Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	)	
	)	
Jurisdictional Separations and Referral to the Federal-State Joint Board	)	CC Docket 80-286
	)	

REPLY COMMENTS
OF
NTCA–THE RURAL BROADBAND ASSOCIATION

NTCA–The Rural Broadband Association ("NTCA")[1] hereby submits these reply comments to discuss the Further Notice of Proposed Rulemaking proposal to extend, for eighteen months, the current "freeze" on Part 36 category relationships and jurisdictional cost allocation factors applicable to incumbent local exchange carriers (ILECs).[2] NTCA reiterates herein support for an extension of a length sufficient to enable the Federal-State Joint Board on Separations ("Joint Board") and the Federal Communications Commission ("Commission") to consider fully the ramifications of recent and ongoing regulatory reforms and technology changes on the existing separations rules generally and on smaller operators more specifically. In addition, NTCA supports proposals in the record to grant certain rate-of-return carriers a one-time option to "unfreeze" their part 36 category relationships and cost allocations.[3]

[1] NTCA represents more than 800 independent, community-based telecommunications companies. All NTCA members are full service local exchange carriers and broadband providers, and many of its members provide wireless, cable, satellite, and long distance and other competitive services to their communities.

[2] *Jurisdictional Separations and Referral to the Federal-State Joint Board*, CC Docket No. 80- 286, Further Notice of Proposed Rulemaking, FCC 17-22 (rel. Mar. 20, 2017) ("Further Notice").

[3] Comments of USTelecom, CC Docket No. 80-286 (fil. Apr. 17, 2017), p. 2; Comments of Terral Telephone Company, Inc. (Terral), CC Docket No. 80-286 (fil. Apr. 17, 2017), p. 1.

Like NTCA, the National Exchange Carrier Association ("NECA")[4] and USTelecom[5] support an extension of the freeze and recognize that the Joint Board and the Commission require sufficient time to evaluate how recent changes to the High Cost Universal Service Fund ("USF") program and technological advancements in the communications industry might factor into comprehensive separations reform. As NTCA noted in its initial comments, it is unlikely that the Joint Board and the Commission can address such issues and adopt long-term reform by June 30, 2017. Should the Commission allow the freeze to expire, ILECs would be forced to retrain staff and revise internal procedures and cost studies to come into compliance with suddenly "unfrozen" Part 36 category relationships and jurisdictional cost allocation factors and then undertake significant *additional* changes once a recommendation by the Joint Board is issued in April 2018 and put into place by a vote of the full Commission. The burden that this would impose on smaller carriers in particular would run counter to the Commission's repeated attempts to reduce regulatory uncertainty and unnecessary burdens on small providers that have been a driving factor in adopting previous separations freezes and an increased focus of the Commission in recent months.

The optimal approach here is an extension of the freeze that provides the Joint Board and the Commission the time necessary to "get it right" with respect to comprehensive separations reform. Thus, while the National Association of State Utility Consumer Advocates

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4 *See*, Comments of NECA, CC Docket No. 80-286 (fil. Apr. 17, 2017), pp. 4-5 (stating that to "assure adequate time to consider a Joint Board recommendation and to implement revised separations procedures, the Commission should consider extending the freeze for the proposed eighteen-month period or six months after revised separations rules become final, whichever occurs later.").

5 *See*, USTelecom, pp. 1-2 ("USTelecom supports an 18 month extension of the current freeze that originated in 2014 so that there is adequate time for the Joint Board to review these rules and carefully determine whether and how there should be reform of the existing separations rules.").

("NASUCA") is correct in urging the Commission to factor in the interests of consumers, and also in noting that the current rules may be at least in part "outdated,"[6] NASUCA's observations only serve to bolster the case *for* an extension. In short, a failure to extend the freeze for a time sufficient to enable both state and federal regulators to consider the changes to carriers' cost recovery mechanisms as well as the technological advancements that render the current rules outdated could harm consumers and providers alike if reform is pushed across the finish line on an arbitrary time line with insufficient care or forethought. In this regard, NTCA and NASUCA share the common goal of the Commission "getting it right," and thus an extension to achieve that result is warranted.

Finally, NTCA also supports the Commission granting certain rate-of-return carriers a one-time option to "unfreeze" their part 36 category relationships and cost allocations provided that resulting adjustments can be made in tariff rate calculations. As USTelecom states, Alternative Connect America Cost Model ("A-CAM")-based support recipients are only subject to separations rules for the very narrow category of their special access services, and a one-time opportunity to unfreeze category relationships would enable these carriers to set such rates in a manner that more accurately reflects their costs. In addition, there are currently several pending waiver requests by rate-of-return carriers[7] seeking a one-time opportunity to unfreeze their category relationships. As a number of other carriers likely face the same situation, NTCA

[6] Comments of the National Association of State Utility Consumer Advocates ("NASUCA"), CC Docket No. 80-286 (fil. Apr. 17, 2017), p. 2.

[7] *E.g.*, Terral, p. 1 (asking that the Commission "not to extend the freeze of the separations category relationships as it applies to Terral and to grant its pending petition for waiver of the frozen separations categories, as necessary."); *See also*, Petition of Terral Telephone Company, Inc. for Waiver of 47 C.F.R. sections 36.3, 36.123-126, 36.141, 36.152-157, 36.191 AND 36.372- 382 to Unfreeze Part 36 Category Relationships (fil. Aug. 29, 2012).

supports granting those that choose to do so a one-time option to unfreeze their Part 36 category relationships, subject to the inclusion of resulting adjustments in tariffs as noted above.

Respectfully submitted,

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