



October 6, 2016

Filed Via ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: Connect America Fund, WC Docket No. 10-90; Protecting the Privacy of Customers of Broadband and Other Telecommunications Services, WC Docket No. 16-106; Implementation of Section 103 of STELA Reauthorization Act of 2014, MB Docket No. 15-216

Dear Ms. Dortch:

On Tuesday, October 4, Brad Veis of 3 Rivers Communications in Montana; Archie Macias of Wheat State Telephone in Kansas; David Shipley of US Connect in Colorado; and the undersigned, Derrick Owens, and Gerry Duffy representing WTA – Advocates for Rural Broadband (“WTA”) met with Amy Bender, Legal Advisor, Wireline to Commissioner Mike O’Rielly, to discuss the current status of their consideration of the upcoming November 1, 2016 election between the Alternative Connect America Model (“ACAM”) Path and the Rate of Return (“RoR”) Path; the Commission’s pending rule making on broadband customer proprietary network information (“CPNI”) and security; and retransmission consent.

Mr. Veis stated that 3 Rivers is a telephone cooperative serving approximately 20,000 customers in a 12,000 square mile portion of rural Montana extending from Yellowstone National Park to Glacier National Park. It is currently working on its second substantial Rural Utilities Service (“RUS”) loan to bring fiber-to-the-home service to its rural Montana customers, and has currently deployed FTTH services to approximately 60-to-65 percent of its customers. 3 Rivers has spent substantial time and effort to analyze the respective impacts of the ACAM Path and the RoR Path on its short-term and long-term broadband deployment and service goals, and has retained consultants to assist it. At present, 3 Rivers would be inclined to accept its initial ACAM Path offer of support and build-out obligations if they remain unchanged. However, it is aware that in the case of over-subscription the Commission may: (a) reduce its 10/1 eligibility ceiling below the current 90% level (which would render 3 Rivers ineligible at its 87.2 percent 10/1 level); (b) reduce its maximum ACAM funding level below \$200 per location (which could adversely impact the initial 3 Rivers analysis; or (c) take other potential actions.

Mr. Macias noted that Wheat State Telephone serves the sparsely populated Flint Hills region of south central Kansas. Whereas Wheat State has been fortunate to complete a major RUS-financed broadband project under budget, it is now providing 25/3 service over FTTH facilities to 100 percent of its service area and is consequently ineligible to elect the ACAM Path. Mr. Macias noted that Wheat State still has to repay its RUS loan, and emphasized the critical need for a stable RoR Path.

Mr. Shipley stated that US Connect operates local exchange carriers of different size, scope and technology in Colorado, Nebraska, Kansas, Georgia and Texas, and that it is struggling to make appropriate elections in a variety of complicated circumstances. For example, one of its Colorado

companies has deployed significant FTTH facilities, while the other employs a fixed wireless technology and could make beneficial use of ACAM to enhance its network, however, is unlikely to meet the ACAM 25/3 build-out requirements due to the challenges of deploying a 25/3 capable wireless technology in a sparsely populated (approx. 140 subscribers) and geographically challenged area (600 square miles). Mr. Shipley noted that US Connect has spent substantial amount of resources to evaluate ACAM Path and RoR Path impacts, and that it has encountered significant difficulties and expense trying to identify the “locations” to which it may have build-out obligations. Whereas US Connect’s Texas company is not eligible for the ACAM Path (more than 90% 10/1 deployment), its decisions regarding the Colorado, Nebraska, Kansas and Georgia are still under consideration.

All three companies emphasized the difficulties of deploying additional broadband and operating their existing networks on the limited support from the ACAM Path or the RoR Path. There is simply not enough money for them to keep up with the growing broadband service needs and demands of their rural customers. In such a climate, they urgently ask the Commission not to impose unnecessary regulatory burdens and costs upon them.

Another a prime area of concern is the pending rulemaking on broadband privacy and security. The three companies, plus the WTA membership as a whole, understand the need for customer privacy and cybersecurity and are willing to do their part to protect the network and their customers from bad actors. However, such efforts will not be effective if WTA members and other rural local exchange carriers (“RLECs”) are required to waste substantial effort and resources on CPNI practices and technology that are unnecessary to protect their customer data.

WTA explained that RLECs typically do not use CPNI for marketing purposes. Rather small providers prefer to announce new service offerings and direct marketing campaigns to all of their customers or residents in their service areas. Other RLECs might use CPNI during customer-initiated service calls upon obtaining proper approval during the call to offer additional products or services that meet the calling customer’s needs. WTA explained its opposition to an expanded scope of Section 222 regulations that will prohibit carriers from engaging in non-targeted, first-party marketing of new services to their customers without first obtaining customer approval. WTA also noted that such an expansion will interfere with the ability to communicate non-marketing materials to subscribers, including announcements for annual customer appreciation picnics and digital literacy events, without first obtaining affirmative consent. WTA urged that publicly available information such as name, address and phone number has never been within the scope of Section 222 and should not be included within the scope of new broadband privacy rules adopted in this proceeding.

WTA also expressed opposition to a requirement that carriers develop and make available “privacy dashboards.” Some small carriers do not currently provide online account access at all, and none of WTA’s members online account systems presently include the ability for customers to change their CPNI opt-out preferences, however customers may at any time contact their provider to do so. Given the lack of evidence in the record demonstrating an inability for customers to change their CPNI preferences, there is no justification to require small providers and their vendors to expend significant resources that could otherwise be spent on deploying broadband to update and integrate billing and other systems to develop and implement a privacy dashboard.

WTA also expressed concern regarding the imposition of prescriptive data security requirements on small providers that lack the resources and IT teams of large providers. WTA noted that most small providers engage third-parties to shore up their network and customer information security practices, as well as outsourcing many areas of operations including help-desk and other support services. Mr. Shipley described US Connect’s review of its security practices and recent engagement of a

cybersecurity firm at significant expense to conduct penetration testing and encrypting data for each of US Connect's operating companies. Mandating that RLECs and their ISP affiliates frequently conduct penetration testing would be prohibitively expensive for small providers particularly given existing limitations on the recovery on corporate operating expenses. Furthermore, whereas RLECs may be able to obtain generic CPNI protection agreements, RLECs lack the knowledge, ability and size to monitor their vendors practices on an ongoing basis or train their vendors' employees on data security. Rather than imposing these or other specific requirements and strict liability for third-party behavior, the Commission should adopt a data security standard based on "reasonableness" that includes specific regard to company size.

Finally, Messers. Shipley and Macias noted that retransmission consent fees continue to increase without any apparent limitation every three years. The major network affiliates in whose big city markets they are included generally refuse to negotiate, but rather set their prices on a "take it or leave it" basis. This is inherently unfair, particularly because most such network affiliates do not place an off-air signal over the affected areas, but rather are available to rural residents only because they are carried by rural CATV and IPTV systems.

Pursuant to Section 1.1206(b) of the Commission's Rules, this submission is being filed for inclusion in the public record of the referenced proceeding.

Respectfully submitted,

/s/ Patricia Cave

Patricia Cave
Director of Government Affairs

cc: Amy Bender