice of Proposed Rulemaking, the Commission proposed to provide a window for such an election,⁵ but no action has been taken on that proposal since it was made. As NTCA’s prior filings note, even if there are good and essential policy reasons for the freeze to have been extended past its initial term, circumstances have changed since 2001 when elections to freeze were first made, and significant changes in investment and demand – especially with respect to emerging services like broadband and Ethernet – should dictate that some opportunity be made available for companies to update their separations studies.⁶

³ Comments of the United States Telecom Association (“USTelecom”), WC Docket No. 16-66, CC Docket No. 80-286 (filed April 7, 2016); Comments of the National Exchange Carrier Association, Inc. (“NECA”), CC Docket No. 80-286 (filed April 7, 2016).

⁴ *See, e.g.* Comments of NTCA, *et. al.*, CC Docket No. 80-286 (Apr. 16, 2014), at 2; Comments of NTCA, *et. al.*, CC Docket No. 80-286 (Apr. 5, 2012), at 4; Comments of NTCA, *et. al.*, CC Docket No. 80-286 (Mar. 28, 2011), at 4; Comments of NTCA, *et. al.*, CC Docket No. 80-286 (Apr. 19, 2010), at 5.

⁵ *Jurisdictional Separations and Referral to the Federal-State Joint Board*, CC Docket No. 80- 286, Further Notice of Proposed Rulemaking, FCC 14-27 (rel. Mar. 27, 2014).

⁶ Comments of NTCA, *et. al.*, CC Docket No. 80-286 (Apr. 16, 2014), at 4-6.

USTelecom correctly observes that “clarification of this matter going forward is essential” given the shifts in investment patterns since the separations freeze was first put into place.⁷ As NECA states, the issues presented by the Endeavor Petition are important to address both for the company and tariffing matters that affect the industry as a whole.⁸ NTCA therefore concurs with USTelecom and NECA that Commission should promptly clarify for Endeavor and for the industry how such costs should be assigned in light of the separations freeze and Part 36 rules, and NTCA further urges the Commission to take action⁹ consistent with its 2014 proposal to open a window during which all affected companies can update their cost category relationships to better reflect current investment and expense levels.

Respectfully submitted,



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⁷ Comments of USTelecom, WC Docket No. 16-66, CC Docket No. 80-286 (filed April 7, 2016), at 2.

⁸ Comments of NECA, CC Docket No. 80-286 (filed April 7, 2016), at 7-8.

⁹ Prompt prospective action will allow for coordinated rate changes as necessary.