

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of )  
 )  
Connect America Fund ) WC Docket No. 10-90

**COMMENTS  
OF  
WTA - ADVOCATES FOR RURAL BROADBAND**

WTA – Advocates for Rural Broadband (“WTA”) submits its Comments with respect to the Commission’s *Notice of Proposed Rulemaking and Order*, FCC 17-61, released May 19, 2017, in the referenced proceeding (“*NPRM*”). These Comments are submitted in accordance with the schedule established in the notice published at 82 Fed. Reg. 26653 (June 8, 2017).

WTA believes that the Section 54.318 “rate floor” is inequitable and unnecessary, and that its costs increasingly outweigh its intended benefits. WTA notes that the rate floor applies predominately to rural local exchange carriers (“RLECs”) that remain on the Rate of Return (“RoR”) Path.<sup>1</sup> Given the increasing needs for infrastructure investment to respond to customer demands and the insufficiency and uncertainty of RoR Path support (due in particular to the Section 54.901(f) and 54.1310(d) budget control mechanisms), most subject RLECs have little choice but to rely more and more upon customer revenues to upgrade and operate their networks, and have virtually no ability or incentive to charge voice rates far below the national average.

WTA further notes that the RoR Path budget and budget control mechanisms have eliminated any capability of the rate floor to reduce total RoR Path support or aggregate high-cost support, or ultimate Universal Service Fund (“USF”) contributions. Rather, any support reductions imposed by the rate floor upon specific RLECs will be redistributed to reduce the

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<sup>1</sup> The rate floor has also applied to price cap carriers receiving frozen support to the extent that such frozen support was based upon high-cost loop support or former high-cost proxy model support. Such frozen support is eliminated at the end of the third year after the price cap carrier begins receiving CAF Phase II support. 47 C.F.R. §54.310(f)

budget control “haircuts” imposed upon other RoR Path recipients, while total RoR Path support and total USF support and contributions will remain unaffected. In stark contrast, the frequent voice rate increases necessary to comply with the rate floor have become a costly and disruptive burden for rural customers, RoR Path RLECs and state commissions. In particular, they harm elderly, low income and other rural customers who cannot afford or do not want to purchase the broadband services necessary to accommodate Voice over Internet Protocol (“VoIP”) alternatives. Hence, on a cost-benefit basis, the Section 54.318 rate floor and its accompanying reporting obligations should be eliminated.

However, to the extent that the Commission believes that retention of a rate floor remains necessary for any reason, WTA proposes that such rate floor be calculated at an amount equal to two standard deviations below the urban voice rate determined by survey, and that such rate floor be re-calculated no more frequently than once every five (5) or more years. These changes will address any goals of the rate floor that remain applicable, while eliminating the frequent voice rate increases have been the primary factor adversely impacting rural customers, RoR Path RLECs and state commissions.

### **I. WTA – Advocates For Rural Broadband**

WTA is a national trade association representing more than 325 rural telecommunications providers that offer 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. Their primary service areas are comprised of sparsely populated farming and ranching regions, isolated mountain and desert communities, and Native American reservations. The major common features of these diverse rural areas are the much longer than average distances that must be traversed, and the much higher per-customer costs of

constructing, upgrading, operating and maintaining broadband networks than in urban and suburban America. WTA members are providers of last resort to many areas and communities that are both very difficult and very expensive to serve.

The typical WTA member has 10-to-20 full-time employees, and serves fewer than 3,500 access lines in the aggregate and fewer than 500 access lines per exchange. WTA members are all rate of return carriers. Approximately forty-five percent (45%) of WTA's members are included among the 207 companies that elected to receive federal high-cost Universal Service Fund ("USF") support for the next ten years pursuant to the Alternative Connect America Cost Model ("ACAM") Path.<sup>2</sup> With the exception of several Alaska Plan companies, the rest of WTA's members have elected, or in many cases have been forced by circumstances or eligibility limitations, to remain on the alternative RoR Path.

## **II. The Costs of the Rate Floor Substantially Exceed its Benefits**

The Section 54.318 rate floor was adopted in 2011 and implemented in 2012 for the purpose of reducing high cost support for voice services that are provided at rates deemed to be below a set minimum rate considered to be reasonably comparable to voice rates in urban areas. In practice, the rate floor has been based upon periodic urban voice rate surveys, and has been set at the national average of local urban residential voice rates plus state regulated fees.

