

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

In the Matter of	)	
	)	
Universal Service	)	WC Docket No. 06-122
Contribution Methodology	)	

**COMMENTS  
OF  
NTCA–THE RURAL BROADBAND ASSOCIATION**

NTCA–The Rural Broadband Association<sup>1</sup> (“NTCA”) hereby submits comments in response to the Federal Communications Commission’s (“Commission”) Public Notice<sup>2</sup> seeking comment on a Petition for Declaratory Ruling filed by the *Compliance* Group.<sup>3</sup> The *Compliance* Group asks the Commission to “clarify” “the application of the Systems Integrator Exemption (“SI Exemption”) to the provision of Interconnected Voice over Internet Protocol (“IVoIP”) services.”<sup>4</sup>

NTCA urges the Commission to deny the Petition for several reasons. For one, the *Compliance* Group Petition seems to misconstrue the underlying justification for the current systems integrator exemption. Specifically, the Petition makes references to “regulatory parity”

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<sup>1</sup> NTCA represents nearly 900 rural rate-of-return regulated telecommunications providers. All of NTCA’s members are full service rural local exchange carriers (“RLECs”) and broadband providers, and many of its members provide wireless, cable, satellite, and long distance and other competitive services to their communities. Each member is a “rural telephone company” as defined in the Communications Act of 1934, as amended.

<sup>2</sup> Wireline Competition Bureau Seeks Comments on the *Compliance* Group, Inc.’s Petition for Declaratory Ruling, Public Notice WC Docket No. 16-122, DA 15-367 (rel. Mar. 24, 2015).

<sup>3</sup> Petition for a Declaratory Ruling that the Systems Integrator Exemption Applies to the Resale or Provision of Interconnected VoIP by Systems Integrators by The *Compliance* Group, Inc., WC Docket 06-122 (fil. Mar. 17, 2015) (“Petition”).

<sup>4</sup> *Id.*, p. 1

and the “regulatory burden” of compliance with the Commission’s universal service provisions in particular and Title II in general. However, in adopting the exemption in 1997, the Commission stated that “[s]ystems integrators purchase telecommunications from telecommunications carriers and resell those services to their customers. They do not purchase unbundled network elements from telecommunications carriers and do not own any physical components of the telecommunications networks that are used to transmit systems integration customers' information.”<sup>5</sup> Thus, as pure resellers, the exemption made sense in that it avoided a “double contribution” problem under which a systems integrator would contribute to the Universal Service Fund (“USF”) on top of the contribution made by the provider selling them the telecommunications service on a wholesale basis. Regulatory parity and burden were not part of the equation.

Moreover, Petitioner’s argument that the Commission has never defined “resale of telecommunications” and that interconnected Voice over Internet Protocol (“VoIP”) technology and the enterprise market has changed does not support the issuance of a Declaratory Ruling. The Petition discusses how resale arrangements for “traditional telecommunications services” are “straightforward” while current VoIP “sales models do not lend themselves to ‘resale’ arrangements.”<sup>6</sup> Contrary to the Petition’s assertion, this does not compel the issuance of a Declaratory Ruling including the provisioning of interconnected VoIP into the systems integrator

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<sup>5</sup> Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *et al.*, FCC 97-420, Fourth Order on Reconsideration and Report and Order (rel. Dec. 30, 1997), ¶ 278.

<sup>6</sup> Petition, p. 3.

exemption.<sup>7</sup> Quite the opposite, it shows that the Petition is attempting to stretch a very narrow exemption to cover arrangements that a 1997 Commission could not have anticipated would exist nearly two decades later.

More importantly, however, the Petition attempts to stretch well-considered Commission rules intended to address *one particular set of concerns* to suit certain parties' narrow interests without a full consideration of the long term ramifications. This has the potential to open up loopholes as parties claiming to purchase certain inputs to the provision of a VoIP service could claim the application of the exemption for their narrow purposes as well. Even if there would continue to be a requirement to contribute to the USF if revenue from the provision of VoIP services exceeds five percent of a systems integrator's revenues, the unlimited potential for parties to claim the exemption could have a significant effect in terms of eroding a USF contribution base already badly in need of reform. Any exemptions to the USF contribution obligation must be addressed as part of a holistic and well-considered proceeding that contemplates the emergence of new technologies and which technologies or providers should contribute going forward. One-off open-ended exemptions – open-ended because at no point is “provisioning” of interconnected VoIP truly defined or limited by Petitioners – only create open-ended loopholes that clever attorneys will “drive a truck through,” eroding the base of a mechanism critical to the availability of basic and advanced services for consumers and other entities that would otherwise do without.

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<sup>7</sup> *Id.*

For the aforementioned reasons, NTCA urges the Commission to reject the *Compliance* Group Petition for Declaratory Ruling.

Respectfully submitted,



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