April 25, 2016

FILED VIA ECFS
Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

RE: **Notice of Ex Parte Communication, Protecting the Privacy of Customers of Broadband and Other Telecommunications Services, WC Docket No. 16-106**

Dear Ms. Dortch:

On April 21, 2016 the undersigned and Gerry Duffy representing WTA – Advocates for Rural Broadband ("WTA") and Jimmy Todd of Nex-Tech met with Lisa Hone, Daniel Kahn, Sherwin Siy, David Brody, and Bakari Middleton, along with Melissa Kirkel via telephone, to discuss the Commission's proceeding to develop rules regarding broadband customer privacy and data security.

Nex-Tech described its ongoing experience as a small rural local exchange carrier ("RLEC") complying with the existing voice CPNI rules, including its procedures for soliciting opt-in/opt-out approvals, providing biennial privacy notification to customers, and allowing customers to opt-in/opt-out at any time through customer service. Nex-Tech explained that its customers rarely, if ever, change their approval preferences despite regular notifications and the persistent ability to withdraw approval. Nex-Tech also discussed the possibility of developing a web-portal for customer opt-in/opt-out along with associated data risks and the additional cost for small providers that could have to seek third-party assistance to develop such a portal.

Nex-Tech explained because it is already subject to the CPNI rules as a provider of voice service, Nex-Tech has aligned its broadband Internet access service ("BIAS") policies and procedures with respect to customer information with its compliance of the Commission's voice CPNI rules. Nex-Tech and WTA explained that this results in administrative efficiency for small providers of voice and broadband services, in addition to reducing the likelihood that a violation could occur, and generally believe this is common across the board for RLECs. Additionally, any sharing of information typically occurs solely between affiliates and others that assist in the provision of services provided by the RLEC, such as billing vendors and outsourced help-desk. Accordingly, Nex-Tech and WTA urged that if the Commission were to move forward to adopt CPNI rules for BIAS providers it should harmonize definitions, procedures and requirements in order to reduce the complexity of regulation of privacy and minimize the burdens on small providers.

With respect to retention of customer information and CPNI, Nex-Tech pointed out that current regulations require retention of call records by telephone companies but broadband providers are under no such obligation. Nex-Tech explained that it does not currently, and has no plans to, retain customer Internet browsing histories and related information as such would constitute a substantial undertaking with respect to data storage and management the cost of which would significantly outweigh the potential monetary benefit derived from the

information relating to the small subscriber bases of RLECs and their BIAS affiliates. Nex-Tech suggested that the Commission make clear that BIAS providers are under no such obligation to retain customer browsing histories for any period of time.

Nex-Tech then explained its use of aggregate customer data and technical measures to improve network performance and address technical issues as they arise, rather than as tools for marketing or tracking customer behavior online. With respect to aggregate data, Nex-Tech explained that it receives a report each month indicating the online destinations accessed the most on its network in order to determine whether it makes sense to seek caching arrangements with certain content providers in order to reduce transport costs. Nex-Tech described its use of deep packet inspection solely as a means to isolate and address network issues as they arise. WTA explained that the Digital Millennium Copyright Act acts as a substantial disincentive for small BIAS providers to engage in ongoing monitoring enabled by techniques such as deep packet inspection because providers would lose safe harbor protection were they to have actual knowledge of traffic flowing over their networks.

With regard to the data security standard and risk assessment requirements proposed by the Commission and others, WTA urged that the Commission's rules must account for the unique circumstances and limited resources of RLECs and their affiliates. While recognizing the benefits that flow from identifying technical measures that assist in bolstering security, WTA urged the Commission to refrain from prescribing specific steps that BIAS and other telecommunications providers must take in order to be deemed compliant with the proposed data security standard as such directives could become a "checklist" used by both good and bad actors. WTA also cautioned that risk management requires tough decisions to be made regarding what risks are reasonably acceptable in light of an organization's activities, size and resources. Accordingly the Commission's requirement to promptly address any vulnerabilities revealed in risk assessments must account for the reality that no system will ever be 100% secure.

Finally, WTA expressed its support for requests for extension of time filed seeking up to 60 additional days to comment. WTA noted that given the depth and number of issues raised in the proceeding as well as the need for the Commission to receive thoughtful and specific feedback warrant providing industry additional time to review and digest the proposals. Small providers in particular will benefit from additional time to ensure that their representatives can fully and accurately portray the changes to current procedures that would need to be made and their associated costs.

Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed via ECFS.

Sincerely,
/s/ *Patricia Cave*
Patricia Cave
Director, Government Affairs

cc: Lisa Hone
        Daniel Kahn
        Sherwin Siy
        David Brody
        Bakari Middleton
        Melissa Kirkel