Any potential benefits of the rate floor were significantly decreased in 2016 by the Commission's decision to establish alternative ACAM Path and RoR Path high cost support

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<sup>2</sup> See Public Notice (*Wireline Competition Bureau Authorizes 35 Rate-of-Return Companies to Receive More Than \$51 Million Annually in Alternative Connect America Cost Model Support And Announces Offers of Revised A-CAM Support Amounts to 191 Rate-of-Return Companies to Expand Rural Broadband*), WC Docket No. 10-90, DA 16-1422, released December 20, 2016; and Public Notice (*Wireline Competition Bureau Authorizes 182 Rate-of-Return Companies to Receive \$454 Million Annually in Alternative Connect America Cost Model Support to Expand Rural Broadband*), WC Docket No. 10-90, DA 17-99, released January 24, 2017.

mechanisms for RLECs.<sup>3</sup> The 207 RLECs that have elected to receive federal high-cost support for the next ten years pursuant to the ACAM Path are no longer subject to the rate floor requirement or potential support reduction. Moreover, many of the RLECs remaining on the RoR Path did not choose to do so voluntarily. Rather, some were not eligible to elect the ACAM Path because of their previous broadband build-outs to 10/1 Mbps or greater services that are rapidly being superseded by customer demands, while others were offered such large and unexplained reductions in high-cost support that had no practicable option to elect the ACAM Path. In addition to the reduced scope of the rate floor, the ACAM Path-versus-RoR Path election creates additional rate floor costs and inequities by subjecting RoR Path carriers to significantly more onerous and expensive regulation than their RLEC (as well as price cap) counterparts that were able to elect model-based support.

The potential benefits of the rate floor are also minimized by the fact that ultra-low voice service rates are becoming relatively rare, while those that remain have legitimate purposes and substantial public interest and safety benefits. It is WTA's information and belief that only a very small number of RLECs still charge voice rates of less than \$10 per month, and that most of such low-priced services are designed for public interest and safety purposes that the rate floor was NOT designed to discourage or penalize. For example, some RLECs offer low-priced "Emergency Phone" or "e-phone" services that allow for 911 calls and other limited calling access.<sup>4</sup> Other RLECs have established "lifeline" rates (whether supported by the Lifeline Program or not) that allow elderly, low income and other customers to maintain a very basic and

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<sup>3</sup> *In the Matter of Connect America Fund et al.*, Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, WC Docket Nos. 10-90 and 14-58 and CC Docket No. 01-92, FCC 16-33, released March 30, 2016.

<sup>4</sup> For example, one company's e-phone service is priced at \$1.00 per month, plus 50 cents per call for local non-911 calls.

limited phone service that they can use for emergencies and other important calls. Yet other RLECs serving in resort areas employ special lower rates for vacation homes that are only used part of the year. Such rates are desired by most vacation home owners, and fairly price the actual service and time periods used while saving both the customers and the RLECs the time, expense and inconvenience of multiple service hook-ups and turn-offs during the year. WTA emphasizes that these low-priced services are very limited, and are intended to respond to specific customer service and safety needs rather than to increase USF support.

For the vast majority of RoR Path carriers, the unpredictable budget-constrained amounts of high-cost support available, plus the ongoing transitions that are reducing CAF-ICC support and intercarrier compensation, are not providing sufficient dollars to obtain the loans or otherwise finance the infrastructure upgrades necessary to respond to the burgeoning broadband capacity needs and demands of their rural customers. Faced with growing financial and investment needs and the limitation or decline of two of their three traditional revenue streams, RoR Path RLECs are being compelled to rely more and more upon their third traditional revenue stream -- customer revenues. While they remain unable to increase their voice or broadband service rates to the levels necessary to fully recover the costs of serving customers in high-cost areas, they no longer can afford to charge very low rates whether or not accompanied by a rate floor penalty.

Finally, the rate floor does not reduce aggregate high-cost support or USF contributions. Particularly in light of the recent implementation of the Section 54.901(f) and 54.1310(d) budget control mechanisms, rate floor reductions to the high-cost support of affected RoR Path companies will not reduce aggregate federal high-cost support distributions or the amount of USF contributions that must be assessed. Rather, rate floor penalties imposed upon certain

RLECs merely enable the redistribution of support among RoR Path companies within the RoR Path budget, by reducing the percentage “haircuts” imposed by the budget control mechanisms.

Whereas the need for, and benefits of, the rate floor have decreased, the costs and disruptions caused by it are growing. The multiple rate floor increases to \$10 in 2012 to \$14 in 2013 to \$16 in 2015 and to \$18 in 2016 have aggravated and burdened rural customers with frequent voice rate increases at a time when other voice service options are available, thus contributing to recent increases in “cord-cutting.” Whereas changes in technology and customer preferences can be expected to produce migration from legacy Time Division Multiplexing (“TDM”) voice services to VoIP and other broadband applications, the customer anger and aggravation resulting from almost annual rate floor-based voice rate increases is likely to have accelerated this migration beyond the pace than many customers might otherwise have preferred. Some might look at faster migration as a benefit, but the problem is that the resulting burdens of higher voice rates and smaller voice customer bases have largely been dumped upon the elderly, the poor and other rural residents who have been unable to upgrade to the broadband services necessary to support VoIP and other voice service applications.

