

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

In the Matter of)
)
Regulation of Business Data Services for) WC Docket No. 17-144
Rate-of-Return Local Exchange Carriers)

**COMMENTS OF
NTCA–THE RURAL BROADBAND ASSOCIATION
AND WTA-ADVOCATES FOR RURAL BROADBAND**

NTCA–The Rural Broadband Association (“NTCA”)¹ and WTA-Advocates for Rural Broadband (“WTA”)² hereby submit these Comments in response to the Public Notice released June 6, 2017 to initiate the above-captioned proceeding.³ Due to the composition of their memberships, NTCA and WTA have substantial interests in the framework suggested by the instant Petition for Rulemaking,⁴ and they support the request to commence a rulemaking to consider the potential adoption of a defined path to permit certain RLECs to elect price cap regulation of their special access services (also known as “Business Data Services” or “BDS”).

¹ NTCA represents approximately 850 independent, community-based telecommunications companies and cooperatives and more than 400 other firms that support or are themselves engaged in the provision of communications services in the most rural portions of America. All NTCA service provider members are full service rural local exchange carriers (“RLECs”) and broadband providers, and many provide fixed and mobile wireless, video, satellite and other competitive services in rural America as well.

² WTA is a national trade association representing more than 325 rural telecommunications providers offering voice, broadband and video-related services in Rural America. WTA members are generally small RLECs that serve some of the most rugged, remote and/or sparsely populated areas of the United States. They are providers of last resort to many areas and communities that are both very difficult and very expensive to serve.

³ *Wireline Competition Bureau Seeks Comment on Petition for Rulemaking Regarding Regulation of Business Data Services for Model-Based Rate-of-Return Carriers*, WC Docket No. 17-944, DA 17-537, Public Notice (rel. June 6, 2017).

⁴ Petition for Rulemaking of USTelecom and ITTA-The Voice of America’s Broadband Providers (“ITTA”), WC Docket No. 17-144 (filed May 25, 2017) (“Petition”).

In the Petition, USTelecom and ITTA request that the Commission adopt a rule permitting those incumbent local exchange carriers that have elected to receive high-cost federal universal service fund (“USF”) support via model-based distribution mechanisms – either RLECs electing the Alternative Connect America Cost Model (“ACAM”) or certain price cap-affiliated carriers receiving Connect America Cost Model (“CACM”) support – to opt into price cap regulation of their special access services that currently remain subject to rate-of-return (“RoR”) regulation.⁵ The Petition rightly observes that there can be costs associated with RoR regulation, including the preparation of cost studies, compliance with tariff review plans, and filing of tariffs.⁶ Although the benefits associated with RoR regulation in terms of facilitating effective and efficient rural network investment can outweigh costs of compliance for many RLECs, this is not universal – and for carriers that have elected model-based support specifically, there may be real benefits to minimizing these regulatory costs. In particular, with changes made to switched access regulation in 2011 and the further treatment of common line costs for those carriers receiving ACAM or CACM USF support, the Petition highlights that special access/BDS services remain the only category of services subject to RoR regulation for carriers receiving model-based support.⁷

Both the Federal Communications Commission (the “Commission”) and individual carriers would therefore benefit from the efficiency of a clearly defined and carefully constructed path that enables conversion to price cap regulation of special access/BDS services for all similarly situated model-electing carriers, in lieu of compelling effective “negotiation” on an

⁵ *Id.* at 2.

⁶ *Id.* at 3, 5.

⁷ *Id.* at 3.

individual case basis for conversion to price cap regulation for each of the hundreds of carriers that have elected to receive USF support via ACAM and CACM. There will undoubtedly be details to examine in greater length to ensure that the conversion path outlined in the Petition (or any other that might be considered by the Commission) is the right one for all similarly situated model-electing carriers, and the applicability of such a path for RLECs that have elected the “Alaska Plan” should be considered too. It is particularly important, however, to ensure that whatever path is defined and adopted by the Commission does not have either unintended consequences or adverse impacts on consumers or upon those RLECs that do not or cannot elect to convert their own special access/BDS services to price cap regulation.

Indeed, although USTelecom and ITTA make a case for a general presumption that reliance on the BDS rules already adopted for price cap carriers is a logical starting point for a conversion path for RLECs, they rightly note that special implementation issues – such as the need to address separations category relationships that have been frozen for 15 years – must also be considered.⁸ Similarly, it will be important to examine whether and to what degree a given conversion path could affect other RLECs, whether other model electors or RLECs that continue to receive non-model USF support and share in a combined Connect America Fund-Intercarrier Compensation support budget pool. But, this is precisely why a rulemaking proceeding to consider such questions and the specific framework and rule proposed by USTelecom and ITTA is appropriate and important, and thus NTCA and WTA support the request to initiate a rulemaking consistent with the Petition.

⁸ *Id.* at 15.

Respectfully submitted,

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