

March 27, 2017

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*

Dear Ms. Dortch:

On Thursday, March 23, 2017, Derrick Owens, Patricia Cave and Gerry Duffy representing WTA – Advocates for Rural Broadband (“WTA”) met with Jay Schwarz, Acting Wireline Advisor to Chairman Ajit Pai, to discuss various rural telecommunication industry issues.

WTA noted the current status of Congressional Review Act (“CRA”) efforts to overturn the Commission’s *Broadband Privacy Order*¹ and associated regulations. WTA emphasized its interest in working with the Commission and the industry going forward to consider and develop appropriate approaches to privacy protections for voice and broadband services. Should the CRA nullify the *Broadband Privacy Order*, WTA indicated that certain voice Customer Proprietary Network Information (“CPNI”) rules eliminated therein – for example, the annual CPNI certification and recordkeeping requirements of Rule 64.2009, the 30-day waiting period for opt-out approvals, and the requirement to send privacy notices to customers every two years – may be resurrected. WTA stated that its members were particularly concerned about the status of the annual CPNI certifications for calendar year 2016 which would have been due March 1, 2017, when the *Broadband Privacy Order* and its actions eliminating the Rule 64.2009 requirements were in effect. To address these member concerns, WTA advocated that the Commission provide notice soon regarding the status of annual CPNI certifications for 2016 – for example, whether none will be due, whether there will be a revised 2017 deadline for their submission, or whether some other approach will be prescribed.

WTA urged prompt action to eliminate or defer the implementation of a \$20 rate floor pursuant to Rule 54.318 for Rate of Return Path carriers as of July 1, 2017. In some states, rural local exchange carriers (“RLECs”) have already had to (or will soon have to) initiate rate cases or other proceedings to allow them to increase their local voice rates by July 1 to the levels necessary to comply with the rate floor. Not only are these state proceedings expensive and time-consuming, but also they create concerns and anger among customers that they may soon face yet another rate increase for their voice service.

WTA reiterated its support for full high-cost support funding for both the Alternative Connect America Cost Model (“ACAM”) Path and the Rate of Return (“RoR”) Path. WTA noted, in particular, that the unpredictable nature of the year-to-year support reductions from the Section 54.901(f) budget control

¹ *Protecting the Privacy of Customers of Broadband and Other Telecommunications Services*, Report and Order, WC Docket No. 16-106, FCC 16-148, released November 2, 2016.

mechanism was making it increasingly difficult to plan substantial broadband infrastructure upgrades and to obtain and commit to long-term financing for them.

WTA asked for clarification or revision of the Construction Allowance Adjustment provision in Section 54.303(f) of the Rules. As proposed, it was contemplated that if a construction project had an average per location loop plant investment greater than the inflation-adjusted equivalent of \$10,000 (*e.g.*, \$10,100 instead of \$10,000), the RLEC would be able to include the permitted maximum amount (*e.g.*, \$10,000 per location) in its plant eligible for support but would not be able to include the overage (*e.g.*, \$100 per location). However, as Section 54.303(f) was written, it appears that any average per location loop plant investment greater than the inflation-adjusted equivalent of \$10,000 (*e.g.*, \$10,001 or \$10,100) would preclude the cost of the entire project from being included in the RLEC plant that is eligible for support. This “kill switch” will discourage broadband infrastructure investment, particularly in the sparsely populated and high cost rural areas most likely to be unserved or underserved.

WTA recommended action on the request made in its May 25, 2016 Petition for Reconsideration in WC Docket No. 10-90 that the Commission provide clarification regarding the treatment of exchange sales, transfers of control and mergers that take place between ACAM Path and RoR Path companies in the same state after the two separate paths are implemented. WTA presumes that the Commission will require companies to remain on their originally elected paths after a transaction, even if that means that an entity may control ACAM Path companies and RoR Path companies in the same state. Whatever regulatory treatment the Commission desires, WTA asks it to adopt rules or provide other applicable guidance so that entities considering transactions will be able to plan and negotiate pursuant to known ground rules.

Finally, WTA indicated that some RLECs trying to consolidate multiple study areas within a single state have encountered long delays in obtaining action upon petitions for waiver of the Part 51 rules regarding CAF-ICC support. WTA urges the Commission to act expeditiously on these types of waiver petitions, and to establish clear procedures and standards that will encourage study area consolidation where it makes economic sense.

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/ Gerard J. Duffy

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