The multiple and frequent rate floor increases have also imposed costs and regulatory burdens upon RLECs and state commissions in states where rate cases or other notices or applications are required to be prepared, filed and litigated before the voice rate increases necessary to comply with the rate floor can be implemented. These costs and burdens can be exacerbated in situations where urban rate survey completion and results are delayed, and state proceedings must be conducted on an accelerated basis when the Commission announces an increased rate floor just months before it becomes effective.

In sum, the Section 54.318 rate floor produces virtually no benefits at this time, while its costs and disruptions continue to increase. What sense does it make for the Commission to devote resources to the rate floor calculation process, for the Commission and the Universal Service Administrative Company (“USAC”) to monitor the voice rates of the limited sub-group of RoR Path RLECs, for RoR Path RLECs and state commissions to re-litigate voice rate increase proceedings every few years, and for elderly and low income rural households to pay higher and higher voice rates – all in order to discourage a handful of RoR Path carriers, if any, from charging rates for certain types of a declining TDM voice service that the Commission deems to be too low? WTA submits that a reasonable cost-benefit analysis supports the elimination of the Section 54.318 rate floor and its associated reporting obligations.

### **III. Alternatives To Rate Floor Elimination**

If the Commission believes that some form of rate floor should be retained for any reason, it should do so in the simplest and least intrusive manner possible. There is absolutely no need or cost justification for complex rules that would entail calculation of separate rate floors for states, regions, census blocks or other geographic areas below the national level. To compile data and calculate fifty or several hundred or several thousand separate rate floors would be an extremely expensive and labor-intensive effort for the Commission, state commissions and RoR Path RLECs – and is wholly unnecessary to deal with the few carriers that might be tempted to charge very low rates for certain TDM voice services.

WTA believes that, at most, a single nationwide rate floor should be calculated, and that it should be computed at two standard deviations below the national average calculated from urban rate survey data. A two standard deviation range for a rate floor is congruent and consistent with the two standard deviation range employed to set the reasonable comparability

benchmark for voice services (calculated at two standard deviations above the national average).<sup>5</sup> The rural rate floor should not be set equal to the national urban rate average because, among other things, urban customers have access to much more populous local calling areas than rural customers. Rather, the minimum rural voice rate (the rate floor) should be calculated as a band below the national average urban voice rate just like the maximum rural voice rate (the reasonable comparability benchmark) is calculated as a band above that national average rate. It is WTA's information and belief that a two standard deviation calculation would set the current rate floor at approximately \$13.65. This amount would be sufficient to discourage RoR Path RLECs from charging unreasonably low TDM voice rates if any such dissuasion remains necessary. Any such rate floor should not be applied to e-phone or lifeline services, or to vacation rates.

WTA has found that the most disruptive and expensive aspect of the current rate floor has been its frequent, virtually annual increases and the resultant need to increase customer rates (and file for state commission approvals) every year or two. Hence, if the Commission retains a rate floor, WTA urges it to make it stable and predictable by setting it for a term of at least five years, and then reviewing and re-calculating at the same five-year or greater intervals as long as TDM voice service remains a significant service offering.

#### **IV. Conclusion**

On a cost-benefit basis, the Section 54.318 rate floor should be eliminated. It applies solely to a declining TDM voice service provided by a RoR Path sub-group of RLECs that is already severely challenged by unpredictable budget control mechanisms and declining access and CAF-ICC revenues. These RoR Path companies have been forced to rely increasingly upon

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<sup>5</sup> *In the Matter of Connect America Fund et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, 26 FCC Rcd 17,663 (2011) at par. 84.



subscriber revenues to meet their broadband deployment and operating needs, and have virtually no ability or incentive to charge ultra-low voice rates. Rather, the relatively few RLECs that continue to offer low-priced voice services (such as e-phone, lifeline and vacation rates) do so for public interest and safety reasons that should not be discouraged or penalized by a rate floor.

Given its limited scope and the workings of the RoR Path budget and budget constraints, the rate floor no longer reduces high cost support distributions or USF contributions; rather it merely redistributes support among RoR Path recipients. In stark contrast, while the rate floor provides few or no tangible benefits, the frequent voice rate increases it has required have become a costly and disruptive burden for rural customers, RoR Path RLECs and state commissions, particularly elderly, low income and other rural customers who are unable to obtain alternative voice service.

If the Commission, for any reason, does not eliminate the rate floor, it should, at most, impose a single nationwide rate floor calculated at two standard deviations below the national average urban voice rate, and substitute stability and predictability for onerous frequent rate increases by setting this rate floor for terms of at least five years.

Respectfully submitted,  
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