



December 20, 2017

Ex Parte Notice

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

RE: *Connect America Fund, WC Docket No. 10-90*

Dear Ms. Dortch:

Earlier this year, NTCA–The Rural Broadband Association (“NTCA”) and WTA-Advocates for Rural Broadband (“WTA”) (collectively, the “Associations”) submitted a letter to the Federal Communications Commission (the “Commission”) in which, among other things, they discussed the need for greater near-term certainty regarding whether and to what degree certain expenses are recoverable via high-cost universal service fund (“USF”) support. The Associations reiterated therein their “support for prompt action consistent with their prior comments to dispel lingering uncertainty and ambiguity with respect to such expenses, to provide reasonable prospective guidance, and to promote overall system integrity as to how such expenses may be recovered.” *Ex Parte* Letter from Michael R. Romano, Sr. Vice President, NTCA, to Marlene H. Dortch, Secretary, Commission, WC Docket No. 10-90 (filed May 9, 2017) (“*May 9 Letter*”); *see also* Comments of NTCA, WC Docket No. 10-90 (filed May 12, 2016), at 9-19; Comments of WTA, WC Docket No. 10-90 (filed May 12, 2016), at 6-14. It was for these reasons that the Associations submitted with that prior correspondence a proposed rule for Commission consideration with respect to whether certain expenses should be deemed recoverable or impermissible for recovery via USF. *May 9 Letter*, at Attachment.

As representatives of entities that operate beneath a fixed and already insufficient USF budget, our Associations continue to have great shared interest with policymakers and other stakeholders in clearly defined rules with respect to how expenses will or will not be supported as a prospective matter within that budget, so that all operators can obtain a fair, efficient, and equitable share of support thereunder. The Associations further recognize that the consideration of providing additional budget resources to overcome the persistent and patent insufficiency of USF support would be buttressed by a rule that helps to further ensure that such resources go toward the business of deploying and delivering voice and broadband. For these reasons, the Associations have continued to work toward refining and updating the proposal they submitted earlier this year with respect to recoverable expenses, and they submit with this letter an updated version of that proposal.

The enclosed proposal builds upon the many substantial accountability measures that already apply to the business of smaller operators like those in the Associations' memberships. Even beyond this proposal, such existing accountability measures include:

- (1) a capped overall USF support budget (although that cap, which has been at the same levels since 2011, has grown increasingly insufficient and must be recalibrated);
- (2) a separate, annually declining cap for USF support under the High-Cost Loop Support program;
- (3) capital investment limits;
- (4) overall operating expense limits;
- (5) separate corporate operations expense limits;
- (6) network buildout obligations;
- (7) buildout reporting requirements that include geocoding of locations to which certain levels of broadband are deployed;
- (8) network performance testing requirements (still under development);
- (9) reduction or elimination of USF support in areas served by an "unsubsidized competitor;"
- (10) preparation of studies justifying/documenting incurrence of costs for recovery;
- (11) multiple layers of review and/or audit by the National Exchange Carrier Association and the Universal Service Administrative Company; and
- (12) review and oversight by the Commission.

The Associations put forward the enclosed proposal with respect to prospective expense recovery in good faith as part of a comprehensive effort to address concerns with respect to the sufficiency of the USF budget and other steps that might be taken to improve the performance of the USF programs as recently reformed. Atop the many accountability measures listed above that are already in place, the enclosed proposal would provide substantial assurance with respect to the proper use of USF resources and should be part of a further dialogue about how to ensure that sufficient resources are available and directed appropriately to promote the availability and affordability of voice and broadband services in rural America. Given the significant efforts involved in developing and submitting this list, the Associations therefore request that the Commission adopt this proposal as submitted – and as part and parcel of a broader order that provides sufficient resources for the high-cost program to enable achievement of the universal service mandates of the Communications Act of 1934, as amended.

Marlene H. Dortch
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Thank you for your attention to this correspondence. Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed via ECFS.

Sincerely,

/s/ Michael R. Romano

Michael R. Romano
Senior Vice President –
Industry Affairs &
Business Development
NTCA–The Rural Broadband Association
4121 Wilson Blvd, Suite 1000
Arlington, VA 22203
mromano@ntca.org

/s/ Derrick B. Owens

Derrick B. Owens
Vice President – Government Affairs
WTA – Advocates for Rural Broadband
400 Seventh St., NW, Suite 406
Washington, DC 20004
(202) 548-0202 (Tel)
derrick@w-t-a.org

cc: Jay Schwarz
Claude Aiken
Jamie Susskind
Amy Bender
Travis Litman

DRAFT EXPENSES RULE TEXT

§ 54.303 Eligible Capital Investment and Operating Expenses

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(n) On a prospective basis following the date of this rule, the following kinds of expenses shall not be eligible for recovery via regulated interstate rates, Connect America Fund Broadband Loop Support, or High Cost Loop Support:

(1) Personal travel; expenses of employees, board members, family members of employees and board members, contractors, or any other individuals affiliated with the incumbent LEC to the extent such expenses are personal in nature, including but not limited to personal use of company-owned housing, buildings, or facilities used for entertainment purposes by employees, board members, family members of employees and board members, contractors, or any other individuals affiliated with the incumbent local exchange carrier;

(2) Aircraft, watercraft, and other motor vehicles designed for off-road use (but not prohibiting inclusion of reasonable business-related travel expenses associated with the use of any such), except insofar as necessary to access portions of the study area not reachable by motor vehicles travelling on roads during certain times of the year; any vehicles provided to employees, board members, family members of employees and board members, contractors, or any other individuals affiliated with the incumbent local exchange carrier to the extent for personal use;

(3) Food and beverage not in connection with the business of providing telecommunications services or work-related travel, including but not limited to meals to celebrate personal events, such as weddings and births;

(4) Political contributions; membership fees and dues in clubs and organizations (*e.g.*, social or athletic clubs), but not including organizations that provide education, training, or other services associated with the provision of communications services or otherwise associated with the operation of a business, such as legal bar association dues or accounting certifications;

(5) tangible property not logically related or necessary to the offering of voice or broadband services; and

(6) Penalties or fines for statutory or regulatory violations; penalties or fees for any late payments on debt, loans, or other payments.

(o) On a prospective basis following the date of this rule, the following kinds of expenses shall not be eligible for recovery via Connect America Fund Broadband Loop Support or High Cost Loop Support:

(1) Gifts to employees or childcare, except to the extent such expenses are included within taxable compensation;

(2) Housing allowances or other forms of mortgage or rent assistance for employees, except to the extent such expenses are included within taxable compensation or arise out of temporary assignment in connection with provision of telecommunications services;

(3) Entertainment; artwork and other objects which possess aesthetic value;

(4) Costs of operating cafeterias and dining facilities; and

(5) Charitable donations; scholarships; sponsorships of conferences or community events.

(p) Any expense identified by subsection (o) as ineligible for recovery via Connect America Fund Broadband Loop Support or High Cost Loop Support may nonetheless be eligible for recovery via regulated interstate rates, but only to the extent reasonable and customary as a business expense for a company of similar size and operations.